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## **Reasons Underlying a Wife's Divorce Suit at the Sungguminasa Religious Court, South Sulawesi: An Islamic Law Philosophy Perspective**

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**Abstract:** This study examines the reality of divorce litigation at the Sungguminasa Religious Court in Gowa, the underlying reasons wives initiate divorce, and public perceptions regarding divorce proceedings at the court. It also explores the philosophical rationale of Tasri's approach in relation to the benefits of divorce litigation. Employing an empirical legal method, the study analyzes data through the lens of *mashlahat* theory and Islamic legal philosophy, using a case study approach based on divorce records from the court. Data were collected through in-depth interviews and document analysis, including court decisions. The findings reveal that the primary reasons wives file for divorce are closely linked to their welfare, which can be classified into three levels: *darūriyyāt* (essential), *ḥājiyyāt* (complementary), and *taḥsīniyyāt* (enhancing) welfare. Domestic violence (*KDRT*) represents a *darūriyyāt* welfare concern, as it threatens a wife's life and well-being. Biological needs reflect *ḥājiyyāt* welfare, prompting wives to seek divorce to fulfill essential personal needs. Economic sufficiency is associated with *taḥsīniyyāt* welfare, contributing to the completeness of a wife's social and family life. Finally, the study notes a rising trend in divorce cases filed at the Sungguminasa Religious Court between 2021 and 2023.

**Keywords:** Divorce, Divorce, public welfare, religious court, Islamic law philosophy

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**Abstrak:** Penelitian ini bertujuan untuk mengkaji realitas cerai gugat di PA Sungguminasa Gowa, alasan-alasan rasional istri menggugat cerai suaminya dan persepsi masyarakat terhadap realitas cerai gugat di Pengadilan Agama Sungguminasa Gowa serta kajian falsafah tasri terhadap logika kemaslahatan cerai gugat istri. Metode yang digunakan akan hukum empiris, dianalisis dengan teori mashlahat dan filsafat hukum Islam dengan pendekatan studi kasus dengan menghimpun data-data cerai gugat di Pengadilan Agama. Teknik pengumpulan data yang dilakukan adalah, wawancara mendalam, studi dokumen yaitu putusan pengadilan. Temuan penelitian menyebutkan bahwa kemaslahatan menjadi alasan utama seorang istri menggugat cerai suaminya dan kemaslahatan istri tersebut terklasifikasi ke dalam tiga tingkatan kemaslahatan, yaitu kemaslahatan yang bersifat darūriyyāt, kemaslahatan yang bersifat ḥājiyyāt dan kemaslahatan yang bersifat taḥsīniyyāt. Kekerasan Dalam Rumah Tangga (KDRT) yang dialami istri merupakan perwujudan kemaslahatan darūri bagi istri dalam menggugat cerai suaminya oleh karena KDRT tersebut dapat mengancam jiwa seorang istri. Kebutuhan biologis merupakan perwujudan kemaslahatan ḥājiyyāt bagi istri, sehingga istri menggugat cerai suaminya oleh karena kebutuhan biologis menjadi sesuatu yang dibutuhkan istri. Ketercukupan ekonomi merupakan perwujudan kemaslahatan taḥsīniyyāt bagi istri oleh karena kebutuhan ekonomi menjadi pelengkap dan penyempurna kehidupan sosial seorang istri. Hasil penelitian menyebutkan bahwa kasus cerai gugat di Pengadilan Agama Sungguminasa dari tahun 2021 sampai dengan tahun 2023 mengalami peningkatan.

**Kata Kunci:** Cerai Gugat, perceraian, kemaslahatan, pengadilan agama, filsafat hukum Islam

## Introduction

The concept of Islamic legal protection prioritizes the welfare of individuals, both in their capacity as spouses and as autonomous persons. One of the primary objectives of the Islamic law concerning divorce is to safeguard the rights of wives and children affected by marital dissolution. Divorce in Islamic law is known as *ṭalāq*, which denotes the severing of a bond or the annulment of an agreement. Another term used in Islamic jurisprudence for divorce is *furqah*.<sup>1</sup> Terminologically, divorce refers to the dissolution of a marriage between husband and wife for various reasons. It is an inseparable element of marriage, for divorce

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<sup>1</sup>Fajri M. Kasim, et. al., "The Protection of Women and Children Post-Divorce in Sharia Courts in Aceh: A Sociological Perspective," *Ahkam: Jurnal Ilmu Syariah* 22, no. 2 (2022), p. 411–32. Achmad Musyahid Idrus, "Conception of Legal Protection in Islamic Law," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 8, no. 2 (2019), p. 185–96.

cannot exist without a marital union.<sup>2</sup> From an Islamic perspective, divorce whether through *talāq* or through judicial proceedings is permissible but disliked by Allah SWT., This is reflected in the Prophet Muhammad's PBUH teachings, which emphasize that divorce may be necessary to protect the welfare of the wife; without it, her religious interests, personal well-being, property, and dignity may be jeopardized.

The permissibility of divorce in Islam is primarily rooted in safeguarding the well-being of the wife, which may necessitate the dissolution of the marriage under certain circumstances. If a woman does not pursue divorce when necessary, her religious obligations, personal welfare, financial security, and honor may be at risk. However, divorce is generally discouraged in Islam, as it can adversely affect children and disrupt the relationships between families that have been carefully established. While the Islamic law permits divorce, it does not actively facilitate it, reflecting the legal and social significance of marital bonds. Marriage, conversely, is oriented toward family harmony and personal fulfillment, which remain central aspirations for most individuals. Couples who adequately prepare for marriage tend to develop greater resilience against challenges that may threaten the stability of their household, thereby reducing the likelihood of divorce. Consequently, the establishment of a harmonious family represents a fundamental ideal for every married couple.<sup>3</sup>

One of the factors contributing to divorce is early marriage, which tends to undermine the stability of the household,<sup>4</sup> Complex domestic issues further exacerbate marital strain. Neglect of material and emotional support, infidelity, domestic violence, and childlessness are among the prevalent causes of divorce in society. At times, interference from parents or in-laws can also precipitate marital breakdown. Another contributing factor is resentment from third parties who believe that a spouse has taken their romantic partner, thus preventing them from marrying that individual. The dominance of each of these factors varies depending on the prevailing social trends and cultural patterns of a particular community.<sup>5</sup>

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<sup>2</sup>Atun Wardatun and Bianca J. Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage," *Ulumuna* 24, No. 2 (2020). Khoirul Abror, *Hukum Perkawinan Dan Perceraian* (Yogyakarta: Ladang Kata, 2020), p. 161-162.

<sup>3</sup>Erie Hariyanto, et. al., "Sakinah Family Empowerment by Optimizing the Role of BP4 and Parents Mental Revolution Perspective," *Samarah* 5, no. 2 (2021), p. 619-47.

<sup>4</sup>Muhammad Fauzudin Faiz, et.al., "Underage Widows and Widowers before the Law: Problem, Contestation and Legal Certainty in Marriage Dispensation," *Juris (Jurnal Ilmiah Syariah)* 22, No. 2 (2023).

<sup>5</sup>Ahmad Izzuddin, et.al., "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, no. 1 (2021), p. 80-96. Daria Burova et al., "Faktor-Faktor Penyebab Perceraian Pada Pernikahan Dini Di Pengadilan Agama Kelas I-B Sambas," *RSC Advances* 9, no. 34 (2019), p. 19429-40.

Divorce has numerous negative consequences for the spouses, their children, and their extended families. For one or both former partners, divorce may lead to diminished self-confidence in social interactions. The labels “widow” or “widower” often carry negative social connotations. For children, the psychological and emotional impacts of divorce can be profound, potentially undermining their self-esteem during crucial stages of development. Moreover, divorce frequently results in the deterioration of relations between families that were once harmonious, thereby disrupting kinship bonds. This is significant from a religious standpoint, as Islam prohibits the severance of family ties. Yet, divorce often becomes the very cause of such division.<sup>6</sup>

The findings of this study indicate that the primary rationale behind wives' divorce petitions at the Sungguminasa Religious Court in Gowa Regency is the need to protect their well-being from domestic violence (KDRT) and sexual violence. This ground is categorized as *darūriyyāt*, as it concerns matters that threaten the wife's life and fundamental safety. The second level of justification is *ḥājīyyāt*, which relates to biological and emotional needs, including cases involving the husband's infidelity. The third level consists of *taḥsīniyyāt*, which concern economic factors motivating wives to seek divorce at the Sungguminasa Religious Court.

This research is particularly significant because its findings can contribute to developing solutions for couples seeking to resolve marital conflicts through divorce. A unique trend was observed in Gowa Regency, South Sulawesi, where the number of divorce cases fluctuated between 2020 and 2022. The decrease in divorce cases during this period may reflect greater awareness among husbands of the importance of safeguarding their wives' well-being whether related to religious obligations (*darūriyyāt*), essential needs (*ḥājīyyāt*), or complementary aspects of welfare (*taḥsīniyyāt*). However, the increase in divorce cases in 2022 suggests a renewed neglect of these obligations. Previous studies have emphasized the need to prevent divorce in Gowa Regency by strengthening family harmony.<sup>7</sup> Given the adverse effects of divorce on children, it is crucial for divorced parents to maintain positive relationships with them,<sup>8</sup> Divorce can also

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<sup>6</sup>MY. M. Yusuf, “Dampak Perceraian Orang Tua Terhadap Anak,” *Jurnal Al-Bayan* 20 (2014), p. 33–44. Uswatun Hasanah, “Pengaruh Perceraian Orangtua Bagi Psikologis Anak,” *AGENDA: Jurnal Analisis Gender Dan Agama* 2, no. 1 (2020), p. 18.

<sup>7</sup>Syamsuddin AB and Isma Arianti, “Pembinaan Keluarga Sakinah Terhadap Preventif Perceraian Di Kantor Urusan Agama Kecamatan Somba Opu Kabupaten Gowa,” *Jurnal Berita Sosial* 7, no. 2 (2019), p. 16–36.

<sup>8</sup>Raodatul Jannah and M. Ridwan Said Ahmad, “Dampak Keluarga Bercerai Terhadap Pendidikan Anak Di Kelurahan Bonto-Bontoa,” *Jurnal Sosialisasi Pendidikan Sosiologi-FIS UNM* 3, no. 2 (2016), p. 136–42.

negatively impact children's psychological development and,<sup>9</sup> may even affect issues related to inheritance distribution.<sup>10</sup>

This study employs an empirical legal research method,<sup>11</sup> analyzed through the lens of the theory of *maṣlaḥah* and the philosophy of Islamic law,<sup>12</sup> The case study approach involves collecting data from divorce cases filed in the Religious Courts. Data collection techniques include in-depth interviews and document analysis. Interviews were conducted with informants such as divorce litigants, judges, and religious leaders, while the document analysis focused on court decisions. The theory of *maṣlaḥah* serves as the analytical framework for assessing the welfare considerations underlying divorce petitions in the Religious Courts. In addition, the philosophical framework of Islamic law based on the study of *sharī'ah* philosophy and *tashrī'ah* philosophy is employed. *Sharī'ah* philosophy seeks to uncover the underlying rationale and legal wisdom embedded in the Qur'an and the Prophet's hadith, whereas *tashrī'ah* philosophy encompasses the philosophical values that inform legal reasoning and contribute to the development of legislation or the outcomes of *ijtihād*.<sup>13</sup>

### The Reality of Wife-Litigated Divorce in Gowa Regency

The status of various cases handled by the Sungguminasa Religious Court in Gowa Regency over the past four years, including divorce cases filed by wives, is presented in the following data:

**Table 1: State of Cases Discontinued 2020**

No	Types of Cases	Decided
A	Matter Related to Marriage	
1	Polygamy permission	2
2	Marriage Anulment	1

<sup>9</sup>Syukrawati Syukrawati, et.al., "Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis," *Ahkam* 34, No. 1 (2024). Zara Amalia, "Dampak Perceraian Terhadap Anak," *Journal of Students Research of Family Law* 1, no. 1 (2000), p. 3.

<sup>10</sup>Nurbaya Nurbaya, et.al., "Efektivitas Pembagian Harta Bersama Terhadap Perceraian Di Pengadilan Agama Sungguminasa Kelas Ib," *Indonesian Journal of Legality of Law* 4, no. 1 (2021), p. 88–92.

<sup>11</sup>Muhaimin, *Metode Penelitian Hukum*, Mataram: Mataram University Press, 2020.

<sup>12</sup>Faturrahman Djamil, *Filsafat Hukum Islam*, (Jakarta: Logos, 1997). Abbas Arfan, "Maslahah Dan Batasan-Batasannya Menurut Al-Bûthî (Analisis Kitab Dlawâbith al-Mashlahah fi al-Syari'ah al-Islâmiyyah)," *De Jure: Jurnal Hukum dan Syariah* 5, No. 1 (2013).

<sup>13</sup>Muhammad Helmi, "Konsep Keadilan Dalam Filsafat Hukum Dan Filsafat Hukum Islam," *Jurnal Mazahib* 14, No. 2 (2015), p. 133–44. Moh. Ahsanuddin Jauhari, *Filsafat Hukum Islam*, (Bandung: PT. Liventurindo, 2020).

3	Divorce	241
4	Sued Divorce	892
5	Joint property	7
6	Children caretaker / Hadhonah	4
7	Marriage Permission	1
8	Guardianship	24
9	Isbat Marriage	334
10	Marriage Dispensation	56
11	Adhol Guardianship	2
B	Inheritance matters	14
C	Grant matters	1
D	Waqf matter	-
F	Cases for determining heirs	37
G	Origin of Children	5
H	Sharia economic matters	1
I	Other cases	1
<b>Total</b>		<b>1.614</b>

From the data above, it can be explained that the Islamic law cases that were most frequently submitted and resolved at the Religious Courts in the last four years were Divorce Lawsuits, Divorce, Marriage Confirmation, Marriage Dispensation, and Cases of Determining Heir:

**Table 2: State of Remaining Cases, 2020 and accepted, 2021**

No	Classification	Remaining 2020	Registered 2021	Total remaining
1	Polygamy Permission	1	2	3
2	Marriage Prevention	0	0	0
3	Marriage Rejection by the PPN	0	0	0
4	Marriage Annulment	0	1	1
5	Neglect of Husband/Wife Obligations	0	0	0

6	Divorce (Talaq)	31	253	284
7	Suitable Divorce	34	880	914
8	Community Property	2	10	12
9	Child Control/Hadhanah	0	5	5
10	Child Support by the Mother	0	0	0
11	Rights of the Ex-Wife	0	0	0
12	Child Legitimization	0	0	0
13	Revocation of Parental Authority	0	0	0
14	Revocation of Guardianship	0	0	0
15	Appointment of Another Person as Guardian	0	0	0
16	Compensation for Guardians	0	0	0
17	Rejection of Mixed Marriage	0	0	0
18	Marriage Permit	0	0	0
19	Guardianship	1	23	24
20	Marriage Prevention	0	0	0
21	Child Origin/Adoption	0	7	7
22	Marriage Confirmation	0	283	283
23	Marriage Dispensation	0	75	75
24	Determination of Heirs	1	69	70
25	Marriage Rejection by the PPN	0	0	0
26	Adhal Guardian	0	3	3
27	Sharia Economics	2	3	5
28	Inheritance	1	17	18
29	Wills	0	0	0
30	Gifts	2	0	2
31	Waqf	0	2	2
32	Zakat/Infaq/Sadaqah	0	0	0
33	Derden Verzet	0	0	0
34	Other (Dowry Disputes)	0	1	1
	<b>Total</b>	<b>75</b>	<b>1634</b>	<b>1709</b>

**Table 3: Condition of Cases Decided in 2022**

No	Type of Case	Decided
A.	Cases related to marriage	
1.	Polygamy Permit	2

2.	Annulment of marriage	1
3.	Divorce Divorce	262
4.	Divorce	881
5.	Joint Property	12
6.	Mastery of Children / Hadhanah	6
7.	Marriage Permit	-
8.	Guardianship	19
9.	Isbat Marriage	292
10	Marriage Dispensation	51
11.	Guardian Adhal	4
B.	Inheritance matters	11
C.	Grant Matters	-
D.	Waqf Matters	-
F.	Case for Determining Heirs	45
G.	Origin of Ank	2
H.	Sharia Economic Matters	-
I.	Other cases	6
<b>Total</b>		<b>1.594</b>

According to the Sungguminasa Religious Court's Annual Report, the number of divorce cases initiated by wives reached 892 in 2020, decreased to 796 in 2021, and then increased again to 881 cases in 2022. From January to April 2023, the number of divorce verdicts recorded was 306 (Indonesian Supreme Court Directory).

**Table 4: Number of Divorce Cases Filed at the Sungguminasa Religious Court**

<b>Year</b>	<b>Number of Sued Divorce</b>
2021	796
2022	881
2023	916
<b>Total</b>	<b>2.593</b>

Source: Annual Report of the Sungguminasa Religious Court, 2021-2023.

The dynamics of divorce cases filed at the Sungguminasa Religious Court reveal a range of underlying reasons and legal justifications expressed by wives seeking marital dissolution. These reasons can be understood through interviews conducted with several divorce applicants. One informant, who experienced domestic violence,<sup>14</sup> reported that her primary motivation for seeking divorce was the repeated acts of violence she endured in the household. Another informant stated that her divorce petition stemmed from unmet biological and emotional needs, which ultimately led her husband to commit infidelity. She later discovered that he had married another woman while she was pregnant.<sup>15</sup> A third informant explained that her divorce was driven by economic hardship, noting that her husband's irregular income failed to meet the household's basic financial needs.<sup>16</sup>

The reasons provided by these informants align with official data published on the Central Directory of the Supreme Court of the Republic of Indonesia. These data confirm that the most common factors prompting wives to file for divorce in Gowa Regency include domestic violence, unmet biological needs, economic difficulties, and other related issues. These patterns are also reflected in the case records of the Sungguminasa Religious Court in Gowa Regency.

**Table 5: Court Decisions related to Grounds for Divorce**

No	Case number	Party Identification	Reasons for divorces
1.	277/Pdt.G/2023/PA.Sgm	Ria (37 years old), Pallangga District	Domestic Violence (Blow to the Head)
2.	307/Pdt.G/2023/PA.Sgm	Herlinda (28 years old), Somba Opu District	Domestic Violence (Seven-Month Pregnant Woman Punched and Bruised)
3.	42/Pdt.G/2023/PA.Sgm	Nur Alisa (25 years old), Pallangga District	Domestic Violence (Husband Strangles Wife's Neck According to Witnesses)
4.	265/Pdt.G/2023/PA.Sgm	Reski Astuti (27 years old), Bontonompo District	Biological (No Children)

<sup>14</sup>Interview with Erni, Divorcee, Pacinnongan, Gowa, July 10, 2024.

<sup>15</sup>Interview with Ratna Dewi, Divorcee, Somba Opu, Gowa, July 15, 2024.

<sup>16</sup>Interview with Hasryati, Divorcee, Bajeng, Gowa, July 20, 2024.

5.	269/Pdt.G/2023/PA.Sgm	Suriani (28 years old), Tinggimoncong District	Biological (Spiritual Support)
6.	296/Pdt.G/2023/PA.Sgm	Suci Afriani Sulhabar (25 years old), Barombong District	Biological (No children)
7.	280/Pdt.G/2023/PA.Sgm	Dharmawati (33 years old), Somba Opu District	Economic (Material Support)
8.	179/Pdt.G/2023/PA.Sgm	Kasmira (24 years old), Bontomarannu District	Economic (Joint debts borne by the wife)
9.	291/Pdt.G/2023/PA.Sgm	Ika Vusva Dewi (38 years old), Pallangga District	Economic (Material Support)
10.	264/Pdt.G/2023/PA.Sgm	Sitti Maryam Saleh (48 years old), Bajeng District	Husband's Affair
11.	297/Pdt.G/2023/PA.Sgm	Nur Eka Wati (32 years old), Somba Opu District	Husband's Affair
12.	289/Pdt.G/2023/PA.Sgm	Ajeng Candra Kirana (49 years old), Somba Opu District	Husband's Affair
13.	293/Pdt.G/2023/PA.Sgm	Riskawati (25 years old), South Bontonompo District	Defendant's Parental Interference in the Household

Source: Supreme Court of the Republic of Indonesia, 2024.

In relation to the divorce petitions filed by wives, several informants at the Sungguminasa Religious Court in Gowa Regency explained that multiple factors contribute to these filings. These include the husband's lack of responsibility toward his wife and children, habitual alcohol consumption, infidelity, and instances in which husbands abandon their wives and children without prior notice.<sup>17</sup> Another significant factor is the failure to provide proper maintenance

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<sup>17</sup>Interview with Martina Budi Mulya, Judge of the Sungguminasa Religious Court, Gowa, August 5, 2024.

(*nafkah*), both material and spiritual. Most commonly, wives report that their material needs are not adequately met. In addition to maintenance-related issues, the presence of a third party whether originating from the husband's parents, siblings, adopted children, or another woman with whom the husband is romantically involved often triggers frequent disputes within the household. These conflicts may escalate into domestic violence, such as beating, slapping, kicking, or even threatening the wife with a sharp weapon.<sup>18</sup> According to the Secretary of the Sungguminasa Religious Court, the divorce petitions filed by wives are most frequently driven by the husband's failure to fulfill economic responsibilities or provide adequate material support. Another prominent factor is the breach of trust experienced by wives due to the husband's involvement with a third party.<sup>19</sup>

### **Public Perception of Wives' Divorce Cases in Gowa Regency**

Religious leaders in Gowa Regency also provided their perspectives on the high number of divorce cases filed at the Sungguminasa Religious Court. According to one informant, several factors contribute to wives filing for divorce, including domestic violence (KDRT), unmet biological needs that lead to infidelity, financial insecurity, early marriage, low levels of religious understanding, and a moral and ethical crisis among married couples. Addressing these primary causes of divorce requires strengthening religious literacy within marriage, particularly in matters related to faith, worship, and morality.<sup>20</sup> This view corroborates earlier assessments suggesting that the high number of divorce cases at the Sungguminasa Court is linked to frequent domestic violence, wives' rejection of polygamy, income disparities between husbands and wives, and the instability of young married couples.<sup>21</sup> Another religious leader offered a different perspective, asserting that the increasing number of divorce cases reflects wives' growing awareness of their rights, which must be protected and fulfilled. The prevalence of divorce initiated by wives also indicates that divorce is no longer perceived as a threatening or stigmatized option for women. Nevertheless, this informant agreed that the main causes of divorce remain consistent with earlier findings: recurrent domestic violence, infidelity driven by unmet biological needs, and economic pressures. To mitigate the rising number of divorce cases, he emphasized the importance of couples seeking guidance from the Religious

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<sup>18</sup>Interview with Radiaty Kadir, Judge of the Sungguminasa Religious Court, Gowa, August 5, 2024.

<sup>19</sup>Interview with Yusran Baginda, Secretary of the Sungguminasa Religious Court, Gowa, August 10, 2024.

<sup>20</sup>Interview with Danial, Educator, Kale, Gowa, September 4, 2024.

<sup>21</sup>Interview with Firdaus Daeng Sila, Community Leader, Paccinongan, Gowa, September 8, 2024.

Affairs Office (KUA) to gain a clearer understanding of the negative consequences of divorce.<sup>22</sup>

Based on data provided by divorce petitioners, information from judges, and the perspectives of religious leaders in Gowa Regency, the researcher finds that divorce initiated by the wife has significant consequences for both the husband and the children. The impact on children is generally profound, as they are often the primary victims of parental separation. Divorce can affect a child's physical, mental, and psychological development, particularly because disputes over child custody frequently arise, which can have serious long-term consequences if the case proceeds to enforcement. The impact on the husband, in contrast, largely depends on the reason for the divorce. If the divorce is prompted by domestic violence, the effect on the husband may be minimal. However, if the divorce results from the wife seeking to fulfill her biological needs outside the marriage, engaging in infidelity, or other similar reasons, the husband may experience a deep sense of humiliation and betrayal. Similarly, when divorce occurs due to economic difficulties—such as the husband's perceived inability to meet his wife's material or emotional needs—the husband may feel a profound sense of dishonor and failure.

Furthermore, a divorce petition filed by the wife also entails the husband's obligation to fulfill his wife's post-divorce rights, as stipulated in Marriage Law No. 1 of 1974 and the Compilation of Islamic Law, even when the wife is the party initiating the divorce. The husband likewise remains responsible for providing financial support for the children until they reach independence or maturity, in accordance with Law No. 23 of 2022. If the husband fails to fulfill these obligations, the court may withhold the issuance of the divorce certificate, as mandated by Supreme Court Circular Letter No. 1 of 2019.

From the perspective of Islamic legal philosophy, these statutory provisions indicate that a divorce initiated by the wife may place the husband at a disadvantage, as he is legally required to provide for his ex-wife's rights and for their children. Although the wife seeks the dissolution of the marriage, the law imposes financial responsibilities on the husband, which can be construed as a form of legal "penalty."<sup>23</sup> According to the researcher, this aligns with the Prophet's hadith indicating that while divorce is permissible, it is nonetheless disliked by God due to the potential injustices it produces. In this context, the legal disadvantage imposed on husbands in wife-initiated divorces can be

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<sup>22</sup>Interview with Alim Bahri, Religious Figure, Somba Opu Gowa, September 15, 2024.

<sup>23</sup>Muhammad Aulia Rahman, et.al., "Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi," *El-Mashlahat* 13, No. 1 (2023). Nadya Sri Aisyah Amannie and Alfredha Shinta Putri, "The Malala Fund's Strategy to Fight for Women's Right to Get Education in Pakistan," *Malikussaleh Social and Politic Review* 5, No. 2 (2024).

understood as a preventive mechanism, designed to discourage divorce and protect children who are most vulnerable to its negative effects.

The high number of divorce petitions at the Sungguminasa Religious Court is not solely attributable to family problems but also to the institutional limitations of the Religious Court. Judges are obliged to receive, examine, and adjudicate cases that meet the established legal requirements, including divorce petitions filed by wives; thus, the court cannot directly prevent these petitions. However, the researcher argues that several strategies may be implemented to reduce the number of divorce cases filed at the Sungguminasa Religious Court. These include collaboration with relevant stakeholders particularly religious instructors from the Ministry of Religious Affairs to provide education on healthy marital relationships, as well as the proper implementation of the rights and obligations of both husbands and wives.

### **The Logic of the Benefit of Wife-Sued Divorce**

One of the primary aims of Islamic law is to ensure the welfare of husbands and wives within the household, in accordance with the principles of *maqāṣid al-sharī'ah*: the preservation of religion, life, intellect, lineage, and property. Through the realization of these five essential forms of welfare, the welfare of the hereafter is also indirectly achieved.<sup>24</sup> For this reason, married couples continuously strive to attain harmony and happiness in their household, as an embodiment of *maqāṣid al-sharī'ah* in protecting the wife's life, fulfilling her biological needs, and ensuring her economic security. When these three pillars are neglected by a husband, a wife may, on *darūriyyah* grounds, file for divorce in order to protect herself from threats such as domestic violence. Similarly, on *hājiyyah* grounds, she may seek divorce to fulfill her biological and emotional needs; and on *taḥsīniyyah* grounds, she may file for divorce to secure her economic well-being.

Emergency law (*al-hālah al-darūriyyah*) occupies a crucial position within Islamic jurisprudence due to its broad-ranging implications. It addresses the real needs of society and provides legal relief to those facing difficulties. Although emergency situations allow for temporary adjustments, they do not change the substantive law itself. This is because the permissibility granted under emergency conditions is limited by time, scope, and necessity. Once the danger subsides, these concessions cease to apply, thereby preserving the stability of the law while still accommodating exceptional circumstances. This balance between

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<sup>24</sup>Auffah Yumni, "Kemaslahatan Dalam Konsep Maqashid Al-Syar'iah," *Nizhamiyah* VI, no. 2 (2016), p. 47–57. Mukran Usman, et.al., "Syariat Islam Dan Kemaslahatan Manusia Di Era New Normal Pada Kegiatan Keagamaan Dan Pendidikan," *Fenomena* 12, no. 1 (2020), p. 89–106. Tutik Hamidah Irzak Yuliardy Nugroho, "Konsep Masalahah Perspektif Izzudin Ibn Abd. Salam (Telaah Dalam Kitab Qawa'id Al-Ahkam Fi Masalih Al-Anam) Irzak," *Ulūmuna: Jurnal Studi Keislaman* 7, no. 2 (2021), p. 261–77.

legal stability and controlled flexibility reflects one of the highest qualities of an ideal legal system an attribute that Islamic law is uniquely equipped to embody.<sup>25</sup> Sobhi Mahmassani emphasizes that while the *sharī'ah* is universal and general in nature, its application may at times cause hardship; for this reason, mechanisms of legal leniency are provided to prevent harm and difficulty.<sup>26</sup> Al-Shāṭibī similarly explains that neglecting matters of *darūriyyāt* can lead to the destruction of human well-being in both this world and the hereafter.<sup>27</sup>

The category of *hājiiyyāt* exists to remove hardships or to facilitate the preservation of the five fundamental elements. Neglecting this category does not destroy these essentials but instead causes hardship for the *mukallaf* (legally responsible person) in attempting to realize them.<sup>28</sup> *Hājiiyyāt* therefore represent supplementary needs that, while not essential, enable individuals to avoid undue difficulty in their lives; this category is closely related to the concept of *rukhsah* (legal concession) in *fiqh*.<sup>29</sup> Meanwhile, the category of *taḥsīniyyāt* (embellishments or complementary interests) aims to perfect the preservation of the five fundamental elements by promoting ethical and moral excellence. Ignoring *taḥsīniyyāt* does not threaten the essentials themselves but results in an incomplete realization of the purposes of the law. Thus, *taḥsīniyyāt* guide individuals toward a higher level of refinement in their conduct and religious observance.<sup>30</sup>

### **Wife's Divorce from the Perspective of Mashlahat and Islamic Law Philosophy**

In cases of contested divorce filed by a wife against her husband, the petition does not arise spontaneously but is based on careful consideration. Several factors commonly influence a wife's decision to pursue divorce, including domestic violence (KDRT), unmet biological needs, and economic hardship. These reasons represent the wife's efforts to safeguard her well-being, which corresponds to the *darūriyyāt*, *hājiiyyāt*, and *taḥsīniyyāt* levels of welfare in

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<sup>25</sup>Muhammad Muslehuddin, *Filsafat Hukum Islam Dan Pemikiran Orientalis, Studi Perbandingan Sistem Hukum Islam.*, Cet. I (Yogyakarta: Tiara Wacana Yogya, 1991), p. 145.

<sup>26</sup>Subhi Mahmassani, *Filsafat Hukum Dalam Islam*, (Bandung: PT. al-Ma'arif, 1977), p. 217.

<sup>27</sup>Abi Ishaq al-Syatibi Ibrahim ibn Musa, *Al-Muwafaqaat Fi Ushl Al-Syariah*, ed. II (Beirut Lubnan: Dar al-Kutub al-Ilmiyyah, n.d.), p. 8.

<sup>28</sup>Asafri Jaya Bakri, *Konsep Maqashid Al-Syariah Menurut Al-Syatibi*, I (Jakarta: PT. Raja Grafindo Persada, 1996), p. 72.

<sup>29</sup>Akmal Bashori, "Filsafat Hukum Islam, Paradigma Filosofis Mengais Kebenangan Hukum Tuhan," 1st ed. (Jakarta: Prenada Group, 2020), p. 220.

<sup>30</sup>Safri Jaya Bakri, *Konsep Maqashid Al-Syariah*, p. 72. Ahmad Suganda, "Urgensi Dan Tingkatan Maqashid Syari'ah Dalam Kemaslahatan Masyarakat," *Jurnal At-Tadbir: Media Hukum Dan Pendidikan* 30, no. 1 (2020), p. 1–16.

Islamic legal theory.<sup>31</sup> Such considerations are rational within the framework of Islamic legal philosophy: protecting oneself from domestic violence is an effort to preserve life (*hifz al-nafs*), fulfilling biological needs relates to the preservation of lineage (*hifz al-nasl*), and ensuring economic stability is connected to the protection of property and familial dignity (*hifz al-māl* and *hifz al-'ird*). These three dimensions can therefore be categorized as distinct yet interrelated forms of the wife's welfare that justify her petition for divorce.

In the Islamic law, domestic violence against a wife is strictly prohibited because it endangers human life. Domestic violence also has severe psychological consequences for both the wife and the children. For these reasons, domestic violence is classified under *darūriyyāt*, matters of urgent and fundamental necessity justifying a wife's decision to seek divorce. If domestic violence is allowed to continue, the wife's life may be seriously threatened or even lost. Within the framework of *al-kulliyāt al-khams*, the preservation of life occupies the second highest position, as life is a vital human interest that must be protected. Safeguarding a single life is regarded as equivalent to safeguarding all of humanity, while endangering a life is analogous to endangering humanity as a whole.

Although Islamic law provides legal legitimacy for a wife to seek divorce, it does not permit divorce to be pursued carelessly or without justification. A wife's grounds for divorce must align with the principles of public welfare and legitimate need. If the petition is motivated solely by desire or personal whims, the wife is considered blameworthy and, as stated in the prophetic tradition:

أُيْمَا امْرَأَةٍ سَأَلَتْ زَوْجَهَا طَلَاقًا فِي غَيْرِ مَا بَأْسٍ؛ فَحَرَامٌ عَلَيْهَا رَائِحَةُ الْجَنَّةِ.

Meaning:

such a person “will not smell the fragrance of Paradise” and may even be likened to a hypocrite. (Hadith reference omitted here, as the original text does not provide the full narration.)

الْمُحْتَلِعَاتُ وَالْمُنْتَزِعَاتُ هُنَّ الْمُنَافِقَاتُ

Meaning:

The women who seek khulu' and separate themselves from their husbands (without a valid reason), they are the hypocrites" (Narrated by An-Nasa'i no. 3461)

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<sup>31</sup>Muammar M. Bakry, “Asas Prioritas Dalam Al-Maqashid Al-Syar’iah,” *Al-Azhar Islamic Law Review* 1, no. 1 (2019), p. 1–8. Iffatin Nur, et.al., “Maqāshid Al-Sharī‘at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law,” *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020), p. 331–60.

Based on the two *hadits* mentioned above, a legal conclusion can be drawn that a wife must exercise great caution when filing for divorce, as doing so without legitimate grounds may distance her from the paradise promised to righteous women. Unless a situation arises that threatens her religion, life, intellect, property, lineage, or honor, it is impermissible for a wife to seek separation from her husband particularly when reconciliation remains possible. A wife cannot pronounce or initiate reconciliation independently; rather, she must request her former husband to reconcile with her if restoration of the marriage is sought.

From the perspective of public interest (*maṣlahah*) and the philosophy of Islamic law, however, divorce becomes preferable when a wife experiences a household marked by disharmony, instability, or domestic violence. In such circumstances, the wife's petition for divorce—adjudicated through the Religious Court reflects the absence of harmony and peace in the marital relationship. Although divorce is a permissible act, it remains disliked by Allah because it signifies the breakdown of a union that should ideally be preserved.

## Conclusion

The divorce process initiated by the wife (*khulu'*) represents a mechanism for protecting women's rights and interests under Islamic law. From the perspective of public interest (*maṣlahah*), divorce can serve as a necessary and final measure to prevent injustice, disharmony, or prolonged conflict within the household, thereby upholding the objectives of Islamic law (*maqāṣid al-sharī'ah*). In this context, a wife-initiated divorce is preferable to one imposed by the Religious Court, as it reflects a situation in which harmony and peace have irreversibly broken down. Women who experience persistent quarrels, conflicts, or domestic violence face threats not only to their own well-being but also to that of their children. From a legal and philosophical standpoint, the court plays a pivotal role in ensuring justice throughout the divorce process by carefully considering the reasons presented by the wife. Court decisions are guided not solely by procedural legality but also by principles of mutual benefit (*maṣlahah*), ensuring that the divorce serves as the most equitable and protective resolution for all parties involved.

## References

### Journals and Books

- Abror, Khoirul. *Hukum Perkawinan Dan Perceraian*. Yogyakarta: Ladang Kata, 2020.
- Akmal Bashori. *Filsafat Hukum Islam, Paradigma Filosofis Mengais Kebeningan Hukum Tuhan*. Jakarta: Prenada Group, 2020.
- Al-Masalikii, Abi Ishaq al-Syatibi Ibrahim ibn Musa, *Al-Muwafaqaat Fi Ushl Al-Syariah*. Edited by II, Dar al-Kutub al-Ilmiyyah, Beirut Lubnan: Dar al-

- Kutub al-Ilmiyyah, n.d.),  
Al-Qazawaini, Muhammad bin Yazid Abu Abdillah. *Sunan Ibnu Majah*. Edited by Juz 1, Dar al-Fikr.
- Amalia, Zara. "Dampak Perceraian Terhadap Anak." *Journal of Students Research of Family Law* 1, no. 1, (2000).
- Amannie, Nadya Sri Aisyah and Alfredha Shinta Putri, "The Malala Fund's Strategy to Fight For Women's Right to Get Education in Pakistan," *Malikussaleh Social and Politic Review* 5, No. 2 (2024). DOI: <https://doi.org/10.29103/mspr.v5i2.18984>
- Arfan, Abbas, "Masalah Dan Batasan-Batasannya Menurut Al-Bûthî (Analisis Kitab Dlawâbith al-Mashlahah fi al-Syarî'ah al-Islâmiyyah)," *De Jure: Jurnal Hukum dan Syariah* 5, No. 1 (2013).
- Bakri, Asafri Jaya. *Konsep Maqashid Al-Syariah Menurut Al-Syatibi*. Jakarta: Raja Grafindo Persada, 1996.
- Bakry, Muammar M. "Asas Prioritas Dalam Al-Maqashid Al-Syar'iah." *Al-Azhar Islamic Law Review* 1, no. 1, (2019). Doi:10.37146/ailrev.v1i1.4.
- Burova, Daria, et al. "Faktor-Faktor Penyebab Perceraian Pada Pernikahan Dini Di Pengadilan Agama Kelas I-B Sambas." *RSC Advances*, vol. 9, no. 34, (2019).
- Djamil, Faturrahman. *Filsafat Hukum Islam*, Jakarta: Logos, 1997.
- Jauhari, Moh. Ahsanuddin, *Filsafat Hukum Islam*, Bandung: PT. Liventurindo, 2020.
- Faiz, Muhammad Fauzinudin, et.al., "Underage Widows and Widowers before the Law: Problem, Contestation and Legal Certainty in Marriage Dispensation," *Juris (Jurnal Ilmiah Syariah)* 22, No. 2 (2023). DOI: <http://dx.doi.org/10.31958/juris.v22i2.9097>.
- Hariyanto, Erie, et al. "Sakinah Family Empowerment by Optimizing the Role of BP4 and Parents Mental Revolution Perspective." *Samarah* 5, No. 2, (2021). Doi:10.22373/sjhc.v5i2.10965.
- Hasanah, Uswatun. "Pengaruh Perceraian Orangtua Bagi Psikologis Anak." *Agenda: Jurnal Analisis Gender Dan Agama* 2, No. 1, (2020). Doi:10.31958/agenda.v2i1.1983.
- Helmi, Muhammad. "Konsep Keadilan Dalam Filsafat Hukum Dan Filsafat Hukum Islam." *Jurnal Mazahib* 14, No. No. 2 (2015).
- Idrus, Achmad Musyahid. "Conception of Legal Protection in Islamic Law." *Al Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan* 8, no. 2 (2019). Doi:10.24252/ad.v8i2.11141.
- Irzak Yuliardy Nugroho and Tutik Hamidah. "Konsep Masalah Perspektif Izzudin Ibn Abd. Salam (Telaah Dalam Kitab Qawa'id Al-Ahkam Fi Masalih Al-Anam)," *Ulumuna: Jurnal Studi Keislaman* 7, No. 2 (2021).
- Izzuddin, Ahmad, et al. "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, No. 1 (2021). Doi:10.18860/j-fsh.v13i1.12191.
- Jannah, Raodatul, and M. Ridwan Said Ahmad. “Dampak Keluarga Bercerai Terhadap Pendidikan Anak Di Kelurahan Bonto-Bontoa.” *Jurnal Sosialisasi Pendidikan Sosiologi-FIS UNM* 3, no. 2, (2016).
- Jibu, Supriyanto Agus, and Muhamad Taufik Kustiawan. “Pergeseran Nilai Adat Dan Budaya Dalam Perkawinan Masyarakat Gorontalo Di Masa Pandemi Covid-19.” *Ahkam: Jurnal Hukum Islam* 9, no. 1, (2021). Doi:10.21274/ahkam.2021.9.1.129-154.
- Kasim, Fajri M., et al. “The Protection of Women and Children Post-Divorce in Sharia Courts in Aceh: A Sociological Perspective.” *Ahkam: Jurnal Ilmu Syariah* 22, No. 2, (2022). Doi:10.15408/ajis.v22i2.28747.
- M. Yusuf, MY. “Dampak Perceraian Orang Tua Terhadap Anak.” *Jurnal Al-Bayan* 20, (2014).
- Mahmasani, Subhi, *Filsafat Hukum Dalam Islam*. Bandung: PT. al-Ma’arif, 1977.
- Muhaimin, *Metode Penelitian Hukum*, Mataram: Mataram University Press, 2020.
- Muslehuddin, Muhammad. *Filsafat Hukum Islam Dan Pemikiran Orientalis, Studi Perbandingan Sistem Hukum Islam*, Yogyakarta: Tiara Wacana, 1991.
- Nur, Iffatin, et. al. “Maqāṣid Al-Sharī‘at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law.” *Ahkam: Jurnal Ilmu Syariah* 20, No. 2, (2020). Doi:10.15408/ajis.v20i2.18333.
- Nurbaya, Nurbaya, et al. “Efektivitas Pembagian Harta Bersama Terhadap Perceraian Di Pengadilan Agama Sungguminasa Kelas Ib.” *Indonesian Journal of Legality of Law* 4, no. 1, (2021). Doi:10.35965/ijlf.v4i1.1212.
- Rahman, Muhammad Aulia, et.al., “Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Masalah Mursalah Ramadhan Al-Buthi,” *El-Mashlahat* 13, No. 1 (2023). DOI: <https://doi.org/10.23971/el-mashlahah.v13i1.5623>.
- Suganda, Ahmad. “Urgensi Dan Tingkatan Maqashid Syari’ah Dalam Kemaslahatan Masyarakat.” *Jurnal At-Tadbir: Media Hukum Dan Pendidikan*, vol. 30, no. 1, (2020). Doi:10.52030/attadbir.v30i01.28.
- Syamsuddin. AB, Hasma Arianti. “Pembinaan Keluarga Sakinah Terhadap Preventif Perceraian Di Kantor Urusan Agama Kecamatan Somba Opu Kabupaten Gowa.” *Berita Sosial* 9, (2019).
- Syukrawati Syukrawati, et.al., “Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis,” *Ahkam* 34, No. 1 (2024). <https://doi.org/10.21580/ahkam.2024.34.1.20624>.

Usman, Mukran, et al. "Syariat Islam Dan Kemaslahatan Manusia Di Era New Normal Pada Kegiatan Keagamaan Dan Pendidikan." *Fenomena* 12, no. 1, (2020). Doi:10.21093/fj.v12i1.2456.

Wardatun, Atun and Bianca J. Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage," *Ulumuna* 24, No. 2 (2020). DOI: <https://doi.org/10.20414/ujis.v24i2.416>.

Yumni, Auffah. "Kemaslahatan Dalam Konsep Maqashid Al-Syar'iah." *Nizhamiyah* 6, no. 2, (2016). DOI: <http://dx.doi.org/10.30821/niz.v6i2.70>.

## **Interviews**

Interview with Alim Bahri, Religious Leader, Somba Opu, Gowa, September 15, 2024.

Interview with Danial, Educator, Kale, Gowa, September 4, 2024.

Interview with Erni, Divorcee, Pacinnongan, Gowa, July 10, 2024.

Interview with Firdaus Dg Sila, Community Leader, Pacinnongan, Gowa, September 8, 2024.

Interview with Hasryati, Divorcee, Bajeng, Gowa, July 20, 2024.

Interview with Martina Budi Mulya, Religious Court Judge, Sungguminasa, Gowa, August 5, 2024.

Interview with Radiaty Kadir, Religious Court Judge, Sungguminasa, Gowa, August 5, 2024.

Interview with Ratna Dewi, Divorcee, Somba Opu, Gowa, August 15, 2024. July 2024.

Interview with Yusran Baginda, Secretary of the Sungguminasa Gowa Religious Court, August 10, 2024.