

The Fulfillment of Women's Rights in *Verstek* Decisions at Samarinda and Sangatta Religious Court

Lilik Andar Yuni^{1*}, Jati Kusuma²

Abstract: This study examines the progressivity of judges in deciding cases without the presence of the litigants (*Verstek*) which is linked to the fulfillment of women's rights in the Samarinda Religious Court and the Sagata Religious Court. This is because almost 80% of divorce case trials in the Religious Courts are not attended by the parties. So the case was decided by the judge through *Verstek*. This study was conducted to find out the influence of a Judge's progressivity on protecting the rights of women (wives) after divorcing their husbands. This research is a documentation study carried out by examining several Judges' decisions which were decided in *Verstek* both in cases of *talaq* divorce (divorce filed under the will of the husband) and contested divorce (divorce filed under the will of the wife). This study was carried out by using a case study approach combined with a legal study approach, while in the analysis stage, the author uses qualitative descriptive analysis methods. The results of the research conclude that in *Verstek* decisions the judges tend to be progressive in accommodating women's rights after divorce, both in cases of *Talak* divorce and contested divorce.

Keywords: divorce, women's rights, judge's progressivity, *verstek* decision

Abstrak: Penelitian ini mengkaji progresivitas hakim dalam memutus perkara tanpa kehadiran pihak yang berperkara (*Verstek*) yang dikaitkan dengan pemenuhan hak perempuan di Pengadilan Agama Samarinda dan Pengadilan Agama Sagata. Hal ini dikarenakan hampir 80% proses persidangan perkara perceraian di Pengadilan Agama tidak dihadiri oleh para pihak. Sehingga perkara tersebut diputus oleh hakim secara *Verstek*. Kajian ini dilakukan untuk mengetahui bagaimanakah progresivitas hakim dan pengaruhnya pada perlindungan hak perempuan (istri) setelah bercerai dengan suaminya. Penelitian ini merupakan studi dokumentasi yang dilakukan dengan menelaah sejumlah putusan Hakim yang diputuskan secara *Verstek* baik dalam perkara cerai talak (perceraian yang diajukan atas kehendak suami) maupun cerai gugat (perceraian yang diajukan atas kehendak istri). Kajian ini dilakukan dengan menggunakan dengan pendekatan/studi kasus yang dikombinasikan dengan pendekatan/studi hukum, sedangkan dalam tahap analisis digunakan metode analisis deskriptif kualitatif. Hasil penelitian menyimpulkan bahwa pada putusan *Verstek* para hakim cenderung bersikap progresif dengan mengakomodir hak-hak perempuan pasca cerai baik dalam perkara cerai talak maupun cerai gugat.

Kata kunci: perceraian, hak perempuan, progresivitas hakim, putusan *verstek*

*Corresponding Author

¹UIN Sultan Aji Muhammad Idris, Samarinda

²Universiti Teknologi Mara, Malaysia

E-mail: ¹lilikandaryuni@yahoo.com, ²jati@uitm.edu.my

Introduction

In general, divorce cases are the largest civil cases received by Religious Courts in Indonesia.¹ However, in the process of examining a case, it is not uncommon for one of the parties concerned to be absent so that the case is decided by the judge in *Verstek*. The absence of one of the parties to the case has become a common phenomenon in almost all Religious Courts in Indonesia, especially in contested divorce cases. This type of decision is the most common case because more than 70% of cases are decided without the presence of the defendant.²

In Bandung Religious Court, for instance, more than 70% of all divorce case decisions each year are decided by *Verstek*. Likewise, at Makassar Religious Court, where in 2018 the number of *Verstek* decisions was recorded at 85.20%.³ In Samarinda Religious Court, in 2021, the number of contested divorce cases decided by *Verstek* reached 78.45%. In Tenggara Religious Court the number reached 80%. In Malang Religious Court, in April 2019, the number of cases decided by *Verstek* reached 442 decisions (65%) out of a total of 687 contested divorce cases filed.⁴ Meanwhile in Sungguminasa Class 1-b Religious Court, in 2021, *Verstek* decisions were recorded at 70% of all divorce cases filed.⁵

Verstek decisions dominate because they gain legitimacy both legally and in societal trends.⁶ Various reasons were put forward, including the

¹ Hotnidah Nasution and Ahmad Rifqi Muchtar, 'Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts', *Ahkam: Jurnal Ilmu Syariah*, 20.2 (2020): 361–84 (p. 363) <<https://doi.org/10.15408/ajis.v20i2.15702>>.

² Jamiliya Susantin, 'Analisis Putusan *Verstek* dalam Perkara Cerai Gugat Perspektif *Maslahah Mursalah*', *Jurnal YUSTITIA*, 20.2 (2020), p. 203 <<https://doi.org/10.0324/yustitia.v20i2.695>>.

³ Muliadi Nur and Abdul Jamil, 'Factors Affecting The Predominance of *Verstek* Judgments In Divorce Cases Before The Religious Court', *Prophetic Law Review*, 3.1 (2021): 78–81 <<https://doi.org/10.20885/plr.vol3.iss1.art5>>.

⁴ Fiki Fathur Rochman and others, 'Analisis Putusan *Verstek* dalam Perkara Perceraian Studi Kasus di Pengadilan Agama Kabupaten Malang', *Jurnal Hikmatina*, 1.2 (2019): 12–17 (p. 13).

⁵ Yusri Arsyad Jamiah Tompo, Nurhalifah, 'Putusan *Verstek* Terhadap Perkara Perceraian di Pengadilan Agama Sungguminasa Kelas 1 Bk', *Al-Tafaqqub: Journal of Islamic Law*, 3.July (2022): 98–107 (p. 104) <<https://doi.org/DOI: http://dx.doi.org/10.33096/altafaqquh.v3i2.177>>.

⁶ Ahmad Izzuddin, Ahmad Rofiq, and Abu Hapsin, 'Revitalizing Divorce Ethical Values

defendant (husband) feeling embarrassed because his wife was suing him, the defendant was afraid of facing the trial process, the husband wanted to be free from the various rights claims of the plaintiff (wife),⁷ or at the instigation of a third party (lawyer) who suggested that one of the parties in the lawsuit do not attend the trial so that the divorce process can proceed quickly.⁸ For this last case, the parties agreed not to present either party, after first agreeing to resolve matters accompanying the impact of divorce such as joint assets, child custody and maintenance rights, and so on.⁹

Referring to previous research studies, the study of decisions appears in Faisal's work¹⁰ which analyzes the *Verstek* Decision in the Divorce Case at the Banda Aceh Syari'ah Court, then Izzuddin's research¹¹ which proposed the importance of ethical values in the divorce process. Next, is Harnides' article which analyzes juridically the decision in the contested divorce case at Tapaktuan Syari'ah Court.¹² Next, Jamil's research¹³, regarding the factors causing the large number of *Verstek* decisions in the Religious Courts, and Lilik's research on *Verstek* and violations of *Taklik Talak*.¹⁴

in *Verstek* Decisions in Religious Courts/Revitalisasi Nilai Etika Perceraian dalam Putusan *Verstek* di Pengadilan Agama', *De Jure: Jurnal Hukum dan Syar'iah*, 13.1 (2021): 80–96 (p. 89) <<https://doi.org/10.18860/j-fsh.v13i1.12191>>.

⁷ Bustanul Arifien Rusydi, 'Problem Kehadiran dan Upaya Hukum Tergugat dalam Putusan *Verstek* Perkara Perceraian Pada Pengadilan Agama Bandung', *Muslim Heritage*, 5.2 (2020), 393 (p. 374) <<https://doi.org/10.21154/muslimheritage.v5i2.2362>>.

⁸ Sudarmaji Waluyo, 'Kesepakatan Para Pihak Sebagai Upaya Mencapai Putusan *Verstek* dalam Perkara Perceraian (Study Kasus di LBH SAKTI Purworejo)', *Isti'dal: Jurnal Studi Hukum Islam*, 6.2 (2019): 101–17 (pp. 110–11) <<https://doi.org/10.34001/istidal.v6i2.1613>>.

⁹ Irwan Irwan and Ichwan Setiawan, 'Kajian Hukum Kesepakatan Para Pihak dalam Mencapai Penetapan Putusan *Verstek* Perkara Perceraian (Riset Studi Kantor Hukum Arif Sasongko SH & Partners)', *Legal Standing: Jurnal Ilmu Hukum*, 7.1 (2023), 88–94 (p. 91) <<https://doi.org/10.24269/lsv7i1.5146>>.

¹⁰ Faisal Yahya and Maulidya Annisa, 'Putusan *Verstek* Dalam Cerai Gugat Analisis Putusan Mahkamah Syar'iyah Banda Aceh', *El-USRAH: Jurnal Hukum Keluarga*, 3.1 (2020), 1 <<https://doi.org/10.22373/ujhk.v3i1.7706>>.

¹¹ Izzuddin, Rofiq, and Hapsin.

¹² H. Harnides H. Harnides and Erha Saufan Hadana, 'Analisis Yuridis Putusan *Verstek* Mahkamah Syar'iyah Tapaktuan: Studi Kasus Nomor Perkara: 24/Pdt.G/2021/MS.Ttn', *MAQASIDI: Jurnal Syariah dan Hukum*, 2021 <<https://doi.org/10.47498/maqasidi.v1i1.601>>.

¹³ Nur and Jamil.

¹⁴ Lilik Andaryuni, 'Putusan *Verstek* dalam Cerai Gugat Karena Pelanggaran Taklik Talak

Furthermore, research related to the issue of fulfilling the rights of women (wives) has been widely discussed by researchers from various perspectives. Among them, a study conducted by Galuh¹⁵ which presented a picture of inequality in the fulfillment of women's rights. Furthermore, Rahmatullah's research¹⁶ examining how women's rights have been protected since SEMA No.2/2019. Then Musawamah's writing¹⁷ examines the influence of the presence of Perma No. 3 regarding the rights of the ex-wife; Furthermore, Lilik's research¹⁸ which examines the ex officio rights/authority of judges in accommodating the rights of ex-wives. Also Yulianti's research¹⁹ which discusses the wife's rights in *Verstek* decisions, as well as Harianti's research²⁰ which examines the sensitivity of judges in protecting the wife's rights after divorce.

The discussion about Law and the Progressiveness of Judges can be seen in Damarsari's study,²¹ which concluded that the progressiveness of judges has an impact on the fulfillment of children's rights due to illegal

di Pengadilan Agama Samarinda', *Istinbath*, 16.1 (2017): 224–40 <<https://doi.org/10.20414/IJHI.V16I1.109>>.

¹⁵ Galuh Widitya Qomaro, 'Agensi Hakim Pengadilan Agama Bangkalan dalam Pemenuhan Hak Istri Pasca Cerai', *Mahkamah: Jurnal Kajian Hukum Islam*, 6.1 (2021), 63 <<https://doi.org/10.24235/mahkamah.v6i1.7455>>.

¹⁶ Mochammad Agus Rachmatulloh, 'Pemenuhan Hak Perempuan Pasca Cerai Gugat (Eksistensi SEMA Nomor 2 Tahun 2019 di Pengadilan Agama Nganjuk)', *SAMAWA: Jurnal Hukum Keluarga Islam*, 2.2 (2022): 10–24 <<http://ejournal.stisdafabondowoso.ac.id/ejournal/index.php/samawa/article/view/48>> [accessed 27 August 2022].

¹⁷ Siti Musawamah, 'The Implementation of PERMA Number 3 of 2017 Concerning the Guidelines for Dealing with Women's Cases on Laws as an Effort of Women Empowerment in The Judiciary in Madura', *Jurnal Hukum dan Pranata Sosial*, 15.1 (2020): 67–92 <<https://doi.org/10.19105/al-lhkam.v15i1.2883>>.

¹⁸ Lilik Andar Yuni, 'The Use of Ex Officio to Fulfill Women's Post-Divorce Rights at the Samarinda Religious Court', *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 21.2 (2021): 135–54 <<https://doi.org/10.18326/ijtihad.v21i2.135-154>>.

¹⁹ Devi Yulianti, R Agus Abikusna, and Akhmad Shodikin, 'Pembebanan Mur'ah dan Nafkah Idah Pada Perkara Cerai Talak dengan Putusan *Verstek*', *Mahkamah: Jurnal Kajian Hukum Islam*, 5.2 (2020).

²⁰ H Harianti, M Mansari, and R Rizkal, 'Sensitivitas Hakim Terhadap Perlindungan Hak Istri dalam Kasus Cerai Gugat (Analisis Putusan Mahkamah Syar'iyah Banda Aceh Nomor 157 Pdt.G/2020/Ms.Bna) *MEDIASAS: Media Ilmu Syari'ah dan Ahwal al-Syakhsiyah*, 4.01 (2021): 47–67.

²¹ Bening Permata Damarsari, Widhi Handoko, and Anggita Doramia Lumbanraja, 'Penerapan Nilai-Nilai Hukum Progresif Terhadap Pandangan Hakim Pada Hak Anak Hasil Poligami Tanpa Izin', *Notarius*, 2021: 194–205 <<https://doi.org/10.14710/nts.v14i1.38862>>.

polygamy. Likewise, Anwar's research²² revealed the fact that progressive judges influence determining the obligations that must be fulfilled by ex-husbands. Furthermore, there was also other research conducted by Damayanti²³ which discussed Progressive Law in handling child support. Likewise, Triana's research²⁴ which found the fact that in general, in *Talak* divorce, judges tend to accommodate the ex-wife's rights, while in cases of contested divorce due to domestic violence, this tendency is not yet visible.

This research is conducted to complement several previous articles with a focus on the issue of judge progressivity and its influence on the fulfillment of women's rights in legal decisions in Religious Courts. This study is important to carry out because, so far, the fulfillment of women's rights after divorce in decisions attended by both parties has rarely been accommodated, especially when the defendant/respondent (husband/wife) is absent from the trial process.

Research Methods

This research is qualitative in nature, which describes the *Verstek* decisions in the *talak* divorce and contested divorce. This study was carried out by combining a casual approach, a statutory approach, and a conceptual approach. The research location was determined at the Samarinda and Sangata Religious Courts because, in these two institutions, almost 80% of divorce cases were decided in the absence of one of the parties involved.

Regarding data collection techniques, this study uses a documentation study method, namely by collecting several *Verstek* decisions and analyzing

²² Alfina Sauqi Anwar, 'Progresivitas Hakim dalam Menentukan Beban Akibat Perceraian Bagi Suami Kepada Istri Pasca Perceraian', *Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum*, 6.1 (2021): 1–13 <<https://doi.org/10.22515/alahkam.v6i1.2952>>.

²³ M Masrukhin and Meliana Damayanti, 'Hukum Progresif Penanganan Hak Nafkah Anak dalam Kasus Perceraian di Pengadilan Agama (Studi di Pengadilan Agama Karesidenan Surakarta)', *Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum*, 5.1 (2020): 25–36 <<https://doi.org/10.22515/alahkam.v5i1.1794>>.

²⁴ Nita Triana, 'Progressivity of Judges in Domestic Violence Disputes Settlement in the Case of Divorce in the Religious Court', *Progressivity of Judges In*, 2.1 (2018): 1–29.

the existence of the fulfillment of women's rights after divorcing. After several vertex decisions have been collected, organized, and classified, the next step is to validate the data from the aspects of data sources and data collection techniques. The data that has been tabulated is then analyzed using the judge's progressivity theory and arranged in a qualitative descriptive manner. To strengthen and sharpen the analysis, the author also conducted a literature study.

Result and Discussion

Verstek Decision and Judge Progressiveness

Court products produced without the presence of the defendant/respondent at the examination stage are called *Verstek*. The purpose of the *Verstek* is for the parties to comply and be orderly with the procedural norms, to avoid actions that violate the rules.²⁵

There are two types of *Verstek* decisions in the Religious Courts, namely: First, the *Verstek* that occurs because there is an element of intention on the part of one of the parties not to appear in court for various reasons. Second, the *Verstek* that occurs due to violation of divorce agreement. In the first case, the absence of the parties is generally due to: (1) the desire to immediately dissolve the marriage; (2) one of the parties still wants to maintain their household; (3) the party doesn't want to be bothered with complicated and time-consuming bureaucracy;²⁶ (4) the husband is reluctant to pay post-divorce maintenance,²⁷ (5) to accelerate the trial process because if one of the parties is not present, the divorce process will be faster.²⁸ As for the second type of *Verstek* decision, the reason that arises generally is

²⁵ M. Nursalim Yahya and Khairina Khairina, 'Kedudukan Kesepakatan Damai Setelah Putusan *Verstek* dalam Perkara Cerai Gugat Memnurut Hukum Acara Perdata (Studi Analisis Perkara Nomor 213/Pdt.G/2018/PA.Slk)', *Jurnal Integrasi Ilmu Syariah (Jisrah)*, 3.2 (2022): 213–25 (p. 216) <<https://doi.org/10.31958/jisrah.v3i2.6825>>.

²⁶ Rochman and others, pp. 15–16.

²⁷ Rusydi, p. 374.

²⁸ Rezki Amaliah, Dachran S. Busthami, and Anggreany Arief, 'Penerapan Putusan *Verstek* dalam Perkara Perceraian di Pengadilan Agama Kelas II Majene', *Journal of Lex Generalis (JLG)*, 2.3 (2021): 1344–51 (p. 1350) <<https://pasca-umi.ac.id/index.php/jlg/article/view/439>> [accessed 17 February 2023].

that the Defendant (husband) left his wife and her address is unknown. This type of *Verstek* decision has the value of legal certainty for both the wife and husband whose whereabouts are unknown because there is no longer any bond between them. The form of legal protection is clarity of the divorce status, although justice and benefits in this type of case cannot be achieved because the rights of the wife and children are best.²⁹ Another reason that also emerged in resolving this type of *Verstek* case was that there was a violation of the divorce agreement. This can be understood from the data displayed in Table 1 as presented in the following description.

It must be acknowledged that the *Verstek* decision, on the one hand, can be a solution for the wife when her husband leaves her and there is no news, causing suffering for the wife.³⁰ However, on the other hand, this decision is also considered not to provide justice because it only listens to the facts from one party.³¹ The absence of the husband and wife in the trial process closes the door to communication between the three parties, namely: the court, husband, and wife. The breakdown in communication between the three parties resulted in the rights of the parties not being able to be heard and not being protected. Apart from that, judges will tend to be rigid in applying procedural law and reluctant to grant demands other than those submitted. This is certainly detrimental to women because their rights are neglected.³²

²⁹ Udin Latif and Hendriyanti Monika Sari, 'Putusan *Verstek* Pengadilan Agama Sorong Terhadap Perkarā Cerai Gugat Akibat Ditinggal Suami', *Muadalah: Jurnal Hukum*, 1.1 (2021): 25–36 (p. 34) <<https://e-jurnal.iainsorong.ac.id/index.php/Muadalah/article/view/442>> [accessed 17 February 2023].

³⁰ Ernawaty Hadji Ali and Lahaji Lahaji, 'Analisis Putusan *Verstek* dalam Cerai Gugat dan Upaya Hukum di Pengadilan Agama Limboto', *Jurnal Al Himayah*, 5.1 (2021): 50–64 (p. 51) <<https://journal.iaingorontalo.ac.id/index.php/ah/article/view/2420>> [accessed 17 February 2023].

³¹ Darren Andreas and Ariawan Ariawan, 'Penerapan Teori Keadilan dalam Putusan *Verstek*', *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 7.1 (2023): 634–35 <<https://doi.org/10.58258/jisip.v7i1.4483>>.

³² Dian Saputra Saputra, Jamaluddin Jamaluddin, and Yulia Yulia, 'Perlindungan Hak Perempuan dan Anak dalam Putusan *Verstek* di Mahkamah Syariah IDI', *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 9.2 (2021), p. 3 <<https://doi.org/10.29103/sjp.v9i2.4799>>.

Judges are important actors in producing decisions. Making decisions requires the involvement of various factors,³³ deep logical thinking, and the ability to explore and discover the law, so that it will produce a just decision.³⁴ Judges are not just mouthpieces for laws. It is hoped that the decision will be more valuable in terms of justice, legal certainty, and benefits for the parties.³⁵ The judge must protect and provide justice for the parties in court, and resolve all problems and obstacles to create effective and efficient justice and avoid injustice and uncertainty, even without the parties' request.³⁶

The problem is that society continues to develop and legal problems also become more complex, while legal rules as a reference in resolving problems are sometimes seen as not providing solutions. In response to this, judges are given the authority to carry out *ijtihad* to produce new laws so that there is no legal vacuum.³⁷ This paradigm is the basis for the birth of a shift from conservative legal thinking to progressive law. According to Raharjo, as quoted by Supriyadi, in progressive law, the law is not implemented solely in terms of the text/sound of the rules, but rather the vital element behind the norms and interpretations of policy implementers. In short, the effectiveness of the law is very dependent on the existence of law enforcers.³⁸

Judges' progressivism indicates law as a means and tool to safeguard basic human values more flexibly, both in terms of rules and actions.³⁹

³³ Yunanto Yunanto, 'Menerjemahkan Keadilan dalam Putusan Hakim', *Jurnal Hukum Progresif*, 7.2 (2019), 192 (p. 197) <<https://doi.org/10.14710/hp.7.2.192-205>>.

³⁴ Dodon Alfiander, 'Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts', *JURIS (Jurnal Ilmiah Syariah)*, 21.1 (2022), 109 (pp. 111–12) <<https://doi.org/10.31958/juris.v21i1.5716>>.

³⁵ Andar Yuni, pp. 136–37.

³⁶ Abdul Jamil and Muliadi Nur, 'Perlindungan Hukum dan Keadilan Para Pihak Melalui *Ex Officio* Hakim dalam Putusan *Verstek* Perkara Perceraian', *Jurnal Hukum IUS QUIA IUSTUM*, 29.2 (2022): 439–60 (p. 444) <<https://doi.org/10.20885/iustum.vol29.iss2.art10>>.

³⁷ H. Harnides and Hadana, p. 314.

³⁸ Supriyadi, 'Rekonstruksi Kedudukan Anak Akibat Perkawinan Sirri Pasca Putusan Mahkamah Konstitusi Dengan Pendekatan Hukum Progresif', *Jurnal Masalah-Masalah Hukum*, 51 (2022): 29–39 (p. 30) <<https://doi.org/10.14710/mmh.51.1.2022.29-39>>.

³⁹ Anwar, p. 3.

The judge must serve society, for human happiness and welfare.⁴⁰ The basic idea of progressive law is that when normative texts (legal texts) are unable to realize the sense of justice that society hopes for, the law shifts to achieve more justice that lives in social reality.⁴¹ Certainty, justice, and expediency in progressive law stand equal. Substantive justice is the goal of progressive law.⁴² Progressive law still refers to applicable legal norms but is not rigidly bound when justice is not achieved.⁴³

Progressive judges have the following characteristics: (a) dare to break away from positivistic-legalistic principles to benefit humanity; (b) in producing decisions, judges are not only focused on the sound of the text of the law, but empathy, logical thinking, and honesty and fairness are also taken into consideration, so that justice is achieved in their decisions; (c) the law operates dynamically depending on the factors that influence it;⁴⁴ (d) continue to move to seek real justice in society.⁴⁵

The Fulfillment of Women's Rights in *Verstek* Decisions in Samarinda and Sangatta Religious Courts

Before examining how women's rights are accommodated in *Verstek*'s decisions, the author will first provide an overview of the percentage of cases that are decided in *Verstek* and those that are not. Based on the data in the 2022 decision directory, the number of contested divorce cases registered in Samarinda Religious Court is 1,467 cases. Of that number, those who were decided by *Verstek* amounted to 1,151 (78.45%). Meanwhile, for *Talak* divorce cases, in the same

⁴⁰ Triana, p. 7.

⁴¹ Marilang Marilang, 'Menimbang Paradigma Keadilan Hukum Progresif', *Jurnal Konstitusi*, 14.2 (2017): 315–31 <<https://doi.org/10.31078/jk1424>>.

⁴² Indrawati Indrawati, 'Penerapan Hukum Progresif dalam Perkara Pidana di Bidang Narkotika', *Jurnal Cakrawala Hukum*, 8.2 (2017): 171–80 (p. 178) <<https://doi.org/10.26905/idjch.v8i2.2117>>.

⁴³ Setiyo Utomo, 'Penerapan Hukum Progresif dalam Penyelesaian Konflik Agraria', *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, 3.2 (2020): 33–43 (p. 40) <<https://doi.org/10.24090/volksgeist.v3i2.3998>>.

⁴⁴ Damarsari, Handoko, and Lumbanraja, p. 200.

⁴⁵ Marilang Marilang, p. 328.

year, there were 451 cases recorded, of which 321 cases were decided by *Verstek* (71.17%). Meanwhile in Sangata Religious Court, in the same year, the number of registered divorce cases was 407 cases and Talak divorce cases were 171 cases. Of that number, 457 cases were decided by *Verstek* (79.06%).

In August 2022, the balanced number of cases in PA Samarinda shows the following:

Table 1. Decisions on Contested Divorce Cases in August 2022 in Samarinda Religious Court

No	Number of Decisions	<i>Verstek/Non-Verstek</i>	The Rights Accommodated
1	68	<i>Verstek</i>	Women's Right (1)
2	4	<i>Verstek</i> (violation of <i>Taklik Talak</i>)	None
3	2	Non- <i>Verstek</i>	Child Custody & Child Support
4	1	Non- <i>Verstek</i>	Child Custody
5	2	Non- <i>Verstek</i>	Child Custody, Child Support, & 'Iddah
6	7	Non- <i>Verstek</i>	None
	84		

Source: Direktori Putusan PA Samarinda 2022

The table above illustrates that in 1 (one) month, cases decided in the absence of the husband (Defendant) were 72 cases (85.71%). Of the total cases decided in court, only 1 case protected the ex-wife, while 12 other cases were decided in the presence of the husband, 2 decisions accommodating child custody and maintenance, 1 decision on child custody alone, while 2 decisions accommodated child custody, child support, and the wife's '*iddah*' rights.

As for *Talak* divorce cases, the picture is as follows:

Table 2. Decisions on *Talak* Divorce Cases in August 2022 in Samarinda Religious Court

No	Number of Decisions	<i>Verstek/Non-Verstek</i>	The Rights Accommodated
1	20	<i>Verstek</i>	Women's & Children's Rights (2)
2	1	Non- <i>Verstek</i>	Women's & Children's Rights
3	1	Non- <i>Verstek</i>	Child Custody
4	1	Non- <i>Verstek</i>	None
	23		

Source: Direktori Putusan PA Samarinda 2022

The table above describes fewer *Talak* divorces, however, those decided in the absence of the wife amounted to 20 decisions (86.96%) out of 23 cases. Of this number, 2 decisions accommodate the rights of women and children. Meanwhile, for the 3 non-*Verstek* decisions, 1 decision provides both the child's rights and the ex-wife's rights, 1 decision accommodates child custody, and the remaining 1 decision does not accommodate any rights at all.

Similarly, in August 2022, in Sangatta Religious Court, as depicted in the following table, the number of contested divorce cases submitted to the court was 38 cases; 31 cases were decided in *Verstek* the rest were decided in the presence of the parties. Of the 31 decisions, 2 cases accommodated the rights of women and children, 1 case accommodated child support, for 6 cases, did not accommodate at all.

Table 3. Decisions on Contested Divorce Cases in August 2022 in Sangatta Religious Court

No	Number of Decisions	<i>Verstek/Non-Verstek</i>	The Rights Accommodated
1	31	<i>Verstek</i>	Women's & Children's Rights (2)
2	1	<i>Verstek</i>	Child Support
3	6	Non- <i>Verstek</i>	None
	38		

Source: Direktori Putusan PA Sangatta Decision

As for *Talak* divorce cases, the picture is as follows:

Table 4. Decisions on *Talak* Divorce Cases in August 2022 in Sangatta Religious Court

No	Number of Decisions	<i>Verstek</i> /Non- <i>Verstek</i>	The Rights Accommodated
1	20	<i>Verstek</i>	Women's & Children's Rights (1)
2	1	Non- <i>Verstek</i>	Women's & Children's Rights
3	1	Non- <i>Verstek</i>	Child Custody
4	1	Non- <i>Verstek</i>	None
	23		

Source: Direktori Putusan PA Sangatta Decision

The table above shows that in August 2022 there were 23 divorce decisions in PA Sangatta. Twenty of which (86.96%) were decided in the absence of the wife. The remaining 3 cases were decided non-*Verstek* where 1 (one) case accommodated child custody, another case accommodated the child's rights as well as the ex-wife's rights, and 1 case accommodated nothing.

Below is a description of several important points that the author can note from the recording of the *Verstek* divorce cases which depicts the accommodation the women's rights in judge's decisions.

1) Decision no. 1131/Pdt.G/2021/PA.Smd.

The parties married in 2003 and have 1 (one) child. Since 2019 there has been no harmony because the defendant (husband) has been selfish, and never cares about his family. The Legal basis of the Judge's considerations is Article 39 Law No.1/1974, Perma No.3/2017. Judge's decision: the lawsuit was accepted, and the decision was handed down in *Verstek* because the husband from the beginning of the trial until the reading of the verdict was never present. Approved the '*iddah* and *mut'ah* allowance requested by the Plaintiff. Amounting to Rp. 1,000,000,- per month considering that the husband (Defendant) is a civil servant with a salary of Rp. 3,700,000,-

2) Decision No.547/Pdt.G/2021/PA.Sgt.

Plaintiff (25 years), private, high school, Defendant (31 years), private. The defendant often acted rudely, shouted when he was angry, played games until morning, and did not provide a living. The legal basis for the judge's consideration is Article 116 KHI, Perma No.3/2017, and SEMA 3/2018. Judge's Decision: The case was decided in *Verstek* because the husband was absent, the lawsuit was granted and the ex-wife received the rights of *'iddah* and *mut'ah* rights. This is by Law No. 50/2009 that child custody, child and wife maintenance, and joint assets can be submitted simultaneously with the filing of a divorce suit. The imposition of post-divorce rights is in line with SEMA 3/2018, in essence granting rights to an ex-wife is permitted as long as there is no *nusyūz*. In this case, the Plaintiff (wife) submitted an *iddah* amounting to Rp. 5,000,000,- and *mut'ah* of Rp. 5,000,000,- considering that the defendant (husband) works as a BPn honoree in East Kutai. However, because the plaintiff did not provide a salary slip, it was difficult for the judge to measure the nominal amount of the plaintiff's living rights/necessities of life, as well as to provide more justice for the Defendant because the testimony and answers to what was proposed by the Plaintiff could not be heard, the panel decided to reduce the nominal amount. submitted, by giving an *iddah* of Rp. 3,000,000,- and *mut'ah* of Rp. 2,000,000,-. The reduction in the nominal amount of rights proposed by the Plaintiff is adjusted to appropriateness and fairness for all parties.

It is interesting that in the two decisions above, payment of these rights must be made when the ex-husband takes the divorce certificate, which is in line with the formulation of SEMA 2/2019. The inclusion of this clause is done as a form of anticipatory action by the judge so that the husband will fulfill his responsibilities as well as guarantee the protection of women's rights.⁴⁶

⁴⁶ Najichah Najichah and Alfian Qodri Azizi, 'Implikasi Inisiatif Perceraian Terhadap Hak Nafkah Istri', *Journal of Islamic Studies and Humanities*, 5.1 (2020): 42–60 (p. 57) <<https://doi.org/10.21580/jish.v5i1.6960>>.

Furthermore, regarding the *Verstek* decision on *Talak* divorce, several important points that can be noted from the recording of cases are as follows.

1) Decision no. 189/Pdt.G/2022/PA.Smd.

The couple married in 2016, and have 1 (one) child. Reason for divorce: Respondent was jealous of the Petitioner. The legal basis for the judge's consideration: (a) the reason for the divorce is by Article 116 KHI, (b) the age of marriage has been going on for 6 years, (c) there is no indication of *nusyūz* (disobedience), (e) the husband has the capacity by what is stated in the pay slip. Therefore, the judge, *ex officio*, decided to grant the rights of *mut'ah* and *'iddah* to the ex-wife as regulated in Perma No.3/2017, Articles 149 and 158 KHI. Apart from that, it was also decided that the wife's maintenance rights were given when the divorce vow was read.

2) Decision No. 596/Pdt.G/2022/PA.Sgta.

The applicant has been married since 2017 and has no children. They often quarrel because the applicant has a mistress and no longer lives in the same residence as his wife since September 2022. The legal basis for the judge's decision is PP No. 9/1975 Article 19 (f) and Jurisprudence No. 280K/AG/2004, regarding the use of *ex officio*. Regarding the granting of rights to an ex-wife over her ex-husband. in the form of *mut'ah* and *'iddah* rights referring to Jurisprudence No. 280K/AG/2004, Article 149 (a) KHI, including consideration of evidence in the form of the Applicant's salary slip and the Respondent's minimum needs. The payment time is by PMA No.3/2007 and SEMA No.1/2017 which is done before the pronouncement of the divorce vow so that it provides more certainty, justice, and benefits for the ex-wife.

The above divorce decisions, case no. 1131 of Samarinda Religious Court as well as case no. 547 of Sangatta Religious Court, show that the relevant panel of judges has taken a decision that is more advanced than the tendency of the majority of judges when deciding divorce cases. Generally, judges when examining contested divorce cases (divorce

under the wife's will) adhere to the provisions in the Compilation of Islamic Law (KHI) which determine that a wife who files a lawsuit against her husband is deemed to have committed an act of rebellion against her husband.⁴⁷ Therefore, there will be no reconciliation and obligation to impose burdens on the ex-husband on his wife after the divorce.⁴⁸ That is why in many cases, wives who seek divorce from their husbands do not get anything after their lawsuit is granted, except for a divorce certificate. This tendency is one of the reasons why the fulfillment of the rights of ex-wives after divorce is so low that from total divorce decisions amounting to 478,381 cases in 2020, only 3 percent accommodate the rights of ex-wives.⁴⁹ The birth of SEMA No. 3/2018, as a legitimization of the granting of women's rights after divorce even in a contested divorce, is expected to provide a breath of fresh air for the protection and guarantee of women's rights. Unfortunately, even though SEMA, which was born in 2018, has been in effect for more than five years, it still has not brought about any significant changes to the protection of women's rights, especially in contested divorce cases.⁵⁰

The accommodation of the ex-wife's rights in the decisions regarding the contested divorce and *Talak* divorce at Samarinda Religious Court and Sangatta Religious Court shows that the panel of judges tasked with adjudicating these cases has carried out progressive legal development. As previously explained, one indicator of a progressive judge is that when making a decision he does not only refer to material (textual)

⁴⁷ Sheila Fakhria, 'Cerai Gugat dan Implikasinya Terhadap Hak-Hak Finansial Perempuan', *Legitima: Jurnal Hukum Keluarga Islam*, 1.1 (2019): 91–119 (p. 118) <<https://doi.org/10.33367/legitima.v1i1.648>>.

⁴⁸ Dea Mahartika, 'Ratio Decidendi Majelis Hakim Tentang Hak *Ex Officio* Hakim dalam Memberikan Hak Asuh dan Nafkah Anak pada Perkara Cerai Talak', *Uniska Law Review*, 1.14 (2020): 40–60 (p. 53) <[https://doi.org/DOI: https://doi.org/10.32503/ulr.v1i12.177](https://doi.org/DOI:https://doi.org/10.32503/ulr.v1i12.177)>.

⁴⁹ 'Dialog Ditjen Badilag MA-RI Dan FCOA Perlindungan Hak dan Akses Keadilan Bagi Perempuan dan Anak - Direktorat Jenderal Badan Peradilan Agama', *Badilag Mahkamah Agung*, 2021 <<https://badilag.mahkamahagung.go.id/seputar-peradilan-agama/berita-daerah/dialog-ditjen-badilag-ma-ri-dan-fcoa-perlindungan-hak-dan-akses-keadilan-bagi-perempuan-dan-anak>> [accessed 3 November 2022].

⁵⁰ Nasution and Muchtar, p. 303.

law but also includes considerations of empathy, honesty, and a sense of justice. At the contested divorce decision, even though the Defendant (husband) was not present, the judge dared to burden the Defendant with paying his ex-wife's maintenance only by relying on evidence in the form of his salary slip showing his ability to pay his ex-wife's rights after the divorce.

The absence of one of the parties in the case examination process can hinder the case examination process, making the possibility of hearing information from parties who are not present practically closed. This is what makes the *Verstek* decision seem like it does not fulfill the elements of true justice, as judges are bound by the principle of *audi et alteram partem*, namely that judges are required to listen to both parties in conflict.⁵¹ As only one party's statement can be heard, thus, at a glance, it can be said that the *Verstek* decision is contrary to the principle of *Audi et alteram partem*. However, it must be understood that the application of the principle of *audi et alteram partem* is not at all intended to defend parties who are not present, but as a manifestation of protection for both parties involved in the case.⁵²

Returning to the main issue, namely the *Verstek* decision made by the panel of judges at the Samarinda Religious Court and Sangatta Religious Court. What did the judge do by accommodating the rights of the plaintiff (wife) and providing for the lack of information from the defendant (husband) because he was not present shows that the judge has protected the wife, because the cause of the dispute was the defendant's selfish and stubborn attitude. Based on the facts at trial that the defendant was a civil servant, it could be said that he was able to fulfill his ex-wife's rights, and there was also no indication that the plaintiff (wife) had disobeyed (*nusyūz*) her husband, so, in the end, the judge decided to grant the lawsuit. The plaintiff (wife) also

⁵¹ Dwi Handayani, 'Kajian Filosofis Prinsip *Audi Et Alteram Partem* dalam Perkara Perdata', *Jurnal Ilmiah Kebijakan Hukum*, 14.2 (2020): 385–402 (p. 388) <<https://doi.org/10.30641/kebijakan.2020.V14.385-402>>.

⁵² Andreas and Ariawan, p. 637.

stipulates obligations on the defendant (husband) to fulfill the rights of the plaintiff (wife) after the divorce.

The same is true with the *Verstek* decision on *Talak* divorce. As stated previously, both the Samarinda Religious Court and the Sangatta Religious Court in *Talak* divorce cases, have charged the Petitioner (husband) with providing ‘*iddah* and *mut’ah* support to the Respondent (ex-wife) even though the wife was not present at the trial and also did not request these rights. However, the judge thought progressively by granting the right to ‘*iddah* and *mut’ah* even though this was not requested by the ex-wife. Here it is clear that the judge is not fixated on the sound of the text of the law and is not passive, as one of the principles in civil cases is that the judge must be passive and must not decide beyond the content of the lawsuit, because this is an illegal act,⁵³ even though there are benefits to it.⁵⁴ However, in the cases above, the judge used his inherent authority (*ex officio*) when he accommodated the wife’s interests because whatever the judge does must always be within the corridor of the rules that have been established. As emphasized by Jamil, the use of *ex officio* is the judge’s real role in crossing the ultra petita limit, if this principle becomes an obstacle in protecting the parties.⁵⁵ So it can be said that *ex officio*, ultra petita in the divorce decree (*Talak*) above is by giving what is not asked for, with the result being justice and a guarantee of protection. So the use of *ex officio* in cases of these rights is not contradictory it is very urgent.⁵⁶ So there is a harmonious relationship between *ex officio* and ultra petita in realizing the value of justice.

⁵³ Nurul Fuadi Yunus, Ma’ruf Hafidz, and Ilham Abbas, ‘Penerapan Asas Ultra Petitem Partium dalam Perkara Cerai Talak No.30/Pdt.G/2016/PA.Prg’, *Journal of Lex Generalis (JLG)*, 2.2 (2021): 622–37 (p. 623) <<https://doi.org/10.52103/jlg.v2i2.356>>.

⁵⁴ Ach. Faisol, Dwi Ari Kurniawati, Naili Zulfa, ‘Penerapan Hak *Ex Officio* Hakim dalam Perkara Cerai Talak (Studi Putusan Pengadilan Agama Kabupaten Malang Nomor 3645/Pdt.G/2019/Pa.Kab.Mlg)’, *Hikmatina: Jurnal Ilmiah Hukum Keluarga Islamm*, 2.3 (2020): 156–66 (p. 157).

⁵⁵ Jamil and Nur, p. 455.

⁵⁶ Ahmad Fanani, ‘Hak *Ex Officio* Hakim: Studi Kasus Perceraian di Pengadilan Agama Sidoarjo No. 3513 Th. 2015’, *TSAQAFAH*, 13 (2018), 339 <<https://doi.org/10.21111/tsaqafah.v13i2.1091>>.

Furthermore, another indicator that shows the progressivism of judges is that judges still refer to legal norms but are not rigid and black and white, and are more flexible in their application. In this case, even though the Respondent did not ask for anything because he was never present, the judge still granted him his rights as stipulated in Article 41 of Law no. 1/1974, that in divorce the court can impose a burden on the ex-husband to pay the ex-wife's maintenance rights.

Apart from that, the judge's policy of requiring the husband to fulfill the maintenance rights given at the time of the *Talak* vow (in the case of a *Talak* divorce) and before the Defendant takes the divorce certificate (in the case of a contested divorce) also shows another form of the judge's progressiveness. Because it provides anticipation so that the ex-husband will fulfill his obligations, as well as providing justice and protection to the ex-wife. The judge's decision, which in his ruling added a clause that payment of '*iddah* and *mut'ah* support will be paid when the defendant (ex-husband) takes out the divorce certificate (in cases of contested divorce) shows that the judge is quite progressive because not all religious courts apply SEMA No. in 2019, as seen in the studies of Kurniawan at the Kediri Religious Court⁵⁷ and Rachmatulloh at the Nganjuk Religious Court.⁵⁸

Accommodating women's rights after divorce in the *Verstek Talak* divorce and contested divorce decisions at the Samarinda Religious Court and Sangatta Religious Court is a step forward and also shows the progressiveness of judges in handling divorce cases. This phenomenon is different from Jamaludin's study at the Pidie Syari'ah Court, where in the *Verstek* decisions, whether divorce, divorce, or lawsuit, none of them gave rights to the ex-wife.⁵⁹ Likewise, the results of research carried out

⁵⁷ Moch Ichwan Kurniawan, Nurul Hanani, and Rezki Suci Qamaria, 'Hambatan Pelaksanaan SEMA No. 2 Tahun 2019 Terhadap Pemenuhan Hak-Hak Perempuan Pasca Cerai Gugat di Pengadilan Agama Kabupaten Kediri', *Al-Syakhsyiyah: Journal of Law & Family Studies*, 4.1 (2022), 101 <<https://doi.org/10.21154/syakhsyiyah.v4i1.3962>>.

⁵⁸ Rachmatulloh.

⁵⁹ Dian Saputra Saputra, Jamaluddin Jamaluddin, and Yulia Yulia, 'Perlindungan Hak Perempuan dan Anak dalam Putusan *Verstek* di Mahkamah Syariah IDI', *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 9.2 (2021): 4-5 <<https://doi.org/10.29103/sjp.v9i2.4799>>.

by Hamides at the Tapaktuan Syari'ah Court, where in the decision to contest the divorce, the ex-wife's rights were also not accommodated.⁶⁰ A similar fact can also be seen in the *Verstek* divorce decision revealed in Ernawaty's study at the Limboto Religious Court,⁶¹ and also at the Banda Aceh Sharia Court (No.22/2019/MS. Bna), where even though the Plaintiff applied for child support, it was not accommodated by the judge.⁶²

The progressiveness of judges in fulfilling the rights of ex-wives as stated previously, apart from providing greater benefits and value for justice, shows their bias towards women as well as realizing the guarantee of protection for the rights of ex-wives. Unfortunately, not all Religious Courts have a uniform paradigm. This is as revealed in Tompo's research at the Sunggu Minahasa Religious Court, where the form of protection in the *Verstek* decision in a divorce case is that even if the Defendant never appears, the judge will grant the wife's request as long as it is supported by sufficient and valid evidence. Meanwhile, for the husband, the guarantee is that he is allowed to file a counterclaim (*verzet*) when he is not satisfied with the *Verstek* decision.⁶³

Conclusion

Imposing maintenance on husbands for their ex-wife and children after divorce in the Religious Courts is always problematic, whether the trial is attended by both parties or not. However, even in a decision that is not attended by one of the parties (Defendant/Respondent), the judge, with his progressiveness, can grant the ex-wife's post-divorce rights in the form of a *Verstek* decision, both in *Talak* and contested divorce cases. This is clearly illustrated in the *Verstek* decisions in the two Religious Courts above where the rights of ex-wives were well accommodated because the Judges had progressive views so that they could provide benefits and justice for women.

⁶⁰ H. Harnides and Hadana, p. 57.

⁶¹ Ali and Lahaji.

⁶² Yahya and Annisa, p. 13.

⁶³ Jamiah Tompo, Nurhalifah, pp. 105–6.

It is hoped that the results of this study will encourage the emergence of the same attitude from other judges in other Religious Court institutions as well as open up opportunities for legal development and discovery in the field of family law.

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Author Contributions

Lilik Andar Yuni, focused on the theory of judge progressivity, reviewed related literature, collected data, and conceptualized the main idea of the article, including designing research, both from the methodology and data aspects. Jati Kasuma, reviewed the article and edited it until the article was final. The two authors jointly provide comments, review, and complete the article.

Bibliography

- Alfander, Dodon, 'Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts', *JURIS (Jurnal Ilmiah Syariah)*, 21.1 (2022), 109 <<https://doi.org/10.31958/juris.v21i1.5716>>.
- Ali, Ernawaty Hadji, and Lahaji Lahaji, 'Analisis Putusan *Verstek* dalam Cerai Gugat dan Upaya Hukum di Pengadilan Agama Limboto', *Jurnal Al Himayah*, 5.1 (2021): 50–64 <<https://journal.iaingorontalo.ac.id/index.php/ah/article/view/2420>> [accessed 17 February 2023].
- Amaliah, Rezki, Dachran S. Busthami, and Anggreany Arief, 'Penerapan Putusan *Verstek* dalam Perkara Perceraian di Pengadilan Agama Kelas II Majene', *Journal of Lex Generalis (JLG)*, 2.3 (2021): 1344–51

<<https://pasca-umi.ac.id/index.php/jlg/article/view/439>> [accessed 17 February 2023].

- Andar Yuni, Lilik, 'The Use of *Ex Officio* to Fulfill Women's Post-Divorce Rights at the Samarinda Religious Court', *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 21.2 (2021): 135–54 <<https://doi.org/10.18326/ijtihad.v21i2.135-154>>.
- Andreas, Darren, and Ariawan Ariawan, 'Penerapan Teori Keadilan dalam Putusan *Verstek*', *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 7.1 (2023) <<https://doi.org/10.58258/jisip.v7i1.4483>>.
- Anwar, Alfina Sauqi, 'Progresivitas Hakim dalam Menentukan Beban Akibat Perceraian Bagi Suami Kepada Istri Pasca Perceraian', *Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum*, 6.1 (2021): 1–13 <<https://doi.org/10.22515/alahkam.v6i1.2952>>.
- Damarsari, Bening Permata, Widhi Handoko, and Anggita Doramia Lumbanraja, 'Penerapan Nilai-Nilai Hukum Progresif Terhadap Pandangan Hakim Pada Hak Anak Hasil Poligami Tanpa Izin', *Notarius*, (2021): 194–205 <<https://doi.org/10.14710/nts.v14i1.38862>>.
- 'Dialog Ditjen Badilag MA-RI Dan FCOA Perlindungan Hak dan Akses Keadilan Bagi Perempuan dan Anak - Direktorat Jenderal Badan Peradilan Agama', *Badilag Mahkamah Agung*, 2021 <<https://badilag.mahkamahagung.go.id/seputar-peradilan-agama/berita-daerah/dialog-ditjen-badilag-ma-ri-dan-fcoa-perlindungan-hak-dan-akses-keadilan-bagi-perempuan-dan-anak>> [accessed 3 November 2022].
- Fakhria, Sheila, 'Cerai Gugat dan Implikasinya Terhadap Hak-Hak Finansial Perempuan', *Legitima: Jurnal Hukum Keluarga Islam*, 1.1 (2019): 91–119 <<https://doi.org/10.33367/legitima.v1i1.648>>.
- Fanani, Ahmad, 'Hak *Ex Officio* Hakim: Studi Kasus Perceraian di Pengadilan Agama Sidoarjo No. 3513 Th. 2015', *TSAQAFAH*, 13 (2018), 339 <<https://doi.org/10.21111/tsaqafah.v13i2.1091>>.
- H. Harnides, H. Harnides, and Erha Saufan Hadana, 'Analisis Yuridis Putusan *Verstek* Mahkamah Syar'iyah Tapaktuan: Studi Kasus Nomor Perkara: 24/Pdt.G/2021/MS.Ttn', *MAQASIDI: Jurnal Syariah dan Hukum*, 2021 <<https://doi.org/10.47498/maqasidi.v1i1.601>>.

- Handayani, Dwi, 'Kajian Filosofis Prinsip *Audi Et Alteram Partem* dalam Perkara Perdata', *Jurnal Ilmiah Kebijakan Hukum*, 14.2 (2020): 385–402 <<https://doi.org/10.30641/kebijakan.2020.V14.385-402>>.
- Harianti, H, M Mansari, and R Rizkal, 'Sensitivitas Hakim Terhadap Perlindungan Hak Isteri dalam Kasus Cerai Gugat (Analisis Putusan Mahkamah Syar'iyah Banda Aceh Nomor 157/Pdt. G/2020/Ms. Bna).'' *Jurnal MEDIASAS: Media Ilmu Syari'ah dan Ahwal Al-Syakhsyiyah* 4.1 (2021): 47-67.
- Indrawati, Indrawati, 'Penerapan Hukum Progresif dalam Perkara Pidana di Bidang Narkotika', *Jurnal Cakrawala Hukum*, 8.2 (2017): 171–80 <<https://doi.org/10.26905/idjch.v8i2.2117>>.
- Irwan, Irwan, and Ichwan Setiawan, 'Kajian Hukum Kesepakatan Para Pihak dalam Mencapai Penetapan Putusan *Verstek* Perkara Perceraian (Riset Studi Kantor Hukum Arif Sasongko SH & Partners)', *Legal Standing: Jurnal Ilmu Hukum*, 7.1 (2023): 88–94 <<https://doi.org/10.24269/lv.v7i1.5146>>.
- Izzuddin, Ahmad, Ahmad Rofiq, and Abu Hapsin, 'Revitalizing Divorce Ethical Values in *Verstek* Decisions in Religious Courts/Revitalisasi Nilai Etika Perceraian dalam Putusan *Verstek* Di Pengadilan Agama', *De Jure: Jurnal Hukum Dan Syar'iah*, 13.1 (2021): 80–96 <<https://doi.org/10.18860/j-fsh.v13i1.12191>>.
- Jamiah Tompo, Nurhalifah, Yusri Arsyad, 'Putusan *Verstek* Terhadap Perkara Perceraian di Pengadilan Agama Sungguminasa Kelas 1 Bk', *Al-Tafaqquh: Journal of Islamic Law*, 3 July (2022): 98–107 <<https://doi.org/DOI: http://dx.doi.org/10.33096/altafaqquh.v3i2.177>>.
- Jamil, Abdul, and Muliadi Nur, 'Perlindungan Hukum dan Keadilan Para Pihak Melalui *Ex Officio* Hakim dalam Putusan *Verstek* Perkara Perceraian', *Jurnal Hukum IUS QUIA IUSTUM*, 29.2 (2022): 439–60 <<https://doi.org/10.20885/iustum.vol29.iss2.art10>>.
- Kurniawan, Moch Ichwan, Nurul Hanani, and Rezki Suci Qamaria, 'Hambatan Pelaksanaan SEMA No. 2 Tahun 2019 Terhadap

- Pemenuhan Hak-Hak Perempuan Pasca Cerai Gugat di Pengadilan Agama Kabupaten Kediri', *Al-Syakhsyiyah: Journal of Law & Family Studies*, 4.1 (2022), 101 <<https://doi.org/10.21154/syakhsyiyah.v4i1.3962>>.
- Latif, Udin, and Hendriyanti Monika Sari, 'Putusan *Verstek* Pengadilan Agama Sorong Terhadap Perkara Cerai Gugat Akibat Ditinggal Suami', *Muadalah: Jurnal Hukum*, 1.1 (2021): 25–36 <<https://e-jurnal.iainsorong.ac.id/index.php/Muadalah/article/view/442>> [accessed 17 February 2023].
- Lilik Andaryuni, 'Putusan *Verstek* dalam Cerai Gugat Karena Pelanggaran Taklik Talak di Pengadilan Agama Samarinda', *Istinbath*, 16.1 (2017): 224–40 <<https://doi.org/10.20414/IJHI.V16I1.109>>.
- Mahartika, Dea, 'Ratio Decidendi Majelis Hakim Tentang Hak *Ex Officio* Hakim dalam Memberikan Hak Asuh dan Nafkah Anak Pada Perkara Cerai Talak', *Uniska Law Review*, 1.14 (2020): 40–60 <[https://doi.org/DOI: https://doi.org/10.32503/ulr.v1i2.177](https://doi.org/DOI:https://doi.org/10.32503/ulr.v1i2.177)>.
- Marilang Marilang, 'Menimbang Paradigma Keadilan Hukum Progresif', *Jurnal Konstitusi*, 14.2 (2017): 315–31 <<https://doi.org/10.31078/jk1424>>.
- Masrukhin, M, and Meliana Damayanti, 'Hukum Progresif Penanganan Hak Nafkah Anak dalam Kasus Perceraian di Pengadilan Agama (Studi di Pengadilan Agama Karesidenan Surakarta)', *Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum*, 5.1 (2020): 25–36 <<https://doi.org/10.22515/al-hkam.v5i1.1794>>.
- Musawwamah, Siti, 'The Implementation of PERMA Number 3 of 2017 Concerning the Guidelines for Dealing with Women's Cases on Laws as an Effort of Women Empowerment in The Judiciary in Madura', *Jurnal Hukum dan Pranata Sosial*, 15.1 (2020): 67–92 <<https://doi.org/10.19105/al-lhkam.v15i1.2883>>.
- Naily Zulfa, Ach.Faisol, Dwi Ari Kurniawati, 'Penerapan Hak *Ex Officio* Hakim dalam Perkara Cerai Talak (Studi Putusan Pengadilan Agama Kabupaten Malang Nomor 3645/Pdt.G/2019/ Pa.Kab.Mlg)', *Hikmatina: Jurnal Ilmiah Hukum Keluarga Islamm*, 2.3 (2020): 156–66.

- Najichah, Najichah Najichah, and Alfian Qodri Azizi, 'Implikasi Inisiatif Perceraian Terhadap Hak Nafkah Istri', *Journal of Islamic Studies and Humanities*, 5.1 (2020): 42–60 <<https://doi.org/10.21580/jish.v5i1.6960>>.
- Nasution, Hotnidah, and Ahmad Rifqi Muchtar, 'Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts', *Abkam: Jurnal Ilmu Syariah*, 20.2 (2020): 361–84 <<https://doi.org/10.15408/ajis.v20i2.15702>>.
- Nur, Muliadi, and Abdul Jamil, 'Factors Affecting The Predominance of *Verstek* Judgments In Divorce Cases Before The Religious Court', *Prophetic Law Review*, 3.1 (2021) <<https://doi.org/10.20885/plr.vol3.iss1.art5>>.
- Putusan No. 1131/Pdt.G/2021/ PA.Smd.
- Putusan No. 547/Pdt.G/2021/PA.Sgta.
- Putusan No. 189/Pdt.G/2022/PA.Smd.
- Putusan No. 586/Pdt.G/2022/Pa.Sgta.
- Qomaro, Galuh Widitya, 'Agensi Hakim Pengadilan Agama Bangkalan dalam Pemenuhan Hak Istri Pasca Cerai', *Mahkamah: Jurnal Kajian Hukum Islam*, 6.1 (2021), 63 <<https://doi.org/10.24235/mahkamah.v6i1.7455>>.
- Rachmatulloh, Mochammad Agus, 'Pemenuhan Hak Perempuan Pasca Cerai Gugat (Eksistensi SEMA Nomor 2 Tahun 2019 di Pengadilan Agama Nganjuk)', *SAMAWA: Jurnal Hukum Keluarga Islam*, 2.2 (2022): 10–24 <<http://ejournal.stisdafabondowoso.ac.id/ejurnal/index.php/samawa/article/view/48>> [accessed 27 August 2022].
- Rochman, Fiki Fathur, Dzulfikar Rodafi, Ahwal Syakhshiyah Universitas Islam Malang, 'Analisis Putusan *Verstek* dalam Perkara Perceraian Studi Kasus di Pengadilan Agama Kabupaten Malang', *Jurnal Hikmatina*, 1.2 (2019): 12–17.
- Rusydi, Bustanul Arifien, 'Problem Kehadiran dan Upaya Hukum Tergugat dalam Putusan *Verstek* Perkara Perceraian pada Pengadilan Agama Bandung', *Muslim Heritage*, 5.2 (2020), 393 <<https://doi.org/10.21154/muslimheritage.v5i2.2362>>.

- Saputra, Dian Saputra, Jamaluddin Jamaluddin, and Yulia Yulia, 'Perlindungan Hak Perempuan dan Anak dalam Putusan *Verstek* di Mahkamah Syariah IDI', *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 9.2 (2021) <<https://doi.org/10.29103/sjp.v9i2.4799>>.
- Supriyadi, 'Rekonstruksi Kedudukan Anak Akibat Perkawinan Sirri Pasca Putusan Mahkamah Konstitusi dengan Pendekatan Hukum Progresif', *Jurnal Masalah-Masalah Hukum*, 51 (2022): 29–39 <<https://doi.org/10.14710/mmh.51.1.2022.29-39>>.
- Susantin, Jamiliya, 'Analisis Putusan *Verstek* dalam Perkara Cerai Gugat Perspektif *Maslahah Mursalah*', *Jurnal YUSTITIA*, 20.2 (2020) <<https://doi.org/10.0324/yustitia.v20i2.695>>.
- Triana, Nita, 'Progressivity of Judges in Domestic Violence Disputes Settlement in the Case of Divorce in the Religious Court', *Progressivity of Judges In*, 2.1 (2018): 1–29.
- Utomo, Setiyo, 'Penerapan Hukum Progresif dalam Penyelesaian Konflik Agraria', *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, 3.2 (2020): 33–43 <<https://doi.org/10.24090/volksgeist.v3i2.3998>>.
- Waluyo, Sudarmaji, 'Kesepakatan Para Pihak Sebagai Upaya Mencapai Putusan *Verstek* dalam Perkara Perceraian (Study Kasus di LBH SAKTI Purworejo)', *Isti'dal: Jurnal Studi Hukum Islam*, 6.2 (2019): 101–117 <<https://doi.org/10.34001/istidal.v6i2.1613>>.
- Yahya, Faisal, and Maulidya Annisa, 'Putusan *Verstek* dalam Cerai Gugat Analisis Putusan Mahkamah Syariah Banda Aceh', *El-USRAH: Jurnal Hukum Keluarga*, 3.1 (2020), 1 <<https://doi.org/10.22373/ujhk.v3i1.7706>>.
- Yahya, M. Nursalim, and Khairina Khairina, 'Kedudukan Kesepakatan Damai Setelah Putusan *Verstek* dalam Perkara Cerai Gugat Menurut Hukum Acara Perdata (Studi Analisis Perkara Nomor 213/Pdt.G/2018/PA.Slk)', *Jurnal Integrasi Ilmu Syariah (Jisrah)*, 3.2 (2022): 213–25 <<https://doi.org/10.31958/jisrah.v3i2.6825>>.
- Yulianti, Devi, R Agus Abikusna, and Akhmad Shodikin, 'Pembebanan Mut'ah dan Nafkah Idah Pada Perkara Cerai Talak dengan Putusan *Verstek*', *Mahkamah: Jurnal Kajian Hukum Islam*, 5.2 (2020).

Yunanto, Yunanto, 'Menerjemahkan Keadilan dalam Putusan Hakim', *Jurnal Hukum Progresif*, 7.2 (2019), 192 <<https://doi.org/10.14710/hp.7.2.192-205>>.

Yunus, Nurul Fuadi, Ma'ruf Hafidz, and Ilham Abbas, 'Penerapan Asas *Ultra Petitem Partium* dalam Perkara Cerai Talak No.30/Pdt.G/2016/PA.Prg', *Journal of Lex Generalis (JLG)*, 2.2 (2021): 622–37 <<https://doi.org/10.52103/jlg.v2i2.356>>.