



Post-Divorce Polygamy in Tana Toraja: The Intersection of Islamic Law and Local Culture

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ABSTRACT

The enforcement of women's rights concerning the restriction of polygamy during the *iddah* period following divorce poses a significant challenge in Islamic family law, particularly among minority Muslim communities such as Tana Toraja. This issue reflects a broader tension between the principles of Islamic law and the influence of local cultural practices. Despite existing legal frameworks aimed at safeguarding women's rights, there remains a critical research gap in understanding how these frameworks operate in culturally distinct minority contexts. This study employs a comprehensive legal methodology, combining qualitative interviews with stakeholders from the local Religious Affairs Office, including religious leaders and legal practitioners, alongside document analysis of legal rulings, policies, and relevant literature. The findings reveal that local cultural norms often conflict with Islamic legal principles, exacerbated by limited legal awareness within the community and insufficient institutional enforcement mechanisms. These impediments hinder the effective application of Islamic family law and the protection of women's rights. To address these challenges, this study proposes two key strategies: (1) enhancing legal education programs tailored to the unique cultural contexts of minority Muslim communities and (2) strengthening oversight and enforcement mechanisms through collaboration among local authorities, religious leaders, and community organizations. By bridging the gap between Islamic legal principles and local cultural practices, these recommendations aim to promote a more inclusive and effective enforcement of women's rights within minority Muslim settings.

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1. INTRODUCTION

The Muslim population of Tana Toraja constitutes a minority amidst a Christian majority. Their minority status considerably affects their social negotiating power, especially in promoting the enactment of Islamic family law. The community frequently encounters marginalization and restricted power within legal and social structures predominantly governed by the Christian majority, hence complicating the enforcement of particular Islamic tenets, such as the prohibition of polygamy during the iddah period. Social prejudice and insufficient legal resources and support undermine the community's capacity to enforce its religious rights effectively. Thus, although the law aims to safeguard women's rights, local cultural customs and the minority position of Muslims in Tana Toraja frequently lead to uneven enforcement. This dynamic underscores the conflict between preserving cultural cohesion and upholding Islamic legal tenets, presenting considerable challenges for women pursuing justice and legal protection.

The research underscores a significant disparity: whereas Islamic family law seeks to protect women's rights, the prevailing cultural practices and social dynamics in Tana Toraja frequently obstruct its uniform application. The convergence of religious doctrines and local traditions has engendered complications resulting in the inconsistent enforcement of the law. The practice of polygamy occurring beyond the iddah period generates considerable societal discord and exacerbates the detriment of women's social and economic status. This issue highlights the imperative of modifying Islamic family law to conform to the local circumstances while preserving its fundamental principles. Gender-biased cultural interpretations often hamper the protection of women's rights in Islamic law (Jaffal, 2022a). Meanwhile, the importance of adapting Islamic law to the local context to ensure justice for minority communities (Abdillah, 2022a; Bhatt, 2023; ES, 2023; Evans, 2023; Fatoohi, 2023; Laird, 2023; Mujahidin, 2023; Murphy, 2023; Zhang, 2023), the Court found that prohibiting polygamy was necessary to prevent a real and substantial risk of harm to women and children (Joffe, 2016).

Several previous studies have examined minority women (Hussein, 2023), minority groups who experience discrimination (Emadi, 2023), how to form communities, legal regulations, and the rights of minority religious communities (Bano, 2023), the implementation of the Aceh qanun has negative consequences for the protection of human rights, especially for vulnerable groups and minorities (Aziz, 2023), a discussion about the plural composition of Western society and the meaning of cultural elements and religious aspects (Fronzoni, 2023). In addition, it has also been studied as a Muslim minority (Hayatuddin, 2022; Marlina, 2022a; Rehman, 2023; Woods, 2023), the practice of inheritance and polygamy (Nasution & Muchtar, 2024a; Nisa, 2021a) and the study of polygamy is also confirmed by (Alwi 2013). Comparison of Islamic family law and normative law in divorce cases (Nafisah et al., 2024a), transformation of maqasid sharia in divorce mediation (Fikri et al., 2023), the context of the application of human rights and Islamic family law in minority areas (Alkouatli, 2023; Büchler, 2016; Glickman, 2023; Ho, 2023; Hutter, 2023; Ittefaq, 2023; Linando, 2023; Mukharrom, 2023; Rodriguez, 2023; Verkuyten, 2023; Yilmaz, 2023).

In the context of a minority Muslim society, such as in Tana Toraja, the implementation of the prohibition on polygamy during the iddah period presents its challenges, both in terms of social acceptance and legal implementation. It is in line with the results of previous studies that reviewed the prohibition of polygamy from the perspective of Islamic law and positive law in various Muslim countries. Several previous studies, such as research (Darmawijaya, 2015), discuss the implementation of Islamic family law in Muslim-majority countries, such as Tunisia and Türkiye,

which expressly prohibit the practice of polygamy through positive law. Research (Büchler 2016), which examines the relationship between cultural identity, religion, and the implementation of Islamic family law, it is very urgent that the minority Muslim community makes adjustments.

Customary values, interfaith relations, and the need to adapt Islamic family law to local norms in Tana Toraja likely influence the practice of polygamy among minority Muslims. Therefore, this study examines the distinct issues associated with enforcing the prohibition of polygamy in Tana Toraja, highlighting the legal and cultural obstacles that hinder its implementation. Through examining these interactions, this research aims to offer legal solutions that safeguard women's rights while honoring local traditions. The primary objective is to guarantee that Islamic family law functions as an instrument of justice and equity, especially within minority contexts, via a culturally attuned and legally sound framework.

2. METHODS

This study investigates the application of Islamic family law, particularly the restriction of polygamy during the iddah period, among the minority Muslim community in Tana Toraja, taking into account the distinct sociocultural circumstances. A legal framework is utilized to examine the correlation between the enforcement of the law by the local Religious Affairs Office (KUA) and the circumstances of the minority Muslim population in the region. Primary data were acquired via indirect interviews with informants, including Marriage Registrars, to gain insights into marriage registration practices and the execution of associated policies. Telephone interviews facilitated information collection in regions with restricted access. This study employs secondary sources, including legal documents, court rulings, and scholarly literature, to enhance the analysis and offer a broader perspective.

This study employs the philosophy of justice, *maslahah*, and safeguarding women's rights as its primary analytical framework. The theory of justice evaluates the degree to which the policy may ensure equitable treatment and safeguard Muslim women, particularly in minority areas with restricted access to legal services. The *maslahah* hypothesis underscores the significance of legal measures that yield societal advantages, especially protecting women while fostering harmony within a multicultural community like Tana Toraja.

This paper evaluates the prohibition of polygamy throughout the iddah period as a legal regulation and a reaction to the cultural and social forces affecting its enforcement. The legal perspective is integrated with sociocultural analysis by including qualitative data obtained from interviews with Marriage Registrars, community leaders, and impacted individuals to comprehend the influence of local norms and traditions on implementing Islamic family law. The study examines cultural practices that emphasize communal harmony, including the acceptability of polygamy in specific local contexts, revealing the conflict between religious doctrines and cultural reality. The amalgamation of legal and cultural data facilitates a more nuanced comprehension of the issues encountered by the KUA, including technical impediments, divergent interpretations of Islamic law, and insufficient legal awareness within the community.

The research investigates the impact of societal resistance to legislative regulations on their efficacy, highlighting significant trends in community behavior and views about post-divorce polygamy. The emphasis on Tana Toraja presents a distinctive opportunity to examine the

convergence of Islamic law and cultural traditions within a minority Muslim setting, contrasting markedly with its implementation in Muslim-majority areas. This integrated methodology guarantees that the study outcomes enhance legal discourse while providing pragmatic insights into culturally attuned solutions for effectively implementing Islamic family law. This study seeks to harmonize safeguarding women's rights with an acknowledgment of local cultural dynamics, ensuring that legal remedies are both equitable and contextually pertinent.

3. RESULTS AND DISCUSSION

Implementation of the Prohibition on Marriage of Ex-Husband While the Wife is in the Iddah Period

In Tana Toraja, throughout Indonesia, the implementation of the rule regarding the prohibition for husbands to remarry during the wife's iddah period is reflected in the implementation at the Religious Affairs Office (KUA). Based on Circular Letter Number: P-005/DJ.III/Hk.00.7/10/2021, this prohibition applies in the context of religious law in general and is strictly enforced in Tana Toraja. Although this area is known for its strong customary traditions, this rule still applies as a guideline governing the registration of marriages during the iddah period. Although the Tana Toraja community has deep local wisdom and customs, state and religious law still take precedence, especially in matters related to marital status. Since the issuance of the circular, there have been no reports of ex-husbands submitting applications for registration of marriages during the iddah period. Marriage Registrars in Tana Toraja, as elsewhere, enforce this rule by refusing to register marriages if the ex-husband plans to remarry during the iddah period. This circular has two main functions, as seen in Table 2: first, as a guideline to ensure the implementation of legal marriage registration, and second, to provide legal certainty for women still in the iddah period so that religious and state laws protect their rights and obligations. In the context of Tana Toraja, although customs and culture provide space for marriage in various forms, the implementation of this rule shows how religious and state laws function to maintain a just social order and protect women's rights (Alam, 2022).

Table 1. Perspectives of Interview Participants

Respondent Group	Key Observations
Religious Leaders	Emphasized the need for cultural adaptation to Islamic law for better compliance.
Muslim Women	Highlighted challenges in contesting polygamy due to lack of legal awareness.
Community Leaders	Expressed a desire to maintain harmony while respecting religious norms.
KUA Officials	Reported obstacles in enforcing rules due to technical limitations and cultural norms.

Source: Interview (2024)

The results indicate that the minority status of Muslims in Tana Toraja substantially affects their social bargaining power. Intersectionality theory illustrates that the convergence of identities related to religion, gender, and minority status exacerbates the difficulties encountered by Muslim

women. Social marginalization and inadequate legal enforcement apparatus lead to an erratic prohibition implementation, as summarized in Table 1.

Table 2. Advancements in Legal Practices

Adaptation Practice	Description
Informal Mediation	Resolves disputes outside formal institutions while respecting Sharia norms.
Local Legal Awareness	Community-based education is a means to bridge knowledge gaps in family law.

Source: Interview (2024)

Marriages registered at the KUA have increased over the years, indicating that despite the pandemic, people still tend to marry formally according to state law. On the other hand, in Tana Toraja, although customary marriages are very dominant, the phenomenon of increasing numbers of marriages can also be influenced by customary marriages that are not always registered at the KUA, considering that not all Tana Toraja residents marry according to Islamic law, even in the Muslim minority group. Different social and cultural factors, including incompatibility between extended families, binding traditions in marriage, and economic problems, can significantly influence the reasons for divorce among Indigenous people. The KUA regulates administrative procedures for those who marry in Islam, but customs often take priority in organizing marriages. The data can be presented in Figure 1 as follows;

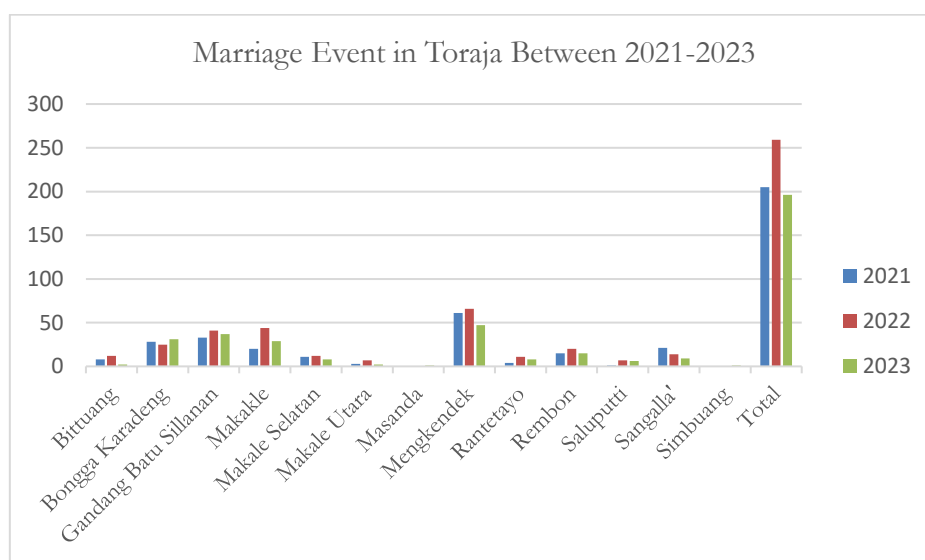


Figure 1. Comparison of Marriages in the Majority Areas of Parepare City

Source: Marriage data from four Religious Affairs Offices in Toraja

In Tana Toraja, an area known for its cultural and traditional diversity, the issue of domestic violence (DV) and the resulting divorce also reflects similar social dynamics to other regions in Indonesia. Although Tana Toraja has a predominantly Christian society with strong customary values, social issues such as domestic violence remain a very relevant issue. In general, in many

regions in Indonesia, including Tana Toraja, the incidence of domestic violence continues to increase every year. In the context of Tana Toraja, strong traditions and customary values may shape perceptions of domestic violence. Although local communities are more entrenched in family values and cooperation, domestic violence situations often remain hidden behind social norms that maintain family harmony. This reality results in limited openness in reporting or addressing cases of domestic violence despite its growing impact on divorce.

Divorce Due to Domestic Violence highlighted by (Marlina 2022), Domestic violence can be a significant cause of divorce. In Tana Toraja, divorce due to domestic violence often requires a deeper understanding of the psychological impact of violence on the victim. In some cases, the victimized couple feels forced to end the relationship for the safety and well-being of themselves and their children. This context is by the views expressed by (Nisa 2021; Nafisah et al. 2024; Nasution, and Muchtar 2024) that divorce in a violent situation is a response to severe physical and psychological threats. The Role of Religious Courts, along with the increasing number of divorces due to domestic violence, is important to highlight the role of religious courts in handling these cases. As regulated in Article 19 letter d of Government Regulation Number 9 of 1975, severe violence can be a legal basis for divorce.

The context is relevant in Tana Toraja, where the local Religious Court must handle divorce cases involving domestic violence with principles of justice, which also include protection for the victim. Legal policies that recognize violence as grounds for divorce, as suggested by (Imam-Tamim 2022), it becomes important to provide a legitimate way out for couples caught in dangerous situations. Dynamic social culture in Tana Toraja that The Torajan people's belief in customary and religious values often makes victims of domestic violence reluctant to report the incident because of shame or fear of social stigma. However, increasing awareness of the negative impacts of domestic violence, both physical and psychological, is starting to open up space for women and men who are victims of violence to seek justice and legal protection. Therefore, strengthening the role of legal and social institutions in Tana Toraja is very necessary to help victims of domestic violence face dangerous situations, as well as to provide more effective protection for the Muslim minority.

Officials' compliance with Circular Letter Number: P-005/DJ.III/Hk.00.7/10/2021. It is due to several reasons. Widows or widowers can register their marriage only after they have been officially divorced, proven by a divorce certificate from a religious court that has permanent legal force. The provisions of the iddah period for wives due to divorce provide an opportunity for both parties to reconsider plans to build their household. An ex-husband can marry another woman after his ex-wife's iddah period. Suppose an ex-husband marries another woman during the iddah period while there is still an opportunity to reconcile with his ex-wife. In that case, this has the potential to lead to hidden polygamy.

Circular Letter Number: P-005/DJ.III/Hk.00.7/10/2021 aims to uphold justice and create *maslahah* in society through strict regulations on marriage registration, including for divorced widowers and widows. In Tana Toraja, customary traditions, including marriage, play a massive role in people's lives. However, implementing this policy is important to ensure that marriages meet customary aspects and comply with clear legal grounds. Thus, a divorce certificate from a religious court as valid evidence of divorce is an important instrument in avoiding legal conflicts and protecting the rights of both parties.

The implementation of this policy in Tana Toraja can also support the welfare of the community, especially in preventing the practice of multiple marriages that can harm one party, especially women. In the context of *maslahah*, this provision reduces the potential for family disputes that can lead to social injustice. This policy aligns with the principles of justice that are also reflected in the culture of the Tana Toraja community, such as the importance of maintaining harmony and balance in social relations. With compliance with this policy, it is hoped that the community can uphold the values of justice, both in legal and customary aspects, to create a more orderly and prosperous life.

The iddah period provision in Tana Toraja society can be understood as a form of respect for maintaining family harmony, a primary value in their traditional traditions. The iddah period provides space and time for divorced couples to reevaluate their relationship, which is in line with Torajan customary principles, such as "*mappasilaga*," which focuses on restoring harmony in relationships. His policy aims to uphold justice and strengthen collective values in society, emphasizing family integrity as the foundation of social stability.

In addition, the iddah period plays an important role in preventing practices that have the potential to violate justice, such as hidden polygamy. In the context of Tana Toraja, where customs strongly influence, this rule protects women's rights, especially the first wife, so they are not harmed during the iddah period. This provision ensures that every action is carried out fairly and according to the principle of *maslahah* while maintaining a balance between Torajan customary traditions and national law. In this way, justice and family harmony can continue to be maintained.

In Tana Toraja culture, the iddah period plays an important role in protecting the rights and dignity of the first wife, which is in line with customary values that emphasize harmony and justice in the family. If the ex-husband secretly practices polygamy during the iddah period, this is contrary to the principles of justice that apply, both according to state law and local customs. Such actions can cause uncertainty of status for the first wife, which is not only emotionally detrimental but can also create social conflict, given the importance of women's roles in maintaining family relationships and community order in Tana Toraja.

The rule prohibiting an ex-husband from remarrying before the iddah period ends aims to protect the first wife from potential emotional and legal harm. This provision gives the first wife sufficient time to consider the possibility of reconciliation without the pressure of her ex-husband's new marriage. In the context of Tana Toraja, where the family is the main foundation of the social structure, this policy supports justice and welfare by ensuring that individual rights are respected and family relationships remain harmonious.

Islamic Family Law Reform on the Prohibition of Marriage Registration While the Wife is Still in Iddah

Family law is a series of regulations that regulate internal relationships within a family. It includes regulations that regulate legal relationships arising from family ties, such as marriage, financial aspects between husband and wife, parent-child relationships, guardianship, and guardianship (Fatkhurrozi & Mugiyati, 2024; Khalimovna & Omonova, 2024). This area of law is included in the study of *al-ahwal al-shakhsyiyah*, a branch of Islamic law regulating legal issues concerning individuals. "*shakhsyiyah*" comes from "*syakhsun*" which means individual or person.

Al-ahwal *al-shakhsyiyah* technically refers to comprehensive laws regarding family relationships from beginning to end, including marriage, divorce, lineage, maintenance, and inheritance (Sood, 2024). Islamic family law plays a central role in the lives of Muslims globally and in Indonesia, with almost all aspects of the daily life of Muslims closely related to Islamic family law. The integration of Islamic family laws into national legislation has prompted extensive research on the nature and application of family law in various Muslim countries, including Indonesia (Abdillah, 2022b).

In the context of Tana Toraja, although its people have strong customary traditions, the application of Islamic family law remains relevant for the Muslim community in the region. Islamic family law, which views marriage as a sacred institution and the family as the primary social unit, can be applied harmoniously with Torajan customary values that also place the family as an important pillar of community life. As in Torajan customs, where family harmony is maintained through values of togetherness, Islamic family law in Indonesia also aims to ensure balance, justice, and protection for every family member.

Adapting Islamic family law into national law is important in bridging cultural differences and the needs of modern society (Latifah, 2024), including in Tana Toraja. This process integrates the principles of justice and balance contained in religious teachings and respects local traditions that prioritize togetherness and harmony. Reform of Islamic family law in Indonesia, which considers traditional values and contemporary needs, supports creating a legal system that can protect all family members in terms of custom and religion. It helps strengthen the family structure as the foundation of society, not only in the context of religion but also in local culture, such as Toraja.

One of the goals of Islamic family law reform is to eliminate discrimination against women through a constructive national legal harmonization framework (Purnamasari et al., 2024). Islamic family law reform aims to protect women's rights while strengthening equality in marriage and family relationships. (Jaffal, 2022b) Eliminating discrimination against women's rights by prohibiting hidden polygamy by ex-husbands is an important aspect of Islamic family law reform. This prohibition aims to protect women from harassment due to their marital status that can harm them economically, psychologically, and socially. This reform supports the principle of equality in marital and family relations, where all parties enjoy the same rights and protections, by eliminating the practice of hidden polygamy. This reform also reflects an effort to integrate universal human rights values, including women's rights, into the broader national legal framework, ensuring fair and equal treatment for all family members, regardless of gender.

Freedom of religion places a responsibility on the state to protect the rights of individuals and religious communities, including managing norms that sometimes conflict with the principles of state law (Budiono et al., 2024). In this case, the state has an important role in ensuring that religious practices, such as marriage, are carried out according to the principles of justice and applicable law. In Indonesia, Islamic family law is one of the foundations in regulating the lives of Muslim communities, including in areas such as Tana Toraja, which has cultural and religious diversity. In Tana Toraja society, Islamic family law bridges religious values and local customs, ensuring that individual rights are respected without ignoring tradition.

The state's efforts through the Ministry of Religious Affairs to protect women's rights are integral to the renewal of Islamic family law. One important step is implementing Circular Letter Number: P-005/DJ.III/Hk.00.7/10/2021, which rejects the registration of new marriages for ex-husbands if their ex-wives are still in the iddah period. This policy protects women from the

practice of hidden polygamy that can harm the first wife. In Tana Toraja, although customary traditions have a significant influence, this principle remains relevant to ensure that women's rights, both in terms of custom and religion, remain protected by national law.

The iddah period serves as a waiting period and a time for women to reflect and reconsider their relationship with their ex-husbands. In the Muslim society of Tana Toraja, this provision provides time and space for women to recover emotionally after a divorce while maintaining the opportunity for reconciliation if that is what is desired. The policy prohibiting ex-husbands from remarrying during the iddah period helps prevent injustice to the first wife. It ensures that family relationships are maintained well in terms of Islamic law and social harmony.

In Tana Toraja, customary values that emphasize family harmony are in harmony with the principles of Islamic family law. For example, Islamic law governing the iddah period can be integrated with local traditions that respect relationships between individuals and families. In this way, state policy prevents conflicts between religious and customary norms and strengthens protection for women. This policy reflects the principles of justice and *maslahah* that are in harmony with Torajan culture, where the family is considered an important foundation in community life.

Reforming Islamic family law in Indonesia, including implementing the Circular Letter, is important to ensure justice and balance in family relationships. In Tana Toraja, this policy is relevant to the Muslim community and serves as an example of how national law can be adapted to create harmony in a diverse society. By protecting women's rights during the iddah period, the state helps prevent injustice, maintains family stability, and ensures that Islamic family law is implemented effectively without disregarding existing customary values.

Table 3. Key Area

Key Area	Findings
Cultural Influence	Local customs prioritizing harmony conflict with Islamic legal rules.
Legal Awareness	A limited understanding of Islamic principles weakens consistent enforcement.
KUA Challenges	Resistance from local leaders and families hinders formal legal procedures.
Potential Innovations	Legal education and informal dispute resolution promote cultural sensitivity.

Source: Author (2024)

Table 3 delineates significant results about the problems and opportunities associated with implementing Islamic family law in Tana Toraja. Local norms that emphasize cultural compatibility often conflict with the principles of Islamic law, leading to inconsistencies in enforcement. The Muslim minority's limited legal understanding further undermines the enforcement of these rules, especially concerning the restriction of polygamy during the iddah period. Officials from the Religious Affairs Office (KUA) encounter opposition from community leaders and families who favor customary practices over formal regulations. Notwithstanding these limitations, prospective

developments like legal education and informal dispute settlement procedures provide culturally attuned avenues to rectify legal deficiencies. These findings underscore the necessity of reconciling cultural traditions with legal principles to guarantee justice and legal compliance in minority Muslim communities such as Tana Toraja.

4. CONCLUSION

The research illustrates that the enforcement of Islamic family law, namely the ban on polygamy during the iddah period, serves as an essential mechanism for safeguarding women's rights in minority Muslim settings such as Tana Toraja. The minority status of Muslims in this region diminishes their social bargaining power, frequently leading to difficulties in upholding Islamic law rules. Inadequate representation and social marginalization hinder the enhancement of Islamic family law, and cultural cohesion often takes precedence over formal legal implementation. Key findings reveal that although the majority Christian population exhibits no explicit resistance, the absence of comprehension and institutional backing results in apathy, hence undermining legal adherence. Discussions with community leaders and religious authorities indicate that the Muslim minority must modify their traditions for harmonious coexistence, frequently leading to informal dispute resolutions or agreements that deviate from established Islamic legal tenets.

The report proposes improving legal education designed for the minority Muslim community in Tana Toraja to increase awareness, especially among women, of their rights under Islamic family law. Enhancing the capabilities of local organizations, such as the Religious Affairs Office (KUA), is crucial for effective monitoring and implementation of legislation. Promoting interfaith communication between Muslim and Christian leaders can enhance mutual understanding while establishing hybrid conflict resolution methods that combine traditional cultural practices with Sharia principles can provide a culturally sensitive and legally sound answer. These policies seek to reconcile cultural harmony with safeguarding women's rights, offering pragmatic avenues to enhance legal adherence and equitable results for minority populations in Tana Toraja.

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