

Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition

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Article Info

Keywords:

Gender; Tradition;
Marriage; Divorce;
Widows.

How to cite [Chicago Manual of Style 17th edition (full note)]:

Susi Susilawati et al., "Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition," *Jambura Law Review* 5, no. 1 (2023): 136–155

Abstract

This research entitled "Manifestations of Gender Injustice in the Tradition of Divorced Marriage in Kabalutan" is motivated by mass media information which states that in that village, there are many widows of various ages. From young to old age. It was also stated that in this village, it was easy to marry and divorce. Therefore, it is crucial to analyze this tradition from a gender perspective. So that it can be known which parties are harmed by this tradition, to be given socialization of what laws are needed there. The method is an empirical research method with primary data sources from traditional leaders and community leaders in the village. The stages are from surveys, observations, and conducting interviews, as well as collecting data for analysis and giving conclusions. The results of his research are that the term "widows' village" is a term that appeared during the population census in the 90s. At that time, there were many widows in Kabalutan Village for various reasons. But now, not anymore. Thus, the conclusion is that the stereotype of "Kampung Widow" towards Kabalutan Village, Talatako District, Tojo Una Una Regency is a manifestation of gender injustice. The people in the village are not comfortable with this labelling. In addition, it is not proven by the many widows there; it is also not the name of their village. Therefore, they asked to give only Kabalutan Village.

1. Introduction

Gender, for some people, is something that has a negative connotation. Some of them identify with the women's movement or feminists. Even though they do not know what gender is. Gender is often identified with sex (sex). As written in a dictionary, the word gender comes from English, gender. This word is often translated as "gender".

Meanwhile, the gender struggle is not only for women but all those oppressed and disadvantaged. This expression is because, at present and in the past, women were often oppressed as the weak party—supported by the substance of the Marriage Law, which is gender-biased, inaccurate religious understanding, and patriarchal culture. In fact, gender equality is part of Islamic values that apply universally.¹

In line with the statement above, according to feminists, the notion of gender as "sex" is deemed inappropriate because the issue of gender is not a biological problem. Gender issues are more focused on aspects of social construction. Webster's New World Dictionary defines gender as the visible difference between men and women regarding values and behavior. It is emphasized again in the Women's Studies Encyclopedia that gender is a cultural concept that seeks to make distinctions in roles, behavior, mentality, and emotional characteristics between men and women who develop in society.² Gender is generally used to identify differences between men and women in socio-culture. In contrast, sex is generally used to identify differences between men and women in terms of biological anatomy, including differences in chemical and hormonal composition in the body, physical anatomy, reproduction, and other biological characteristics. Gender concentrates more on social, cultural, psychological, and other non-biological aspects that are flexible and can be owned and played by everyone.

The difference between men and women can be seen in two ways. The first is in terms of sex, and the second is in terms of gender. Sex (gender) is the difference

¹ Alharira Eisyi Latifah and Dudin Shobbaruddin, "Kesetaraan Gender Dalam Perspektif Al-Qur'an (Studi Komparatif Tafsir Ibnu Katsir Dan Al-Mishbah)," *TAFAHUS: JURNAL PENGKAJIAN ISLAM* 2, no. 1 (2022): 74–84.

² Nasaruddin Umar, *Argumen Kesetaraan Jender: Perpektif Al-Quran* (Jakarta: Paramadina, 1999), 34 & 153.

between men and women, which is the nature of God, is permanent and cannot be exchanged. So, sex is a biological difference inherent in men and women that they are born with.

Gender, according to Oakley, the person who first brought up this concept, is a difference that is not biological and not God's nature or a difference that is not God's creation but created by both men and women through a long cultural and social process. Therefore, gender can change from time to time and from place to place, even from class to class.³

According to Showalter, gender, in this sense, began to be widely used in 1977 when a group of London feminists no longer used sexist/patriarchal issues but replaced them with gender.⁴ According to the researcher, this is also the case because the word gender implies an expansion of meaning.

The traditions of each region are different. The treatment of others is also different. Especially if that tradition has been in effect for so long, those who should be oppressed and disadvantaged are considered normal. Even the country is rendered helpless even though there is a law that regulates it—marriage law, for example. Indonesian people can no longer use their respective marriage laws because that law has been unified into the Marriage Law unless specifically appointed by the law. The example in Article 2 (1) states that the validity of a marriage is up to each religion and belief. So Islamic marriage law applies to Muslims, Christian marriage law applies to Christians, and so on. Whereas Paragraph 2 states that the marriage should be registered. For Muslims at the Office of Religious Affairs and at the Civil Registration Office.

2. Problem Statement

As reported in several reports, the marriage tradition in Tojo Una-Una Widow Village is different from what it should be. Generally, a wife is obliged to follow her husband wherever he goes after marriage. In this village, a woman may be married, but her

³ Fakhri Mansour et al., *Membincang Feminisme: Diskursus Gender Perspektif Islam* (Surabaya: Risalah Gusti, 1996), 46.

⁴ Durotun Nafisah, "Politisasi Relasi Suami-Istri: Telaah KHI Perspektif Gender," *Yinyang: Jurnal Studi Islam Gender dan Anak* 3, no. 2 (2008): 195–208.

husband may not take her out of the village.⁵ Based on that, the widow's village is a quiet place for irresponsible men. Moreover, Tempo stated that 60 percent of the population are women.⁶ So, it seems that the place is just for fun for "masher" men. As made viral by a Youtube account which invited negative comments and ended with reporting on the discomfort and harassment of women in the village.⁷

In addition, the community considers the name "Kampung Widows" to be gender biased. Not a single woman wants or aspires to be a widow. It is just the journey of life and destiny he has like that. As happened in Ciburayut, the naming was considered an insult.⁸ Even more dangerous if it occurs or is imprisoned as a crime of sexual violence,⁹ the punishment is very severe for the perpetrators in this country.

This study examines how the marriage tradition in Kabalutan Village is based on a gender perspective.

3. Methods

The method of research used in this writing is empirical legal research. It is qualitative because, in the process, it will use data in the form of words, sentences and pictures,¹⁰ as well as examine objective natural conditions with the Research Team as the vital instrument, using inductive data collection techniques and results which emphasize meaning rather than generalization.¹¹ Because it is qualitative, this research is also conducted by observing people in their environment, interacting with them, and trying to understand their language and interpretation of the world around

⁵ Imam Kusnin Ahmad, "Kampung Janda: Boleh Dikawin, Dibawa Jangan," accessed July 29, 2022, <https://timesindonesia.co.id/wisata/134779/kampung-janda-boleh-dikawin-dibawa-jangan>.

⁶ Fajar Januarta and Teco Inggris, "Potret ``Kampung Janda`` Di Kepulauan Togean," Tempo, July 29, 2016, <https://foto.tempo.co/read/43935/potret-kampung-janda-di-kepulauan-togean>.

⁷ Admin, "Komentari Viral Soal Kampung Janda, Akun Jier Mangantjo Bakal di Laporkan," *matarakyatindo.com | Independent, Tegas, & Lebih Dekat* (blog), November 20, 2019, <https://matarakyatindo.com/komentari-viral-soal-kampung-janda-akun-jier-mangantjo-bakal-dilapor/>.

⁸ Tim 20detik, "Disebut Kampung Janda, Warga: Penghinaan!," detiknews, accessed July 30, 2022, <https://news.detik.com/berita/d-5730346/disebut-kampung-janda-warga-penghinaan>.

⁹ Nurhayati Mardin et al., "Comparative Law Study: Sentencing of Sexual Violence Perpetrators Who Have Deviant Sexual Behavior," *Jambura Law Review JALREV* 4, no. 2 (2022): 227–45.

¹⁰ Sugiyono, *Metode Penelitian Administrasi*, ed. Apri Nuryanto (Bandung: Alfabeta, 2009), 15.

¹¹ Sugiyono, *Metode Penelitian Kuantitatif Kualitatif Dan R & D* (Bandung: Alfabeta, 2009), 1.

them.¹² The location is in Kabalutan Village, Talako District, Tojo Una-Una Regency, Central Sulawesi Province.

4. Discussion

The marriage tradition in Kabalutan Village is almost the same as in Muslim villages in general. They use Islamic marriage for the validity of the marriage. This is because they are all Muslims. The majority of the people who inhabit the village are the Bajo tribe. The Bajo tribe is known as "Excellent Sea Divers and Travelers".¹³ Therefore, they built their house on a shallow sea to make it easier for them with their livelihood and expertise. Although the location must be far from the city center and government center. This makes them sometimes isolated in various kinds of state policies. Need special attention and staff to be sent to their area. So that it does not become an area that is left behind. Both in terms of development and civilization. Therefore, the Government must work extra in doing the distribution of development. It is not just election time to increase their votes for the benefit of certain groups.

Apart from being known by that name, the Bajo tribe is also famous for its religious observance, namely Islam. They make Islam their identity.¹⁴ Thus, the marriage tradition indeed uses the Islamic way. They have two mosques. Even their *syara* employees are more complete than village government officials. One mosque has up to 6 administrators, whom they call *Shara'* employees.¹⁵

The issue that is developing is that women in Kabalutan Village cannot be taken off the island even though they are married and considered legitimate by their families. Even if you already have a child. So, if the husband insists on leaving the place for any reason, he will go alone, without bringing his family. If the wife insists on going too, she will get sick with no cure except to go back to where she came from and drink seawater or salty water. The story is true. Nevertheless, that was before, and now

¹² S. Nasution, *Metode Penelitian Naturalistik Kualitatif* (Bandung: Tarsito, 1988), 5.

¹³ Yulia Adiningsih, "Suku Bajo, Penyelam dan Pengembara Laut nan Ulung," *gaya hidup*, accessed July 30, 2022, <https://www.cnnindonesia.com/gaya-hidup/20210611232129-269-653399/suku-bajo-penyelam-dan-pengembara-laut-nan-ulung>.

¹⁴ Benny Baskara, "Manifestasi Identitas Islam Suku Bajo dalam Naskah Lontarak Assalenna Bajo," *Jurnal Kawistara* 1, no. 1 (2011), <https://doi.org/10.22146/kawistara.3903>.

¹⁵ Muhiir, Kabalutan Village (with Secretary of Kabalutan Village), June 17, 2022.

people are no longer confined by these customs and beliefs.¹⁶

The people of Kabalutan Village feel uncomfortable with their area being called a "widow's village", as shared by social media and has been described in the introduction to this study. The term is no longer relevant to current conditions, in line with the gradual disappearance of the old customs and beliefs. However, the media seemed to perpetuate it. Supposedly, social media helps people not to be biased towards any party.¹⁷

The term "widows' village" emerged because many women left at sea and did not return left to leave the village or were forced to marry migrants because they were caught by "hansip". So, in the 90s, the local Government held a population census, and the results stated that in Kabalutan Village, many women were widows. To make it easier to mention, "widows' village" was born.¹⁸ However, now the population is almost equal between males and females. Many were widowed but soon remarried. So that her status is no longer a widow. Therefore, the residents there reject the existence of this stereotype. "Our village is not a widow's village anymore, and please do not call our village that anymore." Said one of the residents.¹⁹ Unfortunately, social media has already exploited this name, so that women there are used as industrial objects that will increase their reputation. That's how gender and injustice are exploited.²⁰

The activities of women there are very diverse. Some go to sea with their families. Some make handicrafts, such as hats from young Nipa leaves, which are dried and tied with rattan, and woven bags made from former candy wrappers, which are arranged beautifully. Apart from that, some do household chores and relax with their families, as is the village tradition. The internet network has entered, although it is

¹⁶ Arsan Busurah, Kabalutan Village (with Residents of Kabalutan Village), June 18, 2022.

¹⁷ Ahmad Thabrani, "Konflik Kepentingan: Konstruksi Media Massa pada Kasus Katidakadilan Gender (Analisis Teori Relasi Kekuasaan dan Pengetahuan 'Power And Knowledge' Dari Michel Foucault)," *Jurnal Kolaborasi Resolusi Konflik* 4, no. 2 (December 15, 2022): 154–60, <https://doi.org/10.24198/jkrk.v4i2.40041>.

¹⁸ Amson Patanda, Kabalutan Village [with Chairman of Asosiasi Penghulu Republik Indonesia (APRI) Ampana District, Tojo Una-Una Regency], June 19, 2022.

¹⁹ Ristan Sajing, Kabalutan Village (with Residents of Kabalutan Village), June 22, 2022.

²⁰ Bahrudin Hasan, "Gender dan Ketidakadilan," *Journal Signal* 7, no. 1 (February 4, 2019): 46–69, <https://doi.org/10.33603/signal.v7i1.1910>.

not as smooth as urban areas. Nevertheless, it can make it easier for researchers to communicate if there are forgotten and neglected things in the field. Like the picture below:

Figure 1

One of the women's activities in Kabalutan Village (Making handicrafts, such as hats from young nipa leaves that are dried and tied with rattan)



In the gender discourse, so far, several gender theories can be put forward for this writing, including: first, the theory of nature or the nature of nature states that the differences between men and women are caused by biological differences between the two. If that is all, children will know that boys and girls are different. This difference is evident in the accessories of each reproductive organ which is determined by sex-determining organ factors commonly called gonads; males have testicles to produce sperm (testicles), and females have ovaries to produce ovaries. In addition, men have a penis and Adam's apple, while women also have a uterus, breasts, and milk.

Linda R. Maxon and Charles H. Daugherty said that the function of the male testicles is to produce the hormone testosterone. This hormone carries masculinity traits and simultaneously determines the male organic structure. This hormone functions to produce sperm and regulate bone development, muscle movement, fat deviation, sexual behavior, facial expressions, chest expansion, cartilage erection, and voice acuity. The ovaries of women produce the hormones prolactin, estrogen, and progesterone. The last two types are very influential in forming the essential characteristics of women.²¹

²¹ Umar, *Op.Cit.*, 39.

Males and females have different sex chromosomes. Women have two similar chromosomes, namely XX; hence it is called homogametic sex, and men have two different chromosomes; one is the same for women, X, and the other is Y, only for men. Because it has two types of chromosomes (XY), men are called heterogametic sex.

The explanation above states that every average human has 46 chromosomes consisting of 23 pairs. The chromosome pair comes from the father and mother. Twenty-two of the chromosome pairs carries hereditary genetic traits determined by a person's genetic characteristics. The 23 pairs of chromosomes are called sex chromosomes, which distinguish males and females. If a person is male, his chromosome is identified as the XY chromosome, and if he is female, his chromosome is identified as the XX chromosome. So, the process of becoming a boy or a girl is determined from the start by the father. If the sperm cell penetrating the egg at conception contains a Y chromosome, then a male will be born, and vice versa. If it contains an X chromosome, then a female will be born.

The presence of the Y chromosome, besides determining a person to be a man, also has several influences. For example, a type of protein identified as HY antigen is present only in male cells and not found in female cells. These proteins are essential in organizing the body's chemical elements.

Therefore, physically and biologically, men and women are not only distinguished by gender identity, shape and other biological anatomy but also by chemical composition in the body. This last difference has physical-biological consequences, such as men having more powerful voices, mustaches, beards, slimmer hips, and flat chests. Meanwhile, women have more clear voices, protruding breasts, generally wide hips, and reproductive organs that are very different from men.

It is on this basis that adherents of this theory conclude that natural differences cause the differences that occur between men and women. The compositions in the body between men and women make them different so that differences in everything between men and women are as natural as nature.

The word "nature" itself in the Big Indonesian Dictionary is defined as:

- 1) Power of God); humans will not be able to oppose it (on him) as a living being.
- 2) Natural law); the seed grows according to its
- 3) original nature, innate nature; we must behave and act according to nature. So, the nature of nature is synonymous with natural law, and divine nature means the power of Allah (God).²²

The difference in natural or biological nature between the two results in differences in their respective psychological temperaments. The nature of a woman who is identified with her smooth, gentle, patient temperament, this affection requires her to take care of children and take care of all household affairs. Meanwhile, men with muscular physiques and temperaments should carry out activities outside the home to fulfil the family's subsistence needs while simultaneously protecting women. As emphasized by Sanderson, biological differences between men and women are critical and decisive factors in shaping the division of roles between the two sexes.²³ However, nowadays, many women are breadwinners, even though their existence is very urgent. The Millennial age does not require roles based on gender but must prioritize potential and competence. Especially with advances in technology, everything can be engineered and seconded. Like cleaning the house, a robot can help. It does not have to be a woman or a man. Therefore, biological differences are not a very important factor any more. Moreover, as a determinant of the division of roles between the two sexes.

Second, the theory of nurture or culture differs from the theory of nature, which states that separating the positions and roles of men and women is natural. This nurture theory concludes that differences and differences in practices between men and women depend on the socio-cultural construction formed through socialization. As Sanderson said, biological factors do not cause male superiority over women. Instead, men's sorting and superiority are due to the elaboration of culture towards each other's biology.²⁴

²² Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*, Ketiga (Jakarta: Balai Pustaka, 2003), 578.

²³ Achmad Muthali'in, *Bias Gender Dalam Pendidikan*, ed. Adyana Sunanda (Surakarta: Muhammadiyah University Press, 2001), 24.

²⁴ *Ibid.*

Ruth Hartley stated that socialization could proceed through four processes: manipulation, channeling (canalization), verbal mentions, and exposure to activities. These four processes are usually differentiated based on sex; all of them are characteristics of the socialization of children from birth.²⁵

Manipulation or printing is closely related to how to care for a child. Since birth, even in the womb, a child has been burdened with cultural identity based on each gender. Based on the author's experience and observations, in general, as soon as it is known through ultrasound if a child to be born is a girl. All baby equipment is prepared in shades of pink or pink to welcome girls because these colors are synonymous with tenderness, affection and good qualities. Other feminine, while men have any color identity other than pink. Even a mother busies herself with a baby girl's hair, dressing her in feminine styles and telling her how beautiful she is. These physical experiences in early childhood are essential in forming self-perceptions of girls and boys.

Channeling involves directing the attention of boys and girls to objects or aspects of objects, for example, giving girls dolls or pots and pans to play with and encouraging boys to play with guns, cars and planes. In low-income families, girls do not play with pots and pans. Instead, they are taught to start washing pots and pans and cleaning the house, taking care of babies (sisters) even though they are still very young, while boys are sent to school or employed outside the house. Based on these different types of treatment, the interests of women and men are channeled differently, and they develop different abilities, attitudes, aspirations and aspirations. Familiarity with particular objects will guide their choices.

The following process of socialization is verbal mention. Oral names are also different for boys and girls. For example, saying "wow, beautiful mama's daughter" to girls and "you are indeed strong and mighty" to boys. Some writings show that such utterances construct the self-identity of women and men, both children and adults. Children learn to think of themselves as boys or girls and identify themselves with other boys and girls. Family members transmit aspects of gender roles directly and continuously

²⁵ Kamla Bhasin, *Memahami Gender*, ed. Moh. Zaki Hussein (Jakarta: Teplok Press, 2001), 16.

in how they speak, even to very young children, and convey the importance they place on each child.

On this basis, Fowler believes that linguistic structure (language structure) is used to (1) systematize, transform, and often obscure reality, (2) regulate the ideas and behavior of others, and (3) classify and categorize society, events, and objects-objects to assert institutional and personal status.²⁶

The last process is exposure to the activity. Both boys and girls are exposed to traditional masculine and feminine activities when they are children. For example, girls are asked to help their mothers with household chores, while boys are asked to accompany their fathers outside. In a society that separates different spaces and places according to gender, children will very quickly experience the impact of the exposure process from these sex-differentiated activities. As a result, it is through this process that children ingest masculine and feminine meanings unknowingly. This continues on his potential and talent. If they put it in a book in the form of a novel, for example, of course the characters and results will describe their understanding of gender. As in the novel "The Seven Husbands of Evelyn Hugo" by Taylor Jenkins.²⁷

According to cultural theory with a materialist perspective, the superiority of men over women occurs because it is constructed by culture by shifting ownership of communal objects to private property. Originally the household and the property in it belonged to and shared responsibility. Women have equal rights and contributions to meeting the economic needs of their group. However, with the development of private property rights, this equality shifted. Men have a greater chance of mastering private property rights. Men who are not preoccupied with the responsibilities of conceiving and caring for children incidentally have opportunities and more space to reach and possess them. Private property rights over objects which are economic resources, allow men to have control over all other social and cultural environments, including their household life. Thus, men have higher power than women because of

²⁶ Anang Santoso, *Bahasa Perempuan: Sebuah Potret Ideologi Perjuangan* (Jakarta: Bumi Aksara, 2009), 5.

²⁷ Fitria Ramadhana Rosmiati, "Diskriminasi Gender Sebagai Dampak Patriarkal Oppresi Dalam Novel Seven Husbands of Evelyn Oleh Taylor Jenkins," *Sintaks: Jurnal Bahasa & Sastra Indonesia* 2, no. 2 (2022): 175–79.

the cultural construction of ownership of private objects with economic value, including their control over women. From this perspective, the separation of the roles and positions of men and women was born. Men with greater access to productive objects are constructed to play a role in the public sector, whereas women whose economic needs are met by men are limited in their role in the domestic sector.

The differences produced by social construction are non-natural, impermanent, very likely to change, and vary based on space and time. Moreover, these non-natural differences are relative and do not apply generally; roles can be exchanged or nurtured.²⁸

The location of the village is far from the city center and Government. The distance to the Office of Religious Affairs (KUA) is 21.2 km and to the Religious Courts (PA) about 78.9 km, making people object or reluctant to report their marriages and divorces. So, the event of a divorce in this area is effortless, only through the local Mosque Imam.²⁹ This is a vulnerable point for violence, abuse, and other legal incidents. Nevertheless, of course, there are advantages and disadvantages to all legal systems or regulations that are enforced.

There are several types of marriage laws in Indonesia. It is divided into three parts: Western marriage law, which is listed in the Civil Code; Islamic marriage law, which is in the Compilation of Islamic Law (KHI); and customary marriage law, which is carried out following the ethnicity and customs of each region. However, all of them have been unified into one marriage law.

The first Marriage Law was Law Number 1 of 1974, which unified marriage laws in Indonesia. The UUP has been amended by Law Number 16 of 2019, although it only changed the minimum age for marriage for women to 19 years. In the previous Article 7 Paragraph 1, 19 years for men and 16 years for women.

Marriage is one of the essential things in life and living. Some things related to marriage, namely definition of marriage, basic marriage law, terms of legal marriage,

²⁸ Zaitunah Subhan, *Tafsir Kebencian: Studi Bias Gender Dalam Tafsir Qur'an* (Yogyakarta: LKiS Yogyakarta, 1999), 23.

²⁹ Arifuddin Manna, Kabalutan Village (with Imam of the Mosque in Kabalutan Village), July 23, 2022.

and the principles of marriage. The etymological definition of marriage comes from Arabic, which means marriage or *zawaj*. These two words are commonly used in the daily life of Arabs and are found in the Al-Quran and the Hadith of the Prophet. Al-Nikah means *Al-Wath'i*, *Al-Dhomm*, *Al - Tadakhul*, *Al-Jam'u* or like '*an al-wath wa al aqd*' which means intercourse, intercourse, gathering, intercourse' and contract. While marriage, in terminology, is a contract that allows *istimta'* (coitus) to occur with a woman as long as the woman is not with something forbidden either because of heredity or because of breastfeeding.³⁰

Article 1 of the Marriage Law states that marriage is an inner and outer bond between a man and a woman as a wife to form a family (household) that is eternally happy based on the Belief in One Almighty God.

The meaning of the term marriage is broader than the term marriage. Marriage is a word that refers to matters related to a marriage bond or relationship. Suppose marriage refers to a bond made or made by the husband and wife to live together and or refers to a process of the bond. In that case, marriage refers to matters related to the implementation process and the consequences of marriage.³¹ Accordingly, marriage includes not only the conditions and pillars of marriage and how marriage should be carried out but also issues of rights and obligations of husband and wife, divorce maintenance, child care, guardianship, and others. Thus, in this paper, only marriage is used.

The legal basis for marriage in Indonesia is Article 5 paragraph (1), Article 20 paragraph (1), Article 27 paragraph (1) and Article 29 of the 1945 Constitution; Decree of the People's Consultative Assembly Number IV/MPR/1973. Meanwhile, in Islam the legal basis is:

- 1) The Proof of the Koran. Allah SWT says in the letter An-Nisa Verse 3 and Al A'raaf verse 189 which means in sequence as follows: "And if you are not going to be fair to orphans, then marry other women you like, two, three, or four, and if you are afraid that you will not be fair, one person is enough", and "It is He

³⁰ Mardani, *Hukum Perkawinan Islam Di Dunia Islam Modern* (Yogyakarta: Graha Ilmu, 2011), 4.

³¹ Asep Saepudin Jahar et al., *Hukum Keluarga, Pidana Dan Bisnis: Kajian Perundang-Undangan Indonesia, Fikih Dan Hukum Internasional* (Jakarta: Kencana Prenada Media Group, 2013), 24.

who created you from a substance and it he created his wife so that he would be happy". So, marriage is creating a family life between husband and wife and children and parents to achieve a safe and peaceful life (*sakinah*). This association loves each other (*mawaddah*), and supports each other (*rahmah*).

- 2) Proof of As-Sunnah. From HR Bukhari Muslim narrated by Abdullah bin Mas'ud *r.a.* from the Messenger of Allah who said: "O young people, whoever among you has the ability, then marry, because it can better hold the gaze and maintain honor. Moreover, whoever does not have that ability, let him always fast because fasting is a control for him."

Marriage is an institution/institution. Thus, it takes commitment between the two parties which carry out the marriage to create a harmonious and loving family, so the goal of getting offspring and fostering a harmonious family will also make it an ultimate goal in life as a form of fulfilling one's needs: biology and inner satisfaction.

Marriage is a sacred event. Therefore, marriage must be carried out under the provisions of religion and the State. Article 2 Paragraph (1) of the Marriage Law states that marriage is valid if it is carried out according to the laws of each religion and belief. This article requires marriage legalization from religious and spiritual aspects, which results in personal legal consequences—himself with his God. In Islamic Law, marriage is included in the category of worship. However, there is an opinion that states that marriage is a *mu'amalat*.³²

Paragraph (2) states that every marriage is recorded according to the applicable laws and regulations. If a marriage has been legalized by religion but is not recorded in the State Gazette, then the marriage is deemed not to have occurred. Thus, an unregistered marriage is a marriage that does not result in state law consequences. Therefore, the State cannot protect and guarantee and provide legal certainty to its citizens who enter into unregistered or unregistered marriages.³³ Thus, the registration of marriages is also the most crucial thing in a marriage that cannot be ignored, especially for girls. Women generally suffer a lot if they do not have a

³² A. Kadir, *Perspektif Baru Hukum Perkawinan Islam Nikah, Talak, Rujuk* (Semarang: Fatawa Publishing, 2022), 7.

³³ Siri comes from Arabic which means secret, Siri marriage in Indonesian society is usually pinned for marriages that are not recorded at the Marriage Registrar.

marriage book. Among them is the recognition of their rights for themselves and the children they gave birth to.

The principles adopted in the Marriage Law are as follows:³⁴

- 1) Marriage aims to form a happy and eternal family.
- 2) Marriage is valid if it is carried out according to the law of religion and belief.
- 3) Marriages must be recorded according to statutory regulations.
- 4) The marriage is based on open monogamy.
- 5) Prospective husband and wife must have entered their body and soul to get married.
- 6) The minimum age for marriage is 19 years.
- 7) Divorce is complicated and must be done before a court hearing.
- 8) The rights and position of husband and wife are equal.

Based on the principles above, one of them is the minimum age for marriage, which is 19 years. All procedures must be carried out to get the legality of marriage, including if there is a violation. If something urgent happens as described above and it befalls one of the bride and groom or both are under 19 years of age, submission of a marriage dispensation application to the court cannot be avoided. If there is no marriage permit from the court, the marriage cannot be registered by the State. Thus, the State cannot guarantee their rights as wives and children.

Based on the initial survey, such marriages often occur in the Tojo Una-Una "widows' village". With this practice, women can become tools of exploitation and conduit for the sexual desires of the "mashers" and become a long link in the poverty chain. Therefore, traditions that are gender biased should be eliminated—replaced with traditions that prosper and humanize humans. It is not slavery wrapped in traditions that make people miserable.

When referring to the purpose of marriage, namely to form a happy and eternal family or household based on belief in the One and Only God, then the word divorce is impossible. The word eternal shows that marriage is forever, has no time limit, and

³⁴ Hilman Hadikusuma, *Hukum Perkawinan Indonesia: Menurut Perundangan, Hukum Adat, Hukum Agama* (Bandung: Mandar Maju, 2007), 6.

will not break up. However, it is the human heart that is fickle. Not always love and do not always love their partner. Some can defend themselves, and some choose to end their marriage. The climax is a divorce.

The term divorce is contained in Article 38 of the UUP, which contains an optional provision that "Marriage can be broken due to death, divorce and on a Court decision". So legally, divorce means the breakup of a marriage and results in the breakup of the relationship as husband and wife.³⁵

Divorce is only justified for reasons determined by the Marriage Law. Based on Article 19 PP No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 concerning Marriage. While the divorce process is carried out in court. If this is not the case, the divorce does not get a divorce certificate from the court. The legal status of her marriage will not change even after being separated for a thousand years.

In general, the causes of divorce in Indonesia are due to incompatibility, economic factors, domestic violence,³⁶ infidelity and even polygamy under the hands. In Article 19 Government Regulation No. 9 of 1975 jo Compilation of Islamic Law regulates the reasons for divorce justified by the law in Indonesia.

The reasons for the divorce are:

- 1) One of the parties commits adultery or is a drunkard, addict, gambler, and so on, which is difficult to cure.
- 2) One party leaves the other party for 2 (two) consecutive years without the other party's permission and valid reasons or for other reasons beyond his control.
- 3) One of the parties gets a prison sentence of 5 (five) years or a more severe punishment after the marriage takes place.
- 4) One of the parties commits cruelty or severe abuse that endangers the other party.

³⁵ Muhammad Syaifuddin, Sri Turatmiyah, and Annalisa Yahanan, *Hukum Perceraian*, ed. Tarmizi (Jakarta: Sinar Grafika, 2013), 5.

³⁶ Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 0 (April 30, 2021): 57-76, <https://doi.org/10.33756/jlr.v3i0.10984>.

- 5) One of the parties has a disability or illness with the consequences of not being able to carry out his obligations as husband/wife.
- 6) Between husband and wife, there are constant disputes and fights, and there is no hope of living in harmony in the household.

It is easy to get married and divorced without rules stipulated by Indonesian laws and regulations, which greatly benefit men. Only women who are pregnant give birth and breastfeed. Under these conditions, if you get a man who is not responsible, then the suffering is in the hands of the woman. The process can take up to 2 years. Meanwhile, for men, it could be that after impregnating one woman, he also impregnates other women, up to several. Not only that, the suffering caused by irresponsible men is not only for women but also for the children of their marriage. If marriages and divorces are not reported to the State, the State cannot protect, guarantee and provide legal certainty. Especially justice that wants to be felt by those who feel they are not getting justice, namely women and children.

The rise of child marriages, unregistered marriages, and divorce without a court decision are cases that occurred in Kabalutan Village.³⁷ This is manifested in gender inequality. Manifestations of gender injustice include the impoverishment of women, negative labelling, subordination and violence, and the double burden on women.

5. Conclusion

The stereotype of "Kampung Widow" towards Kabalutan Village, Talatako District, Tojo Una-Una Regency is a manifestation of gender injustice. The people in the village are not comfortable with this labelling. In addition, it is not proven by the many widows there. It is also not the name of their village. Therefore, they asked to give only Kabalutan Village.

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³⁷ Drama Muluk, Kabalutan Village (with Head of the Office of the Ministry of Religion of Tojo Una-Una Regency), July 24, 2022.

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