

# Divorce Due to Domestic Violence in Religious Court of Kendari in the Perspective of Maqashid al-Syariah: Legal Policy Implications in Protecting Women and Children

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## Abstract

This research examined the phenomenon of divorce due to domestic violence (DV) handled at the Religious Court of Kendari Class 1A, focusing on the analysis of causal factors, the basis for legal considerations by judges, and the relevance of the maqashid al-syariah approach in resolving the cases. This study employed a qualitative approach with a case study method. The primary data were obtained from observation, interviews with judges and related parties, and analysis of case documents. Meanwhile, the secondary data were collected through a literature review of books, journals, and laws and regulations. The purpose of this research was to provide a comprehensive understanding of the legal dynamics of divorce due to domestic violence (DV) and to explore the role of Shari'a values in decision-making. The results indicated that in the past four years, 2,466 divorce cases have been decided by the Religious Court of Kendari, 190 of which involved DV. Factors contributing to domestic violence (DV) included economic pressure, infidelity, deviant behavior, and poor communication within the household. In deciding cases, judges referred to Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law, Supreme Court instruments, and norms of fiqh and customary law. The maqashid al-shariah approach prioritized the principles of *hifz al-nafs* (protection of the soul) and *hifz al-'ird* (protection of honor), thus viewing divorce as an effort to save individuals from physical and psychological violence that could damage human dignity. This research demonstrates the importance of educating the public about the dangers of domestic violence, firm law enforcement against perpetrators, and preventive and rehabilitative programs for victims. The synergy between positive law and the values of maqashid al-shariah provides a strategic approach to realizing justice and well-being in resolving family disputes.

**Keywords:** Divorce; Domestic Violence; Religious Courts; Maqashid al-Shariah.

## Abstrak

Penelitian ini membahas fenomena perceraian akibat kekerasan dalam rumah tangga (KDRT) yang ditangani di Pengadilan Agama Kendari Kelas 1A, dengan fokus pada analisis faktor penyebab, dasar pertimbangan hukum oleh hakim, serta relevansi pendekatan Maqashid al-Syariah dalam penyelesaiannya. Penelitian ini menggunakan pendekatan kualitatif dengan

metode studi kasus. Data primer diperoleh melalui observasi, wawancara dengan hakim dan pihak terkait, serta analisis dokumen perkara, sedangkan data sekunder dikumpulkan melalui kajian literatur pada buku, jurnal, dan peraturan perundang-undangan. Tujuan penelitian ini adalah untuk memberikan pemahaman komprehensif mengenai dinamika hukum perceraian akibat KDRT dan mengeksplorasi peran nilai-nilai syariat dalam pengambilan putusan. Hasil penelitian menunjukkan bahwa dalam empat tahun terakhir terdapat 2.466 perkara cerai gugat yang diputus oleh Pengadilan Agama Kendari, dan di antaranya sebanyak 190 kasus terkait KDRT. Faktor penyebab KDRT mencakup tekanan ekonomi, perselingkuhan, perilaku menyimpang, dan lemahnya komunikasi dalam rumah tangga. Hakim dalam memutus perkara merujuk pada Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, Kompilasi Hukum Islam (KHI), instrumen Mahkamah Agung, serta norma fiqh dan hukum adat. Pendekatan Maqashid al-Syariah menempatkan prinsip *hifz al-nafs* (perlindungan jiwa) dan *hifz al-'ird* (perlindungan kehormatan) sebagai prioritas utama, sehingga perceraian dipandang sebagai upaya penyelamatan individu dari kekerasan fisik dan psikis yang dapat merusak harkat dan martabat manusia. Penelitian ini menunjukkan pentingnya edukasi masyarakat tentang bahaya KDRT, penegakan hukum yang tegas terhadap pelaku, serta program preventif dan rehabilitatif bagi korban. Sinergi antara hukum positif dan nilai-nilai Maqashid al-Syariah menjadi pendekatan yang strategis dalam mewujudkan keadilan dan kemaslahatan dalam penyelesaian perkara keluarga.

**Kata Kunci:** Perceraian; Kekerasan dalam Rumah Tangga; Pengadilan Agama; Maqashid al-Syariah.

## Introduction

Allah SWT reveals Islamic law to protect humans from harm (*mudharat*) and bring them benefit, guiding them to truth, justice and wisdom, and illuminating the path they must follow. This is based on five main principles known as *maqashid al-shariah*, namely maintaining religion, life, intellect, posterity, and property, based on the universal and dynamic teachings of the al-Quran. Simply put, Islamic law is present in human life for the benefit of all, both spiritually and physically, individuals and groups.<sup>1</sup> In the context of social life, every human action has binding rules and ethics; these must comply with Sharia, based on the al-Quran and Sunnah.<sup>2</sup> There is a complex method for handling and resolving several problems that occur in the Islamic civil sphere, namely the religious court.<sup>3</sup>

Religious courts are judicial institutions with special jurisdiction to handle cases related to Islamic civil law.<sup>4</sup> The background of religious courts can be understood through the history and development of judicial systems in various countries with a Muslim majority.

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<sup>1</sup> Dahwadin Dahwadin et al., "Hakikat Perceraian Berdasarkan Ketentuan Hukum Islam Di Indonesia," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 11, no. 1 (2020): 87–104, <https://doi.org/10.21043/yudisia.v11i1.3622>.

<sup>2</sup> Fania Putri Zaidathul, "Kekerasan Dalam Rumah Tangga (KDRT) Perspektif Maqashid Syariah (Studi Kasus Di Pengadilan Negeri Sungguminasa)" (Pascasarjana UIN Alauddin Makassar, 2023), <https://repositori.uin-alauddin.ac.id/25111/>.

<sup>3</sup> Hamidi Hamidi and Moh Abdul Latif, "Penyelesaian Sengketa Pertanahan Di Wilayah Madura Secara Mediasi Oleh Badan Pertanahan Nasional," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 12, no. 1 (2021): 51–72, <https://doi.org/10.21043/yudisia.v12i1.10546>.

<sup>4</sup> Zulkarnain, "Mengetahui Peradilan Agama," Pengadilan Agama Ampara, 2023, <https://www.pa-ampara.go.id/arsip-artikel/1352-mengenal-peradilan-agama>.

The scope of religious courts varies from country to country, depending on the applicable legal system and constitution. However, in general, religious courts have the authority to handle cases concerning Islamic civil law, Marriage and divorce, inheritance, wills, and other religious matters.

Of the various jurisdictions of religious courts, divorce is a frequently handled matter and is the focus of this discussion regarding the soaring divorce rate.<sup>5</sup> Divorce is the formal process that ends a marriage between two individuals. It involves the legal termination of the marital bond that existed between the couple. Divorce can be achieved through different legal processes depending on the jurisdiction in which the couple resides. This process typically involves the division of property, child custody arrangements (if any), and the resolution of other legal issues related to the separation.

Divorce can be caused by a variety of factors, including incompatibility between partners, unresolved conflict, differing values and expectations, infidelity, financial problems, or communication issues. While divorce can be a final solution, it often involves complex emotions and situations for both parties and the families involved. After a divorce, divorcing couples typically enter a new phase in their lives, adjusting to changes in marital status, daily life, and potential psychological and social impacts.

Of the several causes of divorce mentioned above, conflict resulting in DV is one of the major influences leading to divorce. DV is an abbreviation for domestic violence. It refers to a pattern of behavior involving violence or threats of violence that occurs in an intimate relationship, such as between a married couple, ex-partners, or family members living together. Domestic violence can include various forms of violence, including: first, physical violence, which includes hitting, kicking, physical injury, or the use of objects to harm another person. Second, emotional or psychological violence, which includes threats, verbal abuse, humiliation, control, isolation, or manipulation that damages the victim's emotional well-being. Third, sexual violence involves coercion or pressure to engage in sexual activity that the victim does not want or does not consent to. Fourth, economic violence occurs when someone controls the victim's access to financial resources, such as by blocking access to money or other financial resources.

The aforementioned research has the same object as this research, namely both studying divorce, but differs in the location of the research and the things that are the focus

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<sup>5</sup> Muara Teweh, "Apa Sih Peradilan Agama?," badilag.mahkamahagung.go.id, 2021, <https://badilag.mahkamahagung.go.id/seputar-peradilan-agama/berita-daerah/apa-sih-peradilan-agama>.

of the research. The research took place at the Religious Court of Merauke, while this study focuses on the Religious Court of Kendari. The focus of the research in the journal was to see the increasing divorce rate in general, while this research focuses on the divorce settlement process. In the two theses above, there are differences and similarities with this research. The above research both focus on divorce, but the first thesis focused on divorce in the Religious Court of Kuningan while the second thesis focuses on divorce in the Religious Court of Pekanbaru City, and both want to see the causal factors and ways to minimize the divorce rate. The present research focuses on the settlement of divorce due to domestic violence in the Religious Court of Kendari City.

This research aims to determine the factors and impacts of domestic violence that results in divorce, to determine the legal basis used by judges in resolving divorce cases due to domestic violence in the Religious Court of Kendari Class 1A, and to determine the role of *maqashid al-shariah* in resolving divorce cases due to domestic violence in the Religious Court of Kendari Class 1A.

## Research Methods

This research was a qualitative descriptive study aimed at gaining an in-depth understanding of a legal issue by emphasizing analytical aspects and meaningful interpretative processes. The approach used was a normative-sharia approach, which examined the issue based on Islamic legal principles and applicable legal norms.<sup>6</sup> This research was conducted at the Religious Court of Kendari Class 1A, which served as the primary location for field data collection. The data sources used in this research consisted of primary and secondary data.

The primary data were obtained from observation, in-depth interviews, and documentation, while secondary data were obtained from literature studies covering laws and regulations, *fiqh* books, scientific journals, and other relevant official documents. Instruments used in the data collection process included interview guides, writing materials, and recording devices to capture information obtained from competent informants or sources, including judges, court clerks, and litigants. The data analysis techniques were carried out through the stages of data reduction, data presentation, conclusion drawing, and

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<sup>6</sup> Agus Susilo Saefullah, "Ragam Penelitian Kualitatif Berbasis Kepustakaan Pada Studi Agama Dan Keberagamaan Dalam Islam," *Al-Tarbiyah : Jurnal Ilmu Pendidikan Islam* 2, no. 4 (2024): 195–211, <https://doi.org/10.59059/al-tarbiyah.v2i4.1428>.

verification. In addition, linguistic testing and data validation were also carried out to ensure the accuracy and consistency of the findings so that they could be compiled systematically and scientifically in accordance with the research objectives.

## Results and Discussion

### 1. Factors Underlying the Occurrence of Domestic Violence (DV) Leading to Divorce

Based on research data from the Religious Court of Kendari Class 1A, a high number of divorce cases, particularly those filed by petition, has been recorded year after year. The data showed 553 cases in 2020, 646 cases in 2021, 613 cases in 2022, and 654 cases in 2023. The total number of divorce cases over the past four years is 2,466 cases, the highest number compared to other cases filed at the Religious Court of Kendari Class 1A.

Among the high number of cases, there are several factors causing divorce, according to Article 116 of the Compilation of Islamic Laws. One of the factors contained in letter D of Article 116 of the Compilation of Islamic Laws is "One of the parties commits cruelty or serious abuse that endangers the other party." Other factors causing divorce include domestic violence (DV). Based on an interview with the Public Relations of the Religious Court of Kendari Class 1A, Mr. Drs. Abdul Paqih, several factors causing this act of domestic violence to occur are economic, infidelity, and culture/habits factors.

Economic factors are a major trigger for domestic conflict, particularly when the husband lacks a permanent job or is unemployed. This situation often leads to disharmony because the wife feels the family's basic needs are not being adequately met. Furthermore, infidelity is also a significant factor in marital discord. Both a husband's involvement with another woman and a wife's involvement with another man trigger suspicion and distrust, leading to conflict and domestic violence (DV).<sup>7</sup> Furthermore, habits or cultures carried over from before Marriage often carry over into domestic life and become a source of conflict. Negative behaviors such as frequent nights out without clear reasons, alcohol consumption, online gambling, and drug abuse are destructive habits that undermine marital stability.<sup>8</sup>

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<sup>7</sup> Ajeng Putri Wahyuni et al., "Tinjauan Yuridis Gugat Cerai Istri Akibat Perubahan Status Sosial Tenaga Kerja Wanita (Studi Kasus Putusan Nomor: 0217/Pdt. G/2021/Pa. Im)," *Jurnal Ilmiah Publika* 11, no. 1 (2023): 135–42, <https://doi.org/10.33603/publika.v11i1.8211>.

<sup>8</sup> Tata Seli Ariesa, Shofiatul Jannah, and Moh. Muslim, "Pernikahan Dini Dan Kegagalan Rumah Tangga (Analisis Kasus Perceraian Di Pengadilan Agama Kabupaten Malang)," *Hikmatina: Jurnal Ilmiah Hukum Keluarga Islam* 6, no. 2 (2024): 245–54, <https://jim.unisma.ac.id/index.php/jh/article/view/25878>.

When these habits cannot be changed after Marriage, they often trigger tension between partners, which in many cases leads to physical and psychological violence.<sup>9</sup>

## **2. Legal Considerations Used by Judges in Resolving Divorce Cases due to Domestic Violence (DV) Number 262 at the Religious Court of Kendari Class 1A**

Divorce cases due to domestic violence are regulated in Law Number 1 of 1974 concerning Marriage.<sup>10</sup> This law serves as the primary basis for handling divorce cases in Religious Courts. The articles in this law regulate the requirements and procedures for divorce, as well as the rights and obligations of husband and wife.

This includes the provisions of Law Number 1 of 1974, which regulates divorce procedures. Divorce must comply with the provisions stipulated in this law, including administrative requirements and judicial procedures that must be followed in the Religious Court.<sup>11</sup> This law also regulates legal protection for children, protecting the rights of children born from Marriage, including the right to maintenance and other rights related to their status as legitimate children.

Law Number 1 of 1974 serves as the primary basis for resolving Marriage and divorce cases in Indonesia, including in handling divorce cases due to domestic violence (DV) in the Religious Court of Kendari Class 1A. Judges will refer to Law Number 1 of 1974 to decide on domestic violence (DV) cases by taking into account the principles of justice and the best interests of all parties involved. There are several legal bases used by judges in issuing decisions in handling divorce cases due to domestic violence (DV) in the Religious Court of Kendari Class 1A, as explained by one of the judges of the Religious Court of Kendari Class 1A, Mrs. Najmiah Sunusi:

*"In handling divorce cases due to domestic violence, we, as judges, usually receive and analyze the case files. Several things serve as the main basis for making a decision in this case. Among them are Law Number 1 of 1974 concerning Marriage, which regulates divorce issues and rights. There is Law Number 23 of 2004 concerning the Elimination of Domestic Violence, which contains legal protection for victims of domestic violence. Then, there is the Compilation of Islamic Law, which contains Islamic legal regulations*

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<sup>9</sup> Gilang Surya Amanda and Muktarruddin Muktarruddin, "Dampak Perceraian Orang Tua Terhadap Perilaku Beragama Remaja Di Desa Klambir V Kebun Kabupaten Deli Serdang," *Kamaya: Jurnal Ilmu Agama* 7, no. 2 (2024): 169–79, <https://doi.org/10.37329/kamaya.v7i2.3191>.

<sup>10</sup> Hamsah Hudafi, "Pembentukan Keluarga Sakinah Mawaddah Warahmah Menurut Undang-Undang Nomor 1 Tahun 1974 Dan Kompilasi Hukum Islam," *Al-Hurriyah: Jurnal Hukum Islam* 5, no. 2 (2020): 172–81, <https://doi.org/10.30983/alhurriyah.v5i2.3647>.

<sup>11</sup> Ali Mutakin et al., "Kekerasan Dalam Rumah Tangga (KDRT) Dalam Pernikahan Dini Perspektif Teori Maqashid Syari'ah," *Tasyri': Journal of Islamic Law* 2, no. 1 (2023): 175–205, <https://doi.org/10.53038/tsyr.v2i1.74>.



related to marriage and divorce, including the rights of husbands and wives. There are also several Constitutional Court decisions, such as Constitutional Court Decision Number 46 of 2010 concerning legal protection for victims of domestic violence or Constitutional Court Decision Number 138 of 2018 concerning domestic violence as a human rights violation that requires state protection. Then, we, the judges in this case, also use customary law in making the decision."

### 3. The Role of *Maqashid al-Syariah* in Resolving Divorce Cases Due to Domestic Violence Number 262 at the Religious Court of Kendari Class 1A

The Islamic legal perspective on divorce due to domestic violence at the Religious Court of Kendari is through mediation within the legal structure. Mediation is one of several ways to resolve problems or conflicts through non-litigation channels, that is, without following the general court process.<sup>12</sup> Marriage is a means to achieve these essential benefits.<sup>13</sup> However, in reality, many couples file for divorce due to domestic violence at the Religious Court of Kendari Class 1A.

When a divorce occurs, of course, many consequences arise from the case, such as disputes between the two parties, disputes over joint property, determining child custody, and so on.<sup>14</sup> *Maslahah dharuriyah* is a guideline for *ijtihad*, which is the basis for producing Sharia that can adapt to the conditions of modern society.<sup>15</sup> The appropriate Islamic legal method used in determining divorce caused by Domestic Violence (DV) in the Religious Court of Kendari Class 1A is with *maslahah dharuriyah*, namely:

- a. Conducting research on a new incident, both from the known *illat* side and having similarities with other *illat*, whether it is in accordance with one of the necessities or not.
- b. Using the *qath'i* text and its clear *dalalah*.<sup>16</sup> The divorce case caused by domestic violence occurred in the Religious Court of Kendari Class 1A can be understood that

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<sup>12</sup> Reski Lestari, Wahyu Subakti, and Syed Agung Afandi, "Strategi Advokasi Melalui Proses Nonlitigasi Dalam Rangka Pembaharuan Proses Peradilan Di Indonesia," *Jdp (Jurnal Dinamika Pemerintahan)* 6, no. 1 (2023): 31–42, <https://doi.org/10.36341/jdp.v6i1.3084>.

<sup>13</sup> Abdul Aziz, "Batas Usia Perkawinan Dalam Undang-Undang Nomor 16 Tahun 2019: Analisis Psikologi Dan Masalah Mursalah," *Tasyri': Journal of Islamic Law* 1, no. 1 (2022): 25–44, <https://doi.org/10.53038/tsyr.v1i1.3>.

<sup>14</sup> Mutholib Mutholib, Liky Faizal, and H. Muhammad Zaki, "Analisis Hukum Islam Terhadap Pelaksanaan Mediasi Perkara Perceraian Di Pengadilan Agama Gedong Tataan Dan Pengadilan Agama Pringsewu Lampung," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (2022): 83–92, <https://doi.org/10.37680/almanhaj.v4i1.1544>.

<sup>15</sup> Marisa Rizki, Moh Bahrudin, and Syamsul Hilal, "Istinbath Masalah Mursalah Method in Economics," *Al-Fadilah: Islamic Economics Journal* 2, no. 2 (2024): 120–36, <https://doi.org/10.61166/fadilah.v2i2.46>.

<sup>16</sup> Vera Ayu Oktoviasari et al., "Qath'i Dan Zhanni Terhadap Pemahaman Al Qur'an Dan Al Sunnah," *Innovative: Journal Of Social Science Research* 4, no. 1 (2024): 9920–32, <https://doi.org/10.31004/innovative.v4i1.8540>.

the marital relationship between husband and wife can no longer be maintained because of the husband's moral and ethical crisis, the husband's infidelity, the husband's drinking habit, and the husband's failure to provide for his wife triggers physical violence, psychological violence, and domestic neglect.

In this case, there is no longer compatibility between husband and wife, and it can no longer be maintained because there are no longer any benefits to be gained from Marriage, instead it brings harm. Therefore, it shows that there is no benefit in a husband-and-wife relationship, instead, it brings harm to one of the parties who feels harm.

To consider the aspects of the benefits and harms of divorce, especially in terms of benefits, divorce not only brings harm but also benefits felt in divorce. This occurs if the life of a husband and wife can no longer be maintained due to divisions and conflicts and will cause serious harm to the development of children, and there is no longer any good to be united, it would be better to end the marital relationship between husband and wife. Judges at the Religious Court of Kendari Class 1A, in deciding divorce cases caused by Domestic Violence (DV), use considerations of Islamic legal arguments in their decisions. In addition to using Islamic law, Judges at the Religious Court of Kendari Class 1A also use Positive Law considerations in deciding divorce cases caused by Domestic Violence (DV).

Divorce, from the perspective of *maqashid al-shariah*, or the objectives of Sharia, can be understood through several key principles that underlie Islamic law governing Marriage and divorce.<sup>17</sup> In the context of divorce, *maqashid al-shariah* underscores several relevant principles:

- a. Maintaining family stability and harmony. Divorce should be avoided except in situations that truly require it to protect the greater interests of an individual or family.
- b. Maintaining individual dignity and honor. Divorce should not be used as a tool to oppress or degrade someone.
- c. Protecting children's rights. Divorce must consider the interests of children to receive adequate protection, care, and education.
- d. Respecting Islamic moral and ethical values. Divorce must be conducted with due regard for the moral and ethical values taught by Islam.

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<sup>17</sup> Vierda Anggraini Wandoyo, "Tradisi Ruwat Sukerta Dalam Perkawinan Adat Jawa Sebagai Upaya Membangun Resiliensi Keluarga Islam Di Desa Sampangagung Kecamatan Kutorejo Kabupaten Mojokerto," *Al-Iqtisodiyah: Jurnal Ilmu Hukum Dan Hukum Keluarga Islam* 1, no. 1 (2024): 21–33, <https://doi.org/10.71242/k6ag3w08>.



Therefore, divorce in *maqashid al-shariah* is not only seen from a formal legal perspective but also from the perspective of broader goals or intentions in Islam to maintain justice, prosperity, and harmony in society and the family.

In the *maqashid al-shariah* itself, a marriage has the goal of achieving happiness and peace. Both of these will be achieved if the relationship between husband and wife is in an equal and fair partnership. Therefore, if there is disharmony in the household or there is unfair treatment from one of the parties, dialogical efforts need to be prioritized.<sup>18</sup> Violence on any basis is not justified and is not in line with the goal of Sharia, namely *hifz an-nafs*. As is known, maintaining the soul at the *dharuriyyah* level is fulfilling all basic needs that can maintain the continuity of life. In this case, Ibn Taymiyyah said that it is haram to eliminate another person's soul without a justified reason in Sharia. In addition, Islamic Sharia also prohibits its followers from committing abuse, although not to the point of murder, which then leads to divorce.

In the context of this research regarding the perspective of *maqashid al-shariah* on divorce caused by domestic violence in the Religious Court of Kendari Class 1A, it shows that the divorce case has indeed occurred in the family due to moral and ethical crises, economic factors, and third parties triggering physical, psychological violence and neglect of the household which is the reason for the divorce of the Petitioner with the Respondent, which causes endless disharmony. Moreover, this matter clearly concerns the Islamic religion. Therefore, the Judge's decision of the Religious Court of Kendari Class 1A in deciding the case is an effort to maintain the Islamic religion. As explained by Jamaluddin 'Athiyyah, who offers the realms of the benefit of *hifz al-din* in four things, namely, individual, family, community, and humanity.<sup>19</sup> The benefit in the form of *hifz al-din* in the individual-private context is to strengthen faith, carry out the ordered worship, and avoid the prohibitions of Sharia. In the family context, this is realized by upholding the pillars of the Islamic religion in the midst of family life.

Therefore, preserving the minds and hearts of the Petitioner and Respondent is an absolute necessity. Within the family, there are also elements related to how to educate children. Within the family concept, the family's well-being is positioned as the primary and

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<sup>18</sup> Askar Sodik et al., "Penerapan Metode Mediasi Dalam Menangani Kasus Perceraian Di Pengadilan Agama Sidoarjo," *ANAYASA : Journal of Legal Studies* 1, no. 1 (2023): 90–103, <https://doi.org/10.61397/ays.v1i1.244>.

<sup>19</sup> Lukman Hakim and Muhamad Risqil Azizi, "Contextualization of Hifz Al-Din in Inter-Religious Interactions According to Islamic Law (Study of Quraish Shihab's Fatwas on Muslim and Non-Muslim Relations)," in *Iches: International Conference on Humanity Education and Sosial*, vol. 2, 2023, 1–17, <https://proceedingsiches.com/index.php/ojs/article/view/78>.

primary school, alongside providing children with formal and non-formal education. This aligns with the goal of well-being, namely *hifz al-'Aql*, which means maintaining the continuity of thinking and using reason optimally.<sup>20</sup>

Education is a primary need and a key requirement for raising intelligent, pious, and righteous children. Therefore, a prosperous family can be realized by making the family a medium of education for each of its members. In this case, fathers and mothers must act as good educators by exemplifying goodness. Children will often witness their parents arguing every day. As a result, the child's psychology will experience changes that tend to be negative because the principle of *hifz Al-Nasl* is essentially striving to create a good family and provide benefits within the family, which will produce quality offspring both in terms of ability and faith. Based on the explanation above, the decision of the Religious Court of Kendari Class 1A is an effort to realize the benefit and avoid harm. As is known, the benefit is the pinnacle of the five substances of *Maqashid al-Shariah*. Therefore, the Judge's decision to grant the Petitioner's request in a divorce case caused by domestic violence at the Religious Court of Kendari Class 1A is an effort to realize the benefit that is far more important than the family itself. The essence of the family is to create a happy and eternal household based on the belief in Almighty God.

## Conclusion

Based on the data shows that over the past four years, the number of divorce cases (divorce by litigation) decided at the Religious Court of Kendari Class 1A reach 2,466 cases. This represents the highest number of cases decided by the Religious Court of Kendari Class 1A compared to other cases within the Religious Court of Kendari Class 1A. Factors influencing domestic violence, leading to divorce, include economic factors, which can significantly strain a household, leading to discord due to conflict, particularly with the current rise in online gambling or digital gambling. Furthermore, infidelity is a common factor, and marital habits persist in post-marital relationships, leading to frequent disputes due to incompatibility. In handling the divorce case due to domestic violence Number 262 at the Religious Court of Kendari Class 1A, the judges used several primary legal bases in rendering their decision. Marriage Law Number 1 of 1974 is the primary basis for the Religious Court of Kendari Class

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<sup>20</sup> Mujibburrahman Salim, "Konsep Keluarga Maşlahah Perspektif Lembaga Kemaslahatan Keluarga Nahdlatul Ulama (LKK NU)," *Al-Mazahib: Jurnal Perbandingan Hukum* 5, no. 1 (2017): 81–94, <https://doi.org/10.14421/al-mazaahib.v5i1.1392>.

1A because it contains discussions or regulations on marriage and divorce issues. There are also several legal bases such as Constitutional Court regulations, Circular Letter of the Supreme Court, Compilation of Islamic Laws, Fiqh, and customary law.

*Maqashid al-shariah* plays a specific role in addressing divorce cases due to domestic violence, as outlined in Article 262, which provides a perspective on this issue. Efforts to realize the welfare of the family are far more important than the family itself. As is well known, the core of the family is to create a happy and eternal household based on the One Almighty God. As a recommendation from this research, the public, especially in Kendari City, is hoped to be more aware of the negative impact of domestic violence on families, particularly on children who may experience trauma and impaired emotional development. By understanding this impact, the public can be more vigilant and proactive in identifying and reporting cases of domestic violence to minimize the increase in divorce rates. Furthermore, the government is also hoped to be more active in providing education to instill public awareness of the dangers of domestic violence, enforce legal policies to prosecute perpetrators of domestic violence, and protect the rights of victims of domestic violence.

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