

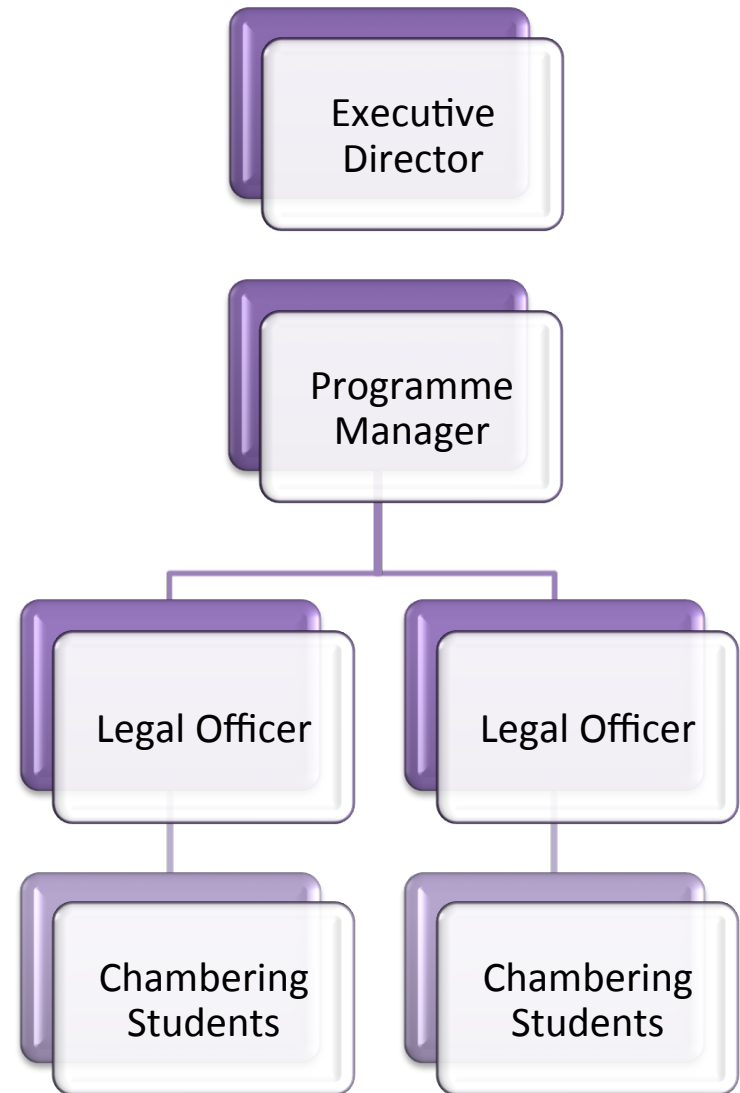
Sisters in Islam (SIS) is a non – governmental organisation working to advance the rights of Muslim women in Malaysia within the framework of Islam, universal human rights, constitutional guarantees and the lived realities and experiences of women.

Telenisa is a free legal advisory service provided by SIS for women and men, to inform them on their legal rights under the Islamic Family Law and the Syariah Criminal Offences Law in Malaysia. Through the Nik Noriani Legal Aid Fund, SIS also provides limited filing fees for clients, upon application.

Telenisa operates every Tuesdays, Wednesdays and Thursdays from 10:00 am to 5:00 pm, except for public holidays.

Clients may reach us in four ways:

- ☐ Write us an email at:
telenisa@sistersinislam.org.my
- ☐ Call us at 03 – 7960 8802
- ☐ Fax us at 03 – 7960 8737
- ☐ Face – to – face legal advice
(by appointment only)



Telenisa Structure

Telenisa Client Demography

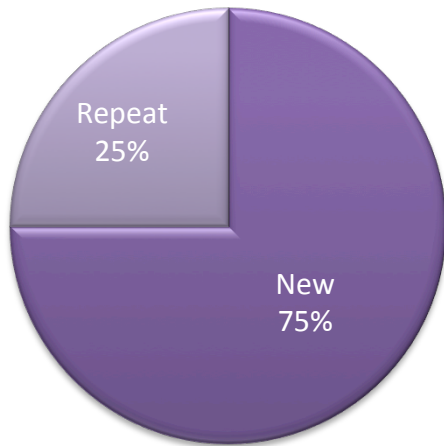


Image 1: Types of Clients

In 2016, total number of clients were 419 people (both men and women) with 75% being new clients.

In 2015, there was 397 clients and in 2014, 474 clients.

SIS aims to expand Telenisa's reach through:

- ☐ Mobile Legal Clinics where Telenisa awareness campaigns are conducted within communities. As of March 2017, four have been conducted in the Klang Valley, Selangor and Malacca.
- ☐ Telenisa brochures & call cards
- ☐ Telenisa Facebook page:
www.facebook.com/telenisa.sis

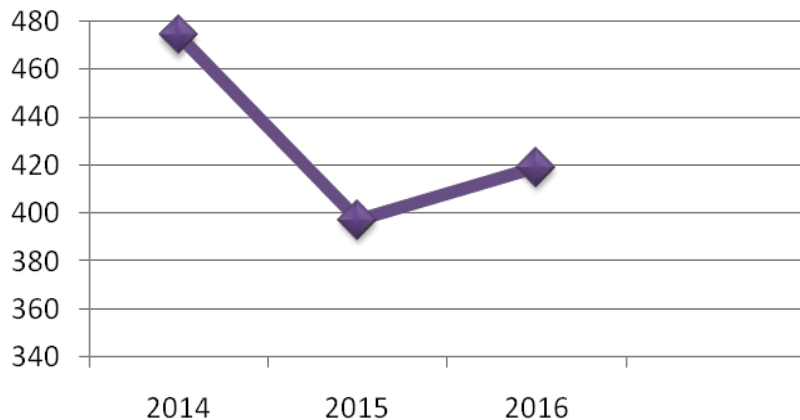


Image 2: Number of Clients from 2014 - 2016

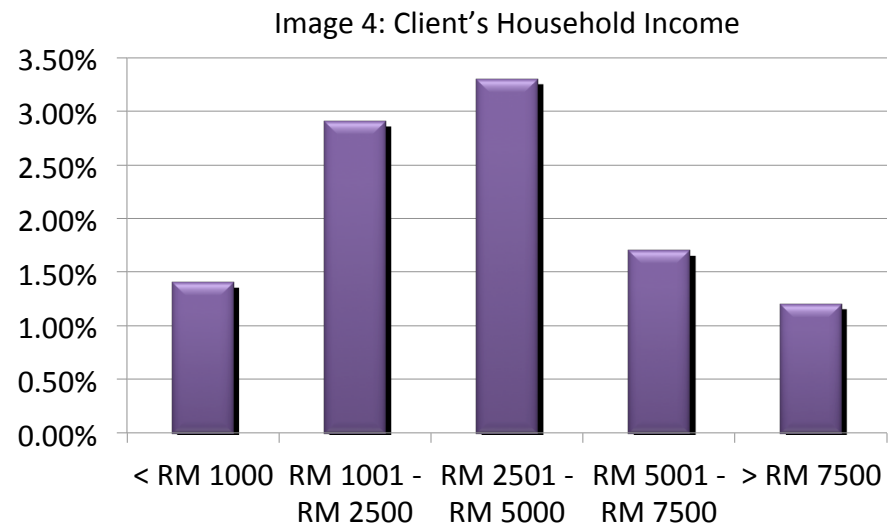
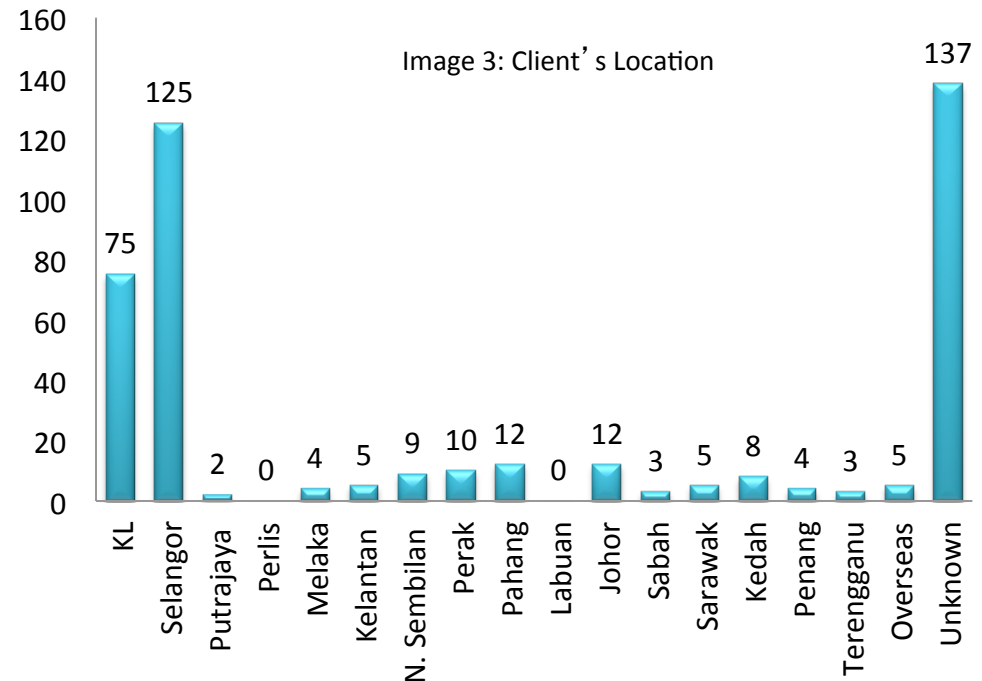
Telenisa Client Demography

Our clients are mostly concentrated in the Klang Valley. Non – Malaysian clients residing in Malaysia has fallen to 19 from 28 in 2015. The five overseas clients (not residing in Malaysia) are from Japan, Singapore and the United Kingdom.

Clients mainly seek for legal advice and opinion. Also, most of them found Telenisa through the internet.

The household income of most clients fall under the RM 2501 – RM 5000 bracket (3.3%). 89.5% clients did not provide information on their household income.

Note: One of Telenisa’s challenges is to balance the need to have relevant and reliable statistics versus the need for clients to maintain their privacy. Thus, some Telenisa statistics are classified as ‘unknown’ for this reason.



Women's Awareness of Rights on the Rise

Women are becoming more aware of their rights within a marriage.

Accordingly, many more women are instituting divorce where their rights are not met by their husbands.

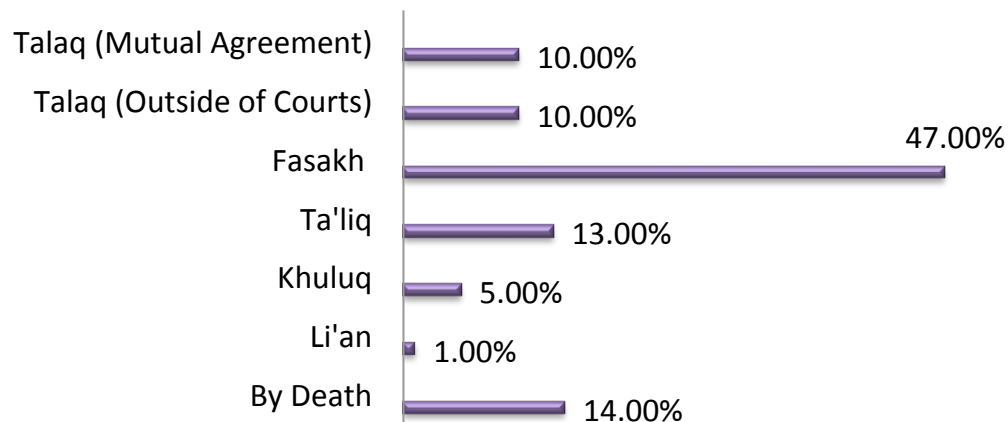


Image 5: Types of Divorce

In terms of dissolution of marriage, Telenisa received the highest number of cases for *fasakh*.

14.8% or 62 clients sought for *fasakh* in 2016. This is a significant increase from just 27 clients in 2015. In 2014 however, there were 66 clients who sought for *fasakh*.

Fasakh is a method of divorce that can be initiated by the wife. Section 52 of the Islamic Family Law (Federal Territory) Act 1984 states that a women may apply to the court for a dissolution of marriage by *fasakh* if her husband has, for example:

- failed to provide maintenance,
- he is insane,
- treats her cruelly.

Fasakh also allows a woman to void or invalidate a marriage, including a marriage to which she did not give consent to.

The Syariah Court requires the wife to provide strong grounds to pronounce divorce through *fasakh*. The time frame till conclusion of the divorce may be longer than divorce initiated by the husband or mutually agreed upon.

Cases Involving Domestic Violence Remains High

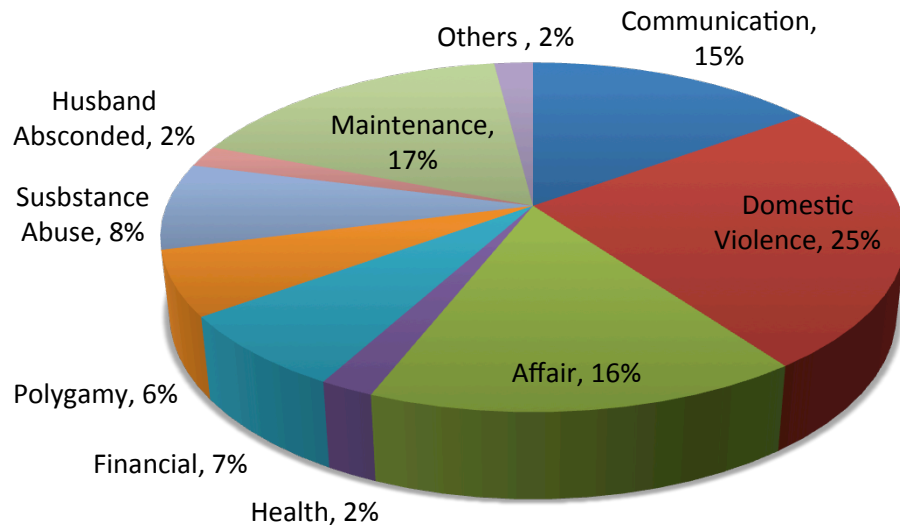


Image 6: Reasons for Marriage Breakdown

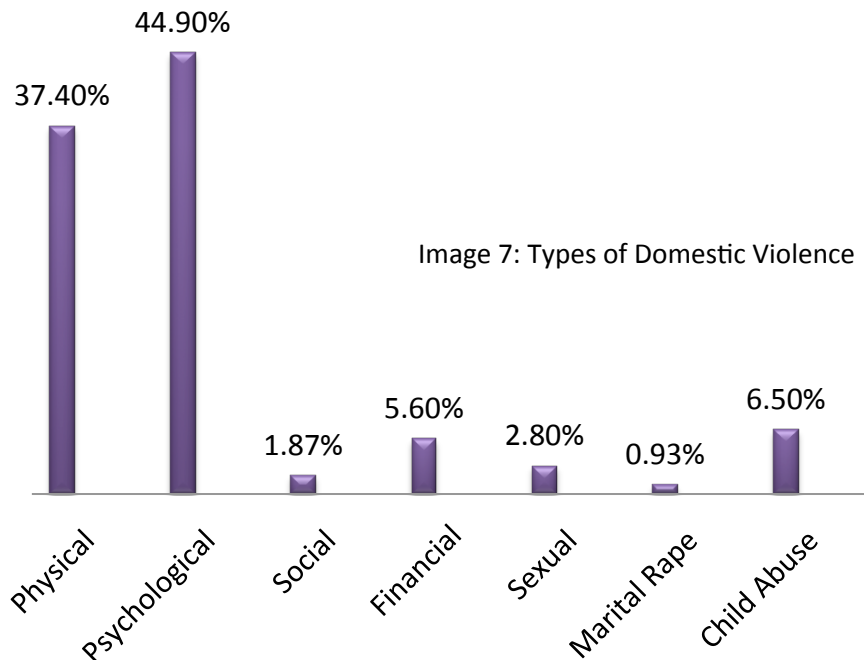


Image 7: Types of Domestic Violence

In 2014, there were 127 cases of domestic violence (11%). In 2015, there were less complaints, at just 27 cases (9.3%) and in 2016, there were 107 cases (25%).

Where domestic violence exists, it is more likely that the wife may seek for *fasakh*.

Domestic violence affects all walks of life, not limited to a certain sector of society.

Increasingly, Telenisa has recorded greater levels of emotional and psychological abuse experienced by our clients. The impact is extremely destabilising, affecting the domestic violence survivors' ability to provide stability and continuity to their own and their children's daily lives.

In order to provide more support for the survivors, Telenisa is developing sufficient skills and expertise to stabilise the clients emotionally and provide physical security and safety so they are in a better position to make informed, appropriate decisions, particularly with regards to their legal choices.

Issues Affecting Wives in Marriage

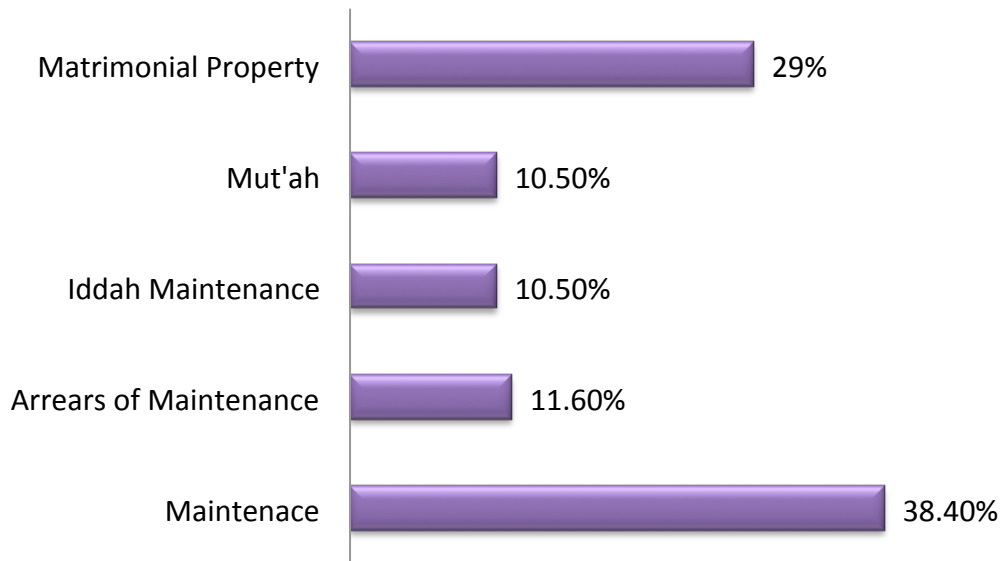


Image 8: Cases Involving Wives

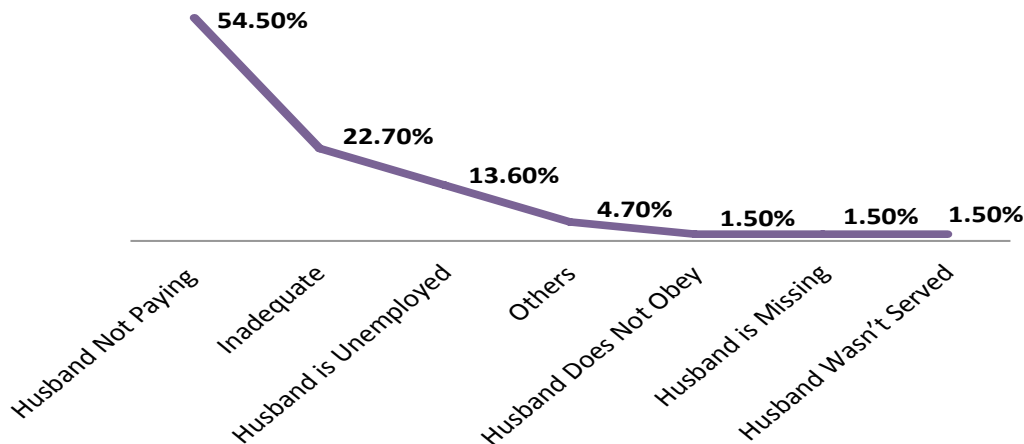


Image 9: Issues in Wife Maintenance

Cases involving wives are usually regarding maintenance. This is the maintenance due to be provided by husbands throughout marriage. Maintenance include a place to live in, clothes and food.

The second highest case is involving matrimonial property and this is followed by arrears of maintenance, *iddah* maintenance, *mut'ah* and *nusyuz*.

Iddah maintenance is provided by the husband to the wife during *iddah* period. *Iddah* period is a period observed by a woman upon divorce or death of her husband and marriage to another man is not allowed during this period.

Mut'ah is a one-off gift by the husband to the wife once they divorce.

Nusyuz is defined under the Islamic Family Law (Federal Territory) Act 1984 as wife's disobedience to the husband. Where she is found guilty, she will be deprived of *iddah* maintenance.

Issues Affecting Children in Marriage

Throughout 2014 – 2016, the top two issues involving children have always been custody and maintenance.

In 2016, 49% of clients had issues with custody. The second highest is regarding child maintenance and the third falls on the issue of '*anak tak sah taraf*'.

Custody is rising as many fathers are found slacking in their responsibility and have failed to provide for his children and instead, delegate the task to their family members.

In one of the cases, a five year old child complained to the mother that the father would leave her alone at home while he goes out with his new wife.

Another case recorded is of a child living with the father instead of the mother due to prior arrangements, and complained that he was given food at random times and stayed hungry otherwise.

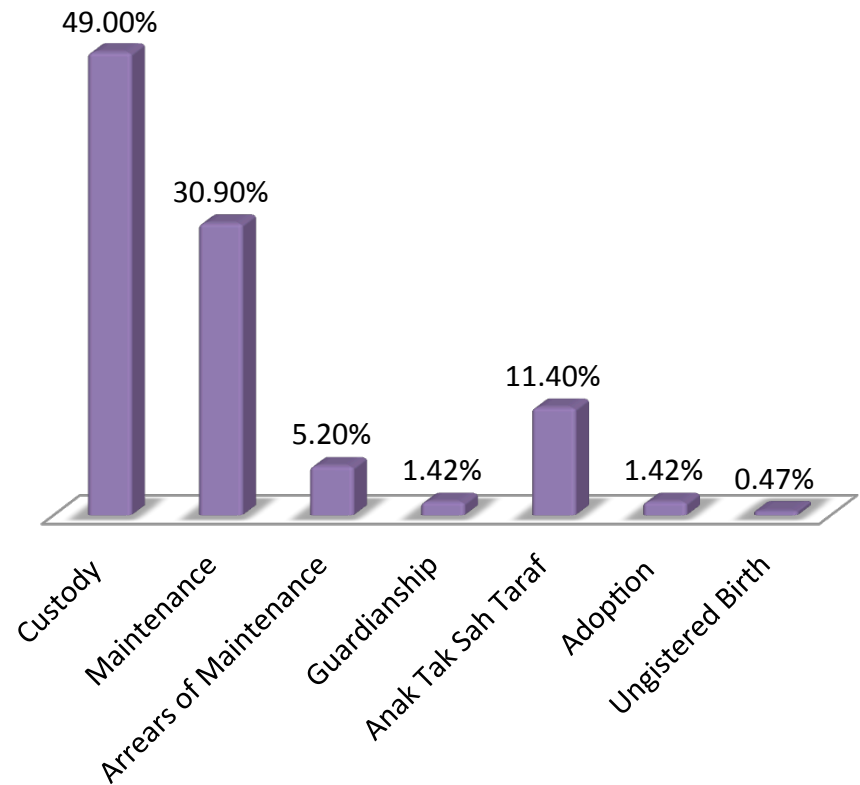
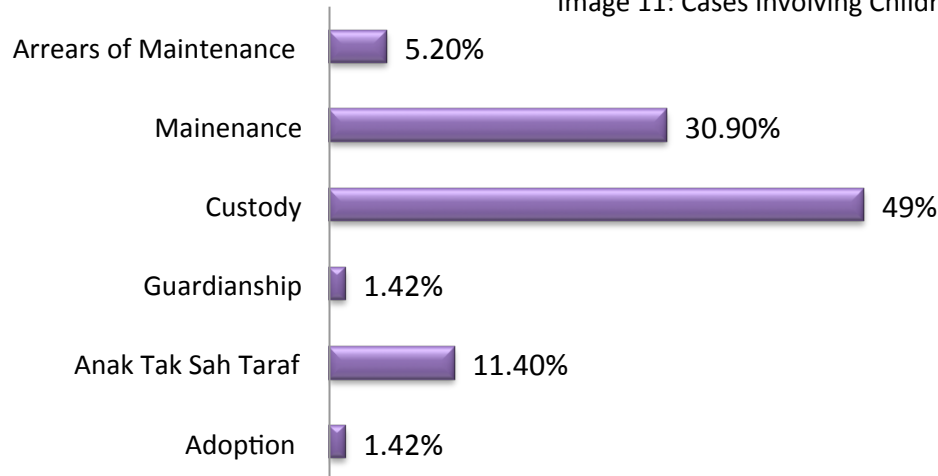


Image 10: Cases Involving Children

Issues Affecting Children in Marriage (cont.)

Image 11: Cases Involving Children

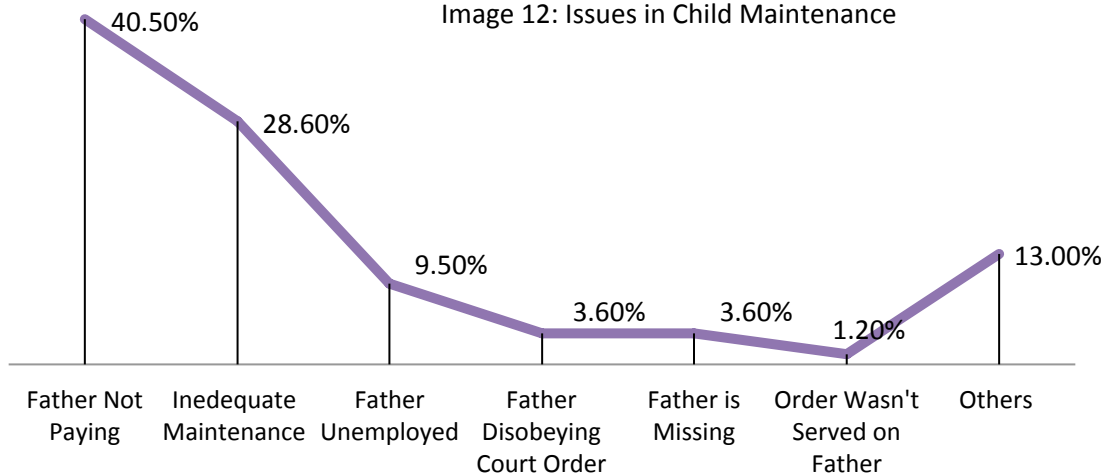


The main issue for cases involving children is custody rights at 49%, followed by maintenance at 30.9%.

For child maintenance, the main issue is that the father does not provide any maintenance, followed by fathers providing inadequate maintenance.

Given the high number of cases in the area of maintenance, it can be concluded that enforcement of court orders is not adequate. Syariah Courts rarely impose deterrence for non-payment of maintenance e.g. imposing a jail term for non-adherence of Court orders.

Image 12: Issues in Child Maintenance



From anecdotal evidence, the issue is either that the wife or mother is unaware of how to enforce a court order or that the Syariah Courts are not enforcing those orders stringently. The onus lies upon the wife or mother to have the court order enforced.

Issues Affecting Children in Marriage (cont.)

Image 13: Anak Tak Sah Taraf (2014 – 2016)

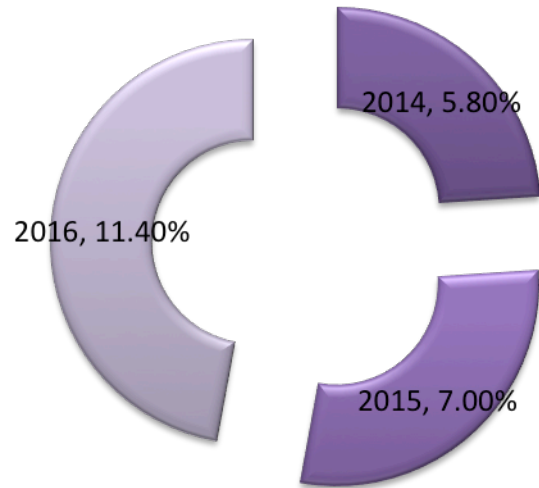


Image 14 shows that cases of *anak tak sah taraf* is increasing year by year. In Malaysia, *anak tak sah taraf* is defined as children who are born out of wedlock or born less than 6 months from the date of the parents' marriage.

In 2014, there were just 5.8% cases and in 2015, a 1.2% increase. In 2016, there has been an increase with 11.4% of cases involving *anak tak sah taraf*.

Telenisa was faced with issues involving *anak tak sah taraf* such as problems with *wali* at the time of marriage, problems with official documents and instances where the biological father claims for custody.

Section 85 of the Islamic Family Law (Federal Territory) Act 1984 states that the right of custody of such children falls ultimately on their mothers and her relatives. Mothers are to bear all maintenance and may not claim from their fathers.

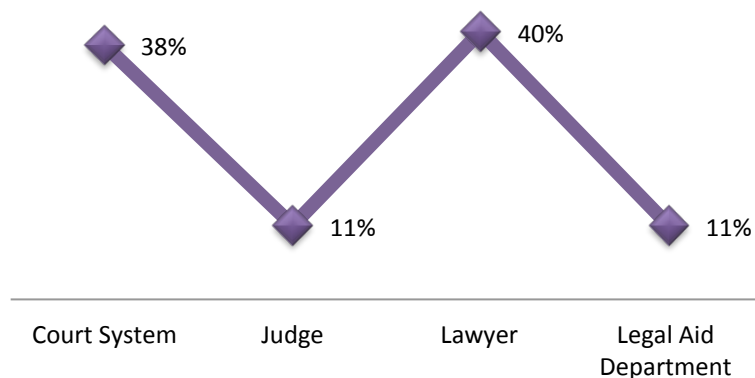
Telenisa recorded a case where a child was registered with his father's name on his birth certificate in 2004. His parents were married three months before his birth.

However, when the father wanted to register for the child's identification card in 2016, the National Registration Department (NRD) stated that the child would have to be registered as "X bin Abdullah" instead of "X bin Y" as he is regarded as *anak tak sah taraf*.

Such policy and practice is unfair, discriminatory and stigmatises the child for the rest of his or her life. Furthermore, this also deprives the rights of fathers who want to take responsibility of their child or children.

The Syariah Judiciary System Poses Great Challenges to Women Seeking Redress and Justice

Image 14: Complaints on the Legal System

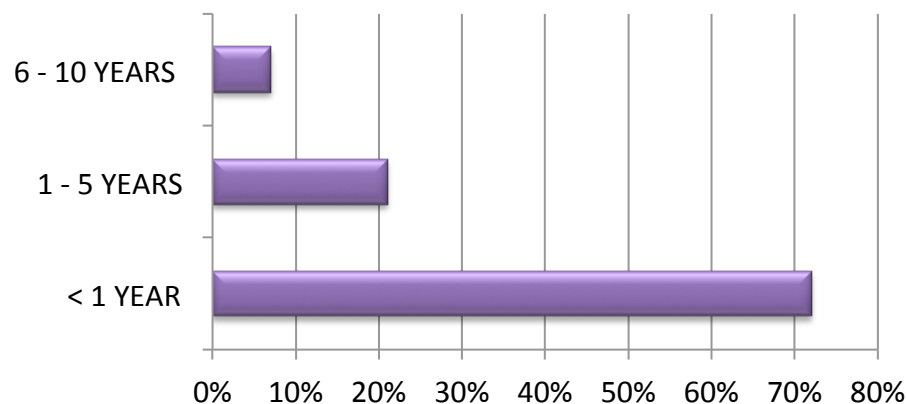


Clients who complain about the legal system mostly complain about the lawyers displaying poor work ethics such as being late or not being present for court hearings. Clients grumbled that lawyers do not have the right documents with them during hearings.

Clients complain about the court system being too complex and confusing. For a divorce under Islamic Family Law, separate applications must be made for each issue e.g. divorce, custody, property; etc.

Some clients have also raised dissatisfaction on instances where the judges do not turn up on the day of the proceedings, without prior notice.

Image 15: Time Cases Has Been Pending



72% of clients shared that their cases were pending for less than a year.

About 21% had their cases pending for 1 – 5 years and the 7% had theirs pending for 6 – 10 years.

Cases are usually pending due to uncooperative husbands which made up 34% of our cases.

Court Watch

At Sisters in Islam, we encourage our chambering students to attend court from time to time, as part of their training at SIS. They attend both the Syariah High Court and Syariah Lower Court to observe the court cases, its process as well as the judgments delivered.

Telenisa Legal Officers also provide support (legal or moral support) to some of our clients where the cases are complex, emotionally draining or dangerous to the clients' safety.

Observation on Judges' Decisions

- ❑ A judge informed a client that she is unable to apply for fasakh if she still lives under the same roof with her husband.

Observation on Court System

- ❑ The Syariah Court was unwilling to recognise existing Protection Order issued by the Magistrate Court. The Protection Order was issued for the safety of the wife and the children. Such protection is thus denied by the actions of the Shariah Courts and could be extremely detrimental to the wife and children.
- ❑ The details of the parties' court case are not updated on the court notice board. Clients had to rely on previous notice or take the extra step by going to the Registrar to enquire.
- ❑ Sometimes the Courts have vacated without giving proper and sufficient notice to clients. Clients are unaware of the conclusion of their cases and next steps forward.

Polygamy

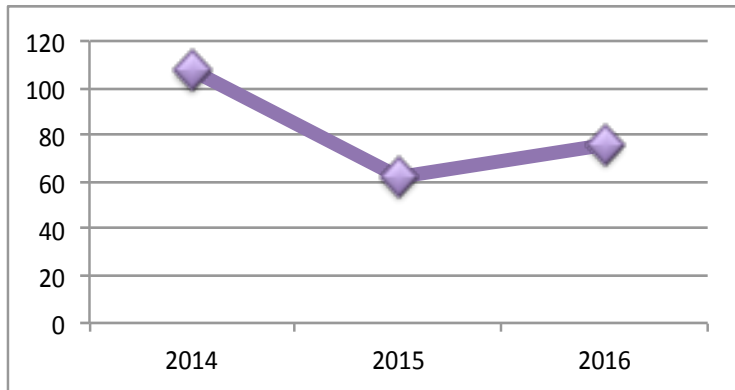


Image 16: Polygamy Cases (2014 – 2016)

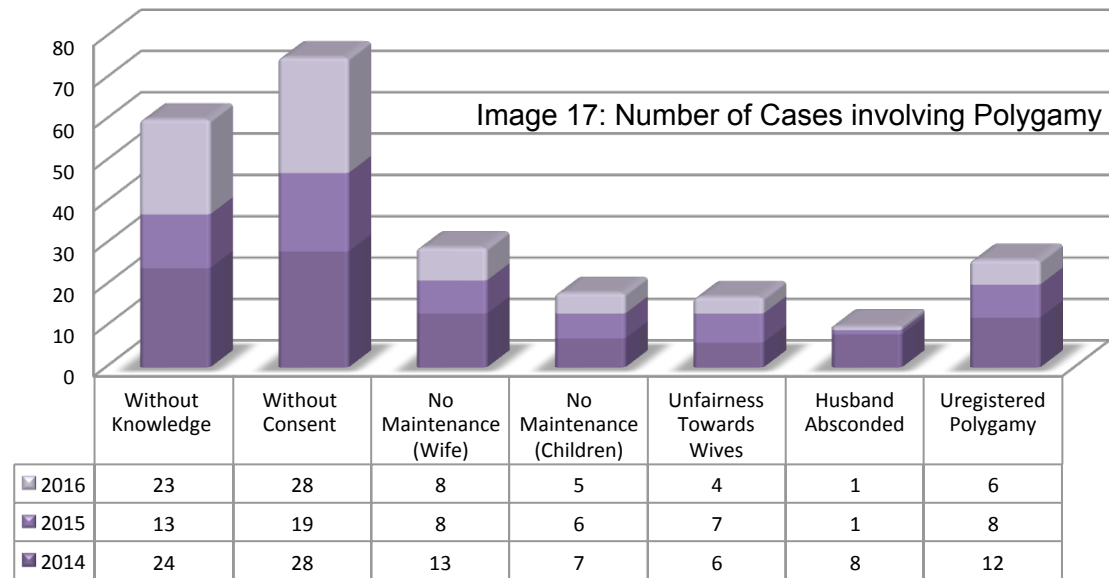


Image 17: Number of Cases involving Polygamy

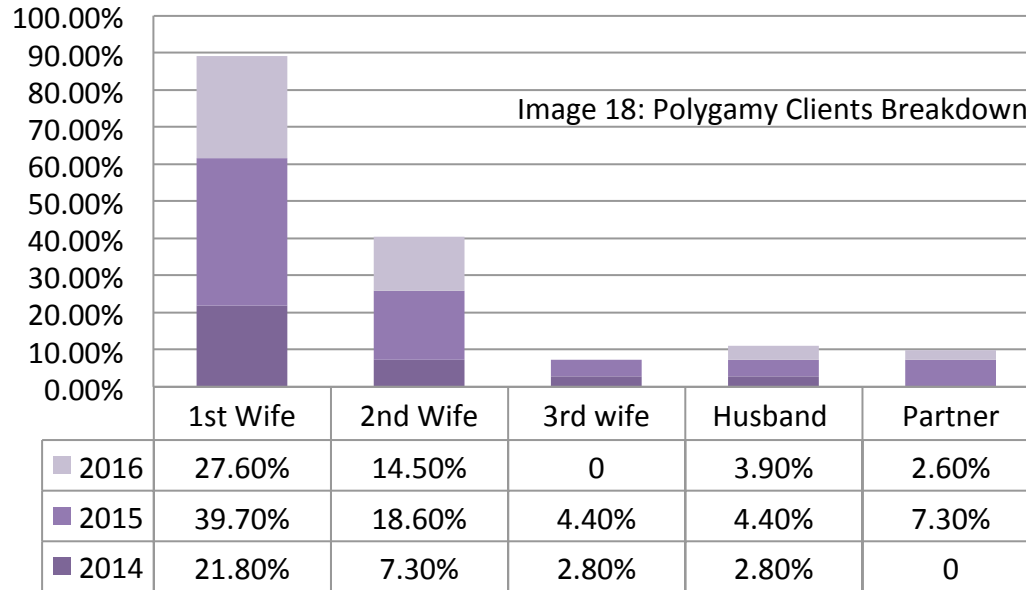
Polygamy cases had risen in 2016 with 76 cases after a fall in 2015 of 68 cases from 110 cases in 2014.

Most polygamy related complaints are due to it happening without the wives' consent. Second most complaints are due to polygamy happening without the wives' knowledge.

Under the Islamic Family Law (Federal Territory) Act 1984, a man has to apply to court before taking a subsequent wife. He also has, among other things, prove to Court that he is able to support all his existing & subsequent wives and dependents. However, men end up marrying subsequent wives at bordering countries and not registering that marriage and therefore, the rights of subsequent wives and children are not looked after.

Based on the SIS national survey of impact of polygamy on Muslim families, 44% of first wives had to take an additional job or work overtime to ensure they are financially stable once their husbands marry additional wives. First wives also complained that they are emotionally effected most of the time due to constantly arguing with their husband when they find out their husbands have taken a new wife.

Polygamy (cont.)



Throughout the years, most of our clients involving polygamy are the first wives. They usually seek for information on divorce procedures, matrimonial property and also child maintenance & custody.

Second wives, on the other hand, usually seek information on marriage registration procedure as they mostly got married at the border. Most of them did not know that they have to register the marriage in Malaysia prior to filing for divorce or to claim for any rights as a wife.

From 2014 – 2016, Telenisa had nine husbands who were involved in polygamy, reached out to us to know about their rights and responsibilities in polygamous relationships.

Telenisa also had partners or girlfriends of men who sought for information regarding polygamy. They are at the stage of planning to marry their boyfriends as second or third wives.

Telenisa – Going Forward



Telenisa launched its Facebook page in January 2017.

This Facebook page shares articles, quotes from the Holy Quran and Hadiths besides visuals of activities such as the mobile legal clinics and also future events hosted by Telenisa.

As of March 2017, the page has garnered 395 likes. The post with the highest reach of 998 people, was an article about a woman's achievement in surviving domestic violence and starting a new life.

Telenisa hopes to establish this Facebook page as a forum and to build a community of women whereby they may share experiences and provide help, support and strength to one another in facing situations of adversity.

Image 19: Excerpt from www.facebook.com/telenisa.sis

Telenisa – Going Forward

The Telenisa Mobile Legal Clinic or also known as *Klinik Bantuan Bergerak Telenisa* is one of Telenisa's main activities for 2017.

This is done in collaboration with GAHWI (Gabungan Hak Wanita Islam). We have had four clinics as of March 2017; one in Malacca and Selangor and two in Kuala Lumpur. We engaged with grassroots women to create awareness about their rights under the Islamic Family Law.

The talks conducted for all the clinics were **“Prosedur Mahkamah Syariah di Malaysia – Apa Yang Wanita Perlu Tahu”** by Puan Sa'adiah Din, a Syarie lawyer and **“Keganasan Rumah Tangga – Bagaimana Wanita Dapat Membantu Wanita”** by Puan Nazlina Ghani, a former counselor with Women's Aid Organisation (WAO).

At the end of every Clinic, we allocated a session specially for those who seek legal advisory services from the pro bono Syarie lawyers we have with us.



Images 20 & 21: Images taken during the Telenisa Mobile Legal Clinic

Notes

Notes



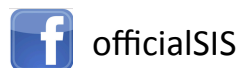
Membina Suara Demi Perubahan

SISTERS IN ISLAM
SIS FORUM (MALAYSIA) (266561W)

CONTACT SISTERS IN ISLAM

SIS Forum (Malaysia)
No 4, Lorong 11/8E, Petaling Jaya
46200 Selangor, Malaysia

Telephone : (603) 7960 3357/ 5121/ 6733
Fax : (603) 7960 8737
Email : sis@sistersinislam.org.my
Website : www.sistersinislam.org.my



CONTACT TELENISA

Telephone : (603) 7960 8802
Opens on : Tuesdays, Wednesdays & Thursdays
Hours : 10:00 AM – 5:00 PM
Email : telenisa@sistersinislam.org.my



sistersinislam.my



telenisa.sis