

Analysis of the Right of Reference for Wives in the Perspective of Gender Justice and Islamic Law in Indonesia

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article information	Abstract:
Submitted: 2024-10-03 Revised: 2025-06-02 Published: 2025-06-16	In the perspective of Islamic law, the right of reference is often associated with the principles of gender equality and justice. The two main aspects discussed in this study are Islamic law and gender justice, where gender justice emphasizes fair treatment of women's and men's rights. In the practice of referencing, the consent of the wife is often ignored and understood differently by various sects, while gender justice emphasizes the equal rights of wives in the marital relationship. The husband's right to refer to his wife after talaq raj'i is often seen as a form of husband domination. This study aims to examine whether Islamic law, especially related to referencing, supports the principle of gender justice or tends to be biased towards men. Using a normative approach, this study examines classical and contemporary literature in fiqh and legislation in Indonesia, such as Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). The results of the analysis show that Islamic law, through the principle of maqasid al-shariah (sharia purpose), can be reinterpreted to create a fairer balance between husband and wife. In Indonesia, there is room to improve the implementation of gender justice in the referral process at the Religious Court. This article recommends legal reforms that are more equitable and relevant to the modern social context.
Keywords: Right of Reference, Justice, Gender, Islamic Law	

Introduction

In the context of family law, gender justice is essential, as traditional norms often place wives in a subordinate position compared to husbands. According to Rufaida (2019) and Cohen et al., (2024), this imbalance is rooted in long-standing cultural and legal traditions that tend to favor male authority. The complexity increases within Islamic law, particularly regarding the husband's right of reference, which Salim and Wulandari (2023) describe as a normative prerogative granted to the husband during the iddah period. Based on QS. Al-Baqarah: 228, the Qur'an permits the husband to refer to his wife with the intention of reconciliation. However, Nely (2024) argues that in practice, this right is often exercised unilaterally, neglecting the wife's consent or psychological condition. In Indonesia, although regulated by Law No. 1 of 1974 and the Compilation of Islamic Law (KHI), Atmadianti & Rizal (2024) notes that the application of this right can lead to manipulation and power imbalances. Maulida & Busyro (2018) criticizes this for contradicting modern legal principles of equality in marital decision-making. Therefore, Al-As'ary (2016) proposes reinterpreting this concept using maqasid al-shariah to ensure justice and welfare for all parties, especially women.

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The study of the right of reference in divorce has long been discussed in both classical and contemporary Islamic legal literature. In Islamic law, this right is normatively given to the husband if the wife is still in the iddah period after talaq raj'i, based on the Qur'an and supported by the fiqh of the four schools of thought which generally view this as the husband's prerogative. (Bariah & Ferianto, 2024). However, in the context of Islamic family law in Indonesia, this right is increasingly being re-evaluated through the lens of gender justice. Studies by Cullati et al., (2019) and Lwamba et al., (2022) indicate that the implementation of this right often leads to power imbalances, especially when the referral occurs without considering the wife's consent or psychological well-being. A qualitative study by Maula & Vivi (2022) also found that women often lack negotiating space in religious courts, even in cases involving domestic violence. Meanwhile, Law No. 1 of 1974 and the Compilation of Islamic Law (KHI) do not explicitly protect women's rights in this area (Maloko et al., 2024). Thus, a gender justice perspective is essential to review these normative concepts and support a more equitable application of Islamic law in Indonesia.

This article raises an important issue regarding the inequality of power relations in the institution of marriage, especially when talaq occurs. In the practice of Islamic law in Indonesia, the right of reference is normatively in the hands of the husband, while the position of the wife is often passive or even has no room to refuse a detrimental reference. The gender justice perspective demands that every individual in marriage has equal rights and protection, including in the context of post-talaq referral. Therefore, the analysis of the wife's right to refer is not only relevant from the classical fiqh aspect, but also urgent to be reviewed with the approach of maqāṣid al-sharī'ah which emphasizes justice, benefit, and protection of women. This article argues that the reinterpretation of the right of reference needs to be carried out in accordance with the principles of substantive justice in contemporary Islamic law and in line with the mandate of Law Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which has been ratified by Indonesia.

This study aims to analyze and understand the right of reference for post-divorce wives from the perspective of gender justice and Islamic law in Indonesia. The focus of this research is to examine how the concept of referencing, which has been more dominated by husbands, can be reconsidered in the framework of equal justice between men and women. This research also aims to examine positive legal provisions in Indonesia, both in the Compilation of Islamic Law (KHI) and in the practice of religious justice, as well as compare it with the values of justice in Islamic fiqh and contemporary discourse on gender equality. With a normative qualitative approach and juridical-philosophical analysis, this research is expected to be able to contribute constructive thinking to the reformulation of the concept of reference that is not only in accordance with sharia principles but also upholds the values of justice and equality for women in family life.

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This research employs a qualitative approach with a normative-juridical method, focusing on library research as the main data source. According to George (2008), this method is suitable for analyzing legal principles based on texts and authoritative sources. Primary data includes classical and contemporary Islamic legal references, such as books from various schools of fiqh, Qur'anic exegesis, and hadiths concerning the right of reference in divorce, as highlighted by Ramadhita et al. (2023), who emphasize the importance of grounding such studies in authoritative Islamic texts. Secondary data comprises Indonesian legal instruments, including the Compilation of Islamic Law (KHI), Law No. 1 of 1974 on Marriage, and relevant Supreme Court decisions. Malayudha et al. (2023) argue that this approach is essential to understand both the theoretical framework and its practical implications in the context of gender justice. The data analysis is conducted using content analysis techniques, which Benuf & Azhar (2020) recommends for exploring the deeper normative

meanings and evaluating whether the implementation of the right of reference upholds justice—particularly in relation to the wife, who is often in a marginalized position during the process.

The type of research used in this study is literature research. According to Snyder (2019), literature research involves collecting data from books, notes, scholarly articles, and various written sources relevant to the research problem, by systematically analyzing each material. Luft et al., (2022) emphasize that one of the main characteristics of this method is that researchers engage directly with written materials, rather than gathering data from the field. Supporting this, Sutton and Austin (2015) explain that data in literature research is accessed by the researcher through libraries or digital platforms, allowing direct engagement with the content. Cheong et al. (2023) also note that literature research relies on secondary sources, meaning the data used is obtained indirectly and not generated through firsthand investigation. Furthermore, Sari (2021) highlights that literature data is not limited by time or location and remains stable over time, providing consistent reference material for legal and academic analysis.

The data sources in this research consist of primary and secondary data. Yotenka et al. (2022) state that primary data refers to authentic and credible sources, such as saheeh Islamic texts whose validity is widely recognized, including hadith collections and classical fiqh books. On the other hand, secondary data comprises information obtained from materials that have been previously analyzed or interpreted by other researchers. According to Wickham (2019), this includes academic books, scholarly articles, literature reviews, and various reports that provide contextual understanding. Afian & Saputra (2021) adds that secondary sources also encompass legislation, encyclopedias, online media, and even social media platforms, particularly when they discuss issues such as gender justice and the right of reference within the framework of Islamic law. These diverse sources support a comprehensive analysis of how gender justice is perceived and practiced in relation to the concept of reference in both normative and contemporary settings.

The data analysis method in this research involves several systematic steps. Lee et al. (2024) explain that the initial stage includes identifying and collecting relevant sources in the form of books and literature related to the concept of reference. Once the sources are gathered, Elo et al. (2014) emphasize the importance of organizing and analyzing the data consistently and methodically. Sindin (2017) asserts that researchers must thoroughly read and comprehend the entire content to identify discussions that align with the research problem. Building on this, Kraus et al. (2021) highlight that researchers should compare literature on the right of reference from both classical and contemporary jurisprudence to detect patterns and shifts in interpretation. Abdullah (2023) points out that this process requires the researcher to interpret the views of scholars, the Compilation of Islamic Law, and various legal perspectives while also integrating their own critical insights. Therefore, mastering and synthesizing all available descriptions is essential to produce a comprehensive and balanced analysis.

Results And Discussion

Results

Recognition of Women's Reconciliation Rights in Islamic Family Law

Research conducted by Aziz and Fahrudin (2021) examines the discourse of gender justice in the context of women's reconciliation rights in Islamic family law. This study provides a new perspective on male dominance in the practice of reconciliation, by highlighting women's rights that have so far received little attention in the framework of traditional Islamic law. Through a gender approach, this study reveals that women not only have the right to be treated well in the reconciliation process, but also have the right to express their opinions and even propose

reconciliation under certain conditions. These findings challenge the old paradigm and demonstrate the dynamics of Islamic law that is responsive to gender justice issues.

Table 1. Gender Justice in Islam

No	Aspects Studied	Key Findings	Description
1	Women's Reconciliation Rights in Islamic Family Law	Women have rights in reconciliation, including the right to express opinions on reconciliation proposed by their husbands.	This shows a shift in the discourse of gender justice in Islamic law.
2	Husband's Obligations in the Reconciliation Process	A husband who wants to reconcile his wife is required to behave well and treat her fairly.	This requirement is a major concern for scholars as a form of justice in husband-wife relations.
3	Gender Perspective on the Right to Refer	From a gender perspective, a wife can also propose reconciliation as part of fulfilling her rights in marriage.	This shifts the traditional view that the right to reconciliation is only held by the husband.
4	The Concept of Khulu' and Its Implications	The concept of khulu' provides an opportunity for a wife to have the right to reconcile with a husband who refuses.	Khulu' is a legal solution that balances rights and obligations in divorce.
5	Gender Justice in Islamic Family Law	The emphasis on gender justice in Islamic family law aims to create an equal and respectful relationship between husband and wife.	This strengthens the argument that Islamic law is dynamic and can be interpreted according to the context of justice.

Based on the results of the analysis, it can be concluded that the discourse of gender justice in Islamic family law is increasingly moving towards the recognition of women's rights, including in terms of reconciliation. This study confirms that women have an equal position in the reconciliation process, both through the right to be treated fairly and to convey their attitudes towards their husband's decisions. The concept of khulu' strengthens women's rights to respond to injustice in marital relations, including the right to reject or propose reconciliation. Thus, gender justice in Islamic law is not only a normative ideal, but can be actualized through a reinterpretation of legal texts that favor equality and humanity.

The Wife's Right to Refuse Reconciliation from a Gender and Justice Perspective

Research conducted by Rufaida (2019) shows significant developments in the construction of Islamic family law, especially regarding the wife's right to refuse reconciliation. This study compares the classical patriarchal view of Islamic jurisprudence with the modern legal approach through the Compilation of Islamic Law (KHI). If in classical jurisprudence the right to reconciliation is considered entirely the husband's without requiring the wife's consent, then the KHI brings a paradigm shift that places women as legal subjects who have autonomy in determining the continuation of the marriage relationship. This finding is important in building a discourse on gender equality in contemporary Islamic law.

Table 2. The Wife's Rights to Refuse Reconciliation from an Islamic Perspective and Gender Analysis

No	Aspects Studied	Key Findings	Description
1	The Position of the Wife's Rights to Refuse Reconciliation Before the KHI	Before the presence of the KHI, wives did not have the right to refuse reconciliation because the law used was still based on classical patriarchal fiqh.	The right to reconcile is considered to be the absolute property of the husband, regardless of the wife's consent during the iddah period.
2	Traditional Ulama's Views on Reconciliation	Previous scholars argued that reconciliation was the absolute right of the husband without needing to consider the wife's consent.	This shows male dominance in the structure of classical Islamic family law.
3	Legal Reconstruction in	The KHI states that reconciliation must	It is an important point in the

	the KHI	be accompanied by the wife's consent. If the wife refuses, then reconciliation can be considered invalid.	recognition of women's rights in Islamic family law in Indonesia.
4	Implications of Modern Thought on Family Law	The KHI is influenced by the thinking of modern society which emphasizes gender equality and justice in husband-wife relations.	It shows the dynamics of Islamic law that are adaptive to social developments and values of equality.
5	Gender Perspective on Reconciliation Rejection by the Wife	The gender perspective supports the wife's right to refuse reconciliation as a form of protection for the will and dignity of women in the household.	The rejection of reconciliation is a symbol of resistance to unilateral domination by men.

From the results of the study, it can be concluded that the reconstruction of law in the KHI is a progressive step in responding to the inequality of gender relations inherited from classical fiqh. The placement of the wife's consent as a valid condition for reconciliation is a legal recognition of women's rights and wishes in the institution of marriage. However, challenges still arise in the application of this norm in a society that is still strongly influenced by patriarchal thinking. Therefore, although normatively the KHI has sided with the principle of gender justice, there needs to be ongoing socialization, legal education, and reinterpretation of religious texts so that the wife's right to refuse reconciliation can be accepted and respected in broader socio-religious practices.

Discussion

Basic Concept of the Right of Reference in Islamic Law

The practice of the right of reference (*rujuk*) in Islamic law in Indonesia still reflects a tendency toward male dominance, where the husband may unilaterally reclaim his wife during the *iddah* period without her consent—even when such an act causes psychological or social harm to the wife. Campbell (2005) points out that such unilateral authority reinforces patriarchal structures that disadvantage women in marital relationships. Similarly, Carback (2016) criticizes legal pluralism that tolerates practices conflicting with gender equality, emphasizing that religious norms should not override fundamental human rights. From the perspective of gender justice, as discussed by Guterres et al., (2024), this practice illustrates a significant power imbalance that contradicts the principle of equality in dignity and rights between men and women. Halim and Amalia (2024) further assert that when the right of reference is exercised without the wife's participation, it legitimizes structural injustices and deprives women of agency. In response, Chappell et al., (2024) advocate for a reinterpretation of classical fiqh through the *maqāṣid al-syarī'ah* lens and urge revisions to national instruments like the Compilation of Islamic Law (KHI) to ensure alignment with universal principles of gender equality and human rights.

To strengthen the implementation of Islamic law in Indonesia—particularly concerning the wife's right in matters of reference—the integration of *maqāṣid al-sharī'ah* and gender justice is essential (Farkhani et al., 2022). *Maqāṣid al-sharī'ah*, which prioritizes the protection of religion, life, intellect, lineage, and property, encourages laws to be applied with attention to their moral and social objectives, not merely textual interpretation (Mera et al., 2024). In the context of referencing, this approach calls for a critical assessment of how current practices often reinforce male dominance and overlook the wife's agency and well-being (Morgenroth & Ryan, 2020). By adopting a *maqāṣid*-based perspective, referencing should be understood more inclusively—focusing on mutual benefit and fairness in marital relationships. Gender justice complements this by ensuring that the right of reference respects both partners' dignity and autonomy, rather than serving as a means of control (Weldon, 2018). The integration of these two principles offers a

balanced foundation for shaping Islamic family law that is equitable, relevant to contemporary realities, and aligned with universal human values.

Table 3. The Right to Refer in Islamic Law and Gender Perspective

Aspects	Summary	Reference
Definition of Right to Reconciliation	The husband's right to return to his wife after a raj'i divorce during the iddah, without a new contract.	Umam (2022); Timur (2024)
Gender Perspective	The husband's absolute right to reconciliation shows the inequality of the relationship; the wife is not involved in the decision.	Rufaida (2019)
Legal Basis	QS. Al-Baqarah: 228 mentions the right to reconciliation for the husband if he intends to reconcile; reinforced by the hadith and practices of the Prophet Muhammad SAW.	Thoyib & Huda (2022); Aisyah (2024)
Requirements for Reconciliation	- Only for raj'i divorce (1 or 2) - Performed during the iddah - Intending to improve the relationship - Without a new contract	Azzulfa (2022); Jazari (2019); Kurniawan (2021); Abdullah & Ulfa (2019)
Form of Reconciliation	Can be done verbally ("I reconcile") or through actions such as husband-wife relations.	Syaf (2024)
Exclusive Rights of Husband	In classical fiqh, the husband does not need the wife's consent to reconcile during the iddah; however, the value of justice must still be considered.	Suryantoro & Rofiq (2022)
Ulama's Advice on Witnesses	Some scholars (Shafi'i and Maliki) suggest that reconciliation be witnessed by a third party; Hanafi does not require it.	Makmun & Rohman (2017)
Limitations on Right to Reconciliation	- Iddah has been completed - Talak bain kubra (talak 3) - Talak through khuluk (divorce at the wife's request)	Nasution (2018); Rufaida (2019)

The table summarizing the concept of the right of rujuk (reconciliation after divorce) in Islamic law reveals a tension between classical fiqh traditions and the demands of modern societal values, particularly regarding gender equality. In classical fiqh, the right of rujuk is understood as the exclusive right of the husband, which may be exercised unilaterally during the iddah (waiting) period, without requiring the wife's consent. This concept is strongly supported by theological foundations found in the Qur'an and Hadith, and has been codified in the opinions of prominent jurists such as Imam Shafi'i, Hanafi, Maliki, and Hanbali. However, from the perspective of substantive justice and gender equality, this approach raises several critical issues. As articulated by Mansour Fakih, male dominance in household decision-making without women's participation constitutes a form of structural injustice (subordination). A husband's right to reconcile without his wife's consent disregards her agency as an equal partner in marriage, and implicitly reinforces patriarchal dynamics that position women as objects rather than subjects of the law.

Furthermore, although the requirements for rujuk—such as the intention of reconciliation (islah), the time frame within the iddah period, and the type of divorce—have been clearly defined, the element of “good intention” remains subjective and prone to manipulation (Sulton, 2023). In practice, such intentions are difficult to verify objectively in court. The absence of a mechanism to assess the sincerity of the husband's intentions can open the door to misuse of the rujuk right as a means of control over the wife (Abubakar et al., 2023). From the standpoint of contemporary Islamic legal development, as reflected in the Compilation of Islamic Law (KHI) in Indonesia, there is an indication of evolving interpretations that begin to consider women's voices (Mun'im & Suaidi, 2024). For instance, some modern interpretations and religious court rulings have introduced the notion that the wife's consent is necessary for the validity of rujuk, especially to safeguard mutual benefit and avoid prolonged conflict (Mufti, 2016). This reflects an attempt to align Islamic law with the principles of maqāṣid al-syarī'ah, which emphasize the protection of life, dignity, and the harmony of the family unit.

Thus, critique of the traditional doctrine of *rujuk* is not merely deconstructive but aims to reconstruct a more just, humane, and contextual understanding of Islamic law. The right of *rujuk* should not be viewed as an absolute privilege of the husband but as a mutual agreement based on the will of both parties and oriented toward shared benefit. Therefore, the reform of Islamic law regarding *rujuk* must be grounded in a hermeneutical approach to gender justice and the *maqāṣid al-syarī'ah* as a contextual and transformative method of *ijtihad*.

Gender Justice in Islam

Gender justice is one of the issues that continues to receive attention in various parts of the world, including in Muslim-majority countries. In this context, many debates have arisen regarding how Islam views the relationship between men and women, as well as whether Islam recognizes gender equality in various aspects of life, both in the private and public spheres. To understand gender justice in Islam, it is important to explore the basic teachings of Islam, namely the Quran, Hadith, and *fiqh* (jurisprudence), as well as how these principles are interpreted and applied in the lives of Muslims (Anggoro, 2019).

Islam as a religion of *rahmatan lil alamin* (mercy for all creation) emphasizes the value of justice (*'adl*) in all aspects of life, including relationships between men and women. Justice in Islam encompasses both *hablum minallah* (relationship with Allah) and *hablum minannas* (relationship with others). The Quran affirms that men and women are equal before Allah and share the same responsibilities as caliphs on earth (Negara, 2022). This is reflected in QS. Al-Hujurat:13, which states that all humans are created from a man and a woman and that piety is the only measure of worth in Allah's eyes. The verse emphasizes that differences in gender, race, or status are not indicators of superiority (Agustina et al., 2023). Therefore, Islamic justice supports an egalitarian view where every individual deserves equal rights and a dignified life regardless of gender.

In Islam, gender justice is based on the principle that men and women are equal before Allah and have different but complementary rights and obligations (Qodir et al., 2022). Justice in Islam does not always mean absolute equality in rights but is often associated with the division of roles according to the nature and responsibilities of each gender. In the context of marriage, in Islamic law, men are given the right to impose *talaq* (divorce), while women have the right to ask for *khulu'* (divorce on the wife's initiative). Although this right normatively provides a balance between the two parties, in practice, the right to *talaq* is often considered more dominant and easily accessible to men, while women must face a more complicated legal process to obtain a divorce. Islam provides specific rights and responsibilities for husbands and wives. One of the rights that the husband has is the right of reference after divorce of *talaq* one and two (*talaq raj'i*), where the husband can return his wife during the *iddah* period without the consent of the wife. (Hermanto, 2022)

On the other hand, the Quran emphasizes protection for women in terms of marriage and divorce. For example, women are entitled to dowry as a form of financial security, and they are entitled to alimony during the *iddah* period. This shows that although the rights of men and women in marriage are not identical, Islam provides rules to protect women's rights and ensure that they are not harmed in the divorce process (Safitri & Ahmad, 2024). The principle of justice in Islam seeks to maintain a balance between the rights of husband and wife in the scope of marriage, including in the issue of *talaq* and refer. However, the role of the husband as the holder of the right of reference is often seen differently in terms of gender justice in the modern context (Jahroh, 2016).

Right of Reference in the Perspective of Gender Justice

In traditional Islamic law, the unilateral right of a husband to perform *rujuk* without requiring the wife's consent has been interpreted by many scholars as a manifestation of male dominance within the marital relationship. Rohmah et al., (2025) argue that this legal structure reflects patriarchal norms that elevate the husband's authority over that of the wife, particularly during the *iddah* period. This asymmetry grants men greater legal power in determining the continuity of marriage, often sidelining the wife's perspective and agency in the process. Meanwhile, Muhibbulloh et al., (2021) offer a different view, suggesting that the provision was originally designed to protect the institution of marriage and provide an accessible path for reconciliation between spouses after divorce. However, contemporary gender justice advocates raise critical concerns about the impact of such interpretations on women's autonomy. According to Pomahiya et al., (2022), giving husbands exclusive rights to *rujuk* perpetuates an imbalance in decision-making, where wives are unable to assert their will regarding the continuation of the marital bond. This situation, especially during *iddah*, effectively places the wife in a passive position. Al-Amin et al., (2024) further emphasize that this dynamic undermines the principles of gender equality by denying women an equal voice in one of the most personal and impactful aspects of their lives—their marital future.

On the other hand, some contemporary scholars argue that Islamic law provides protection for women in marriage through mechanisms such as dowry (*mahr*), alimony (*nafaqah*), and *talaq* provisions. Sudirman and Hamzah (2024) state that these elements serve as financial safeguards and basic rights for wives within the framework of Islamic marriage. However, from a gender justice perspective, Smith and Sinkford (2022) contend that despite these formal rights, there remains a significant imbalance in the distribution of power, particularly concerning the right of *rujuk*, which tends to be exercised unilaterally by the husband.

In many modern legal systems that uphold gender equality, divorce and reconciliation must go through a legal process that considers the interests of both parties fairly. Hermanto & Sovia (2023) points out that the practice of *rujuk* in Islamic law, which does not require the wife's consent, may contradict legal principles that promote equal participation in marital decisions. Nonetheless, efforts have emerged in several Muslim-majority countries to align the right of *rujuk* with contemporary principles of gender justice. Cislighi and Heise (2020) observe that in some contexts, women are allowed to stipulate in the marriage contract that *rujuk* cannot occur without their consent. Tchoukou (2024) further notes that some legal systems have even granted *rujuk* rights to both spouses equally. This demonstrates that Islamic law has the capacity to evolve in line with growing demands for gender justice in modern society.

The Rights of Husbands and Wives in Reference Reviewed in terms of Gender Justice and Islamic Law

Islam views marriage as a sacred bond and a major responsibility that extends beyond this world into the hereafter. A husband assumes the responsibility once held by the wife's father before God, and any marital discord should ideally be resolved for the sake of preserving the household (Sugiarto, 2022). The Qur'an, particularly in Surah Al-Baqarah verse 228, gives encouragement for reconciliation through *rujuk*, placing decision-making authority in the hands of the husband. However, Hidayah (2023) emphasizes that a wife has the right to refuse *rujuk* if it brings no benefit to the relationship. Al-Maraghi explains that if a husband initiates *rujuk* with bad intentions—merely to prevent the wife from marrying another man—such actions are sinful. Surah Al-Baqarah verse 231 warns against playing with *rujuk* by repeatedly divorcing and reconciling just to control the wife's fate, labeling such behavior as unjust and morally wrong (Hidayah, 2023).

According to Khulqi et al. (2023), the consensus among Islamic schools of thought (madzhabs) affirms that the right of rujuk (reference) belongs solely to the husband, and the wife does not possess a similar right. Consequently, even if the wife is unaware or does not accept the act of rujuk, it is still considered valid in Islamic law. Zhou et al., (2017) argue that this arrangement does not imply inequality in the marital relationship, but rather highlights the complementary nature of the roles of husband and wife according to their respective positions. Meanwhile, Lundberg et al., (2016) emphasize that the rules regarding iddah and the husband's dominant rights are not intended to discriminate against the wife, but to ensure the protection and recognition of others' rights. Mubarakah et al., (2021) also stress that these rights are intrinsically connected to the broader goal of achieving fairness and justice for both spouses in the context of Islamic family law.

Mugni (2024) explains that a hadith narrated by At-Tirmidhi and Al-Hakim from Aisha r.a. reveals the practice among early husbands of repeatedly divorcing and referring to their wives, a pattern which Islam eventually restricted through the regulation of talaq raj'i. In cases where the husband and wife are separated and the wife receives only a divorce notification without a clear act of rujuk, scholars hold differing views if the wife remarries after her iddah ends. According to Imam Malik, Al-Auza'i, and Al-Laits, the woman rightfully belongs to the new husband, regardless of whether the marriage has been consummated. In contrast, Imam Shafi'i, Abu Hanifah, and other scholars from Kufa argue that the first husband who made rujuk retains a stronger claim, even if the second marriage has not yet been consummated. Imam Hanbali further asserts that rujuk is only valid if accompanied by intercourse, while mere touching or kissing is insufficient. These varying perspectives illustrate the diversity of interpretation within Islamic jurisprudence.

According to Izzah (2021), in the Compilation of Islamic Law (KHI), a husband who wishes to perform rujuk (reconciliation) must obtain the consent of his ex-wife. This provision is outlined in Article 167 paragraph (2) of the KHI, which states that "reconciliation is carried out with the wife's consent in the presence of the Marriage Registrar or the Assistant Marriage Registrar." Albert et al., (2019) emphasize that if the husband insists on reconciliation while the wife refuses, the reconciliation is considered invalid according to the Religious Court's decision. This is further affirmed in Articles 164 and 165 of the KHI. According to Suryantoro & Rofiq (2022), these articles explain that a wife who refuses or objects to her husband's request for reconciliation has the right to reject it and declare her objection before the Marriage Registrar in the presence of two witnesses. The wife's objection can influence the Religious Court's ruling regarding the validity of the reconciliation.

An important aspect highlighted by the provisions of several articles mentioned above indicates a shift from classical jurisprudence to a more Indonesia-based fiqh, as noted by Adegoke (2021). One of the most evident changes is the more structured approach to documentation and administration. In this context, parties wishing to perform a rujuk (reconciliation) must involve a governmental authority, namely the Marriage Registrar. This stands in contrast to Imam Shafi'i's view, who believed that rujuk could be performed merely through verbal cues or even sarcasm (Arlinda & Baadilla, 2023). Fadila & Idary (2021) explains that Imam Malik considered rujuk valid if done through tangible actions, such as physical intimacy with the intention of reconciliation—without the necessity of verbal declaration. This view is supported by Imam Hanbali and Abu Hanifah. According to Nasution (2018), the Compilation of Islamic Law (KHI) is designed to support the interests of both spouses, with greater emphasis on protecting the wife's rights, preserving her dignity, and ensuring her security—especially in cases where the husband's intention in rujuk is unclear or insincere. Thus, KHI serves as a framework to promote gender justice in the regulation of rujuk, ensuring that mutual consent and balance of rights between husband and wife are upheld.

Conclusion

This study reveals that although the right of rujuk (reference) in Islamic law in Indonesia is normatively granted to the husband, its practical implementation often results in gender inequality that disadvantages the wife. Viewed from a gender justice perspective, there is an urgent need to reinterpret these legal provisions to ensure greater fairness and equality. Given the dynamic and contextual nature of Islamic law, such reinterpretation is both possible and necessary to align legal practices with the principles of gender justice and the protection of women's rights within the family structure.

Theoretically, this research enriches the treasures of Islamic legal thought by offering a perspective of gender justice as an interpretive approach in understanding the right of reference. This suggests that the norms of classical fiqh need to be contextualized to remain relevant to contemporary social realities. Practically, the results of this study can be considered for policymakers and judges in applying the law of reference more equitably, as well as for religious institutions and women's advocacy in conducting education and legal assistance for affected wives.

Further research is suggested to delve deeper into the experiences of women who experience the referral process, including a juridical-sociological analysis of judges' decisions in religious courts regarding the right of referral. A comparative study of the practice of referencing in Indonesia and other countries that adhere to the Islamic legal system can also provide a broader picture in formulating gender-equitable legal solutions. In addition, it is also important to conduct research involving the perspective of women scholars as important actors in the reformulation of Islamic family law that is more inclusive.

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I, Ahdiyatul Hidayah, as the author of this article, am fully responsible if all these related matters are the author himself who creates, directs and interprets the overall content of this article.

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