



Bureaucratic Contestation in the Resolution of Divorce Cases Among the Muslim Community in Langsa City, Aceh

Muhazir^{1*}, Muhammad Syukri Albani Nasution², Arifuddin Muda Harahap³

^{1,2,3} Universitas Islam Negeri Sumatera Utara, Indonesia

*email: muhazir@iainlangsa.ac.id

*Corresponding Author

Submitted: March 13, 2025	Accepted: May 22, 2025	Published: June 06, 2025
<p>How to Cite (Chicago): Muhazir, Muhazir, Arifuddin Muda Harahap, and Muhammad Syukri Albani Nasution. 2025. "Bureaucratic Contestation in the Resolution of Divorce Cases Among the Muslim Community in Langsa City". <i>Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan</i> 12 (1), 151-173. https://doi.org/10.32505/qadha.v12i1.11056.</p>		

Abstract

The issue of divorce in Aceh is multifaceted, encompassing the interplay between customary law and the Sharia Court in resolving family disputes. While Indonesian national law governs divorce through formal judicial proceedings, many in Aceh opt for settling divorces through customary institutions aligned with Islamic values. This study aims to examine the role of these customary institutions in divorce resolution within Langsa City, Aceh, and to explore the factors influencing the community's choice of either customary law, the Sharia Court, or both. The research adopts a juridical-empirical approach with a legal pluralism framework, combining an analysis of formal legal structures with the practical legal realities in local communities. Data was collected through in-depth interviews with local residents, religious figures, and leaders of customary institutions in Langsa. The results reveal a clear tension between customary practices and the national legal system in divorce matters, with a significant portion of the population preferring customary procedures due to their accessibility and greater social acceptance. However, such customary decisions lack formal legal recognition, leading to uncertainty regarding the post-divorce rights of women and children. This study offers valuable insights into the evolving divorce practices in Aceh, shedding light on the intersection of customary law, Sharia law, and national legislation. It also suggests that greater integration of these legal systems is necessary to ensure a more just and transparent process for divorce resolution in the region.

Keywords: Bureaucratic, Customary institutions, Divorce, Legal Pluralism, Sharia Court,

Abstrak

Isu perceraian di Aceh merupakan permasalahan yang kompleks, melibatkan interaksi antara hukum adat dan Mahkamah Syar'iyah dalam penyelesaian sengketa rumah tangga. Meskipun hukum nasional Indonesia mengatur perceraian melalui prosedur pengadilan formal, banyak masyarakat Aceh yang memilih menyelesaikan perceraian melalui lembaga adat yang sejalan dengan nilai-nilai Islam. Penelitian ini bertujuan untuk memeriksa peran lembaga adat dalam penyelesaian perceraian di Kota Langsa, Aceh, serta menggali faktor-faktor yang memengaruhi keputusan masyarakat dalam memilih antara hukum adat, Mahkamah Syar'iyah, atau keduanya. Penelitian ini menggunakan pendekatan yuridis-empiris dengan kerangka pluralisme hukum, yang menggabungkan analisis terhadap



struktur hukum formal dengan realitas praktik hukum yang berkembang di masyarakat. Data dikumpulkan melalui wawancara mendalam dengan warga setempat, tokoh agama, dan pemimpin lembaga adat di Langsa. Hasil penelitian menunjukkan adanya ketegangan yang jelas antara praktik adat dan sistem hukum nasional dalam masalah perceraian, di mana sebagian besar masyarakat lebih memilih prosedur adat karena lebih mudah diakses dan lebih diterima secara sosial. Namun, keputusan adat tersebut tidak diakui secara hukum, yang menimbulkan ketidakpastian terkait hak-hak pasca perceraian, terutama hak perempuan dan anak. Penelitian ini memberikan wawasan berharga tentang dinamika praktik perceraian di Aceh, yang memperlihatkan persimpangan antara hukum adat, hukum syariah, dan legislasi nasional. Penelitian ini juga menyarankan perlunya integrasi yang lebih baik antara ketiga sistem hukum ini untuk memastikan proses penyelesaian perceraian yang lebih adil dan transparan di wilayah tersebut.

Kata Kunci: Birokrasi, Lembaga Adat, Perceraian, Pluralisme Hukum, Mahkamah Syar'iah

Introduction

Divorce in Indonesia is governed by the Marriage Law, which stipulates that only courts have the legal authority to adjudicate and decide on divorce cases, particularly among Muslim couples.¹ The principle of restricting divorce—requiring strong legal grounds as outlined in the law—reflects the state's intention to discourage separation. Nevertheless, not all marriages succeed; many end in divorce. Data from the Aceh Sharia Court (Mahkamah Syar'iyah) indicates a continual rise in divorce rates. Islam permits divorce as a last resort when a marital relationship can no longer be sustained.² However, divorce has proven adverse effects, especially on children's development. Various studies have shown that divorce significantly affects a child's psychological well-being and often leads to the neglect of women's and children's rights post-separation.³

In Indonesia, divorce procedures are strictly regulated: they can only be finalized through court proceedings. This legal requirement is a crucial foundation for legitimizing divorce. The Marriage Law states that marriage dissolution may occur due to death, divorce, or court decision, and Article 39 confirms that divorce is only valid when conducted before a court. This provision underscores the necessity of aligning divorce with national legal standards.⁴

¹ Mark Cammack, Lawrence A. Young, and Tim B. Heaton, "An Empirical Assessment of Divorce Law in Indonesia," *Studia Islamika* 4, no. 4 (January 1, 1970): 94, <https://doi.org/10.15408/sdi.v4i4.766>.

² Erina Pane, "Eksistensi Mahkamah Syar'iyah Sebagai Perwujudan Kekuasaan Kehakiman," *Al-'Adalah* 13, no. 1 (2016): 39–52, <https://doi.org/10.24042/alah.v13i1.1128>; Abdul Halim, "Non-Muslims in the Qanun Jinayat and the Choice of Law in Sharia Courts in Aceh," *Human Rights Review* 23, no. 2 (June 1, 2022): 265–88, <https://doi.org/10.1007/s12142-021-00645-x>; Miftahul Ulum et al., "Islamic Studies Update: Examining the Sharia Court in Aceh in the Perspective of Legislation in Indonesia," *International Journal of Nusantara Islam* 12, no. 2 (December 31, 2024): 276–85, <https://doi.org/10.15575/ijni.v12i2.44815>.

³ Andi Intan Cahyani, "Peradilan Agama Sebagai Penegak Hukum Islam Di Indonesia," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 6, no. 1 (June 30, 2019): 119–32, <https://doi.org/10.24252/al-qadau.v6i1.9483>.

⁴ Rachel Rinaldo, Eva F. Nisa, and Nina Nurmila, "Divorce Narratives and Class Inequalities in Indonesia," *Journal of Family Issues* 45, no. 5 (May 1, 2024): 1195–1216, <https://doi.org/10.1177/0192513X231155657>.

In contrast, Aceh maintains a strong tradition of customary law (adat), deeply integrated with Islamic principles. The Gampong Customary Institution (Lembaga Adat Gampong), comprising *tuha peut* (village elders) and religious leaders, plays a central role in resolving family disputes, including divorce, domestic violence, inheritance, and joint property issues. These institutions are often regarded by the local population as authoritative bodies capable of legitimizing divorce, making them the primary reference for many couples seeking separation.⁵

The Islamic bureaucratic structure in Aceh has historical roots dating back to Indonesia's independence, initiated by the establishment of the Ministry of Religious Affairs under Muhammad Yamin. This led to the formation of the Office of Religious Affairs (KUA) and Religious Courts to serve the legal needs of Muslim communities. However, even before Indonesia's formation, the Aceh Sultanate (established in 1203) had already instituted the *Qadhi Malik al-'Adil* – a religious court based on classical Islamic jurisprudence (fiqh) written by Acehnese scholars. While adhering to Islamic legal texts, these scholars also considered local customs, reinforcing the intrinsic link between adat and sharia as encapsulated in the Acehnese saying, "*hukom ngen adat lagee zat ngen sifet*" (law and custom are inseparable like substance and attribute). During the colonial era, the legal system evolved through phases such as *musapat tribunals* and the Japanese-era *syukyo hoin*, reflecting the shift away from indigenous legal traditions.⁶

Divorce bureaucracy in Aceh today mandates that all Muslim couples go through the Mahkamah Syar'iyah as the official body assigned by the Indonesian government. Although the national law requires divorce to be settled in court, many Acehnese perceive this as conflicting with their local traditions. Divorce remains a contentious issue in the region: some communities rely solely on customary institutions – including *tengku imum* (village clerics) and *tuha peut* – while others prefer the Mahkamah Syar'iyah for legal recognition. A third group utilizes both mechanisms. Each institution asserts its legitimacy in adjudicating divorce, yet customary decisions hold no legal standing under state law despite being socially and religiously accepted.⁷

The entrenched use of adat in resolving household disputes, including domestic violence and inheritance, is a longstanding tradition. The enactment of the Aceh Customary Institutions Qanun has further strengthened their authority. Religious figures, predominantly trained in the Syafi'i school of thought, along with customary leaders, bolster the community's inclination to resolve divorces outside the court system. The divergence between the Mahkamah Syar'iyah's legal interpretation and the fiqh-based approach of customary bodies reinforces the perception that state law and Islamic jurisprudence are not

⁵ Siti Sahara et al., "Empowering The Resolution of Minor Crimes Through the Gampong Traditional Court in East Part of Aceh ;," *Eumpang Breuh: Jurnal Pengabdian Masyarakat* 3, no. 2 (December 24, 2024): 31–35, <https://doi.org/10.33059/ebjpm.v3i2.10929>.

⁶ Muhammad Rudi Syahputra et al., "The The Role and Challenges of Gampong Customary Courts in Resolving Customary Criminal Cases in Lhokseumawe City," *Indonesian Journal of Humanities and Social Sciences* 5, no. 4 (November 25, 2024): 1647–64, <https://doi.org/10.33367/ijhass.v5i4.6166>.

⁷ Nurdin Bakri Nurdin Bakri and Antoni Antoni, "Talak Di Luar Pengadilan Menurut Fatwa Mpu Aceh No 2 Tahun 2015 Tentang Talak," *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 1, no. 1 (July 17, 2017): 52, <https://doi.org/10.22373/sjhk.v1i1.1570>.

always aligned. The requirement for courtroom divorce proceedings remains problematic, as many Acehnese continue to separate through customary channels, which, though widely respected, lack official legal recognition.⁸

Arskal Salim, in his study on adat and Islamic law in Aceh, noted that following the MoU with the Indonesian government, Aceh has revitalized its customary institutions in tandem with Islamic law enforcement. The Acehnese government has institutionalized adat, revived lost cultural practices, and positioned customary norms as secondary to Islamic law.⁹ Euis Nurlaelawati's research in Cianjur highlights that despite the perception of religious court procedures being costly and complex, many women still pursue legal divorces to secure justice and uphold their rights.¹⁰ Similarly, Abdullah's research in Lombok examined customary divorce practices involving local traditions, religious leaders (*Tuan Guru*), and symbolic rituals such as *pecelekan*. However, these rituals sometimes contradict Islamic legal principles, especially regarding the termination of a wife's rights.¹¹

Unlike prior studies that focus on women's vulnerabilities and their legal struggles in religious courts, this research seeks to investigate the active role of customary institutions in divorce resolution in Langsa City. It aims to explore why local Muslim communities opt for adat mechanisms, the Mahkamah Syar'iyah, or a combination of both. This study intends to provide fresh insights into culturally grounded yet legally mindful divorce practices in Langsa, especially as the Acehnese government is drafting the *Qanun Munakahat*—a legislative framework for marriage and divorce in the province. This research is vital in light of the ongoing legal ambiguities surrounding divorce, which often lead to extrajudicial separations that overlook Islamic, customary, and national laws. Moreover, women and children frequently bear the brunt of such unresolved processes. Ultimately, this study seeks to contribute to a more holistic and just divorce resolution model for the Muslim population in Langsa.

This study employs socio-legal research, combined with the concept of legal pluralism, to explore divorce practices in Aceh. The socio-legal research is utilized to examine the application of law within the social context of the community, focusing on how customary law and national law interact in the resolution of divorce cases.¹² Meanwhile, the legal pluralism approach offers a broader perspective by acknowledging the coexistence of multiple legal systems, including customary law, Sharia law, and national law. This study aims to illustrate the complex relationships between these three legal systems, particularly in

⁸ Muhazir Muhazir, "Islam, Fatwa Dan Negara: Meretas Pluralisme Hukum Perceraian Di Aceh," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (December 1, 2021): 233–48, <https://doi.org/10.24090/mnh.v15i2.5150>.

⁹ Arskal Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 25, 2021): 529–51, <https://doi.org/10.22373/sjhk.v5i2.11082>.

¹⁰ Euis Nurlaelawati, "Muslim Women in Indonesian Religious Courts: Reform, Strategies, and Pronouncement of Divorce," *Islamic Law and Society* 20, no. 3 (2013): 242.

¹¹ Abdullah Abdullah, Hijrah Hijrah, and Hery Zarkasih, "Criticizing the Muslim Divorce Tradition in Lombok: An Effort to Control The Women's Rights," *Justicia Islamica* 19, no. 1 (2022): 57–73.

¹² Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika, 2021).5

the context of divorce resolution in Aceh, which is deeply rooted in customary law traditions while also being governed by national regulations and Sharia principles.¹³

The data for this research were obtained through unstructured interviews with key stakeholders directly involved in divorce practices in Aceh. The use of unstructured interviews allows the researcher to gather more in-depth and flexible information, providing respondents the freedom to express their views without rigid constraints.¹⁴ The individuals interviewed included gampong imams, who offer religious guidance and advice to the community, customary leaders who play a role in resolving family disputes based on customary practices, KUA officers involved in the administrative aspects of divorce, and judges from the Sharia Court, who have the authority to adjudicate divorce cases under Sharia law. By adopting this approach, the study seeks to gain a deeper understanding of the legal dynamics that influence divorce proceedings in Aceh and the role of legal institutions in resolving such disputes.¹⁵

Divorce in Indonesia: Legal Procedures, Religious Considerations, and Social Implications

Divorce is a prevalent phenomenon within marital relationships and carries significant legal implications. In the Indonesian legal system, divorce is not merely the personal dissolution of the marital bond between husband and wife but a formalized process governed by strict legal frameworks. Legally, divorce is understood as the termination of a marriage through an official court decision that carries binding legal force. Consequently, even if a couple decides to separate, the divorce will only be recognized by the law once it has gone through the prescribed judicial procedures.¹⁶

In Indonesia, divorce is specifically regulated by Law No. 1 of 1974 on Marriage, which outlines the conditions and procedures for marital dissolution. The law establishes that divorce is the legal termination of the marital relationship, and such an action cannot be taken unilaterally. It must undergo a formal judicial process to be validated.¹⁷

Article 38 of the Marriage Law underscores that divorce can only be initiated and resolved through the courts. Muslim couples are required to file for divorce in the Religious Courts, while non-Muslim couples file in the District Courts. This procedural regulation ensures that divorce is not arbitrary but is carried out for justifiable reasons and after careful legal consideration. The goal is to provide legal protection to both parties, ensuring fairness and preventing unjust separations.¹⁸

¹³ Peter Mahmud Marzuki, *Penelitian Hukum* (Prenada Media, 2017). 6-7

¹⁴ C. R. Kothari, *Research Methodology: Methods and Techniques*, 2nd ed (Daryaganj: New Age International, 2004).15

¹⁵ John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 4th ed (Thousand Oaks: SAGE Publications, 2014).7

¹⁶ Hotnidah Nasution and Ahmad Rifqi Muchtar, "Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts," *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (December 30, 2020), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/15702>.

¹⁷ Muhazir Muhazir and Azwir Azwir, "Divorce Bureaucracy in the Sharia Space: Examining Practices in Langsa City, Aceh," *At-Tafkir* 17, no. 1 (2024): 44-55.

¹⁸ Linda Azizah, "Analisis Perceraian dalam Kompilasi Hukum Islam," *Al-'Adalah* 9, no. 2 (2012): 415-22, <https://doi.org/10.24042/adalah.v10i2.295>.

For Muslim couples, divorce procedures are also outlined in the Compilation of Islamic Law (KHI), which serves as the official guide for Islamic legal matters in Indonesia. Within the KHI, there are provisions for various forms of divorce, including "talak" (divorce pronounced by the husband) and "fasakh" (the annulment of marriage, which may be requested by the wife or the Religious Court under specific circumstances, such as neglect of marital duties or domestic violence).¹⁹

Despite Islamic law permitting divorce through "talak," in practice, Indonesian law mandates that all divorces, including those based on religious grounds, must be processed through the Religious Court to be legally recognized by the state. This ensures that divorce proceedings follow a clear legal procedure, avoiding unilateral or informal separations that lack formal recognition. As such, the regulations within the KHI ensure the protection of all parties' rights and the legal legitimacy of divorce within the Muslim community.²⁰

Divorce regulations in Indonesia are clearly stated in Law No. 1 of 1974, specifically in Article 38, which insists that divorce must be processed through the courts. This provision reinforces the notion that divorce cannot occur without adherence to established legal procedures, guaranteeing the legal rights of both parties involved. The court's role in this process is to ensure a just and impartial decision is made, considering the grounds for divorce presented by the filing party.²¹

The division of jurisdiction for divorce cases based on religious affiliation ensures that divorce proceedings are aligned with the applicable religious and cultural laws. Muslim couples must file for divorce in the Religious Court, while non-Muslim couples go through the District Court. This division of authority reflects Indonesia's respect for its diverse religious landscape, allowing divorce to be handled according to the customs and beliefs of the individuals involved.²²

The divorce process begins when one spouse files for divorce, presenting the grounds for their request. The court then examines the evidence supporting the claim and determines if it aligns with legal provisions. Before issuing a divorce decree, the court typically encourages mediation between the parties in an attempt to reconcile the marriage. This mediation serves as a critical step in the legal process, emphasizing that the law seeks not only to dissolve the marriage but also to foster reconciliation and peaceful resolution when possible.²³

However, when mediation proves unsuccessful and the marriage cannot be saved, the court will issue a divorce ruling. In Indonesia, divorce can be granted on several

¹⁹ Dini Ramdania, "Aspek Hukum Perceraian Dalam Perspektif Hukum Islam," *Wacana Paramarta: Jurnal Ilmu Hukum* 19, no. 1 (May 31, 2020): 17–28, <https://doi.org/10.32816/paramarta.v19i1.81>.

²⁰ Muhammad Husni Abdulah Pakarti et al., "Asas Keadilan Sebagai Salah Satu Landasan Hakim Dalam Memutuskan Putusan Perceraian," *Al-Ahwal Al-Syakhsiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 4, no. 2 (September 25, 2023): 101–16, <https://doi.org/10.15575/as.v4i2.25998>.

²¹ Ramadhan Syahmedi Siregar, "Dampak Perceraian Yang Tidak Sesuai Dengan Prosedur Perundang-Undangan," *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman* 1, no. 1 (May 31, 2016): 161–76, <https://doi.org/10.24952/fitrah.v1i1.333>.

²² Burhanatut Dyana and Agus Sholahudin Shidiq, "Disparitas Putusan Hakim Terhadap Hak-Hak Istri Pasca Cerai Talak Raj'i," *Al Maqashidi : Jurnal Hukum Islam Nusantara* 2, no. 1 (August 2, 2019): 16, <https://doi.org/10.32665/almaqashidi.v2i1.860>.

²³ Hasmiah Hamid, "Perceraian Dan Penanganannya," *Jurnal Ilmiah Wahana Pendidikan* 4, no. 3 (December 12, 2018): 24–29.

grounds, such as domestic violence, abandonment, failure to fulfill marital duties, or irreconcilable differences. The evidence supporting these claims must be thorough to ensure a fair judgment.²⁴

Once the court issues a final and binding divorce decree, the marriage is legally dissolved, and the rights and responsibilities associated with the marriage cease. This includes the division of marital property acquired during the marriage, as well as the determination of child custody if children are involved. Child custody is particularly important, as the court must prioritize the well-being of the children when making this decision.

In addition to the Marriage Law, the Compilation of Islamic Law (KHI) also governs divorce for Muslim couples. Terms such as "talak" (husband-initiated divorce) and "khul'" (divorce initiated by the wife) are included in these regulations. However, even for Muslim couples, divorce must be processed through the Religious Court to be legally recognized. This regulatory framework ensures that the divorce is conducted through the proper legal channels to avoid complications in the future.²⁵

Divorce does not only affect the spouses but also has significant consequences for children and other family members. Therefore, the court pays close attention to child custody and the obligation of alimony for the children and the former spouse. The court's primary responsibility is to ensure that the best interests of the children are maintained when determining custody, considering the most suitable living environment for their development.²⁶ Moreover, the division of joint marital assets often presents challenges, as it involves determining how property acquired during the marriage will be fairly distributed. This process must follow the law, and if an agreement is not reached amicably, it can prolong the conflict between the spouses. In such cases, the court plays a vital role in ensuring that the division is fair and does not disproportionately harm one party.

The divorce procedure also includes legal protections for women, especially concerning alimony and equitable treatment during and after the divorce. In practice, women filing for divorce are entitled to receive alimony during the divorce process, as well as child support if children are involved. This provision is crucial to prevent economic hardship for women after separation.²⁷

On a social level, divorce is often a challenging and emotionally taxing event for all those involved. The impact can range from psychological and emotional distress to changes in social status and economic instability. Therefore, while the law provides a legal route for divorce, it is essential for couples to carefully consider their decision and seek reconciliation

²⁴ Yunanto Arum Kusumaningrum*, "Efektivitas Mediasi Dalam Perkara Perceraian Di Pengadilan Negeri Semarang," *Diponegoro Law Journal* 6, no. 1 (February 23, 2017): 1-10, <https://doi.org/10.14710/dlj.2017.15666>.

²⁵ Muhammad Arsal Nasution, "Perceraian Menurut Kompilasi Hukum Islam (KHI) Dan Fiqh," *Jurnal EL-QANUNIY: Jurnal Ilmu-Ilmu Kesyariahan Dan Pranata Sosial* 4, no. 2 (December 30, 2018): 157-70, <https://doi.org/10.24952/el-qanuniy.v4i2.2385>.

²⁶ Lili Hidayati, "Fenomena Tingginya Angka Perceraian Di Indonesia Antara Pandemi Dan Solusi," *Khuluqiyya: Jurnal Kajian Hukum Dan Studi Islam*, January 2, 2021, 71-87, <https://doi.org/10.56593/khuluqiyya.v3i1.56>.

²⁷ Asman Asman et al., *Pengantar Hukum Perkawinan Islam Indonesia* (Jambi: PT. Sonpedia Publishing Indonesia, 2023).

before choosing to dissolve the marriage. Mediation, as facilitated by the court, is an important manifestation of a compassionate legal approach to addressing marital issues.²⁸

The Role of Customary Courts in Dispute Resolution in Langsa City: A Legal and Social Perspective

Customary courts are dispute resolution mechanisms aimed at fostering peace among members of customary law communities. This system is commonly associated with settlement processes at the village or *gampong* level, based on local traditions and customs. Customary courts focus on resolving conflicts according to the values and customs that prevail in the community, often with a traditional approach.²⁹

To understand customary courts, it is essential to first explore the concept of customary law. In Indonesia, customary law (*adatrecht*) has been the subject of academic study and has been applied since the Dutch and Japanese colonial periods. This law reflects the norms and traditions that have governed community life for generations.³⁰

The Aceh Customary Council (MAA) has been a pioneer in promoting customary courts as part of its programs, supported by various local and international non-governmental organizations. Each organization has specific approaches and work programs aimed at empowering customary courts. As a result, the term "customary court" has gained increasing recognition, particularly among scholars of customary culture, though parts of the general public are also becoming more familiar with it. However, in practice, customary courts still operate according to local traditions and customs. While some customary leaders have undergone training in procedural methods similar to formal courts, the implementation remains grounded in traditional practices.³¹

Tengku Sulaiman, one of the *Imam gampong* and a member of the MAA, explains the process of dispute resolution through the *gampong* customary court:³²

"Cases that are not resolved at the village level are brought to the *gampong* or *geuchik* through the *gampong* secretary or the staff at the *geuchik* office. The matter is then scheduled for a *gampong* meeting or trial. The *geuchik* appoints members of the *gampong* court or other relevant parties to handle the case. The court reviews and thoroughly examines the case file. A date for the official hearing is then set to resolve the issue within the *gampong* court system. Typically, the *gampong* court is chaired by the *geuchik*, assisted by *tuha peut* (village elders), and sometimes supported by other respected figures, such as *tengku* or *ulama*. The purpose of this system is to maintain harmony, strengthen social ties, and uphold local customary law. Therefore,

²⁸ Teguh Anshori, "Analisis Usia Ideal Perkawinan Dalam Perspektif Maqasid Syari'ah," *Al-Syakhsiyah: Journal of Law and Family Studies* 1, no. 1 (2019): 3-5, <https://doi.org/10.21154/syakhsiyah.v1i1.1827>.

²⁹ Teuku Muttaqin Mansur, M. Adli Abdullah, and Sulaiman, "Kajian Yuridis Peradilan Adat di Aceh," *Journal of Indonesian Adat Law* 2, no. 3 (December 1, 2018), <https://doi.org/10.46816/jial.v2i3.6>.

³⁰ Yusi Amdani, "Konsep Restorative Justice dalam Penyelesaian Perkara Tindak Pidana Pencurian oleh Anak Berbasis Hukum Islam dan Adat Aceh," *Al-'Adalah* 13, no. 1 (2016): 81-76, <https://doi.org/10.24042/adalah.v13i1.1130>.

³¹ Sulaiman Tripa, *Peradilan Gampong* (Banda Aceh: Bandar Publishing, 2019).21

³² Sulaiman, *Imam dan Majelis Adat Gampong*, July 20, 2024.

the community should avoid conflict and resolve disputes through peaceful dialogue.”

The primary goal of customary courts is to resolve conflicts among community members at the village level. However, the decisions rendered by these courts do not have formal legal force. For example, in divorce cases resolved through customary courts, the couple may be considered divorced according to customary law, but additional steps are needed for formal legal recognition.³³

Customary courts represent a form of legal pluralism that remains present in Indonesia. In a diverse society, conflicts are often inevitable due to differences in interests or personalities. These conflicts may involve land disputes, breaches of contracts, or family matters such as divorce. Although undesirable, such conflicts are an unavoidable social reality.³⁴

The Indonesian constitution guarantees legal equality for all citizens, serving as the foundation for ensuring access to justice. The state is responsible for providing legal protection and the restoration of rights to those who experience violations. However, formal institutions often face limitations in providing fast and affordable justice, especially for marginalized communities, the poor, or indigenous groups. As such, customary courts serve as an important alternative to strengthen access to justice through informal approaches, such as mediation or customary mechanisms.

There are several reasons why customary courts are relevant in non-litigation dispute resolution:³⁵

1. Limited Access to Formal Legal Systems: Many communities, especially in remote areas, have limited access to formal courts.
2. Strength of Local Traditions: Traditional communities continue to adhere to customary law for resolving disputes, as this tradition is seen as relevant and aligned with their needs.
3. Mismatch with Formal Legal Systems: Formal legal approaches are often considered unsatisfactory in fulfilling the sense of justice for indigenous communities.
4. Infrastructure Limitations: Formal legal systems often lack the resources and infrastructure to address the justice needs of local communities.

Furthermore, Indonesian society tends to resolve disputes peacefully through deliberation. This approach has proven effective in diffusing conflict, eliminating grudges, and fostering social harmony. Customary courts are increasingly important amidst the

³³ Chairul Musa Fira, Jamaluddin Jamaluddin, and Hamdani Hamdani, “Penyelesaian Sengketa Tanah Warisan Melalui Peradilan Adat Gampong (Studi Penelitian di Kecamatan Madat Kabupaten Aceh Timur),” *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 6, no. 2 (August 23, 2023): 13–28, <https://doi.org/10.29103/jimfh.v6i2.10431>.

³⁴ Arskal Salim, “‘Shari ‘a from Below’ in Aceh (1930s–1960s): Islamic Identity and the Right to Self-Determination with Comparative Reference to the Moro Islamic Liberation Front (MILF),” *Indonesia and the Malay World* 32, no. 92 (2004): 80–99.

³⁵ Salim, “Adat and Islamic Law in Contemporary Aceh, Indonesia.”

limitations of formal legal systems in reaching remote areas, where case backlogs are often a challenge.³⁶

In Aceh, the implementation of customary courts is supported by several regulations, such as:

1. Law No. 44 of 1999 on the Special Autonomy of Aceh, which grants authority to implement customary law in accordance with Islamic Sharia.
2. Law No. 11 of 2006 on the Government of Aceh.
3. Aceh Regional Regulation No. 7 of 2000 on Traditional Life.
4. Aceh Qanun No. 4 and 5 of 2003 on Mukim and *Gampong* Governance.
5. Aceh Qanun No. 9 and 10 of 2008 on Customary Institutions and Customary Law Development.
6. The 2008 agreement between the police, governor, MAA, and other institutions to address security issues through the customary law approach.

In the legal system, mediators are expected to remain neutral, unbiased, and without personal interest in the dispute being handled. Mediators provide procedural assistance, such as leading and organizing the mediation process, as well as substantive support, such as offering suggestions to resolve the core dispute. A mediator's role can be active, assisting parties who are struggling to negotiate, or passive, if the disputing parties are able to discuss matters constructively.³⁷

The legal basis for mediation in district courts is regulated by the Supreme Court Regulation (PERMA) No. 1 of 2016, which revised PERMA No. 1 of 2008. Key points in the mediation procedure include:³⁸

1. Judges must encourage reconciliation in every civil case hearing, not limited to the first hearing.
2. If reconciliation is successful, a reconciliation agreement is made and read in front of the parties, followed by a binding judgment.
3. The reconciliation agreement holds legal force equivalent to a final court ruling and is not subject to appeal, cassation, or judicial review.
4. If mediation fails, this is recorded in the minutes, and the trial proceeds.
5. For divorce cases, judges must facilitate reconciliation, and hearings are conducted in private if reconciliation fails.

PERMA No. 1 of 2016 requires mediators to hold an officially recognized certification to conduct mediation in court. However, for out-of-court mediation, disputing parties are free to choose a mediator they deem competent, without needing formal certification.³⁹ Customary courts are often associated with the tradition of deliberation, known by different

³⁶ Arskal Salim, "Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh," *The Journal of Legal Pluralism and Unofficial Law* 42, no. 61 (January 2010): 1-29, <https://doi.org/10.1080/07329113.2010.10756640>.

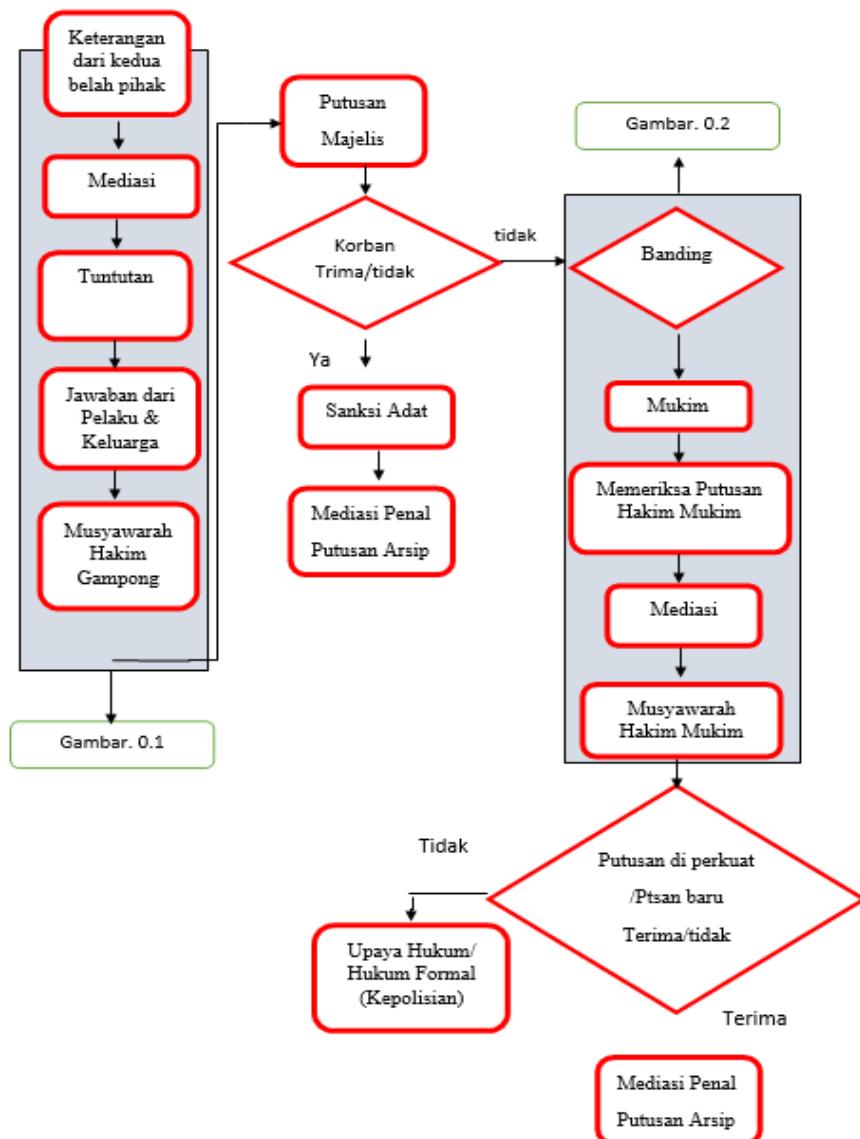
³⁷ Karmawan Karmawan, "Mediation in the Religious Courts of Indonesia," *AHKAM: Jurnal Ilmu Syariah* 20, no. 1 (June 30, 2020), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/13249>.

³⁸ Fathan Fadhlullah, "The Future of Mediation in Religious Courts," *IJTIHAD* 39, no. 2 (2023): 42-53.

³⁹ Pahruroji Suhastra, "Mediation Procedure in Religious Courts in Indonesia in the Perspective of Thought Wahbah Al-Zuhaily," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 1 (June 30, 2023): 97-108, <https://doi.org/10.25217/jm.v8i1.3486>.

terms in various regions, such as "beduduk" in West Kalimantan, "harungguan" in Karo, or "bagundem" in Sasak. In Aceh, the term used is "customary court." This term refers to a social mechanism for resolving community conflicts based on customary values.⁴⁰

Figure 1. The flow of trial in the Gampong Customary Court⁴¹



In practice, cases resolved through customary courts at the *gampong* level typically begin after an official report is submitted to customary authorities, such as the *keuchik*, *tuha peut*, or *teungku imum*. Without a report, the customary authorities generally do not take

⁴⁰ Diras, Muhammad Hatta, and Faisal, "Mekanisme Penyelesaian Perkara Pidana Melalui Pengadilan Adat Di Kota Lhokseumawe," *Cendekia : Jurnal Hukum, Sosial Dan Humaniora* 2, no. 3 (July 9, 2024): 688–701, <https://doi.org/10.5281/zenodo.12742340>; Irdy Yusepa, Wilodati Wilodati, and Siti Komariah, "Internalisasi Nilai Musyawarah/Mufakat Melalui Pembelajaran Sosiologi Berbasis Kearifan Lokal Duduk Adoik," *Jurnal Paedagogy* 9, no. 3 (July 21, 2022): 548, <https://doi.org/10.33394/jp.v9i3.5347>.

⁴¹ Taqwaddin, "Pengadilan Tinggi Banda Aceh," 2024, <https://www.pt-nad.go.id/new/content/artikel/2022082212074721129841163030f238776d.html>.

action, except in urgent cases such as murder or public order violations. For family matters, such as divorce or inheritance, the customary authorities wait for a report before taking any action.⁴² If the dispute cannot be resolved through customary law, the case will be referred to the formal legal system. However, not all members of the community opt for the customary route. Some, particularly from the middle and upper classes, prefer the formal court system due to its clear legal status or as a symbol of social standing.

Social, Legal, and Bureaucratic Dimensions of Divorce in Langsa: A Study of Customary and Islamic Practices

Divorce is often a pivotal moment that marks significant changes in an individual's life, particularly for married couples. This phenomenon becomes even more complex when viewed within the context of Muslim societies, where religious values and cultural traditions are highly revered. In such communities, divorce is not merely a personal issue, but also a social event that involves religious norms, customary rules, and applicable legal regulations. Consequently, the resolution of a divorce demands attention not only to psychological and social aspects but also to legal and administrative components, which are equally crucial.⁴³

In Langsa, a city in the Aceh Province with its unique socio-cultural characteristics, the issue of divorce becomes especially interesting to examine. This is due to the interplay between Islamic law, customary traditions, and governmental bureaucracy, which operate concurrently and are interconnected. In the Aceh context, the implementation of Islamic Sharia has been officially integrated into the regional governance and legal systems, creating its own dynamics in the process of divorce resolution. The predominantly Muslim population of Langsa has a deep social interaction with religious values and local customs, so every divorce process inevitably involves various institutions and regulations that must be followed.

When an individual or couple decides to end their marriage, they are not only confronted with emotional and social consequences but must also navigate a bureaucratic process that is often complex and challenging. This administrative process involves several official institutions, such as the Sharia Court, which serves as the judicial body to adjudicate divorce cases based on Islamic law, and the Office of Religious Affairs (KUA), which plays a key role in the administration of marriage and divorce. Additionally, local government institutions and customary bodies also participate in ensuring that the divorce process aligns with the prevailing norms.⁴⁴

However, in practice, the bureaucratic process associated with divorce resolution does not always proceed smoothly. Numerous obstacles arise due to overlapping authority between institutions, differing procedures, and inconsistent legal interpretations. These issues create uncertainty and often lead to internal conflicts between agencies, which affects the length of the resolution process and the fairness for the parties involved. For example,

⁴² Amri, Tokoh adat Gampong (MAG), July 20, 2024.

⁴³ Tim Heaton and Mark Cammack, "Explaining the Recent Upturn in Divorce in Indonesia: Developmental Idealism and the Effect of Political Change," January 1, 2011, <https://doi.org/10.1163/156853111X619229>.

⁴⁴ Alex Kusmardani, "The Dynamics of Divorce in Indonesian Muslim Families," *Daengku: Journal of Humanities and Social Sciences Innovation* 4, no. 5 (July 10, 2024): 739–52, <https://doi.org/10.35877/454RI.daengku2756>.

discrepancies between Islamic Sharia and national law interpretations can create confusion about which procedure should be followed first or how decisions made by one institution should be recognized and enforced by another.⁴⁵

Moreover, the complex bureaucracy also impacts the experiences of individuals seeking divorce. Many couples face difficulties in understanding the procedures, meeting administrative requirements, and communicating with various agencies that operate with different systems. This often leads to frustration and dissatisfaction, particularly for those who lack access to or knowledge of legal and bureaucratic systems. This situation underscores the urgent need to understand how this bureaucracy functions, what challenges are faced, and how the public reacts to the various processes they must go through.⁴⁶

Furthermore, the phenomenon of bureaucratic contestation in divorce resolution not only affects the technical aspects of administration but also touches on the social and cultural dimensions of society. On one hand, people wish for divorce processes to be conducted fairly and quickly so they can move forward with their lives. On the other hand, they also want their deeply held religious and cultural values to be preserved and respected at every stage of the process. The tension between the demands of formal bureaucracy and social expectations creates a fascinating dialectical space that warrants in-depth study.⁴⁷

The choices made by the community in Langsa in resolving divorce cases are significantly influenced by the existence of dynamic living law and the presence of a complex and overlapping pluralistic legal system. Factors such as culture, religion, economic conditions, and procedural mechanisms are the main variables determining the preference of the community to use the *Gampong* customary court as an alternative to the Sharia Court.

According to Ehrlich's perspective, living law consists of social and cultural norms that naturally develop through daily interactions within society.⁴⁸ These norms are perceived as more relevant and applicable by the community compared to rigid formal legal rules. This explains why communities tend to prioritize resolutions rooted in local customs and values that are familiar to their way of life. On the other hand, the concept of legal pluralism, as proposed by Menski, asserts that communities have the capacity to choose and practice the legal systems that best suit their social context and the values they uphold. In other words, legal pluralism is not merely a phenomenon of multiple legal systems existing simultaneously but also an adaptive response from society to meet their legal needs effectively and meaningfully.⁴⁹

In this context, strengthening the synergy between formal courts like the Sharia Court and informal systems like the *Gampong* customary court becomes essential. Efforts to improve the accessibility and services of the Sharia Court must be made without neglecting the crucial role that customary courts play in the community. Thus, legal pluralism in Langsa

⁴⁵ Muhazir and Azwir, "Divorce Bureaucracy in the Sharia Space."

⁴⁶ Nanda Amalia, Mukhlis, and Yusrizal, "Adat Court Judge Tradition and Practice of Dispute Resolution between Societies in Aceh," *Journal of Law, Policy and Globalization* 77 (2018): 74.

⁴⁷ Khairun Nisa, Azwir Azwir, and Muhazir Muhazir, "Mediator Non-Hakim Di Aceh: Menelisik Peran Peradilan Adat Dalam Penyelesaian Kasus Sengketa," *Lentera* 6, no. 2 (November 4, 2024): 146–65, <https://doi.org/10.32505/lentera.v6i2.9802>.

⁴⁸ Suri Ratnapala, *Jurisprudence: An Introduction* (Leiden: Cambridge University Press, 2009).20

⁴⁹ Werner Menski, *Comparative Law in a Global Context the Legal Systems of Asia and Africa* (London: Cambridge University Press, 2006).93

can serve as a social asset that reinforces the sense of justice and harmony in society, especially when addressing divorce issues that are laden with social, cultural, and emotional complexities.

In a multicultural society such as Langsa, divorce resolution does not always follow the formal legal path through the Sharia Court. Instead, many individuals prefer to resolve marital issues, including divorce, through local mechanisms such as the *Gampong* customary court. This choice is not a rejection of state law but reflects the existence of a living and dynamic legal system, representing a form of internalized legal pluralism within the social fabric.

Eugen Ehrlich's "living law" theory is crucial in understanding this dynamic. Ehrlich argued that the law practiced and lived by society does not always stem from legislative texts, but from the social norms that develop in daily life. In the case of Langsa, the *Gampong* customary court serves as a tangible expression of living law, where society refers to customary norms and local values that have proven effective in resolving conflicts, including divorce.⁵⁰

Ehrlich stated that "law is to be found in social facts and not in legislation," meaning that the primary source of law lies in social practices, not merely in written rules issued by the state. In practice, the people of Langsa consider customary institutions to better reflect a sense of justice that aligns with their way of life. This explains why, even though the Sharia Court has formal legal authority, the role of the customary court remains strong and, in many cases, is more relied upon because it is easier to access, understand, and provides direct tangible benefits.

Meanwhile, the legal pluralism approach developed by Werner Menski complements this analysis. Menski constructed a framework for legal pluralism in the form of a triangle that includes three main systems: state law, religious law, and customary or non-state law. From Menski's perspective, society does not exist within a single legal system but actively chooses and navigates between various available legal systems. Thus, society acts as an autonomous and rational legal subject in selecting the legal system that best aligns with their values and needs.⁵¹

Figure 1. Transformation of Menski's Theory in the Framework of Marriage Law



⁵⁰ Paul Schiff Berman, *The Oxford Handbook of Global Legal Pluralism* (United States of America: Oxford University Press, 2020).25

⁵¹ Menski, *Comparative Law in a Global Context the Legal Systems of Asia and Africa*.

Within this framework, the preference of the Langsa community for the Gampong customary court in resolving divorce cases illustrates that they do not solely adhere to formal state law but also acknowledge and live by the religious norms and customary laws they have inherited. Legal pluralism, in this context, serves as a mechanism that enables the realization of contextual justice—justice that is relevant to local culture, economic conditions, and societal values.⁵²

Cultural and religious factors play a dominant role in shaping this preference. The people of Aceh are generally known for their strong adherence to Islamic values and deeply rooted customary traditions. In the context of divorce, resolving matters through customary institutions is viewed as more humane and less likely to incur significant social stigma. This contrasts with the formal process in the Sharia Court, which is often seen as procedural and, at times, rigid by the general public. From Ehrlich's perspective, the customary process is more aligned with living law, as it addresses the social and emotional dimensions of society, not just the legalistic aspects.

On the other hand, economic factors and procedural considerations are practical aspects that cannot be ignored. Divorce cases resolved through the Sharia Court often require significant costs and extended periods due to the standard legal procedures involved. In contrast, resolutions at the Gampong level are much faster, cheaper, and simpler. In this regard, the community tends to opt for the more efficient and less burdensome route. This preference aligns with Lawrence M. Friedman's argument that legal pluralism provides space for communities to act pragmatically, without the obligation to strictly adhere to any single legal system.⁵³

More than just a social phenomenon, this tendency highlights the importance of recognizing the existence and legitimacy of local legal systems within the framework of national law. Ignoring the role of customary courts would not only weaken an inclusive justice system but also risk creating a divide between formal law and the social realities of the community. Therefore, collaboration between formal institutions like the Sharia Court and informal bodies like the Gampong customary courts is essential. This coordination should be based on the principle of complementarity, not negation.

However, it should also be noted that the Sharia Court remains the primary choice for some divorce cases. One commonly encountered case in the Sharia Court is the "Divorce Lawsuit" (Cerai Gugat). This is based on the experiences of mediators in facilitating several divorce cases at the Langsa Sharia Court.

Data collected from the Sharia Court of Langsa City reveals a decrease in the number of divorce cases over the past two years, from 335 cases in 2023 to 288 cases in 2024. This decline reflects a significant trend, representing a 14 percent reduction. Upon closer examination, this decline not only indicates a quantitative shift in numbers but also suggests

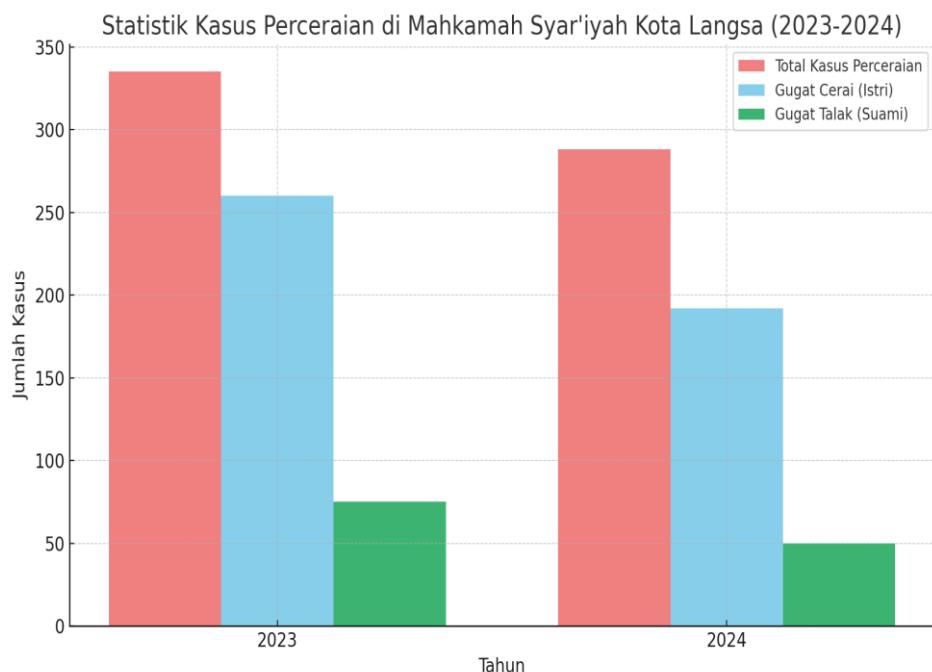
⁵² Ralf Michaels, "Global Legal Pluralism," *Annual Review of Law and Social Science* 5, no. Volume 5, 2009 (December 1, 2009): 243–262, <https://doi.org/10.1146/annurev.lawsocsci.4.110707.172311>.

⁵³ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975).257

the presence of social and legal dynamics influencing the decisions of married couples in resolving marital conflicts through formal legal channels.⁵⁴

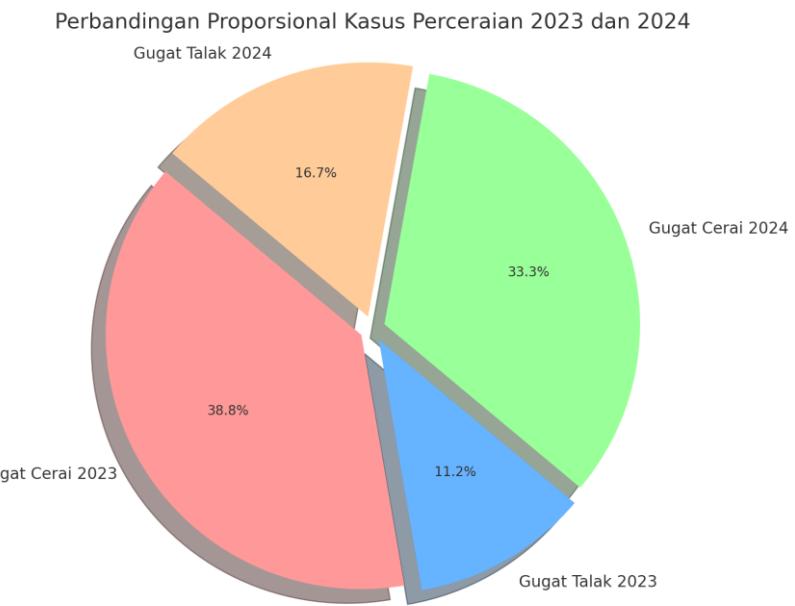
In terms of case composition, the most dominant type of divorce is the lawsuit filed by the wife. In 2023, 260 divorce lawsuits were recorded, while in 2024, the number decreased to 192 cases. Although the numbers have decreased, the proportion of divorce lawsuits filed by wives still dominates, accounting for about two-thirds of the total cases filed each year.

Conversely, the number of talak (divorce initiated by the husband) cases has also decreased, from 75 cases in 2023 to 50 cases in 2024. This phenomenon shows a consistent trend that women are more proactive in seeking justice through the Sharia Court compared to men. In the context of Acehnese society, this indicates a transformation in women's legal awareness, particularly regarding the right to legal protection from an unstable or dysfunctional marital relationship. On the other hand, the low number of talak cases filed by husbands may be attributed to several factors, such as reluctance to undergo formal procedures, lack of knowledge about judicial mechanisms, or resolution through informal paths such as customary or religious routes that are not officially recorded in the judicial system.



When compared proportionally, in 2023, divorce lawsuits filed by wives accounted for approximately 77.6% of the total divorce cases, while in 2024, this figure slightly decreased to 66.6%.

⁵⁴ "288 Kasus Perceraian Tercatat Di MS Langsa Selama 2024, Terbanyak Gugat Cerai »" dialeksis.com, accessed June 8, 2025, <https://www.dialeksis.com/aceh/288-kasus-perceraian-tercatat-di-ms-langsa-selama-2024-terbanyak-gugat-cerai/>; Alfathur Rizky, "Kasus Perceraian Di Langsa Meningkat," accessed June 8, 2025, <https://www.ajnn.net/news/kasus-perceraian-di-langsa-meningkat/index.html>.



This decline may be influenced by various external factors, such as an increased awareness of the importance of maintaining marital relationships, interventions by mediation institutions, or barriers to access to formal judicial bodies, leading some members of the community to choose informal paths such as the *Gampong* customary courts. However, it should be noted that these figures may not fully reflect the dynamics of divorce in the community, as many divorce cases resolved through customary law are not officially recorded in the Sharia Court's statistics.

Therefore, although there has been a quantitative decrease in divorce cases over the past two years, qualitatively, more efforts are needed to understand the social, cultural, and structural contexts that encourage or hinder couples from resolving divorces through formal legal channels. Strengthening legal literacy, improving access to judicial institutions, and integrating formal and informal legal systems are strategic steps that need to be taken to ensure all divorce processes are properly documented and capable of protecting the rights of all parties, particularly women and children.

A concrete step that can be taken is to create an integrative mechanism that accommodates customary dispute resolution practices within the formal judicial system. For example, through the recognition of customary mediation outcomes as legal considerations in judicial processes, or by providing legal training to customary leaders so they can carry out their roles more systematically and in connection with the state legal system. In this way, customary courts would not only serve as supplementary systems but also as an integral part of a living justice system that responds to the needs of the community.

Theoretically, the approaches offered by Ehrlich and Menski reinforce the idea that law is not singular and static, but plural and adaptive. In pluralistic societies like Langsa, legal pluralism becomes an essential tool for ensuring substantive justice. It allows communities to apply the law based on the values, culture, and religion they believe in, without feeling in conflict with the state.

Legal pluralism also reflects flexibility in governance, where the state provides space for the existence of non-state legal systems as long as they do not contradict the basic principles of justice and human rights. In this sense, pluralism does not equate to legal chaos, but rather represents an acknowledgment of the diverse perspectives within society for enforcing justice.⁵⁵

Thus, the analysis of legal pluralism in the context of divorce resolution in Langsa not only describes the social reality but also opens a new discourse on how law can function more effectively and meaningfully in the lives of society. The presence of customary law as an alternative conflict resolution mechanism is not an opposition to the state but a part of the dynamic legal system that evolves in response to societal needs and the changing times.

Therefore, policymakers and legal scholars must ensure that this legal pluralism remains within a framework that guarantees the protection of basic rights while facilitating dialogue between formal and informal legal systems to create substantive and inclusive justice.

From a juridical perspective, divorce provisions are clearly outlined in Article 39 of Law No. 1 of 1974 on Marriage, which states that divorce proceedings can only be conducted in the presence of a court. In Aceh, this authority is specifically exercised by the Sharia Court, in accordance with the special legal framework that has been in place since the 2005 Helsinki MoU. This regulation reflects the state's commitment to orderly and controlled divorce procedures through formal judicial systems. However, the reality on the ground shows a gap between normative regulations and social practices. In Langsa, divorce resolutions are more often conducted through customary institutions based on local values and the social structure of the community.

Empirically, this phenomenon shows that sociological and anthropological approaches dominate the patterns of household dispute resolution in local society. The deeply rooted tradition of customary law remains the primary reference for resolving conflicts, including divorce cases. This is closely tied to the revitalization of customary law in Aceh post-conflict, where the customary system regained its social and functional legitimacy as a tool for social control. Therefore, in Langsa, customary institutions not only have symbolic value but also play an active role as a widely recognized forum for dispute resolution.

Conclusion

The resolution of divorce cases in Langsa highlights the significant role of legal pluralism, where the interplay between formal legal systems (such as the Sharia Court) and informal, customary systems (such as the *Campung* customary courts) reflects the diverse legal needs of the community. The preference for customary courts, especially in cases of divorce, is influenced by cultural, religious, and economic factors that shape societal

⁵⁵ Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): 870, <https://doi.org/10.2307/3053638>; Paul Schiff Berman, "The New Legal Pluralism," *Annual Review of Law and Social Science* 5, no. Volume 5, 2009 (December 1, 2009): 225–42, <https://doi.org/10.1146/annurev.lawsocsci.093008.131539>; John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1986): 1–55, <https://doi.org/10.1080/07329113.1986.10756387>.

behavior. The presence of living law, as explained by Ehrlich, indicates that local customary norms and traditions are perceived as more relevant and effective in addressing personal and community issues, particularly those as emotionally charged as divorce.

Legal pluralism, as articulated by Menski, enables society to navigate multiple legal systems based on their values and needs, ensuring that justice is contextually relevant and accessible. However, the coexistence of these systems also creates challenges, such as overlapping jurisdictions, inconsistent procedures, and differing legal interpretations, which can lead to confusion and delays in the resolution process.

While there has been a decline in divorce cases through the Sharia Court, this does not fully capture the entire divorce dynamic within the community, as many cases are resolved informally through customary law, remaining outside formal legal statistics. The findings underscore the importance of integrating these two systems—formal and informal—into a cohesive framework that ensures legal protection, particularly for women and children, and respects local traditions. Strengthening legal literacy, improving access to judicial institutions, and fostering collaboration between the Sharia Court and customary law institutions are essential steps toward achieving a more inclusive and effective justice system.

The legal system in Langsa reflects a complex but functional model of pluralism where customary law is not in opposition to state law but complements it, contributing to the overall social harmony and justice. As legal pluralism becomes an essential feature in societies with diverse cultural and legal traditions, it is crucial for policymakers and legal scholars to ensure that these systems work together to protect fundamental rights and provide meaningful justice for all members of the community.

References

Abdullah, Abdullah, Hijrah Hijrah, and Hery Zarkasih. "Criticizing The Muslim Divorce Tradition in Lombok: An Effort to Control The Women's Rights." *Justicia Islamica* 19, no. 1 (2022): 57-73.

Ali, Zainuddin. *Metode Penelitian Hukum*. Sinar Grafika, 2021.

Amalia, Nanda, Mukhlis, and Yusrizal. "Adat Court Judge Tradition and Practice of Dispute Resolution between Societies in Aceh." *Journal of Law, Policy and Globalization* 77 (2018): 74.

Amdani, Yusi. "Konsep Restorative Justice dalam Penyelesaian Perkara Tindak Pidana Pencurian oleh Anak Berbasis Hukum Islam dan Adat Aceh." *Al-'Adalah* 13, no. 1 (2016): 81-76. <https://doi.org/10.24042/adalah.v13i1.1130>.

Anshori, Teguh. "Analisis Usia Ideal Perkawinan Dalam Perspektif Maqasid Syari'ah." *Al-Syakhsiyah: Journal of Law and Family Studies* 1, no. 1 (2019): 3-5. <https://doi.org/10.21154/syakhsiyah.v1i1.1827>.

Arum Kusumaningrum*, Yunanto. "Efektivitas Mediasi Dalam Perkara Perceraian Di Pengadilan Negeri Semarang." *Diponegoro Law Journal* 6, no. 1 (February 23, 2017): 1-10. <https://doi.org/10.14710/dlj.2017.15666>.

Asman, Asman, Hani Sholihah, Zuhrah Zuhrah, Muhamad Abas, Andi Ibnu Hadi, Abdul Aziz, Dedy Muharman, et al. *Pengantar Hukum Perkawinan Islam Indonesia*. Jambi: PT. Sonpedia Publishing Indonesia, 2023.

Azizah, Linda. "Analisis Perceraian dalam Kompilasi Hukum Islam." *Al-'Adalah* 9, no. 2 (2012): 415–22. <https://doi.org/10.24042/adalah.v10i2.295>.

Berman, Paul Schiff. "The New Legal Pluralism." *Annual Review of Law and Social Science* 5, no. Volume 5, 2009 (December 1, 2009): 225–42. <https://doi.org/10.1146/annurev.lawsocsci.093008.131539>.

—. *The Oxford Handbook of Global Legal Pluralism*. United States of America: Oxford University Press, 2020.

Cahyani, Andi Intan. "Peradilan Agama Sebagai Penegak Hukum Islam Di Indonesia." *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 6, no. 1 (June 30, 2019): 119–32. <https://doi.org/10.24252/al-qadau.v6i1.9483>.

Cammack, Mark, Lawrence A. Young, and Tim B. Heaton. "An Empirical Assessment of Divorce Law in Indonesia." *Studia Islamika* 4, no. 4 (January 1, 1970): 94. <https://doi.org/10.15408/sdi.v4i4.766>.

Creswell, John W. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. 4th ed. Thousand Oaks: SAGE Publications, 2014.

dialeksis.com. "288 Kasus Perceraian Tercatat Di MS Langsa Selama 2024, Terbanyak Gugat Cerai »" Accessed June 8, 2025. <https://www.dialeksis.com/aceh/288-kasus-perceraian-tercatat-di-ms-langsa-selama-2024-terbanyak-gugat-cerai/>.

Diras, Muhammad Hatta, and Faisal. "Mekanisme Penyelesaian Perkara Pidana Melalui Pengadilan Adat Di Kota Lhokseumawe." *Cendekia: Jurnal Hukum, Sosial Dan Humaniora* 2, no. 3 (July 9, 2024): 688–701. <https://doi.org/10.5281/zenodo.12742340>.

Dyana, Burhanatut, and Agus Sholahudin Shidiq. "Disparitas Putusan Hakim Terhadap Hak-Hak Istri Pasca Cerai Talak Raj'i." *Al Maqashidi : Jurnal Hukum Islam Nusantara* 2, no. 1 (August 2, 2019): 16. <https://doi.org/10.32665/almaqashidi.v2i1.860>.

Engle Merry, Sally. "Legal Pluralism." *Law & Society Review* 22, no. 5 (1988): 870. <https://doi.org/10.2307/3053638>.

Fadhlullah, Fathan. "The Future of Mediation in Religious Courts." *IJTIHAD* 39, no. 2 (2023): 42–53.

Fira, Chairul Musa, Jamaluddin Jamaluddin, and Hamdani Hamdani. "Penyelesaian Sengketa Tanah Warisan Melalui Peradilan Adat Gampong (Studi Penelitian di Kecamatan Madat Kabupaten Aceh Timur)." *JURNAL ILMIAH MAHASISWA FAKULTAS HUKUM UNIVERSITAS MALIKUSSALEH* 6, no. 2 (August 23, 2023): 13–28. <https://doi.org/10.29103/jimfh.v6i2.10431>.

Griffiths, John. "What Is Legal Pluralism?" *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1986): 1–55. <https://doi.org/10.1080/07329113.1986.10756387>.

Halim, Abdul. "Non-Muslims in the Qanun Jinayat and the Choice of Law in Sharia Courts in Aceh." *Human Rights Review* 23, no. 2 (June 1, 2022): 265–88. <https://doi.org/10.1007/s12142-021-00645-x>.

Hamid, Hasmiah. "Perceraian Dan Penanganannya." *Jurnal Ilmiah Wahana Pendidikan* 4, no. 3 (December 12, 2018): 24–29.

Heaton, Tim, and Mark Cammack. "Explaining the Recent Upturn in Divorce in Indonesia: Developmental Idealism and the Effect of Political Change," January 1, 2011. <https://doi.org/10.1163/156853111X619229>.

Hidayati, Lili. "Fenomena Tingginya Angka Perceraian Di Indonesia Antara Pandemi Dan Solusi." *Khuluqiyya: Jurnal Kajian Hukum Dan Studi Islam*, January 2, 2021, 71–87. <https://doi.org/10.56593/khuluqiyya.v3i1.56>.

Karmawan, Karmawan. "Mediation in the Religious Courts of Indonesia." *AHKAM : Jurnal Ilmu Syariah* 20, no. 1 (June 30, 2020). <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/13249>.

Kothari, C. R. *Research Methodology: Methods and Techniques*. 2nd ed. Daryaganj: New Age International, 2004.

Kusmardani, Alex. "The Dynamics of Divorce in Indonesian Muslim Families." *Daengku: Journal of Humanities and Social Sciences Innovation* 4, no. 5 (July 10, 2024): 739–52. <https://doi.org/10.35877/454RI.daengku2756>.

M. Friedman, Lawrence. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation, 1975.

Mansur, Teuku Muttaqin, M. Adli Abdullah, and Sulaiman. "Kajian Yuridis Peradilan Adat di Aceh." *Journal of Indonesian Adat Law* 2, no. 3 (December 1, 2018). <https://doi.org/10.46816/jial.v2i3.6>.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Prenada Media, 2017.

Menski, Werner. *Comparative Law in a Global Context the Legal Systems of Asia and Africa*. London: Cambridge University Press, 2006.

Michaels, Ralf. "Global Legal Pluralism." *Annual Review of Law and Social Science* 5, no. Volume 5, 2009 (December 1, 2009): 243–62. <https://doi.org/10.1146/annurev.lawsocsci.4.110707.172311>.

Muhazir, Muhazir. "Islam, Fatwa Dan Negara: Meretas Pluralisme Hukum Perceraian Di Aceh." *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (December 1, 2021): 233–48. <https://doi.org/10.24090/mnh.v15i2.5150>.

Muhazir, Muhazir, and Azwir Azwir. "Divorce Bureaucracy in the Sharia Space: Examining Practices in Langsa City, Aceh." *At-Tafkir* 17, no. 1 (2024): 44–55.

Nasution, Hotnidah, and Ahmad Rifqi Muchtar. "Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts." *AHKAM : Jurnal Ilmu Syariah* 20, no. 2 (December 30, 2020). <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/15702>.

Nasution, Muhammad Arsal. "Perceraian Menurut Kompilasi Hukum Islam (KHI) Dan Fiqh." *Jurnal EL-QANUNIY: Jurnal Ilmu-Ilmu Kesyariahan Dan Pranata Sosial* 4, no. 2 (December 30, 2018): 157–70. <https://doi.org/10.24952/el-qanuniy.v4i2.2385>.

Nisa, Khairun, Azwir Azwir, and Muhazir Muhazir. "Mediator Non-Hakim Di Aceh: Menelisik Peran Peradilan Adat Dalam Penyelesaian Kasus Sengketa." *Lentera* 6, no. 2 (November 4, 2024): 146–65. <https://doi.org/10.32505/lentera.v6i2.9802>.

Nurdin Bakri, Nurdin Bakri, and Antoni Antoni. "Talak Di Luar Pengadilan Menurut Fatwa Mpu Aceh No 2 Tahun 2015 Tentang Talak." *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 1, no. 1 (July 17, 2017): 52. <https://doi.org/10.22373/sjhk.v1i1.1570>.

Nurlaelawati, Euis. "Muslim Women in Indonesian Religious Courts: Reform, Strategies, and Pronouncement of Divorce." *Islamic Law and Society* 20, no. 3 (2013): 242.

Pakarti, Muhammad Husni Abdulah, Diana Farid, Sofyan Mei Utama, Otong Syuhada, and Hendriana Hendriana. "Asas Keadilan Sebagai Salah Satu Landasan Hakim Dalam

Memutuskan Putusan Perceraian." *Al-Ahwal Al-Syakhsiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 4, no. 2 (September 25, 2023): 101-16. <https://doi.org/10.15575/as.v4i2.25998>.

Pane, Erina. "Eksistensi Mahkamah Syar'iyah Sebagai Perwujudan Kekuasaan Kehakiman." *Al-'Adalah* 13, no. 1 (2016): 39-52. <https://doi.org/10.24042/adalah.v13i1.1128>.

Ramdania, Dini. "Aspek Hukum Perceraian Dalam Perspektif Hukum Islam." *Wacana Paramarta: Jurnal Ilmu Hukum* 19, no. 1 (May 31, 2020): 17-28. <https://doi.org/10.32816/paramarta.v19i1.81>.

Ratnapala, Suri. *Jurisprudence: An Introduction*. Leiden: Cambridge University Press, 2009.

Rinaldo, Rachel, Eva F. Nisa, and Nina Nurmila. "Divorce Narratives and Class Inequalities in Indonesia." *Journal of Family Issues* 45, no. 5 (May 1, 2024): 1195-1216. <https://doi.org/10.1177/0192513X231155657>.

Rizky, Alfathur. "Kasus Perceraian Di Langsa Meningkat." Accessed June 8, 2025. <https://www.ajnn.net/news/kasus-perceraian-di-langsa-meningkat/index.html>.

Sahara, Siti, Muhammad Natsir, Zuleha Zuleha, and Syardiansah Syardiansah. "Empowering The Resolution of Minor Crimes Through the Gampong Traditional Court in East Part of Aceh." *Eumpang Breuh: Jurnal Pengabdian Masyarakat* 3, no. 2 (December 24, 2024): 31-35. <https://doi.org/10.33059/ebjpm.v3i2.10929>.

Salahuddin. Ketua MPU Kota Langsa, July 15, 2020.

Salim, Arskal. "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 25, 2021): 529-51. <https://doi.org/10.22373/sjhk.v5i2.11082>.

—. "Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh." *The Journal of Legal Pluralism and Unofficial Law* 42, no. 61 (January 2010): 1-29. <https://doi.org/10.1080/07329113.2010.10756640>.

—. "'Shari 'a from Below' in Aceh (1930s-1960s): Islamic Identity and the Right to Self-Determination with Comparative Reference to the Moro Islamic Liberation Front (MILF)." *Indonesia and the Malay World* 32, no. 92 (2004): 80-99.

Siregar, Ramadhan Syahmedi. "Dampak Perceraian Yang Tidak Sesuai Dengan Prosedur Perundang-Undangan." *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman* 1, no. 1 (May 31, 2016): 161-76. <https://doi.org/10.24952/fitrah.v1i1.333>.

Suhastra, Pahrurroji. "Mediation Procedure in Religious Courts in Indonesia in the Perspective of Thought Wahbah Al-Zuhaily." *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 1 (June 30, 2023): 97-108. <https://doi.org/10.25217/jm.v8i1.3486>.

Syahputra, Muhammad Rudi, Herlin, Zulfiyanda, and Riska. "The Role and Challenges of Gampong Customary Courts in Resolving Customary Criminal Cases in Lhokseumawe City." *Indonesian Journal of Humanities and Social Sciences* 5, no. 4 (November 25, 2024): 1647-64. <https://doi.org/10.33367/ijhass.v5i4.6166>.

Taqwaddin. "Pengadilan Tinggi Banda Aceh," 2024. <https://www.pt-nad.go.id/new/content/artikel/2022082212074721129841163030f238776d.html>.

Tripa, Sulaiman. *Peradilan Gampong*. Banda Aceh: Bandar Publishing, 2019.

Ulum, Miftahul, Faizatul Muazzarah, Mahmudah Mahmudah, Ifdlolul Maghfur, and Ahmad Ahmad. "Islamic Studies Update: Examining the Sharia Court in Aceh in the Perspective of Legislation in Indonesia." *International Journal of Nusantara Islam* 12, no. 2 (December 31, 2024): 276–85. <https://doi.org/10.15575/ijni.v12i2.44815>.

Yusepa, Irdha, Wilodati Wilodati, and Siti Komariah. "Internalisasi Nilai Musyawarah/Mufakat Melalui Pembelajaran Sosiologi Berbasis Kearifan Lokal Duduk Adoik." *Jurnal Paedagogy* 9, no. 3 (July 21, 2022): 548–60. <https://doi.org/10.33394/jp.v9i3.5347>.