


# Mental Health Rehabilitation of Post-Divorce Women: Reconstructing Islamic Family Law in a Contemporary Context

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## INTRODUCTION

Divorce is a social phenomenon that is increasingly complex and has a wide impact on women's lives (Elisetty & Datti, 2025). In general, divorce not only affects women's legal and economic status, but also has a significant impact on their psychological well-being, quality of life, and social relations (Odis, 2021). In Muslim societies, Islamic family law plays an important role in establishing rights, responsibilities, and social legitimacy after divorce. Although women have increasing access to education, employment, and economic independence, structural inequalities and patriarchal norms still place them in a vulnerable position to mental distress, stigma, and social marginalization after divorce (Arsyad et al., 2025). This condition indicates the need for mental health rehabilitation that is not only medical or psychological in nature, but is also influenced by the legal and social structures that regulate life after divorce (Sander et al., 2020).

Specific issues arise regarding the role of Islamic family law in supporting or hindering women's mental health rehabilitation after divorce. Previous research shows limitations in this regard. Sujatha (2025), through the article research trends on the Intricate Dimensions of Divorce among Women: A Bibliometric Analysis, analyzed 435 Scopus-indexed publications and mapped the impact of divorce on women's social, economic, physical, mental, and emotional dimensions (Elisetty & Datti, 2025). The results of research confirm that divorce tends to have a greater impact on women than men, especially in terms of mental health, quality of life, autonomy, and social relations. However, this study stops at mapping research trends and structures without examining the function of family law in responding to women's vulnerability.

In addition, the research from Fathima (2024) highlighting structural violations of women's mental health equality in the context of health services and social policy. Both studies show that the current literature is moving along two main streams: first, empirical studies that emphasize inequality in access to mental health services and the psychological consequences of divorce; second, mapping studies and research trends that highlight the multidimensional impact of divorce, but have not yet addressed the role of Islamic family law as a structure that contributes to shaping women's mental experiences after divorce (Thodukayil et al., 2024).

In this context, there is a significant analytical gap. There has been no study that explicitly positions Islamic family law as a structural factor that can influence the mental health rehabilitation of women after divorce. Family law not only functions as a normative mechanism for dissolving marriages, but also as a social system that determines the distribution of rights, social legitimacy, and recognition of women's dignity (Halperin, 2020). When the law fails to fulfill its rehabilitative function, mental distress, stigma, and gender inequality can be further reinforced (Hernandez & Eno, 2025).

This research focuses on the reconstruction of Islamic family law in a contemporary context as an instrument for post-divorce mental health rehabilitation for women. The research gap can be described at three levels: first, at the conceptual level, there has been no integration between the discourse on post-divorce women's mental health and the theory and practice of Islamic family law; Second, at the institutional level, there is minimal research on the contribution of religious court decisions and practices to women's mental recovery or vulnerability; Third, at the normative level, there has been no systematic effort to reconstruct Islamic family law so that mental health rehabilitation becomes a substantive goal in accordance with *maqāṣid al-syarī'ah*, especially the protection of the soul (*hifz al-nafs*) and human dignity (*hifz al-'ird*).

Thus, the novelty of this research lies in the shift in focus from merely mapping the impact of divorce and social policy to the reconstruction of Islamic family law as an instrument for women's mental health rehabilitation. This research offers a new analytical framework that positions law as a key factor in building psychological recovery, gender justice, and the sustainability of women's lives after divorce in contemporary Muslim societies.

### **Study Aim and Hypothesis**

This study aims to examine the role of Islamic family law in the rehabilitation of women's mental health after divorce through a reconstructive analysis of the normative framework, religious court practices, and prevailing paradigms of justice in contemporary contexts. The study is grounded in the assumption that both the normative design and the implementation of Islamic family law simultaneously influence the degree of vulnerability as well as the recovery of women's mental health following divorce. Accordingly, this study hypothesizes that a reconstruction of Islamic family law oriented toward *maqāṣid al-sharī'ah* and gender justice functions as a key factor in supporting the rehabilitation of women's mental health in the post-divorce period.

## METHODS

### Design

This study employs a qualitative approach using a normative–empirical research design. It integrates normative legal analysis with empirical field research to examine Islamic family law and its implications for women’s mental health after divorce. The normative dimension focuses on Islamic legal theory, while the empirical dimension explores real-life judicial practices in Religious Courts in Indonesia.

### Procedure

The research was conducted in two main stages. First, the normative stage involved reviewing Islamic legal sources, classical and contemporary fiqh literature, *maqāṣid al-sharī’ah*, Indonesian family law regulations, and Religious Court decisions related to divorce and women’s post-divorce rights (Sukmawan & Damayanti, 2025). Second, the empirical stage involved fieldwork in several Religious Courts in Indonesia, including in-depth interviews with judges, family law practitioners, and divorced women, as well as observation of court decisions and judicial practices.

### Instruments

The instruments used in this study include document analysis guidelines and semi-structured interview guides. The document analysis guidelines were used to examine legal texts, academic literature, and court decisions, while the interview guides were used to explore participants’ experiences and perspectives regarding divorce processes, judicial practices, and post-divorce psychological conditions (Heriyanto & Nurislaminingsih, 2025).

### Data Analysis

Data were analyzed using qualitative content analysis and thematic analysis. The normative data were analyzed to identify *maqāṣid al-syarī’ah* principles relevant to mental health rehabilitation and to detect gaps in legal protection. Empirical data were analyzed through thematic coding to identify patterns in judicial practices, gender bias, and their impact on women’s psychological well-being. The findings from both approaches were then integrated to develop a reconstruction framework of Islamic family law oriented toward mental health rehabilitation, gender justice, and consistency with *maqāṣid al-syarī’ah*.

## RESULTS AND DISCUSSION

### Conceptualizing Mental Health in Islamic Family Law and Critiquing the Formal Protection Paradigm

In the tradition of Islamic legal thought, *maqāṣid al-sharī’ah* are understood as the fundamental objectives of the Sharī’ah aimed at securing human welfare (*maṣlaḥah*) and preventing harm (*mafsadah*) to individuals and society (Taufiqurohman & Fauziah, 2023). Classical formulations of the *maqāṣid* encompass five core principles: *ḥifẓ al-dīn* (protection of religion), *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-’aql* (protection of intellect), *ḥifẓ al-nasl* (protection of lineage), and *ḥifẓ al-māl* (protection of property) (Mubarrak et al., 2025). These principles constitute the normative foundation for assessing and formulating just and humane legal rules across various spheres of life, including Islamic family law (Nuroniya et al., 2025). Classical *maqāṣid* scholars, such as al-Shāṭibī, emphasized that the objectives of the Sharī’ah are not merely normative but also pragmatic, aimed at realizing concrete *maṣlaḥah* for both individuals and the Muslim community (Ningsih, 2024).

From a *maqāṣid* perspective, mental health can be understood as an integral component of *ḥifẓ al-nafs*. In Islamic thought, the protection of life extends beyond physical safety to encompass psychological well-being, emotional balance, and mental stability as essential elements of human

welfare (Hasanović et al., 2021). This perspective underscores that safeguarding mental health is inherent to the Shari'ah's objective of preserving a healthy and harmonious human life.

Nevertheless, within the normative construction of Islamic family law, traditional emphasis has largely been placed on formal legal rules such as the validity of marriage, child custody, maintenance, and the distribution of marital property without explicitly recognizing mental health as a legal concern (Busriyanti et al., 2025). The absence of attention to psychological dimensions has resulted in legal frameworks that appear predominantly legalistic and administrative in nature. For instance, judicial decisions and regulations frequently assess divorce or custody disputes based on formal evidence and administrative requirements, often without adequately considering the psychological impact on the parties involved (Nambiar et al., 2025).

This shortcoming reflects a formal and economic administrative protection paradigm that lacks sensitivity to substantive mental health needs and rehabilitative support. Such a paradigm prioritizes formal legal equality but often fails to address substantive inequalities arising from mental conditions such as stress, trauma, or psychological disorders within family contexts. Mental health crises in family life whether resulting from prolonged conflict or psychological disorders affecting one spouse require a substantive and rehabilitative legal approach rather than a purely formalistic one (Temane et al., 2019).

Accordingly, a paradigmatic shift is necessary in Islamic family law from an emphasis on formal legal equality toward *substantive rehabilitation*. This shift entails that the law should not merely define formal rights and obligations but also take into account the need for rehabilitation, psychological assistance, and the protection of the mental well-being of family members, whether in marital relationships, domestic conflicts, or family law disputes (Holford et al., 2023). Such an approach is consistent with *maqāṣid al-sharī'ah*, particularly the protection of life and intellect, enabling Islamic family law to respond more effectively to the complex challenges of contemporary society (Wathani et al., 2022).

### **The Position of Women after Divorce in the Islamic Family Law System: Religious Court Practices, Patriarchy, and the Production of Mental Vulnerability**

In the contemporary Islamic family law system, divorce is not merely a formal legal event but also a complex lived experience that significantly affects women's legal, social, and psychological positions after marital dissolution (Bukido et al., 2025). Normatively, Islamic fiqh and Islamic family law provide avenues for women to initiate divorce through *khul'* or divorce litigation (*cerai gugat*) before the Religious Courts. However, in practice, a persistent systemic gap is evident between normatively guaranteed rights and their implementation in judicial processes (Ismail et al., 2021).

Based on official data compiled from various Religious Court reports and divorce statistics in Indonesia, divorce rates have continued to increase. For instance, reports from the Kendari Religious Court indicate that in 2021 divorce cases nationwide reached 447,743, with *cerai gugat* (divorce initiated by wives) far exceeding *cerai talak* (divorce initiated by husbands). This trend suggests that women are increasingly exercising legal agency to terminate problematic marriages. Nevertheless, the fulfillment of post-divorce rights such as *mut'ah*, *nafkah iddah*, *nafkah mādiyah*, and child maintenance (*hadhanah*) often remains problematic in Religious Court practice.

Type of Post-Divorce Right	Normative Provision	Implementation Problems in Religious Courts
<i>Nafkah iddah</i>	Mandatory provision by the former husband during the <i>iddah</i> period (Article 149 KHI)	Frequently not fulfilled or restrictively interpreted by judges, especially when the wife is deemed <i>nusyuz</i>
<i>Mut'ah</i>	Mandatory compensatory gift, except where no marital consummation occurred	Highly variable implementation across courts; amounts and judicial policies are often inconsistent
Child maintenance and <i>hadhanah</i>	Regulated in the KHI and the Marriage Law	Many judgments omit child maintenance provisions, or enforcement remains weak despite clear regulation
<i>Nafkah mādiyah</i>	Right to claim unpaid maintenance during marriage	Inconsistent application in Religious Court decisions

The table above illustrates the gap between the ideal legal provisions set out in the Compilation of Islamic Law (KHI) and the Marriage Law, and their practical implementation in Religious Courts. Several empirical studies indicate that Religious Court decisions sometimes fail to explicitly include provisions for child support or post-divorce maintenance, particularly in cases where divorce is initiated by the wife (Nasution & Muchtar, 2020).

In judicial practice, gender bias and patriarchal structures are evident in adjudication processes. Research on judges' perceptions regarding the granting of *nafkah iddah* and *mut'ah* reveals significant variation in judicial interpretation based on gender perspectives, including tendencies to reject or limit such rights in certain *cerai gugat* cases for non-substantive reasons (Turatmiyah et al., 2019).

Moreover, studies such as *The Role of Religious Courts in Protecting Women's Rights in Divorce Cases* demonstrate that in many decisions, women's rights such as *nafkah iddah*, *mut'ah*, child maintenance, and child custody are often neglected or not taken seriously by other parties. This situation underscores the crucial role of judges in actively excavating values of substantive justice rooted in *maqāṣid al-syarī'ah* to ensure that women are not disadvantaged after divorce (Fahmi et al., 2025).

Symbolically, divorced women continue to be positioned in subordinate roles within social and familial spheres. When formal rights such as child custody or the former husband's financial obligations are not effectively enforced, women experience significant social and economic vulnerability after divorce (Fardindaputri & Hasanudin, 2025). Factors such as limited access to information about legal rights, weak enforcement of court decisions, and the absence of effective sanctions for non-compliance exacerbate this condition (Seyfi et al., 2023). These implementation gaps contribute to declining psychological well-being, as economic insecurity, social stigma, and exclusion from support networks tend to trigger mental distress such as stress, anxiety, and depression.

Gender bias and patriarchy in court practice are also apparent in child custody determinations, where many judges continue to rely on traditional social narratives that confine women to domestic roles, rather than consistently applying the principle of the best interests of the child (Nazah et al., 2025). Gender-based studies on custody disputes highlight ongoing challenges in integrating this principle coherently within Religious Court decisions.

Overall, the position of women after divorce within Islamic family law reveals both normative and implementation-based inequalities. Although a legal framework for the protection of women's rights exists, gender-biased interpretations, patriarchal judicial practices, and weak enforcement of substantive rights have collectively produced persistent vulnerabilities. These conditions call for

comprehensive legal reform, enhanced gender literacy within judicial institutions, and broader social advocacy to dismantle structurally embedded injustices.

### **Reconstructing Islamic Family Law Based on Women's Mental Health Rehabilitation in the Contemporary Context**

The reconstruction of contemporary Islamic family law requires a new paradigm that not only preserves the normative validity of the *Sharī'ah* but also responds to the need for women's mental health rehabilitation as an integral component of family welfare (*maṣlahah*) (Qadri & Siregar, 2023). Traditional Islamic family law has often emphasized formal-legal aspects such as the regulation of marriage, divorce, child custody, and maintenance without explicitly incorporating the dimension of individual psychological well-being, particularly for women experiencing divorce or family conflict (Mera et al., 2024). Such a formalistic legal approach is insufficient to address modern mental health challenges involving trauma, stress, and psychosocial pressures faced by women in the aftermath of family law disputes. Multidisciplinary academic studies highlight the importance of integrating *maqāṣid al-sharī'ah* the objectives of Islamic law to protect religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*) as a philosophical and normative framework for reforming Islamic family law. A *maqāṣid*-oriented approach encourages family law not only to regulate legal formalities but also to promote gender justice, psychological well-being, and broader protection and restoration of human dignity (Majid, 2025).

Integrating gender justice and *maqāṣid al-sharī'ah* in the reconstruction of family law entails viewing women not merely as formally regulated legal subjects, but as individuals with psychosocial rights that must be fulfilled through legal mechanisms (Mera et al., 2024). The principles of *al-'adl* (justice) and *al-maṣlahah* (public welfare) within the *maqāṣid* framework provide a foundation for reinterpreting rules on post-divorce maintenance, *iddah*, child custody, and asset distribution in a substantive rather than purely formal-legal manner (Solikin & Wasik, 2023). Research on gender equality in Islamic family law demonstrates that *maqāṣid al-sharī'ah* can accommodate aspirations for equality and women's protection while remaining rooted in Islamic tradition, yet offering contextual interpretive space for modern needs, including women's mental and psychological well-being (Mufti, 2024).

A rehabilitative model of Islamic family law expands its focus from merely terminating legal relationships (such as divorce) to facilitating a holistic process of mental health recovery for women. This model includes the integration of psychological support services within court proceedings, mental-health-oriented mediation, and respect for women's decisions without harmful gender-based stigma. Such an approach aligns with the principle of *ḥifẓ al-nafs* in *maqāṣid al-sharī'ah*, which places the protection of human life and well-being at the core of Islamic legal objectives. Contemporary Islamic legal scholarship emphasizes the importance of approaches oriented toward comprehensive human welfare, including psychological dimensions, rather than viewing law solely as a mechanism of social control (Hamid et al., 2024).

Furthermore, the relevance of reconstructing Islamic family law on a rehabilitative basis becomes increasingly pronounced in the context of contemporary Muslim societies facing globalization, changing family structures, rising awareness of mental health issues, and growing demands for gender equality. Numerous studies indicate that Muslim communities today increasingly call for legal systems that are not only substantively just but also sensitive to the social and psychological dynamics confronting individuals especially women dealing with divorce, domestic violence, or other forms of family conflict. For example, the global Musawah movement in Islamic legal studies advocates progressive textual interpretations that support equality and family well-being, emphasizing that women's rights and welfare must be fulfilled within an inclusive and dynamic Islamic framework (Mir-Hosseini, 2019).

This reconstruction therefore represents not merely a technical revision of legal norms, but a paradigmatic transformation from formalistic law to a substantive, humane, and rehabilitative legal framework. A rehabilitative Islamic family law does not merely resolve disputes but actively restores the mental and emotional balance of the parties involved, particularly women, while remaining grounded in the universal values of *maqāṣid al-sharī'ah*. Consequently, courts, policymakers, and Islamic legal scholars must develop legal instruments and procedures that take psychological impacts and mental health recovery into account as integral elements of substantive justice in contemporary Islamic family law.

## IMPLICATION

These findings make an important theoretical contribution by identifying that, in studies of Islamic family law and women's well-being, the reconstruction of legal frameworks based on *maqāṣid al-syarī'ah* and gender justice is the most relevant factor for predicting the success of mental health rehabilitation for post-divorce women. Practically, the results suggest that legal reforms and judicial practices should not only focus on formal procedures like alimony or custody but also integrate psychological support and mental health-oriented mediation. Because structural gender bias and patriarchy correlate with increased psychological vulnerability, interventions must include a more humane, rehabilitative approach so that the legal process becomes a foundation for recovery rather than a source of further social stigma or distress.

## LIMITATION AND RECOMMENDATION

This study makes a significant theoretical contribution by identifying that, within the study of Islamic family law and women's well-being, the reconstruction of legal frameworks based on *maqāṣid al-syarī'ah* and gender justice is the most relevant factor for supporting the successful mental health rehabilitation of post-divorce women. Practically, these results suggest that legal reforms and judicial practices should not only focus on formal procedures such as maintenance or child custody but must also integrate psychological support and mental health-oriented mediation. Because structural gender bias and patriarchy correlate with increased psychological vulnerability, interventions must include a more humane, rehabilitative approach so that the legal process serves as a foundation for recovery rather than a source of further social stigma or mental distress.

## CONCLUSION

This study concludes that women's mental health has long been insufficiently addressed within Islamic family law, despite the fact that *maqāṣid al-sharī'ah* explicitly emphasize the protection of life (*hifz al-nafs*) as a fundamental objective of the Shari'ah. Traditional Islamic family law has predominantly focused on formal-legal aspects such as marriage, divorce, child custody, maintenance, and the division of property without adequately considering the psychological impacts experienced by individuals. This formalistic and administrative paradigm often fails to respond to the need for substantive mental health rehabilitation, resulting in a disconnect between formal legal equality and the actual psychological well-being of women. Post-divorce women continue to face structural vulnerabilities arising from gender bias and patriarchal norms embedded in the practices of religious courts. Although Islamic law provides avenues for divorce, the implementation of court decisions frequently does not guarantee substantive rights, such as *nafkah iddah*, *mut'ah*, or child custody. Judicial interpretations influenced by traditional social norms tend to position women in subordinate roles, thereby reinforcing social, economic, and psychological vulnerabilities. Social stigma and weak enforcement of court rulings further exacerbate mental strain, increasing the risks of stress, anxiety, and potential depression. The reconstruction of Islamic family law based on women's mental health rehabilitation therefore emerges as a crucial strategy for bridging substantive justice with the values of the Shari'ah. This approach integrates gender

justice and *maqāṣid al-sharī'ah*, shifting the focus of the law from merely defining formal rights and obligations toward fostering psychological recovery and mental well-being. A rehabilitative legal model encompasses psychological support mechanisms, mental-health-oriented mediation, and respect for women's decisions free from gender-based stigma. Through this transformation, Islamic family law can become more responsive, humane, and substantively just, while remaining firmly grounded in the universal principles of *maqāṣid al-sharī'ah* and relevant to contemporary Muslim societies.

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## AUTHOR CONTRIBUTIONS STATEMENT

IW agree to the final version of this article.

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