

## GENDER PERSPECTIVE OF THE PARTIES IN THE FAMILIES OF FEMALE MIGRANT WORKERS IN THE RELIGIOUS COURT OF THE EX-KADIRI RESIDENTIAL COURT

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**Abstract :** This research is based on the phenomenon of wives working abroad to help and replace their husband's role in earning a living for the family by mutual agreement. However, when they were abroad, these wives filed for divorce from their husbands for various reasons, as well as the emergence of different views between the parties in understanding the gender perspective in the obligation to fulfill the family livelihood of migrant workers. This research attempts to answer the question of the gender perspective of the parties at the former Kediri Regency Religious Court regarding fulfilling the family livelihood of female migrant workers. In contrast, for this research method, qualitative research methods are used—sociological, conceptual, and philosophical juridical approaches. The results of this research show that the gender equality perspective of the parties in the divorce case of migrant workers in the former Kediri Residency regarding fulfilling a living shows a moderate view of fulfilling a family's residence. This reasonable view is influenced, among other things, by family law, which is still less gender-sensitive, the existence of a patriarchal culture in the ex-Kediri Residency community, and the presence of religious interpretations that tend to be still patriarchal. For this phenomenon, efforts are needed to restore the understanding of Islamic humanist values in the Muslim families of migrant workers in the former Kediri Residency, which are not capitalist regarding the role of fulfilling the family's livelihood. As a hope, there is a perspective of the parties in the household that prioritizes humanist values that are not capitalist, which places equality in the relationship between husband and wife with complete respect.

### A. INTRODUCTION

The phenomenon of female migrant workers choosing to work abroad due to economic compulsion, based on an agreement between the parties (husband and wife), has resulted in the perception of some people as if the wife has replaced the husband's role in providing a living. This understanding is influenced by the way of interpreting religion, which tends to be patriarchal, It is, alternatively, influenced by the cultural conditions of some Indonesian people who still believe that it is the husband who must provide for the family, not the wife.

In the religious interpretations mentioned above, some religious interpreters differ in their understanding of the meaning of the nature of women in Islam. The nature of women in Islam has been explained in the word of Allah SWT in Surah Al-Ahzab verse 33.<sup>1</sup> However, in understanding this verse, there are various interpretations from different points of view.

According to Alimatul Qibtiyah, three groups understand the interpretation of Surah al-Ahzab verse 33. The first group is called the literalist group, the second group is called moderate, and the third group is called the progressive group. These three groups, in understanding the nature of women, as in Surah al-Ahzab verse 33, have different interpretations or points of view. The literalist group understands that women's role is only in the caregiving space, that women are not allowed to work, or that women only play a role in the domestic area. Meanwhile, men's role is to earn a living and contribute to broader society, and only men have a dominant public role.

The second group is the moderate group. This moderate group emphasizes that one of the primary responsibilities of women is to be a mother who looks after and cares for their children. Women can play a role in the public sphere as long as they do not forget their responsibilities as mothers or in the area of care.

The third group, called the progressive group, emphasizes that men and women have different natures. However, they have the same roles in public and domestic life; the roles of men and women are both encouraged to color and contribute to the public and domestic areas or have a shared space to work.

In fact, in Indonesia, there are still many religious figures who understand Surah al-Ahzab verse 33 by interpreting the roles of men and women with a tendency to use a literalist way of interpretation, and some still hold a moderate view. Apart from interpreting the equal roles of men and women, religious scholars also use arguments about the roles of men and women in interpreting Surah an-Nisa verse 34, which tends to strengthen the role of men as heads of families and breadwinners compared to the role of women.

Some scholars interpret the letter an-Nisa' verse 34 as indicating that men are protectors of women. The reason is that there is a husband's obligation to find and

provide a living for his wife. Another understanding emphasizes that the division of responsibilities between husband and wife is not in the area of men being higher than women.

Another interpretive point of view regarding the verse above is an assumption that there is a lack of attention to gender sensitivity. This is because it gives men more space to have a higher position in society, especially in family relationships. The interpretation of this religious figure is also strengthened by the Hadith of the prophet, which requires men to provide for their wives and families. Regardless of whether the status of the Hadith is authentic or not authentic, it has become a belief in different communities in viewing the position of women.

Apart from interpreting verses from the Quran and Hadith, it is essential to understand the different natures and roles of women. The obligation of a husband to provide support for his wife and family is explicitly stated in family law in Indonesia. Some people understand family law that the husband's role is to lead and properly manage the functions of the household with the aim of achieving a *sakinah, mawaddah, and warahmah* family.

Furthermore, family law in Indonesia explains that if a husband or wife neglects their obligations, each party can file a lawsuit in court. This means that if the husband does not provide spiritual or physical support for his household's living needs, the wife has the legal right to sue the court, and vice versa; the husband can also file for divorce from his wife.

According to the norms of Indonesian family law, it is clear and unambiguous that finding and providing for the family's livelihood is the husband's obligation, not the wife's obligation. However, the reality of Indonesian society is different from that in Middle Eastern countries. In Indonesia, there are different local pearls of wisdom in the application of Islamic family law. These differences are due to cultural influences and are influenced by the way religion is interpreted in positioning men and women in providing for the family. Most gender activists think that marriage law in Indonesia is not gender sensitive or does not favor women, as if Indonesian family law prioritizes a system of patriarchy or male dominance.

The struggle of several Indonesian gender activists has been able to provide a breath of fresh air in drafting several regulations related to strengthening the position of

women in the public sphere. One of them is the emergence of Law 18 of 2017 concerning the protection of Indonesian migrant workers and equal space for citizens, especially women, to work abroad with an approach to the principles of gender equality and justice. Moreover, it is accompanied by the emergence of derivative regulations.

Indonesian women having a career or working is common in Indonesia; based on data from the Central Statistics Agency (BPS) in 2021, 39.5% or 51.79 million of the population aged 15 years and over who work are women. Meanwhile, 24.38% of female workers are agricultural, garden, livestock, fish, forest, and hunting workers, while 20.51% of women are production workers, transport equipment operators, and manual workers.

As many as 10.48% of female workers are professionals, technicians, and other workers, while 8.65% of female workers are in service business positions. For female workers who are executive officials, administrative staff, and the like, it is 6.56%. In comparison, 0.7% of female workers are leadership and management staff, and 0.12% of female workers work in other jobs.<sup>2</sup>This data shows that more than 50% of Indonesian women are working or building careers.

The phenomenon of Indonesian women working abroad as female migrant workers is ubiquitous in Indonesia. The reality on the ground shows that working abroad is the fastest solution to improving the family economy. However, with the large number of women going abroad who work as female migrant workers, there are causes for this to happen, one of which is a breakdown in the relationship between husband and wife, which results in the migrant workers filing for divorce against their husbands. Based on data from a press release from the National Commission for Women commemorating International Labor Day, it was explained:

"The percentage of female Indonesian migrant workers who migrate actually increased to 88% in 2021, specifically female Indonesian migrant workers in the informal sector increased to 77% in 2021.

In the former Kediri Residency, some women worked abroad as migrant workers, especially as household assistants or helpers in the household, while others

worked in factories. This data can be seen from the number of placements of migrant workers abroad country officially from the government.

Based on data from the Indonesian Migrant Worker Protection Agency (BP2MI), there is an overview of the number of each Regency/City in the former Kediri Residency who work abroad, including Tulungagung Regency in the period 2017 to 2022 (2017: 6,173, 2018: 7,108, 2019: 8,636, in 2020: 4,022, in 2021: 2,365), Number of Kediri Regency (2019: 3,970, 2020 2,106, 2021: 1,685), Number of Blitar Regency (2019: 9,176, 2020: 5,445, 2021: 4,624), the number of Trenggalek Regency (2019: 2,968, 2020: 1,477, 2021: 1,044). Meanwhile, an overview of divorce cases that were decided from 2017 to 2021 at the Religious Court of the former Kediri Residency.

Table 1: Number of cases decided at the Kediri Ex-Residency Religious Court

No	Case Type	Year	Kediri Regency	Kediri City	Tulungagung Regency	Trenggalek Regency	Blitar	Nganjuk
1	Disconnection Case	2017	4,355	945	2,691	2,547	3,838	2,549
		2018	4,260	926	3,515	2,794	3,838	2,526
		2019	4,402	885	3,342	2,918	5,018	3,076
		2020	4,969	935	3,837	2,587	4,957	3,076
		2021	4,878	776	3,319	2,378	4,822	2,179
2	Divorce	2017	1,186	516	2,027	1,047	2,442	1,621
		2018	2,641	533	2,053	1,237	2,442	1,588
		2019	3,085	481	2,120	1,278	3,225	1,931
		2020	3,168	560	2,025	1,157	2,994	1,565
		2021	2,020	428	1,806	1,189	2,863	1,628
3	Divorce Divorce	2017	561	185	883	454	954	589
		2018	977	190	487	527	954	550
		2019	1,054	163	917	562	1,209	621
		2020	1,040	151	784	496	1,120	627
		2021	991	156	703	487	1,103	498

The table above shows that, in general, there are differences in the number of divorces sued by the Religious Courtsex-Kediri Residency. The number of cases in the table above shows an increase and also a decrease in the number of cases processed each

year; one of the reasons for the decline in cases is the impact of the COVID-19 pandemic. The data in Table 1 above is general divorce data. Meanwhile, the Kediri Ex-Residential Religious Court, in its statement, does not yet have detailed data regarding the number of female migrant workers. However, data on migrant workers can be seen in the decision and exceptional attorney's power of attorney registered by the Embassy of the Republic of Indonesia (KBRI).

Based on BP2MI data regarding marital status in the placement of female workers abroad, there are around 25% whose marital status is divorced. Meanwhile, 32% are unmarried, and 43% are married. The main reason why female migrant workers at the Kediri Ex-Residency Religious Court filed for divorce was that it started with economic problems that hit their family conditions and problems between the parties in running their household, such as the emergence of physical and psychological domestic violence (KDRT). , the emergence of family interference, the emergence of embezzlement of the wife's money, and the distrust of the parties towards their partner.

This research is different from the twenty-nine studies that have been reviewed or observed in previous research. This research is novel in order to enrich or strengthen theories in the field of Indonesian family law in the perspective of equality and gender justice in fulfilling family livelihoods, which is realized in restoring the value of a humanist attitude towards families that is not capitalist and becomes a contribution for judges in making considerations in making fair decisions with a multi-disciplinary approach, especially related to gender equality in fulfilling livelihoods.

## B. RESEARCH METHODS

### 1. Research method.

This research is a type of qualitative research. The use of qualitative research in this research is appropriate and relevant. The aim of using this type of qualitative research is to make the material collected or obtained more complete, more in-depth, credible, and meaningful in accordance with the nature of qualitative research, which emphasizes observing people in their environment, interacting with them, trying to understand their language and interpretation of the world around them.

This research approach uses a sociological juridical approach, namely a research approach that identifies and conceptualizes law as a natural and functional social institution in real-life systems. Sociological juridical research is legal research that uses

secondary data as initial data, which is then continued with primary data or data obtained in the field. Apart from that, to strengthen the accuracy of this research, the researcher also used conceptual legal research and philosophical legal research approaches.

This research was conducted at the Religious Courts those in the former Kediri Residency, namely the Nganjuk Religious Court, the Kediri City Religious Court, the Kediri Regency Religious Court, the Blitar Religious Court, and the Tulungagung Religious Court as well as the Trenggalek Religious Court. This research location was chosen because there is a phenomenon of divorce that female migrant workers carry out against their husbands for various reasons, including economics. However, it turns out that economics is not the only reason for divorce. Apart from that, this location was chosen because the cultural style and lifestyle of the community are relatively similar in terms of customs, culture, and traditions, and the former Kediri Residency is also known as the Mataraman Wetan area.

Informants or sources in research The person who has been used as an interviewee or resource person is Hakim Religion at Tulungagung Religious Court, Trenggalek Religious Court, Kediri City Religious Court, Kediri Regency Religious Court, Nganjuk Religious Court, Blitar Religious Court, Advocates, and the Registrar, Mediator and Parties to the divorce at the Kediri Ex-Residency Religious Court, which the researcher has determined based on existing research considerations.

This research uses the technique of determining informants using purposive sampling. Purposive sampling is a method used to take samples based on specific objectives. Conduct interviews with people who are deemed to know the situation because choosing informants will make it easier to meet the objectives of this research. So, it is easy to carry out data mining because conducting qualitative research means collecting data using specific techniques and analyzing the data that has been collected in specific ways

The technique for determining informants in this research uses informant categorization, namely observer informants and perpetrator informants. In determining observer and perpetrator informants, there are several categories for determining informants using purposive sampling, namely determination based on the categorization of Religious Court class status. The Studied were Class 1 A and Class 1B Religious Courts.

The use of purposive sampling in determining informants for this research was carried out by taking subjects not based on strata, random or regional. However, based



on specific objectives, this technique for determining informants is carried out due to several considerations, for example, due to limited time, energy, and funds so that large and distant samples cannot be taken; although this method is permissible, namely researchers can determine samples based on existing conditions in accordance with research purposes.

In another sense, sampling is determined by considering information, not considering the number of sources. So, researchers, in determining the informants, take into consideration the information obtained, not the number of sources obtained.

## 2. Data collection technique

This research is a type of qualitative research, and several techniques are used to collect data, including in-depth interviews and documentation. One of the data collection techniques in this research is using in-depth interview techniques and documentation by examining court minutes such as lawsuits, responses to replicas or duplicates, and consideration of the judge's decision as well as the annual report of the 2017 - 2021 Kediri Ex-Residential Religious Court which has been uploaded on the website of each court.

The reason for examining documents in the form of decisions and annual reports of the Religious Court in the former Kediri Residency is to make it easier for researchers to describe the reasons for contested divorces and the legal considerations of judges in deciding divorce cases for migrant workers in the Religious Courts of the former Kediri Residency. Direct interviews with Judges, Substitute Registrars, Advocates, and Mediator, as well as former divorce perpetrators, make it easier to explore existing problems because an interview is a meeting between two people to exchange information and ideas through questions and answers so that they can be constructed.

This research validates the data material using method triangulation and data source triangulation. Method triangulation is carried out by comparing information or data in different ways, as in qualitative research. Researchers used free interview methods and structured interviews to check the truth given by informants. Validating the data or validating the data material means that the data material that has been collected can describe the reality that the researcher wants to reveal.

The way this data validation works is by comparing one informant with another informant or one source with another source, with the aim of ensuring. The data material obtained is appropriate and accurate in conducting research, for example, comparing the



information of one judge with another judge, the statement of one Advocate with an Advocate, and the statement of one clerk with another clerk.

With the confirmation of the triangulation method, data sources work with information from research informants, which is matched with written documents, such as decisions of the Religious Courts and annual reports of Religious Courts throughout the former Kediri Residency, to be studied and compared, to obtain different views regarding the phenomenon of contested divorce in the Religious Courts finally obtain correct or relevant data.

### 3. Data analysis technique

Analysis of data materials in this qualitative research was carried out continuously throughout the research. This is done from the collection of data to the report-writing stage. Therefore, in this qualitative research, data collection and data analysis are not two separate things as is usually done in quantitative research. Qualitative analysis can be carried out on the data that has been collected.

Analysis of data materials in this research used Milles and Huberman qualitative analysis. Milles and Huberman's qualitative research analysis is continuous, starting with data reduction, presenting the data in a brief description, drawing conclusions, or verifying the data.

Data reduction is a form of analysis that sharpens, classifies, directs, removes unnecessary data, and organizes data in such a way that conclusions can be drawn and verified. Meanwhile, for the presentation of data, Miles and Huberman limit a presentation to an organized collection that provides the possibility of drawing conclusions and taking action.

The final step in the analysis proposed by Miles and Huberman is drawing conclusions or verification. In this process, researchers carry out conclusions and continuous verification to find the truth of the data that can be accounted for. This research is research whose data material comes from interviews and documentation of the Religious Courts in the former Kediri Residency (Trenggalek Religious Court, Tulungagung Religious Court, Kediri City Religious Court, Kediri Regency Religious Court, Nganjuk Religious Court, Blitar Religious Court), whose data was taken from 2017 to 2021.

Checking data materials, which have been documented in Religious Court filing data, and those that have been reported via the Religious Court website is very important

in obtaining reasonable and quality information in order to obtain accurate data material in accordance with the concept of qualitative research with checks and balances in the analysis of data material.

The required data analysis technique is to review existing judge decision documents or annual reports from 2017 to 2021 by comparing similarities in interview results or information from related sources, such as judges, mediators, registrar, advocates, and divorce actors who have been determined. By analyzing data material from one source to another while maintaining the procedures for collecting data material, qualitative data analysis produces research answers according to the research questions.

### C. RESEARCH DISCUSSION

#### 1. Gender Perspective of the Parties: Be humane towards your partner

Perspective is a point of view or point of view. This understanding means a way of seeing something from the perspective that a person understands, believes in, and experiences. In this context, how do the parties understand gender equality in the family relationships of migrant workers in fulfilling family livelihoods with all the intricacies of husband and wife problems? The parties' perspective on gender cannot be separated from the influence of the legal awareness of the parties in understanding gender equality in fulfilling a living. Connected with legal awareness are the values contained in humans regarding existing laws that apply in society.

Legal awareness is the awareness or values contained within humans about existing laws or about the laws that are expected to exist in society, Because legal awareness comes from humans, Does this law exist, or is this law expected to exist in society?

According to Soerjono Soekanto, there are two types of legal awareness, namely positive legal awareness, which is synonymous with law observance, and negative legal awareness, which is synonymous with lawlessness. This understanding is interpreted as obeying the law and disobeying the law between husband and wife in carrying out their commitment. Carrying out household commitments is defined as the awareness of the parties, from both husband and wife, in carrying out existing legal awareness or obeying the law. If the parties are aware that they have rights and obligations, the parties will be able to maintain their household well without divorce.

The perspective of the parties in understanding gender equality and justice in divorce is about how to understand gender equality in the family dynamics of migrant workers in deciding and placing a decision in fulfilling family support between husband and wife regarding the obligation to fulfill support.

The parties' understanding of gender equality in providing a living in this research can be seen from the answers of the informants, who explained that wives earning a living are still limited to supporting or helping. Not together to earn a living or to meet the needs of the family. From here, an understanding emerges that what a husband can do can also be done by a wife in the domestic area or the public area, but the wife is only additional in earning a living.

The divorce case at the former Kediri Residency Religious Court reflects the perspective of the relationship between the parties in carrying out their roles to fulfill their livelihood. Understanding legal awareness from a gender perspective in migrant worker families is essential for the parties to understand. However, existing family law still places wives in a position that is less than equal to their husbands in carrying out their nature and roles in the domestic or public domain.

Decision-making in migrant worker families in choosing to work abroad is a collective joint decision. Because the decision is taken collectively, the consequences are that the parties are expected to be able to maintain the husband and wife relationship well to avoid divorce.

According to legal norms in Indonesia, the burden of maintenance lies on the shoulders of the husband, not the wife. The emergence of normative subsistence burdens cannot be separated from the way religion is interpreted. Patriarchal cultural behavior tends to position men higher than women. This form of religious interpretation is manifested in several articles in the compilation of Islamic law (KHI) and marriage laws, which still tend to place patriarchy higher.

The influence of this interpretation cannot be separated from understanding the maintenance obligations imposed on husbands. Some Islamic legal experts are of the view that the husband must provide support for his wife and the husband's right to allow his wife to go abroad to work to earn a living. The views of Islamic legal experts are referred to in Al-Qur'an Surah al-Baqarah verse 233. This verse, according to Quraish Sihab, is explained in the Al Misbah commentary.

According to Quraish Sihab, this series of verses discusses family arrangements. To be precise, this verse discusses the duties of husband and wife in the growth of

children under three years old. This meaning is reciprocal between the duties of mother and father; a mother should breastfeed her child, and the father should provide support for his wife and children who are still breastfeeding; meanwhile, in the Koran, Surah an-Nisa verse 19. Still, in the explanation of the interpretation of Al-Misbah. Quraish Shihab explains about women, what are the rights of husband and wife, what are the obligations of husbands towards wives, and what women inherit by force because the verse above revealed that in the past, when the husband died, everything that belonged to the husband was taken by the husband's family, even more cruel than that could be a stepchild married his stepmother.

In the era of ignorance, women had no respect. In verse 19 of Surah An-Nisa, there was an order to get along with your partner in a proper way by respecting women. It is appropriate here to understand women's rights when they do not like the woman or wife. In another verse, Allah says in Surah At-Talaq, verses 6 to 7. Apart from these verses, there is Surah an-Nisa's verse 34. From the interpretation of this verse, there is an interpretation that discusses the husband's provision for his family, which is provided for his wife and children as well. Meanwhile, several Hadiths that discuss livelihoods come from Abdullah bin Yazid al Ansari from Abu Mas'ud al-Ansari ra who said:

The Messenger of Allah, peace be upon him, said: "If a Muslim provides support for his family solely because he obeys Allah, then he will receive a reward."

Understanding livelihoodIn Arabic, it is infaq, which means to spend. Terminologically, livelihood means sufficient food, clothing, and shelter for those who are dependent on it. This understanding of living is carried out by the parties in order to meet the needs of the family.

According to the cleric Imam Hambali, wives receive a living according to the conditions of the husband and wife. Whether you are rich or poor, fulfilling your livelihood, according to Hambali, is positioned in the Middle. Meanwhile, according to the scholar Imam Malik, regarding the size of the living room, there is no limit, and it is returned to the situation experienced by the wife based on differences in place, time, and conditions or depending on the husband and wife.

Imam Syafi'i's view is that income is measured based on how rich and poor the husband is, without looking at the wife's condition. This is the case when it comes to the issue of clothing and food. Meanwhile, in terms of the board, it is adjusted to what is appropriate for it, according to the prevailing customs. Meanwhile, according to

Hanafi, there are two opinions. First, it is calculated based on the condition of the husband and wife, and the second is based on the husband's condition only. The views of these jurists on the size of providing a living are different; the difference lies in the value of the living provided to their wives and children.

In the understanding above, the opinions of ulama among Hambali, Maliki, Safi'i, and Hanafi circles are different. In fact, these scholars provide an understanding of the husband's abilities, as long as the husband is responsible for working seriously and not being lazy, which is not enough to return income to every household living in the household.

The aims of Islamic law or Maqasid al-Syari'ah Abu Ishaq Assatibi, which formulates the aims of Islamic law, namely the maintenance of religion, the maintenance of the soul, the maintenance of reason, the maintenance of offspring, and the preservation of property. In the context of this divorce, maintenance of religion, maintenance of the soul, maintenance of reason, maintenance of descendants, and maintenance of property are conceptualized by Abu Ishaq Assatibi in looking at the reasons for divorce and efforts to prevent the occurrence of divorce as well as the perspective of the parties and judges in looking at gender equality in divorce. Migrant workers are essential in contributing to the upholding of family law from a gender perspective.

Household matters involving existing family problems or family economic problems should be resolved well; if they cannot be resolved well, it will make the household fall apart. When a household can no longer be built, what happens is mutual blasphemy between the husband and wife in the household, which causes biased conditions in the household that is being built and aspired to.

The aim of Islamic law, according to Abu Ishaq As Syatibiin, is to see and ensure the ideal condition of a husband in a good household in accordance with the benefits of Islamic law. However, the benefits of the afterlife cannot be achieved by humans themselves. In Assatibi's view, the divorce case confirms that every human being has the same burden in carrying out their obligations. A manifestation of this burden in running their household is that husband and wife place equal equality between themselves in positioning themselves in their household.

The case of contested divorce at the Kediri Ex-Residency Religious Court, from the gender perspective of family law, is a form of legal awareness for wives to realize the expected justice in the family. The hope that husband and wife want in marriage is balance, without discrimination against either party in maintaining the relationship between married couples, who always hope for humanist values in the household, without the pressure of discrimination between one of the parties in the household.

The legal awareness of the parties in a contested divorce can be seen from the method used by the parties in using the services of an advocate in carrying out a contested divorce. The parties use the Religious Court as a place to file for divorce. What the parties do is a concrete manifestation of the legal awareness of the parties in exercising their rights before the Religious Court in accordance with the supremacy of the law.

The gender equality perspective of the parties can be understood using several gender theories that have developed, including social gender conflict theory. However, some Indonesian activists understand that this theory is not suitable for Indonesian society, especially Javanese society in the Kediri Residency area. Gender social conflict believes that every group in society has conflicting interests and power between men and women. This social conflict is categorized into three groups, namely radical feminism, Marxist feminism, and socialist-Marxist feminism.

A radical feminist group, this group historically emerged as a reaction to the culture of sexism or social discrimination based on gender in the West in the 60s. Especially against sex and pornography, this theory considers the oppression of women and men to be rooted in the male gender itself and its patriarchal ideology. This justifies the source of women's problems being men both biologically and politically; this is what women's groups need to fight against.

The second group of social theories is the Marxist feminist group; this theory rejects the concept of radical social theory. This theory rejects the assumption that biology is the basis of gender differences; Marxist feminist theory forms the form of women's oppression as class oppression in production relations. The third group is the social conflict group for Marxist socialist feminism, which has the concept that women's oppression occurs in any class; even the socialist revolution does not necessarily improve the position of women.

Radical feminist groups and Marxist feminist groups, as well as socialist-Marxist feminism in reflecting on divorce cases at the former Kediri Residency Religious Court, have the same tendencies. However, it is different; the way this theory works is to see that divorced migrant workers without husband and wife can be independent in all matters. Because this group is more challenging in seeing men as the source of problems, while radical feminist groups see men as the cause of problems in the household; in fact, some female migrant workers think that women can do without men. The presence of men actually adds to problems in the families of migrant workers; this is also due to the tendency for marital trauma to be one of the causes.

Women's views state that without men, they can be independent. In the context of female migrant workers who are abroad, in economic terms, these migrant workers are able to be independent without needing a living from their husbands. This understanding ultimately gave birth to economic tendencies becoming something essential and dominant in households, which ultimately gave rise to an attitude of capitalization in the households of Indonesian migrant worker families, which ultimately gave rise to a humanist crisis in the families of Indonesian migrant workers.

In contrast to Marxist feminism, this feminism believes that men and women are equal. The work of Marxist feminism in the case of divorce is the existence of social and economic classes in the capitalist system. The different income placements of men and women and the different salaries of migrant workers sometimes become problems in family dynamics in the view of this group. Meanwhile, the socialist feminist group, looking at the perspective of the divorce case of migrant workers at the Religious Court of the former Kediri Residency, contains the message that women are paid the same as men when in the domestic area. However, this theory has received some criticism because the state provides space to control women in the domestic area.

The debate between feminist groups has given rise to dynamics in the Islamic world, with the mention of Islamic feminism and Muslim feminism in gender differences in the Islamic world, especially in Indonesia. Meriam Cooke said that Islamic feminists and Muslim feminists are different; Islamic feminists use Islamic traditions as the basis for feminist considerations. Meanwhile, Muslim feminists are Muslim because they do not necessarily combine it with the teachings of feminism. However, according to Etin Anwar, the relationship between Islam and feminism



shows that the two are treated as separate domains. In contrast, the term Islamic feminism is seen as a stepping stone towards feminism itself.

Female migrant workers in Indonesia, especially female migrant workers in the former Kediri Residency, the majority of whom are Muslim and are also Javanese who prioritize their Javanese traditions. Female migrant workers in the former Kediri Residency, in their perspective as Javanese, sometimes cannot be separated from the type of society that is developing, whether from a patrilineal, matrimonial, or bilateral perspective in the family system.

Javanese society, especially female migrant workers in the former Kediri Residency area, is more inclined towards the bilateral type. Gender relations in migrant worker families are bilateral. Many people used to think that wives were "winking condos". Now, the wife's role is played much like the husband's role as breadwinner; of course, this is a balanced relationship between the parties, in migrant worker households or even the wife feels independent so that if the husband makes a mistake, the wife can easily take retaliatory action or earn a living for herself.

The condition of female migrant workers is that they are able to earn more money. Migrant workers become solid/independent/equal to their husbands, although not all wives who work feel superior to their husbands who earn less. This means that the pattern of changes in the role and duties of a husband or wife, from being just a housewife to becoming a breadwinner, has no small influence on gender relations and legal awareness in society.

The data on contested divorce that has been explained above shows that twenty-five percent of migrant workers abroad are in a state of divorce, as well as field facts stating that more than fifty percent of the data from sources states that perpetrators of contested divorce are migrant workers. This data illustrates that living far apart has the potential to lead to divorce. However, on the other hand, many long-distance relationships also live in harmony.

Women who work abroad are more active in seeking justice; when justice is not on the side of the migrant worker, their ability or stability and independence may influence the wife to easily sue her husband for divorce because one of the dominant factors that drives migrant workers to be more dominant abroad is because Migrant workers have more economic income.

The description of gender equality above is associated with migrant workers as people who are Muslim. So, the tendency of female migrant workers to be Muslim feminists is more inclined than to be an Islamic feminist. The fact that migrant workers still adhere to the Islamic religion and how to behave like Muslims, accept the Islam they believe in, and accept their nature as women, namely pregnancy, giving birth, breastfeeding, and the presence of migrant workers at work still respects their partner and family even though a divorce occurs.

The parties, in understanding gender equality in providing for the family's livelihood, tend to have a moderate view of providing for the family.<sup>3</sup> This can be seen from the attitude of the parties who ask their wife to provide support in a way that is still helpful. Because of the existing emphasis, wives only have obligations in the area of care or domesticity and place their husbands more on fulfilling the family's livelihood than the wife.

Musdah Mulia, Islamic Feminism, is a gender activist who continues to push for gender issues to reinterpret gender in the perspective of reforming every regulation that is not gender sensitive and religious teachings that need to be reinterpreted. Musdah Mulia believes that there has been a culture of benefiting certain groups, namely patriarchy, to enjoy women's services. For example, there is a group of people who enjoy a culture of ignorance because it benefits and equalizes men, benefits capital owners who have an imperialist and colonialist spirit, uses female workers at very cheap costs and benefits feudal groups who exploit women's labor.

The emphasis on Patriarchy in the Indonesian family shows that its power operates across different legal, economic, political, and socio-cultural tools, which view women as always being in second class compared to men. So, the treatment of women is considered normal in the household context. The source of women's household problems is not progressing because of excessive male domination. Meanwhile, women are not given space to work; the husband becomes the head of the household, and the wife becomes the housewife. Women can be the head of the household, or they can replace their husbands as head of the household.

The thoughts of gender activists in Indonesia have become a very influential part of the Indonesian household context. The influence of Indonesian female migrant workers can be linked to the emergence of a minimum quota for women in election participation of thirty percent of women—dynamics of the birth of the migrant worker law regarding gender equality in the principles of this law. There is a push to revise marriage laws, there is a push to reinterpret the attitude of wives who carry out *nusyuz* towards their husbands as contained in the compilation of Islamic law (KHI), and there is an interpretation of Islamic law in the Indonesian context that is more gender-sensitive and progressive. However, religious groups, in interpreting several verses, tend to lead to patriarchy.

The dynamics of development in sociological science is the gender theory of structural functionalism, which is a comparative theory to the gender theory developed above. Robert K. Merton and Talcott Parson developed this theory. This theory actually does not directly offend women; this theory believes that society is a system consisting of interrelated parts, including religion, education, political structure, and even the family; each part continuously seeks balance and harmony.

structural functionalism, The way this theory works in looking at divorce cases of female migrant workers is aimed at finding balance and harmony between women and men: husband and wife, parents and children who have parts that are related to each other. The role of the husband and the role of the wife are balanced; with this balance, there will be parallel roles, which will provide a better-balanced space.

The AGIL theory (adaptation, good attainment (achievement of goals), integration, and latency (maintenance of patterns) are offered by Talcott Parsons. How AGIL works in looking at divorce from a gender perspective in female migrant workers in terms of adaptation. Adaptation of partners in looking at conditions and family conditions, neither party should force it on the other party. Meanwhile, achieving the goals in AGIL has the primary goal of the household being happiness and harmony in a household that is *sakinah mawadah warahmah* according to expectations.

For integration in the AGIL theory, looking at divorce lawsuits in the Religious Courts is the relationship arrangement, which is a component. The component in the household arrangements of the parties in building a household is that integration is

maintained. Meanwhile, pattern maintenance in looking at divorce is understood as a system that complements, maintains, and improves both individual motivation and cultural patterns. For example, the relationship between husband and wife in maintaining their respective roles is essential for the continuity of the household.

Balance in the household gives rise to the agreement in carrying out household roles; the husband cannot be the superpower, and the wife is just a companion (Suwargo kaput neroko nunut: Javanese proverb); in this sense, the decisions taken by the family are collective, there is mutual agreement.

This structural functionalism theory is relevant to Indonesian society in general compared to radical, Marxist, or Marxist socialist feminism. The influence of structural functionalism in Indonesia in the working or non-working life of the parties, depending on the collective agreement The parties. Even though the husband's condition is permanently disabled or physically disabled, if the husband and wife choose to maintain the household, the collective decision dialogue will significantly influence the household; the wife's decision to become a migrant worker abroad is also a collective decision, not the wife's one-sided decision.

The divorce case is a manifestation of legal awareness of gender equality in husband and wife relationships in migrant worker families. The meeting point is the concept of a gender-aware family. A gender-aware family is a family that places equality between husband and wife in deciding every agreement according to mutual options or choices without bias.

In building an Islamic legal framework from the perspective of family justice and gender equality, joint efforts are needed to suppress the occurrence of divorce, namely making migrant-worker family relationships always develop a humanist attitude of the parties in every action, especially placing migrant-worker families not only in terms of economics, which tends to be capitalist in relation to the rights of the wife or the rights of the husband, the humanist attitude of husband and wife will make the household more empowered, and will last forever.

## D. CONCLUSION

The gender perspective of the parties in divorce cases sued by migrant workers at the Religious Court of the former Kediri Residency. This shows that there are still parties who understand that fulfilling a living is the husband's obligation or that the wife is only helping or supporting. The parties at the Kediri Ex-Residency Religious Court still believe in the role of the wife, namely the leading role in raising children and providing care. However, wives are allowed to work but not develop their careers in a more public or broader area. Because the parties believe that the wife's primary responsibility is domestic matters. Even if the wife works, it is only as additional income for the family, not the primary income; the parties still have different views in understanding the fulfillment of livelihood for migrant workers' families. So this is also the cause of the family problems experienced by the families of migrant workers in the Religious Courts who are suing their husbands.

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