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The Failure of the Realization of Maqāṣid al-Nikāḥ as a Reason for Divorce in Contemporary Households

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Abstract

Divorce is a family law issue that reflects the non-achievement of marital goals and is influenced by various legal, social, and relational factors. This study aims to analyze maqāṣid al-nikāḥ as a benchmark for household success and evaluate the suitability of the reasons for divorce in Indonesia's positive law with the substantive goal of marriage. This study uses normative legal methods with a statutory and conceptual approach. Data were collected through literature studies on laws and regulations, Compilation of Islamic Law (KHI), and relevant literature, then analyzed descriptive-analytically. The results of the study show that maqāṣid al-nikāḥ can be used as an evaluative framework to assess the success and failure of the household through the achievement of peace (sakinah), affection (mawaddah wa rahmah), fulfillment of the rights and obligations of husband and wife, family protection, and sustainability of benefits. The reasons for divorce in Indonesian positive law have basically accommodated most of these dimensions through concrete juridical indicators, such as constant disputes and quarrels, neglect, and violations of marital obligations. However, maqāṣid al-nikāḥ has not been explicitly formulated as an integrative framework in regulating the grounds for divorce. This study confirms that the integration of the perspective of maqāṣid al-nikāḥ can strengthen the interpretation of divorce law that is oriented towards justice and benefit. Therefore, it is necessary to strengthen substantive considerations based on the purpose of marriage in the examination of divorce cases, without overriding legal certainty, protection of the rights of the parties, and applicable legal provisions.

Keywords: *Maqāṣid al-Nikāḥ; Divorce; Islamic Family Law.*

Abstrak

Perceraian merupakan persoalan hukum keluarga yang mencerminkan tidak tercapainya tujuan perkawinan dan dipengaruhi oleh berbagai faktor hukum, sosial, serta relasional. Penelitian ini bertujuan menganalisis maqāṣid al-nikāḥ sebagai tolok ukur keberhasilan rumah tangga serta mengevaluasi kesesuaian alasan perceraian dalam hukum positif Indonesia dengan tujuan substantif perkawinan. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual. Data dikumpulkan melalui studi kepustakaan terhadap peraturan perundang-undangan, Kompilasi Hukum Islam (KHI), dan literatur yang relevan, kemudian dianalisis secara deskriptif-analitis. Hasil penelitian menunjukkan bahwa maqāṣid al-nikāḥ dapat digunakan sebagai kerangka evaluatif untuk menilai keberhasilan dan kegagalan rumah tangga melalui pencapaian ketenteraman (sakinah), kasih sayang (mawaddah wa rahmah), pemenuhan hak dan kewajiban suami istri, perlindungan keluarga, serta keberlanjutan kemaslahatan. Alasan perceraian dalam hukum positif Indonesia pada dasarnya telah mengakomodasi sebagian besar dimensi tersebut melalui indikator yuridis yang konkret, seperti

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perselisihan dan pertengkaran terus-menerus, penelantaran, serta pelanggaran kewajiban perkawinan. Namun, maqāṣid al-nikāḥ belum dirumuskan secara eksplisit sebagai kerangka integratif dalam pengaturan alasan perceraian. Penelitian ini menegaskan bahwa integrasi perspektif maqāṣid al-nikāḥ dapat memperkuat penafsiran hukum perceraian yang berorientasi pada keadilan dan kemaslahatan. Oleh karena itu, diperlukan penguatan pertimbangan substantif berbasis tujuan perkawinan dalam pemeriksaan perkara perceraian, tanpa mengesampingkan kepastian hukum, perlindungan hak para pihak, dan ketentuan perundang-undangan yang berlaku.
Kata Kunci: Maqāṣid al-Nikāḥ; Perceraian; Hukum Keluarga Islam.

INTRODUCTION

Islam views marriage not only as a legal bond between a man and a woman, but also as an institution that has a specific purpose in human life. Among the purposes of marriage, as explained by Allah Ta'ala in the Qur'an, is to create peace, love, and affection, as He says:

﴿وَمِنْ ءَايٰتِهِۦٓ أَنْ خَلَقَ لَكُم مِّنْ أَنفُسِكُمْ أَزْوَاجًا لِّتَسْكُنُوٓا إِلَيْهَا وَجَعَلَ بَيْنَكُم مَّوَدَّةً وَرَحْمَةً إِنَّ فِى ذٰلِكَ لَـَٔايَٰتٍ لِّقَوْمٍ يَتَفَكَّرُونَ﴾

"And among His signs is that He created for you wives of your own kind, so that you may feel at peace with them, and He made love and affection among you".[1]

In addition, scholars such as Waḥbah Al-Zuḥayli also explain that marriage aims to protect oneself from Allah's prohibitions, protect offspring and create a harmonious domestic life.[2] In Islamic literature, these goals are more famously called maqasid al-nikaḥ.

The concept of maqasid al-nikāḥ states that the success of a marriage is not enough if it is only measured by the implementation of legal harmony and conditions, but also by the achievement of substantive goals in family life. This means that the relationship between husband and wife is ideally not only normatively valid, but also able to bring calmness, affection and the fulfillment of rights and obligations in proportion. Thus, maqāṣid al-nikāḥ can be used as a benchmark to see the quality and sustainability of a marriage.

However, the reality of contemporary households shows that many marriages have not been able to achieve these goals. Various domestic problems, such as prolonged conflicts, gender role conflicts, modern economic pressures, communication degradation, differences in parenting to domestic violence, often lead to divorce. In addition, the development of technology and social media also affects the dynamics of husband and wife relationships today. Not a few domestic conflicts are triggered by unhealthy digital communication, infidelity through social media, and reduced quality of communication between couples due to excessive use of gadgets. This condition shows that contemporary households have different complexity of problems compared to the previous period.

Recently, the phenomenon of divorce has become more and more prevalent. According to the Central Statistics Agency (BPS), the number of divorces in Indonesia in

[1] Al-Qur'an, 30:21.

[2] Wahbah az-Zuhayli, *Al-Fiqh Al-Islāmī Wa Adillatuhu*, *Damascus: Dār Al-Fikr*, vol. 7 (Damascus, 1985), p. 31.

2025 will reach 438,168 cases.[3] Divorce is caused by many aspects, including the factor of continuous disputes and quarrels being the highest reaching 282,326, followed by the factor of economic problems reaching 105,727, then the factor of leaving one party 31,029.[4] The high divorce rate shows that household resilience still faces many obstacles, ranging from social and economic problems, to interpersonal relationships in the family. The data shows that not a few households have failed to maintain the purpose of marriage as idealized in Islam.

Positive law regulates divorce through certain reasons as stated in the regulations such as not being able to live together as a married couple, incessant quarrels and disputes, non-fulfillment of obligations, and the occurrence of domestic violence or domestic violence.[5] These provisions provide normative limits on the conditions that can be the basis for filing a divorce case. However, if analyzed further, the various reasons for divorce do not merely indicate a formal legal case, but also reflect a failure to realize the purpose of marriage itself. Persistent disputes can indicate the unattainment of sakinah, while domestic violence indicates the loss of the value of love (mawaddah) and affection (raḥmah) that should be the basis of the marital relationship.

Although Indonesia's positive law has regulated divorce normatively, discussions of divorce still tend to focus on the formal aspect of the fulfillment of certain legal reasons. Divorce is more often understood as the result of domestic conflicts, violations of obligations, or prolonged quarrels. Meanwhile, studies that see divorce as a form of failure in realizing maqāṣid al-nikāḥ are still relatively limited.

In fact, the purpose of marriage in Islamic sharia is not only related to the validity of the bond between husband and wife, but to realize maqāṣid al-nikāḥ including tranquility, affection, and the continuation of harmonious family life. Therefore, a study that is able to see divorce is not only in the normative-formal perspective, but also in the perspective of the substantive purpose of marriage, especially in the context of contemporary households that have increasingly complex dynamics.

In this study, the phrase "as a reason for divorce" is not intended to place *maqāṣid al-nikāḥ* as the basis for divorce law that stands alone in Indonesian positive law. The reason for divorce formally still refers to the provisions that have been stipulated in laws and regulations. *Maqāṣid al-nikāḥ* in this study is placed as a teleological framework used to understand the purpose of marriage and analyze the substance of failure that lies behind the reasons for divorce that have been regulated in positive law.

Thus, it is necessary to distinguish conceptually between independent legal grounds as a formal legal basis and maqāṣid al-nikāḥ as an interpretive framework that explains the substantive purpose of marriage. The reason for divorce has a normative position because it is expressly determined in laws and regulations and becomes the legal basis for the submission and examination of divorce cases. Meanwhile, maqāṣid al-nikāḥ functions as a conceptual framework to understand the goals to be realized through marriage from the perspective of Islamic law, including the realization of peace (sakinah), affection (mawaddah wa rahmah), the fulfillment of the rights and obligations of husband and wife, the continuity of offspring, and the preservation of family benefits. When these

[3]https://www.bps.go.id/id/statisticstable/3/VkhwVUszTXJPVmQ2ZFRKamNIZG9RMVo2VEdsbVVUMDkjMw==/nikah-dan-cerai-menurut-provinsi.html. Retrieved May 18, 2026.

[4]https://www.bps.go.id/id/statisticstable/3/YVdoU1IwVmlTM2h4YzFoV1psWkViRXhqTlZwRFVUMDkjMw==/jumlah-. Retrieved 21 May 2026.

[5] Law No. 1 of 1974 concerning Marriage, Article 9 paragraph 2; Compilation of Islamic Law, Article 116.

goals can no longer be realized due to ongoing disputes and quarrels, neglect of obligations, domestic violence, infidelity, or other forms of violation, these conditions can be understood as an indication of failure to achieve maqāṣid al-nikāḥ. However, failure to realize maqāṣid al-nikāḥ does not in itself constitute a legal reason for breaking up a marriage. This condition must first be associated with the reason for divorce that is explicitly recognized in Indonesian positive law. Therefore, the use of maqāṣid al-nikāḥ in this study is not intended to create a new basis for divorce outside the applicable legal provisions, but rather to provide a substantive meaning to the available reasons for divorce by taking into account the purpose of marriage, the protection of the rights of the parties, justice, and the benefit of the family.

Based on this construction, this study is directed to examine more deeply the relationship between the substantive purpose of marriage in Islamic law and the regulation of grounds for divorce in positive Indonesian law. This study is important because the assessment of domestic failure cannot be based solely on whether or not the formal elements of a reason for divorce are met, but also needs to consider whether the fundamental purpose of marriage can still be realized in domestic life. In this perspective, maqāṣid al-nikāḥ can be used as an analytical instrument to explain why certain conditions, such as prolonged conflict, violence, neglect, or violation of the rights and obligations of the husband and wife, indicate that the goal of marriage is no longer achieved. On this basis, this research focuses on two main issues, namely how the concept of maqāṣid al-nikāḥ as the substantive purpose of marriage in Islamic law and how failure in realizing maqāṣid al-nikāḥ can be interpreted in relation to the reason for divorce based on Indonesian positive law.

In line with this focus, this study aims to analyze the concept of maqāṣid al-nikāḥ as the substantive goal of marriage in Islamic law and examine the relationship between the failure to realize this goal and the reasons for divorce regulated in positive Indonesian law. This research is not directed to place maqāṣid al-nikāḥ as a new norm that replaces the reasons for divorce that have been established by laws and regulations, but to build an interpretive framework that can explain the substantive dimension of the reasons for divorce. Thus, the analysis of maqāṣid al-nikāḥ is expected to be able to bring together the normative dimension of positive law with the philosophical dimension of Islamic law in understanding the failure of marriage more comprehensively.

This research has academic significance because it can enrich the study of Islamic family law, especially in understanding divorce not only as a matter of fulfilling formal requirements and juridical reasons, but also as a consequence of the non-achievement of the substantive goals of marriage. The approach of maqāṣid al-nikāḥ provides space to assess the relationship between the provisions of divorce law and the values to be protected through the institution of marriage, such as peace, affection, fulfillment of rights and obligations, family protection, and the benefit of the parties. Practically, this study is expected to provide a more comprehensive perspective for the development of Islamic family law and legal reasoning in divorce cases, while still placing positive law as the main normative basis. In the end, this study confirms that maqāṣid al-nikāḥ has relevance not as a stand-alone source of divorce reasons, but as an interpretive framework for understanding whether the reasons for divorce that have been regulated in positive law reflect a substantive failure to achieve the goals of marriage and how the law can remain directed to justice and the benefit of the family.

RESEARCH METHODS

This research uses a normative legal research method that is oriented towards the analysis of legal norms, principles, concepts, and doctrines related to divorce and maqāṣid al-nikāḥ. This research uses a statute approach and a conceptual approach. The statutory approach is used to identify, interpret, and analyze the legal provisions that govern marriage and the grounds for divorce in Indonesia, especially Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law. Meanwhile, a conceptual approach is used to examine the construction of maqāṣid al-nikāḥ as a teleological concept in Islamic law and analyze its relevance in explaining the failure to achieve the goal of marriage as a context for divorce. Both approaches are used integratively to distinguish the position of maqāṣid al-nikāḥ as a philosophical-substantive framework of the reasons for divorce as a formal legal basis in the Indonesian positive legal system.

The source of research data consists of primary legal materials and secondary legal materials. Primary legal materials include laws and regulations relevant to marriage and divorce, especially Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law, as well as other legal provisions that have relevance to the object of research. Secondary legal materials include books, scientific journal articles, research results, dissertations, theses, and other academic works that discuss maqāṣid al-nikāḥ, maqāṣid al-syarī'ah, marriage law, and divorce law. The collection of legal materials is carried out through library research by identifying, searching, inventorying, and classifying legal materials based on their relevance and relevance to the focus of the research. The collected legal materials are then selected to ensure their relevance, authority, and consistency with the problem being studied.

The analysis of legal materials was carried out in a descriptive-analytical manner with the stages of norm identification, conceptual interpretation, classification, and synthesis of the relationship between maqāṣid al-nikāḥ and the reasons for divorce in Indonesian positive law. The analysis began by describing the normative construction of maqāṣid al-nikāḥ as the purpose of marriage in Islamic law, then mapping the reasons for divorce regulated in Indonesian positive law, and then connecting the two constructions to identify the form of failure to achieve the goal of marriage reflected in the reason for divorce. The analysis was carried out critically by placing the maqāṣid al-nikāḥ as an interpretive framework, not as a new legal basis for filing for divorce. With this method, the research is directed to produce legal arguments regarding the extent to which the reasons for divorce in Indonesian positive law represent the failure to achieve the goals of marriage and how the perspective of maqāṣid al-nikāḥ can provide a substantive meaning to the phenomenon of divorce in the context of contemporary family law.

RESULTS AND DISCUSSION

The Concept and Dimension of Maqāṣid al-Nikāḥ in Islamic Law

Etymologically, the term maqāṣid al-nikāḥ is composed of two words, namely maqāṣid and nikāḥ. The word maqāṣid is a plural form of maqṣad which means a goal, purpose, goal, or something to be achieved. Meanwhile, nikāḥ linguistically can refer to a marital relationship and a contract that legalizes the relationship between a man and a woman. Thus, conceptually, maqāṣid al-nikāḥ can be understood as the overall purpose, wisdom, value, and benefit that is to be realized through the legalization of marriage in

Islam.[6] This interpretation shows that marriage is not merely a legal contract that legalizes sexual relations between a man and a woman, but a sharia institution that contains theological, moral, social, psychological, reproductive, and juridical dimensions. In the development of contemporary Islamic family law, maqāṣid al-nikāḥ is even more understood as an instrument for assessing whether a marriage rule, practice, or policy really produces maṣlaḥah and prevents mafsadah for spouses, children, families, and society. Recent studies on maqāṣid al-nikāḥ show that the purpose of marriage does not stop at the continuation of offspring, but also relates to the protection of religion, progeny, honor, family welfare, and the fair fulfillment of the rights of the spouse.[7]

Within the framework of maqāṣid al-sharī'ah, marriage can be placed as one of the important institutions that function to maintain the sustainability of human life and social order. The classical concept *of al-ḍarūriyyāt al-khams* which includes *ḥifẓ al-dīn*, *ḥifẓ al-nafs*, *ḥifẓ al-'aql*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl* provides the foundation that Islamic law is essentially directed at realizing the benefit of man. In the context of marriage, *ḥifẓ al-nasl* acquires a very important position because marriage provides a valid framework for reproduction, the formation of nasab, childcare, and generational continuity. However, the protection of offspring cannot be interpreted narrowly as simply increasing the number of children. *Ḥifẓ al-nasl* also includes protection of the clarity of the nasab, the fulfillment of children's rights, proper parenting, education, health, and the sustainability of generational quality. Contemporary research even shows the conceptual development of *ḥifẓ al-nasl* from mere preservation of offspring to the protection and development of the quality of life of children and families.[8]

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[6] Dahlia Haliah Ma'u et al., "Interfaith Marriage Involving Muslims in Indonesia," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 10, no. 2 (December 30, 2025): 155–69, https://doi.org/10.22515/alahkam.v10i2.11069; Muhammad Syukri, Ade Sofyan Mulazid, and Ahmad Rodoni, "Green Sukuk as a Manifestation of Islamic Ecotheology: The Integration of Maqasid Al-Shariah and Environmental Sustainability in Indonesia," *International Journal of Islamic Economics and Finance (IJIEF)* 9, no. 1 (April 18, 2026): 1–20, https://doi.org/10.18196/ijief.v9i1.29161; Iswadi Muhammad Yazid, Masduki Masduki, and Mawardi Mawardi, "Marriage Financing in Islamic Law: A Maqasid Al-Shariah Analysis of Wahbah Al-Zuhaili's Thought," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 2 (December 23, 2025): 568–88, https://doi.org/10.32505/qadha.v12i2.12627.

[7] Azam Sukri and Aris Fauzan, "Maqasid Al-Shariah and Child Protection: A Holistic Approach to Preventing Early Marriage," *KARSA Journal of Social and Islamic Culture* 33, no. 2 (December 6, 2025), https://doi.org/10.19105/karsa.v33i2.21696; Nurul Shafiqah Zainal Abidin and Mustafa Mat Jubri Shamsuddin, "The Misconception of Early Marriage: Reconciling Perspectives Through Maqasid Al-Shariah," *Jurnal Pengajian Islam* 18, no. 1 (June 5, 2025): 123–43, https://doi.org/10.53840/jpi.v18i1.343; Thoat Stiawan et al., "Judicial Guardianship in Marriage: A Comparative Study of Indonesia's Shafi'i and Iran's Ja'fari Schools from a Maqasid Al-Shariah Perspective," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 2 (September 3, 2025): 396–413, https://doi.org/10.32505/qadha.v12i2.12304.

[8] Shofiyullah Muzammil, Waryani Fajar Riyanto, and Nur Edi Prabha Susila Yahya, "Indonesian Maqasid Al-Syari'ah: A Study of Yudian Wahyudi's Thought," *DINIKA : Academic Journal of Islamic Studies* 8, no. 2 (December 21, 2023): 178–202, https://doi.org/10.22515/dinika.v8i2.6686; Tarmizi Tahir and Syeikh Hasan Abdel Hamid, "Maqasid Al-Syari'ah Transformation in Law Implementation for Humanity," *International Journal Ihya' 'Ulum Al-Din* 26, no. 1 (June 20, 2024): 119–31, https://doi.org/10.21580/ihya.26.1.20248; Nabilah Nurjihan, Abdul Husen Zaelani, and Lili Puspita Sari, "Internalisasi Prinsip Maqashid Syariah Dalam Kebijakan Belanja Negara: Tinjauan APBN 2023," *Islamic Economics and Business Review* 3, no. 2 (August 31, 2024), https://doi.org/10.59580/iesbir.v3i2.6082; Khoirul Umam Addzaky, Taufiqurohman, and Muhammad Asy'ari, "Deconstruction of Hifdzun Nasl in Maqasid Syari'ah: Analysis of the Childfree Phenomenon from the Perspective of Islamic Family Law," *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 14, no. 1 (June 2, 2025): 111–33, https://doi.org/10.14421/inright.v14i1.4164.

The first dimension of maqāṣid al-nikāḥ is to maintain the continuity of offspring (*ḥifẓ al-nasl*). The Qur'an provides a framework that human beings are created in pairs and from this relationship human life develops sustainably. Therefore, marriage is an institution that provides religious and legal legitimacy to the formation of families and the birth of offspring. This orientation is strengthened by the hadith of the Prophet Muhammad (saw) which advocates marriage with couples who have affection and the potential to have offspring. In this context, reproduction is not solely a biological issue, but part of the responsibility of civilization because children born from marriage have the right to identity, nasab, maintenance, education, and protection. Thus, *ḥifẓ al-nasl* must be placed in a more comprehensive perspective, namely maintaining the existence and quality of generations. Contemporary literature on maqāṣid al-nikāḥ also places the continuity of offspring as one of the important goals of marriage, although its implementation must be read contextually with the benefit of the family in mind.[9]

The second dimension is to maintain religion (*ḥifẓ al-dīn*). Marriage in Islam has the character of worship because its implementation is related to obedience to the provisions of Allah and His Messenger. Article 2 of the Compilation of Islamic Law emphasizes that marriage according to Islamic law is a very strong contract (*mitsāqan ghalīẓan*) to obey Allah's commands and carry it out is worship.[10] Therefore, the relationship between husband and wife cannot be separated from the spiritual dimension. Marriage becomes a space to build a religious life together, remind each other in kindness, form the character of children, and make the family the first environment for the internalization of Islamic values. In this perspective, the success of marriage is measured not only by the material stability of the household, but also by the ability of the family to carry out its spiritual and moral functions. The study of the practice of marriage from the perspective of maqāṣid shows that the institution of marriage can be a means of

[9] Moch. Nurcholis and Muhammad Rizki Maulana, "CHILDFREE: BETWEEN HUMAN POPULATION ISSUES AND THE PURPOSE OF MARRIAGE IN ISLAM (MAQASID AL-NIKAH)," *Minhaj: Journal of Shariah* Studies 4, no. 2 (July 7, 2023): 249–59, https://doi.org/10.52431/minhaj.v4i2.1989; Fakhrurrazi M. Yunus et al., "CHILDFREE AND ITS RELEVANCE TO 'AZL FROM THE PERSPECTIVE OF TAQIYUDDIN AN-NABHANI," *PETITA: JOURNAL OF LEGAL AND SHARIA* STUDIES 8, no. 2 (October 15, 2023), https://doi.org/10.22373/petita.v8i2.235; Muhammad Zainuddin Sunarto and Lutfatul Imamah, "CHILDFREE PHENOMENON IN MARRIAGE," *Darussalam Journal: Journal of Islamic Legal Education, Communication and Thought* 14, no. 2 (April 13, 2023): 181–202, https://doi.org/10.30739/darussalam.v14i2.2142; Ahmadrezy Meidina and Mega Puspita, "Childfree Practices in Indonesia," *Hayula: Indonesian Journal of Multidisciplinary Islamic Studies* 7, no. 1 (January 29, 2023): 17–32, https://doi.org/10.21009/hayula.007.01.02; Moch. Nurcholis and Muhammad Rizki Maulana, "Childfree: Between Human Population Issues and the Purposes of Marriage in Islam," *Minhaj: Journal of Sharia* Studies 4, no. 2 (2023).

[10] Mohammad Fa iq A mir Rizki, Dominikus Rato, and Galuh Puspaningrum, "The Certainty of Interfaith Marriage in Indonesia After the Constitutional Court Decision Number 24/PUU-XX/2022," *Sakina: Journal of Family Studies* 7, no. 3 (October 27, 2023): 420–35, https://doi.org/10.18860/jfs.v7i3.4145; Putri Handayani, Ernu Widodo, and Subekti, "THE LEGAL CONSEQUENCES OF INTERFAITH MARRIAGE ON THE INHERITANCE OF WIVES AND CHILDREN AFTER THE DECISION OF THE CONSTITUTIONAL COURT Number 24/PUU-XX/2022," *COURT REVIEW: Journal of Legal Research (e-ISSN: 2776-1916)* 5, no. 04 (January 18, 2025): 1–8, https://doi.org/10.69957/cr.v5i04.1968; Sudjah Mauliana and Agustin Hanapi, "ANALYSIS OF THE CONSTITUTIONAL COURT DECISION NUMBER 24/PUU-XX/2022 CONCERNING INTERFAITH MARRIAGE," *Usroh: Journal of Islamic Family Law* 7, no. 2 (December 31, 2023): 92–104, https://doi.org/10.19109/ujhki.v7i2.20235.

maintaining religion and reason through the process of education, example, and the formation of a religious family environment.[11]

The third dimension is the fulfillment of calmness and psychological stability through the concept of sakinah. The Qur'an Surah al-Rūm verse 21 explains that Allah created couples so that humans could obtain peace (litaskunū ilaihā) and make mawaddah and raḥmah between the couple. This verse provides the basis that marriage has a fundamental psychological and emotional purpose. Sakinah does not simply mean living together without conflict, but describes a relational condition that allows couples to gain a sense of security, tranquility, acceptance, and emotional support. Thus, the quality of marriage is largely determined by the couple's ability to build communication, trust, respect, and a sense of security. In the context of Islamic family law, the concept of sakinah also serves as a substantive parameter to assess whether the marital relationship really moves towards benefit or actually produces harm. Even in the practice of religious justice, the purposes of sakinah, mawaddah, and rahmah are used to explain the nature of marriage and the mutualist relationship between husband and wife.[12]

The fourth dimension is the formation of mawaddah and raḥmah. Mawaddah can be understood as love that is actively manifested in life together, while raḥmah refers to affection, care, and encouragement to protect and provide kindness to the spouse. Both make marriage not only a contractual relationship, but an ethical relationship that demands respect for human dignity. Therefore, love in the perspective of maqāṣid is not enough to be understood as a personal feeling, but must be realized through concrete actions such as mutual respect, fulfilling rights and obligations, helping when facing difficulties, and preventing actions that are detrimental to the spouse. Article 3 of the KHI explicitly places the realization of a sakinah, mawaddah, and rahmah domestic life as the goal of marriage.[13] Thus, the three concepts constitute a normative unity: sakinah provides

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[11] Halil Khusairi and Ican Mandala, "CUSTOMARY MARRIAGE: LEGAL ANALYSIS AND MARRIAGE SYSTEM IN KERINCI IN THE PERSPECTIVE OF ISLAMIC LAW," *Istinbath* 21, no. 2 (January 28, 2023): 227–42, https://doi.org/10.20414/ijhi.v21i2.565; Gumelar Firmansyah et al., "The Implementation of Customary Law in the Procession of Minangkabau Customary Marriage," *Uniku Law Review* 1, no. 1 (June 20, 2023), https://doi.org/10.25134/ulr.v1i1.13; Bima Ahadi and Siti Djazimah, "SAFEGUARDING RELIGION AND REASON THROUGH MARRIAGE PROCESSION: Memorization of Qur'anic Verses as a Marriage Dowry," *Al-Ahwal: Journal of Islamic Family Law* 13, no. 2 (December 10, 2020): 153–62, https://doi.org/10.14421/ahwal.2020.13205.

[12] Haniatul Fauziyah and Muttaqin Choiri Choiri, "Analysis of Judge's Considerations in Rejection of Sharia Economic Dispute Decision Number 462/Pdt.G/2024/PA. Gs at Gresik Religious Court," *Aghnina : Jurnal Hukum Ekonomi Syari'ah* 2, no. 2 (June 28, 2025), https://doi.org/10.64431/ag.v2i2.281.

[13] Muhammad Kanafi et al., "THE IMPLICATIONS OF THE CONSTITUTIONAL COURT DECISION NUMBER 24/PUU-XX/2022 ON INTERFAITH MARRIAGE IN INDONESIA," *STUDENT SCIENTIFIC JOURNAL, FACULTY OF LAW, MALIKUSSALEH UNIVERSITY* 7, no. 2 (2024); Arya Dwi Wibisono, "THE RIGHT OF INHERITANCE OF CHILDREN BORN FROM INTERFAITH MARRIAGE AFTER THE DECISION OF THE CONSTITUTIONAL COURT NUMBER 24/PUU-XX/2022," *COURT REVIEW: Journal of Legal Research (e-ISSN: 2776-1916)* 3, no. 02 (March 1, 2023): 1–10, https://doi.org/10.69957/cr.v3i02.1166; Mustaan Walidaih, "INTERFAITH MARRIAGE IN THE CONSTITUTIONAL COURT DECISION NUMBER 24/PUU-XX/2022 PERSPECTIVE OF LEGAL CERTAINTY AND HUMAN RIGHTS," *SYARIF HIDAYATULLAH State Islamic University Jakarta* (2023); Dian Amelia, Nanda Utama, and Fadhilla Zulfa, "The Urgency of the Constitutional Court's Decision on the Rejection of Interfaith Marriage through the Constitutional Court Decision Number 24/PUU-XX/2022," *Unes Law Reviewer*, 2023; Handayani, Widodo, and Subekti, "THE LEGAL CONSEQUENCES OF INTERFAITH MARRIAGE ON THE INHERITANCE OF WIVES AND CHILDREN AFTER THE DECISION OF THE CONSTITUTIONAL COURT Number 24/PUU-XX/2022"; Mauliana and Hanapi, "ANALYSIS OF THE CONSTITUTIONAL COURT DECISION

peace, mawaddah provides emotional bonding, while raḥmah provides an orientation of care and protection.

The fifth dimension is to maintain honor and purity (*ḥifẓ al-'irḍ*) while preventing moral corruption. Although *ḥifẓ al-'irḍ is* not always placed independently in the classical formulation of the five primary needs of al-ḍarūriyyāt al-khams, the protection of honor is an important value in Islamic law and is closely related to the protection of the soul, posterity, religion, and dignity of the human being. Marriage provides a legitimate channel for the fulfillment of sexual needs and at the same time provides a mechanism of protection against the practice of adultery and various forms of deviation that can damage the individual and the family structure. The Prophet Muhammad (peace and blessings of Allaah be upon him) encouraged young people who already have the ability to marry because marriage helps to subdue their views and maintain sexual honor, while for those who are not able to do so, fasting is recommended as a self-control mechanism.[14] Thus, the fulfillment of biological needs in marriage is not a stand-alone goal, but part of an ethical system that connects sexuality, responsibility, honor, nasab, and family resilience.

The sixth dimension is related to the formation of the family as an institution of social and moral responsibility. Marriage gives birth to a legal relationship that gives rise to mutual rights and obligations between husband and wife as well as responsibility for children. Therefore, *maqāṣid al-nikāḥ* cannot be separated from the principle *of mu'āsyarah bi al-ma'rūf*, which is to live life together in a proper, just, and dignified manner. In the context of positive Indonesian law, this principle is reflected in the provision that husband and wife have a balanced position in domestic life and are obliged to love, respect, be loyal, and provide physical and mental assistance. [15] Therefore, the

NUMBER 24/PUU-XX/2022 CONCERNING INTERFAITH MARRIAGE"; A mir Rizki, Rato, and Puspaningrum, "The Certainty of Interfaith Marriage in Indonesia After the Constitutional Court Decision Number 24/PUU-XX/2022."

[14] Bambang Tri Bawono et al., "Human Trafficking and the Relevance of Hifz Al-Nafs and Hifz Al-'ird in Contemporary Islamic Legal Ethics," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 30, 2025): 597–618, https://doi.org/10.32332/milrev.v4i1.10694; Murtada Abdalla Kheiri et al., "The Right to Digital Tranquility," *Justicia Islamica* 22, no. 2 (November 30, 2025): 411–36, https://doi.org/10.21154/justicia.v22i2.11259; M. Khusnul Khuluq and Asmuni Asmuni, "Hifz Al-Bi'ah as Part of Maqashid Al-Shari'ah and Its Relevance in the Context of Global Climate Change," *Indonesian Journal of Interdisciplinary Islamic Studies (IJIIS)* 7, no. 2 (February 17, 2025), https://doi.org/10.20885/ijiis.vol7.iss2.art3; Muhammad Safwan Harun, "PRINSIP ḤIFẒ AL-NASL DAN ḤIFẒ AL-`IRḌ DALAM PEMBENTUKAN KELUARGA SEJAHTERA," *Jurnal Syariah* 33, no. 3 (December 31, 2025): 329–60, https://doi.org/10.22452/syariah.vol33no3.2.

[15] Ah. Soni Irawan, Ilman Abdul Hafidz, and Nanang Syaggaf Armanda, "AN ANALYSIS OF ISLAMIC LAW ON DIVORCE ON THE GROUNDS THAT THE HUSBAND IS STILL COMMUNICATING WITH HIS EX-WIFE AND CHILD," *As-Sakinah Journal of Islamic Family Law* 1, no. 2 (December 16, 2023): 110–18, https://doi.org/10.55210/jhki.v1i2.327; Abdul Rahman Ramadhan, "HARMONIZATION OF POSITIVE LAW AND FIQH OF MARRIAGE IN THE PRACTICE OF COMBINING RESIDENCES IN POLYGAMOUS HOUSEHOLDS," *AL-MA'LUMAT : JOURNAL OF ISLAMIC SCIENCES* 1, no. 1 (March 20, 2023): 1–20, https://doi.org/10.56184/jam.v1i1.257; Ahmad Faiz and Sri Redjeki Slamet, "The Determination of Isbat Nikah on Marriages That Are Not Recorded at the Office of Religious Affairs and Its Legal Implications on the Legal Status of Husband and Wife and Children (Case Study of the Determination of the South Jakarta Religious Court Number 879/PDT. P/2021/PA.JS)," *Journal of Social and Humanities Flow* 5, no. 2 (August 13, 2025): 2525–33, https://doi.org/10.57250/ajsh.v5i2.1524; Sifa Mulya Nurani, "The Relationship of Husband and Wife Rights and Obligations in the Perspective of Islamic Law (An Analytical Study of the Relevance of the Rights and Obligations of Husband and Wife Based on the Tafsir of Ahkam and Ahkam Hadith)," *Al-Syakhsiyyah: Journal of Law & Family Studies* 3, no. 1 (July 30, 2021): 98–116, https://doi.org/10.21154/syakhsiyyah.v3i1.2719.

concept of family leadership should not be interpreted as the legitimacy of dominance of one party, but as a construction of responsibility that must be carried out with the principles of justice, protection, deliberation, and the benefit of the family.

This dimension also shows that maqāṣid al-nikāḥ has a collective orientation that goes beyond the individual interests of the couple. Marriage forms a family unit that functions as a space for social reproduction, education, protection, and the transmission of values to the next generation. Therefore, the success of marriage is not only measured by the fulfillment of the needs of the husband and wife, but also by the ability of the family to provide protection to children, maintain the mental and physical health of family members, ensure the sustainability of education, and create an environment free from violence and injustice.[16] The perspective of contemporary maqāṣid al-usrah even expands the reading of family law by including the protection of descent, honor, justice, and family welfare as goals that must be considered in the formation and reform of marriage law.[17]

Thus, maqāṣid al-nikāḥ can be understood as a multidimensional construction that integrates vertical and horizontal dimensions. The vertical dimension is related to marriage as a worship and a means of obedience to Allah, while the horizontal dimension includes the formation of a peaceful family, the fulfillment of biological needs in a halal manner, the protection of honor, the sustainability of offspring, the fulfillment of children's rights, relational justice, and social welfare. This perspective is important because it prevents the reduction of marriage to mere legal-formal contracts or a means of fulfilling sexual needs. Marriage is precisely an institution that must produce maṣlaḥah in a sustainable manner and prevent mafsadah for all family members. Research on maqāṣid in Indonesian family law also shows that various institutions of marriage law, including marriage registration, can be read as instruments to protect religion, soul, intellect, descendants, and property.[18]

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[16] Azhar Azhar, "Islamic Law Reform in Indonesia from the Perspective of Maqāṣid Al-Sharī'ah: Kerinci's Intellectual Views," *Samarah: Journal of Family Law and Islamic Law* 8, no. 2 (May 11, 2024): 750, https://doi.org/10.22373/sjhk.v8i2.15051; Muhammad Mufti, "Gender Equality in Islamic Marriage Law through the Maqāṣid Al-Sharī'a Perspective: A Study on Woman-Initiated Divorce (Cerai Gugat) in Indonesia," *Sawwa: Journal of Gender Studies* 19, no. 1 (April 30, 2024): 29–46, https://doi.org/10.21580/sa.v19i1.22641; Muh Sholihuddin, Saiful Jazil, and Syamsun Ni'am, "Remarriage in The 'Iddah Perspective of Maqāṣid Al-Usrah: Study in Wedoro Waru, Sidoarjo, Indonesia," *Samarah: Journal of Family Law and Islamic Law* 8, no. 2 (May 11, 2024): 726, https://doi.org/10.22373/sjhk.v8i2.15061.

[17] Andi Muhammad Akmal et al., "Legal Solutions for Domestic Violence in Unregistered Marriages in Indonesia: Integrating Maqāṣid Al-Sharī'ah," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 2 (December 31, 2024): 768, https://doi.org/10.22373/ujhk.v7i2.25971; Dwi Aprillianto et al., "The Controversy of Child Marriage Culture in The Perspective of Maqāṣid Al-Usrah: A Case Study of The Authority of Lebe' in Brebes," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 2 (August 7, 2024): 199–218, https://doi.org/10.24090/mnh.v18i2.11554; Farida Ulvi Naimah et al., "Internalization of Local Traditions in Child Marriage from the Perspective of Maqasid Al-Usrah," *El-Mashlahah* 14, no. 2 (October 14, 2024): 237–58, https://doi.org/10.23971/el-mashlahah.v14i2.7942; Busriyanti et al., "Marriage Law Reform in Indonesia A Maqasid Al-Usrah Perspective on Legal Adaptation," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025), https://doi.org/10.29240/jhi.v10i2.12739.

[18] Asriadi Zainuddin, "The Legality of Marriage Registration through the Determination of Isbat Nikah," *Al-Mujtahid: Journal of Islamic Family Law* 2, no. 1 (June 30, 2022): 60, https://doi.org/10.30984/ajifl.v2i1.1942; Fatimah Zahrah and Patimah Patimah, "THE REALIZATION OF ISBAT NIKAH IN THE IMPLEMENTATION OF INTEGRATED SESSIONS IN RELIGIOUS COURTS," *Qadauna: Islamic Family Law Student Scientific Journal* 1, no. 2 (April 28, 2020): 11–30, https://doi.org/10.24252/qadauna.v1i2.13016; Intan Nur Fajriyah and Nur Lailatul Musyafaah, "Implementation of Integrated Isbat Nikah in Gresik Regency from the Perspective of Maqāṣid Al-

On that basis, the concept of maqāṣid al-nikāḥ in Islamic law should not be positioned as a stand-alone set of goals, but rather as an interconnected value system. *Ḥifẓ al-nasl* requires a stable family; family stability requires sakinah, mawaddah, and raḥmah; domestic tranquility requires the fair fulfillment of rights and obligations; while family justice and responsibility require the spiritual foundation *of ḥifẓ al-dīn*. All of these dimensions ultimately lead to the realization of family maṣlaḥah and the dignified sustainability of human life. With such an approach, *maqāṣid al-nikāḥ* can be a relevant analytical framework for evaluating various issues of contemporary Islamic family law, since the measure of the success of a marriage lies not only in the fulfillment of formal conditions and harmony, but also in the extent to which the marriage is able to realize peace, justice, protection, affection, the sustainability of offspring, and the welfare of the family.

Maqāṣid al-Nikāḥ as a Benchmark for Household Success

From the perspective of Islamic law, the success of the household cannot be reduced to the permanence of the formal marriage bond or the length of the marriage age. Marriage does give birth to a legal relationship between husband and wife, but the existence of this legal relationship is not the ultimate goal of the marriage legalization. Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, places marriage as a bond of birth and mind that aims to form a happy and eternal family or household based on the One Godhead. Thus, the elements of happiness, peace, and the continuity of family life are an important part of the orientation of marriage, not just an additional consequence.[19] In the context of Islamic law, this orientation can be deepened through the perspective *of maqāṣid al-nikāḥ*, i.e. substantive goals to be realized through the institution of marriage.

The maqāṣid approach basically requires that the law does not stop at the reading of forms and procedures, but also pays attention to the purpose, benefits, and consequences of the application of a provision. Jasser Auda explains that maqāṣid al-sharī'ah can be placed as a philosophical orientation of Islamic law that emphasizes goals, benefits, justice, rights, freedom, and tolerance. This approach allows a legal provision to be understood more comprehensively because the law is not only judged on its formal

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Sharī'ah," *Ma'mal: Journal of Sharia and Law* Laboratory 6, no. 4 (August 30, 2025): 365–87, https://doi.org/10.15642/mal.v7i5.498; Abdul Azim, Abdul Khair, and Elvi Soeradji, "ISBAT NIKAH IN THE PERSPECTIVE OF MAQASID SHARIAH: A CASE STUDY OF THE PANGKALAN BUN RELIGIOUS COURT," *Hikmah: Journal of Islamic Studies* 21, no. 1 (March 13, 2025): 17, https://doi.org/10.47466/hikmah.v21i1.321; Ahmad Arif Masdar Hilmy and Faby Toriqirrama, "ISBAT NIKAH TERPADU PERSPEKTIF MAQASID SHARIAH," *Al-Ahwal: Journal of Islamic Family Law* 13, no. 1 (June 4, 2020): 79–90, https://doi.org/10.14421/ahwal.2020.13108.

[19] Robiatun Hasanah and Abd Hannan, "INTERFAITH MARRIAGE ACCORDING TO LAW NUMBER 1 OF 1974 CONCERNING MARRIAGE AND LAW NUMBER 23 OF 2006 CONCERNING POPULATION ADMINISTRATION," *As-Sakinah Journal of Islamic Family Law* 1, no. 2 (December 16, 2023): 69–80, https://doi.org/10.55210/jhki.v1i2.325; M. Qowi Indal Choiri, Muhammad Kurniawan Budi Wibowo, and B Baehaqi, "THE ROLE OF BIKKSA PCA LAMONGAN IN FORMING A SAKINAH FAMILY IN LAMONGAN DISTRICT, LAMONGAN REGENCY (ANALYSIS OF THE LAW ON MARRIAGE)," *AL HUKMU: Journal of Islamic Law and Economics*, August 31, 2023, 1–10, https://doi.org/10.54090/hukmu.270; Fierda Sinaga et al., "The Consequences of Interfaith Marriage Law in the Catholic Church's View Linked to the Law on Marriage," *Locus Journal of Academic Literature Review*, December 1, 2023, 945–57, https://doi.org/10.56128/ljoalr.v2i12.257; Ni Putu Tirta Dewi Mahayogi et al., "CHALLENGES OF PREVENTING CHILD MARRIAGE THROUGH THE IMPLEMENTATION OF LAW NUMBER 16 OF 2019 IN INDONESIA," *Policy : Journal of Administrative Sciences* 16, no. 01 (January 31, 2025): 116–23, https://doi.org/10.23969/kebijakan.v16i01.21866.

validity, but also on the extent to which the goals attached to the law can be realized in real life.[20] In the context of marriage, such an approach provides a theoretical basis for assessing the success of the household based on the quality of relationships, the fulfillment of rights and obligations, the protection of family members, the sustainability of generations, and the creation of family benefits.

Maqāṣid al-nikāḥ can thus be understood as the concretization of maqāṣid al-sharī'ah in the institution of the family. Marriage is not only intended to legitimize the biological relationship between man and woman, but also to establish social and moral institutions capable of providing protection, tranquility, affection, and sustainability of human life. In the development of contemporary thought on Islamic family law, *Jamāl al-Dīn 'Aṭiyyah*'s idea of *maqāṣid al-usrah* provides a more specific framework for reading the purpose of sharia in family life. *'Aṭiyyah* expands the orientation of maqāṣid by placing the family as one of the important domains of the goals of the Shari'a. Within this framework, the goals of the family include the regulation of relations between men and women, the sustainability of offspring, the formation of a sakīnah family, mawaddah wa raḥmah, the protection of nasab, the maintenance of religious diversity in the family, the regulation of family institutional aspects, and the management of economic aspects of the family.[21]

This framework is important because it provides an understanding that the success of a household has a multidimensional dimension. A household cannot be called successful just because there is no divorce, because formal integrity can go hand in hand with violence, neglect, injustice, economic exploitation, or prolonged conflict. On the contrary, the success of the household must be seen from the ability of the family to carry out the functions for which marriage is intended. Research on the sakīnah family shows that sakīnah, mawaddah, and raḥmah are not conditions that automatically come after the marriage contract, but must be built and maintained by husband and wife through commitment, communication, fulfillment of rights and obligations, and the formation of mutually respectful relationships.[22] Therefore, the temporal resilience of marriage is not synonymous with substantive marital success.

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[20] Achmad Tohari, "Religious Moderation in the Perspective of Maqasid Syariah Jasser Auda," *MODERATIO: Jurnal Moderasi Beragama* 4, no. 1 (May 30, 2024): 52, https://doi.org/10.32332/moderatio.v4i1.9037; Nur Wakhidah, "Jasser Auda's Multidimensional System (Ta'addud Al-Ab'ad) in Reconciling Contradictory Arguments," *Journal of Educational Sciences* 9, no. 6 (2025); J. A. Garza-Reyes, "Maqasid Al- Shariah as Philosophy of Islamic Law: A System Approach," *European University Institute*, no. 2 (2012); Murat Aktepe, "JASSER AUDA, MAQASID Al-SHARIAH as PHILOSOPHY of ISLAMIC LAW A SYSTEMS APPROACH," *The Journal of Kırıkkale Islamic Sciences Faculty* 3, no. 5 (2024); Muhammad Baiquni Syihab, "Telaah Kritis Pemikiran Jasser Auda Dalam Buku 'Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach,'" *AN NUR: Jurnal Studi Islam* 15, no. 1 (June 29, 2023): 114–36, https://doi.org/10.37252/annur.v15i1.455.

[21] Ahmad Musadad et al., "Reorienting Jamāluddīn 'Aṭiyyah's Maqāṣid Al-Usrah in the Regulation of Polygamy in the Indonesian Compilation of Islamic Law," *Sakina: Journal of Family Studies* 9, no. 4 (December 8, 2025): 429–47, https://doi.org/10.18860/jfs.v9i4.19984; Ahmad Musadad et al., "Reframing Ḥifẓ Al-Nasl: Childfree Discourse among Indonesian Celebrities in the Perspective of Maqāṣid Al-Usrah," *Mawaddah: Jurnal Hukum Keluarga Islam* 3, no. 2 (2025), https://doi.org/10.52496/mjhki.v3i2.35.

[22] Almadison et al., "IMPLEMENTATION OF THE CONCEPT OF MAWADDAH WA RAHMAH IN THE MODERN ISLAMIC FAMILY," *ANDREW Law Journal* 4, no. 1 (June 30, 2025): 118–30, https://doi.org/10.61876/alj.v4i1.66; Nur Faezah Musthapar, Raihanah Hj Azahari, and Bahiyah Ahmad, "SAKĪNAH, MAWADDAH AND RAḤMAH IN HUSBAND AND WIFE RELATIONSHIP: A LITERATURE ANALYSIS OF Sakīnah, Mawaddah and Raḥmah in Husband-Wife Relationship: A Literature Review," *Shariah Journal, vol. 28, no.* 1 (2020); Nur Faezah Musthapar, Raihanah Hj Azahari, and Bahiyah Ahmad, "SAKĪNAH, MAWADDAH AND RAḤMAH IN MARITAL RELATIONSHIPS: A

The first dimension that can be used as a benchmark is the creation of sakīnah. The term sakīnah indicates the existence of peace, security, emotional stability, and an atmosphere of family life that allows each member of the family to live a dignified life. In a husband and wife relationship, sakīnah does not mean the absolute absence of conflict, because conflict is an integral part of human social life. What is more important is the ability of the couple to manage differences constructively so that conflicts do not turn into violence, humiliation, intimidation, or destruction of relationships. From this perspective, a sakīnah family is not a family that has never experienced problems, but a family that has an internal mechanism to solve problems in a fair, proportionate, and mutually beneficial manner. Contemporary studies of maqāṣid al-usrah also place the creation of a family that is sakīnah, mawaddah, and raḥmah as one of the main goals of the family institution.[23]

The second dimension is mawaddah and raḥmah as the ethical basis of the marital relationship. Mawaddah can be understood as love that encourages the birth of a commitment to maintain and develop the relationship, while raḥmah contains the dimensions of affection, concern, empathy, and willingness to protect the other party. Therefore, maqāṣid-oriented marital relationships are not built on dominance relations, but on the principle of *mu'āsyarah bi al-ma'rūf*, which is to treat couples with kindness and dignity. Research on the relationship between sakīnah, mawaddah, and raḥmah confirms that these three values must be actively realized in the marital relationship and not present automatically just because the marriage has taken place.[24] Thus, respect for one's partner, healthy communication, protection from violence, loyalty, and emotional concern are concrete manifestations of the success of realizing mawaddah wa raḥmah.

The next dimension is the protection of the soul and dignity of family members. The perspective of maqāṣid al-sharī'ah requires the protection of human beings from various forms of harm. In domestic life, this principle has the consequence that marriage should not be a legitimacy for physical, psychological, sexual, or economic violence. A household that is formally intact but is colored by violence has in essence failed to realize the purpose of protection that is part of the family's welfare. Studies on the application of *maqāṣid al-usrah* to the problem of domestic violence show that the protection of the

LITERATURE ANALYSIS," *Jurnal Syariah* 28, no. 1 (April 30, 2020): 81–104, https://doi.org/10.22452/js.vol28no1.4.

[23] Mufidah Cholil et al., "Domestic Violence and Women's Legal Awareness: The Family Corner Programmes Interventions through the Perspective of Maqāṣid Al-Usrah," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 2 (December 29, 2025): 649–74, https://doi.org/10.18860/j-fsh.v17i2.30101; Nur Fadhilah et al., "Reevaluating Nafkah Obligations: Female Muslim Scholars' Insight and Ethics of Gendered Finance in Indonesian Families," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 20, no. 2 (December 31, 2025): 458–89, https://doi.org/10.19105/al-lhkam.v20i2.18461; Nur Muhammad Saifurrijal and Muhammad Ali Wafa, "Family Resilience and the Prevention of Radicalism: A Maqāṣid Al-Sharī'ah Approach Based on Jasser Auda," *Legitima : Jurnal Hukum Keluarga Islam* 8, no. 1 (December 31, 2025): 62, https://doi.org/10.33367/legitima.v8i1.8067.

[24] Cholil et al., "Domestic Violence and Women's Legal Awareness: The Family Corner Programmes Interventions through the Perspective of Maqāṣid Al-Usrah"; Fadhilah et al., "Reevaluating Nafkah Obligations: Female Muslim Scholars' Insight and Ethics of Gendered Finance in Indonesian Families"; Saifurrijal and Wafa, "Family Resilience and the Prevention of Radicalism: A Maqāṣid Al-Sharī'ah Approach Based on Jasser Auda"; Musthapar, Hj Azahari, and Ahmad, "SakĪnah, Mawaddah Dan Raḥmah Dalam Perhubungan Suami Isteri: Analisis Literatur"; Faezah Musthapar, Azahari, And Ahmad, "SakĪnah, Mawaddah Dan Raḥmah Dalam Perhubungan Suami Isteri: Analisis Literatur Sakīnah, Mawaddah and Raḥmah in Husband-Wife Relationship: A Literature Review"; Almadison et al., "Implementasi Konsep Mawaddah Wa Rahmah Dalam Keluarga Islam Modern."

soul (*ḥifẓ al-nafs*), the restoration of communication, the increase of legal awareness, and the protection of the rights of victims are relevant parts in maintaining the integrity of the family.[25] Thus, the success of the household must always be linked to the family's ability to create a safe living space physically, psychologically, socially, and spiritually.

Furthermore, the success of the household can also be measured through the realization *of ḥifẓ al-nasl*, which is the protection and sustainability of offspring. Marriage in Islam has a generational dimension because the family is the main space for the birth, growth, and development of the next generation. However, *ḥifẓ al-nasl* is not solely related to the existence of children or the biological sustainability of offspring. The concept also includes the protection of the child's destiny, rights, upbringing, education, health, security, and the moral and psychological development of children. The study of marriage from the perspective *of maqāṣid al-sharī'ah* shows that the protection of offspring is not sufficiently understood from the aspect of the legality of marriage, but must also consider physical, psychological, and moral responsibility that supports the formation of a healthy and beneficial family.[26] Thus, the quality of parenting and the ability of parents to meet the needs of children are an integral part of indicators of household success.

In addition to the protection of offspring, maqāṣid al-nikāḥ also has the dimension of religious maintenance and moral values in the family. The family is the first educational environment that shapes the religious orientation, character, morals, and social responsibilities of family members. Within the framework of maqāṣid al-usrah, the maintenance of family religiosity (*ḥifẓ al-tadayyun fī al-usrah*) shows that the family not only functions as a biological and social unit, but also as a space for value formation. Therefore, the success of the household can be seen from its ability to build a life that makes religious values a source of ethics, responsibility, justice, and respect for human dignity. This perspective also avoids religious understanding that is only symbolic,

[25] Cholil et al., "Domestic Violence and Women's Legal Awareness: The Family Corner Programmes Interventions through the Perspective of Maqāṣid Al-Usrah"; Fadhilah et al., "Reevaluating Nafkah Obligations: Female Muslim Scholars' Insight and Ethics of Gendered Finance in Indonesian Families"; Saifurrijal and Wafa, "Family Resilience and the Prevention of Radicalism: A Maqāṣid Al-Sharī'ah Approach Based on Jasser Auda"; Musthapar, Hj Azahari, and Ahmad, "SakĪnah, Mawaddah Dan Raḥmah Dalam Perhubungan Suami Isteri: Analisis Literatur"; Faezah Musthapar, Azahari, And Ahmad, "SakĪnah, Mawaddah Dan Raḥmah Dalam Perhubungan Suami Isteri: Analisis Literatur Sakīnah, Mawaddah and Raḥmah in Husband-Wife Relationship: A Literature Review"; Almadison et al., "Implementasi Konsep Mawaddah Wa Rahmah Dalam Keluarga Islam Modern"; Musadad et al., "Reframing Ḥifẓ Al-Nasl: Childfree Discourse among Indonesian Celebrities in the Perspective of Maqāṣid Al-Usrah"; Musadad et al., "Reorienting Jamāluddīn 'Aṭiyyah's Maqāṣid Al-Usrah in the Regulation of Polygamy in the Indonesian Compilation of Islamic Law."

[26] Imam Anshori et al., "Child Marriage in Indonesia Based on Maqasid Al-Shariah and the 2019 Marriage Law," *Mizan: Journal Of Islamic Law* 9, no. 2 (December 27, 2025): 164–72, https://doi.org/10.32832/mizan.v13i2.20997; Wardatun Nabilah et al., "Between Protection and Permissiveness: A Fiqh Siyasah Reexamination of Marriage Dispensation in Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (June 29, 2025): 137–51, https://doi.org/10.31958/juris.v24i1.11882; Hasanudin and Moh. Jeweherul Kalamiah, "The Problematic Nature of Marriage Dispensation from the Perspective of Maqāṣid Al-Sharī'Ah," *Al-Hikmah: International Journal of Islamic Studies* 1, no. 2 (October 19, 2025): 55–72, https://doi.org/10.64540/alhikmah192; Irzak Yuliardy Nugroho et al., "Pendekatan Sadd Al-Dzari'ah Dalam Pencegahan Perkawinan Anak: Studi Kasus Di Kabupaten Probolinggo," *LITIGASI* 26, no. 1 (April 30, 2025): 67–101, https://doi.org/10.23969/litigasi.v26i1.19478; M. Noor Harisudin and Muhammad Choriri, "On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 471, https://doi.org/10.22373/sjhk.v5i1.9159.

because family religiosity should be reflected in concrete behavior in the form of honesty, trust, loyalty, responsibility, and respect for the rights of each family member.[27]

The economic aspect is also an important part of the success of the household. The benefits of the family cannot be realized optimally if the basic needs of family members are ignored or economic responsibilities are used as a source of exploitation and injustice. In the perspective of maqāṣid al-usrah, the regulation of the financial aspect of the family is one of the goals in itself because economic stability is directly related to the sustainability of family life.[28] However, economic fulfillment should not be interpreted solely as the amount of family income. What is more fundamental is the existence of responsibility, openness, justice in the management of assets, the fulfillment of basic needs, and the proportionate division of responsibilities. In this context, the protection of property (*ḥifẓ al-māl*) becomes an instrument to ensure that family resources are used to meet the needs and improve the welfare of family members, rather than being an instrument of control or violence against the spouse.

Based on these dimensions, *maqāṣid al-nikāḥ* can be placed as a substantive benchmark to distinguish between marital continuity and domestic success. The continuation of marriage is juridical-formal, while the success of the household is substantive and multidimensional. Marriage can continue to take place legally, but if it does not produce peace, affection, protection, responsibility, continuity of offspring, religious maintenance, and economic welfare, then the goal of marriage has not been fully achieved. On the other hand, the greater the ability of the family to realize these goals, the stronger the argument that the household has achieved success in accordance with the orientation of the Shari'a.

The theoretical implication of this approach is that the assessment of the success or failure of a marriage should not rely solely on administrative indicators such as marital status or the presence or absence of divorce. The maqāṣid perspective requires a more substantive assessment of the quality of the relationship and the benefits produced by marriage. Even in the context of divorce, the maqāṣid approach can be used to identify whether the conflict that occurs still allows for the achievement of benefits through reconciliation or has resulted in greater harm if the marriage is maintained. Thus, *maqāṣid al-nikāḥ* serves not only as an orientation when marriage is formed, but also as a framework for evaluation throughout the life of the household.

Thus, *maqāṣid al-nikāḥ* places the success of the household on the ability of husbands and wives to realize benefits in a sustainable manner. Sakīnah provides the dimension of peace and security, mawaddah wa raḥmah provides an emotional and ethical

[27] Galuh Widitya Qomaro, "Integrating Maqasid Al-Usrah By Jamal Al-Din 'Atiyah Muhammad Into Family Resilience Measurement In Indonesia," *Malaysian Journal of Syariah and Law* 14, no. 1 (April 30, 2026): 246–59, https://doi.org/10.33102/mjsl.vol14no1.1097; Ghina Hani Imania Arofah and Eva Fauziyah, "Analisis Fikih Wakaf Dan UU Wakaf No. 41 Tahun 2004 Terhadap Pengelolaan Wakaf Produktif," *Jurnal Riset Hukum Keluarga Islam*, July 11, 2022, 13–20, https://doi.org/10.29313/jrhki.vi.710; Siti Muslifah and Busriyanti, "Kebijakan Pemerintah Dalam Konseling Pra Nikah Untuk Meningkatkan Ketahanan Keluarga Di Kabupaten Jember (Analisis Pendekatan Maqasid Al-Syari'ah Jamal Al-Din Atiyah)," *Qonun: Jurnal Hukum Islam Dan Perundang-Undangan* 8, no. 1 (2024); Ahmad Riza Hidayat et al., "Manajemen Wakaf Dalam Perspektif Hukum Islam Dan Undang-Undang No. 41 Tahun 2004," *Filantropi : Jurnal Manajemen Zakat Dan Wakaf* 4, no. 1 (April 10, 2023): 14–26, https://doi.org/10.22515/finalmazawa.v4i1.8029; Arif Zunaidi, "Wakaf Keluarga Perspektif UU No. 41 Tahun 2004 Dan Maqasid Al-Usrah Jamal Al-Din Atiyyah," *Mahakim: Journal of Islamic Family Law* 5, no. 2 (July 30, 2021): 115–33, https://doi.org/10.30762/mahakim.v5i2.137.

[28] Musadad et al., "Reorienting Jamāluddīn 'Aṭiyyah's Maqāṣid Al-Usrah in the Regulation of Polygamy in the Indonesian Compilation of Islamic Law."

foundation, *ḥifẓ al-nasl* ensures the sustainability and protection of generations, religious maintenance builds the moral orientation of the family, while economic management ensures the material sustainability of the household. All of these dimensions must be seen as an interrelated unit. Therefore, a successful household according to an Islamic perspective is not just a household that is able to last a long time, but a household that is able to transform the marriage bond into a space for the actualization of justice, affection, protection, responsibility, and benefit for all its members. This perspective is what makes *maqāṣid al-nikāḥ* relevant as an analytical instrument in evaluating the quality of marriage as well as understanding more deeply the factors that lead to the success or failure of domestic life.

Prolonged Disputes and Quarrels in the Perspective of Positive Law and Maqāṣid al-Nikāḥ

If a household has lost happiness in it and is unable to continue, then there is no way out other than divorce. Law Number 1 of 1974 concerning Marriage emphasizes that marriage has the purpose of creating a happy and eternal family based on the One Godhead.[29] Thus, a person cannot divorce at will, but must have a certain foundation that has been written in laws and regulations.

In Article 39 paragraph 2 of Law Number 1 of 1974 concerning Marriage, it is necessary to have a reason that the husband and wife cannot live harmoniously as they should.[30] This provision shows that Indonesia's positive law prioritizes efforts to maintain the integrity of the household before divorce is used as an option for settlement.

A more complete explanation of the reasons for divorce is listed in Article 19 of Government Regulation Number 9 of 1975. This regulation stipulates that divorce can be granted in the following circumstances: (a) if one of the parties is infidelity or becomes a chronic alcoholic, drug user, gambler, or the like, and has a condition that is difficult to fix; (b) if one of the parties leaves his or her partner for two consecutive years without permission or valid reasons; (c) if one of the parties is sentenced to imprisonment for five years or more after the marriage takes place; (d) if one of the parties commits cruelty or severe persecution that endangers his or her partner; (e) if one of the parties suffers from a physical disorder or illness that prevents him or her from fulfilling his responsibilities as a partner; or (f) if there is a constant conflict and quarrel that causes a loss of hope for a peaceful settlement.[31]

For Muslims, the provisions regarding the grounds for divorce are also written in KHI Article 116. Basically, these reasons have the same substance as the provisions in Government Regulation Number 9 of 1975, but KHI adds two other points, namely the occurrence of religious conversion and the violation of taklik talaq that causes disharmony in the household.[32] The addition shows attention to the characteristics of Islamic family law in regulating marital and divorce relationships.

Therefore, Indonesia's positive law basically establishes the reasons for divorce with conditions that can interfere with domestic happiness. In other words, the various reasons for divorce that have been written show a failure to maintain the purpose of marriage as aspired to by positive law and Islamic teachings.

The reasons for divorce in Indonesian positive law have basically accommodated most of the goals of marriage in the perspective of maqāṣid al-nikāḥ. However, these

[29] Law No. 1 of 1974 concerning Marriage, Article 1.
[30] Law No. 1 of 1974 concerning Marriage, Article 39 Paragraph (2).
[31] Government Regulation Number 9 of 1975, Article 19.
[32] Compilation of Islamic Law, Article 116.

accommodations are more indirect because positive law does not formulate the goals of marriage as grounds for divorce, but rather regulates legal events that show the failure to achieve those goals.

On the other hand, there are several aspects of maqāṣid al-nikāḥ that have not been explicitly regulated in positive law, such as family moral development, the quality of children's education, and the strengthening of the values of affection in the household. This is because these aspects are abstract and difficult to measure juridically, so it is quite difficult to be determined as a parameter for judges to consider in determining divorce cases.

Among the reasons for divorce regulated in Article 19 letter (f) of Government Regulation Number 9 of 1975 and Article 116 letter (f) of the KHI is the occurrence of continuous disputes and quarrels so that there is no hope of living in harmony again. Even in 2025, the Central Statistics Agency recorded the number of divorces caused by this factor to reach 282,326 cases.[33] Therefore, in positive law, harmony is seen as an important element in a marriage. When domestic life has been filled with prolonged conflicts that are difficult to resolve, the purpose of marriage is considered to have failed to be realized.

When viewed from the perspective of maqāṣid al-nikāḥ, this factor is an indicator of the non-achievement of the goal of marriage in the form of the realization of tranquility (sakinah) in domestic life. The Qur'an explains that Allah has made for man a life partner so that he can achieve peace and tranquility in the marriage relationship. Therefore, the existence of sakinah is not only intended in the form of no conflict, but the existence of spiritual security, peace and mutual support between husband and wife in living life together.

In practice, persistent disputes can eliminate the function of the household as a place of peace. Relationships that should be a means of providing a sense of security have instead turned into a source of stress and discomfort. Such a condition shows that one of the main goals of marriage is no longer realized as required by the Shari'a. In other words, prolonged conflict is not only a matter of interpersonal relationships, but also reflects the failure of the realization of maqāṣid al-nikāḥ.

In the context of contemporary households, disputes and quarrels are no longer only triggered by classic problems such as differences in character or economic problems. The development of information technology and social media has also brought new dynamics in husband and wife relationships. Not a few domestic conflicts start from misunderstandings in digital communication, jealousy due to interactions on social media, to a decrease in the quality of direct communication between couples. In addition, work demands and economic pressure in the modern era also often affect the emotional stability of couples, increasing the potential for disputes and conflicts in domestic life.[34]

The complexity of this problem gives an idea that the challenges in realizing sakinah in the contemporary era are even greater than before. Therefore, the high divorce rate due to this factor can be understood as a form of domestic failure in realizing the goals of marriage. Thus, the reason for divorce in the form of disputes and prolonged quarrels does not only have a juridical dimension as written in laws and regulations, but

[33]https://www.bps.go.id/id/statisticstable/3/yvdou1iwvmltm2h4yzfov1pswkvirxhqtlzwrfvumdkjmw==/jumlah-. retrieved 23 june 2026.

[34] M.P Setiadi, T. F., Prambudi, L.A., Azzahra, "Household Disintegration: Divorce Factors in Review," *Marital: Islamic Family Law* Journal 3, no. 2 (2025), https://doi.org/10.35905/marital.

also has a substantive dimension in the form of the non-achievement of maqāṣid al-nikāḥ in domestic life.

Failure to Realize Responsibility in Maintenance Neglect

Neglect of alimony is one of the economic problems that is often the cause of divorce. In 2025, there will be 105,727 cases recorded and will be the 2nd most after the factors of continuous disputes and disputes.[35] Islamic sharia is also a positive law that imposes obligations on husbands to provide maintenance for their wives and families.[36]

> Allah believes: *"And a father is obliged to give sustenance (food) and clothing to them (mothers) in a good way".*[37]

These obligations are not just about fulfilling material needs, but reflect obligations in the form of the husband's responsibility in maintaining the continuity and welfare of the household. Therefore, inability or unwillingness to fulfill maintenance obligations can cause disharmony that leads to divorce.

In the perspective of maqāṣid al-nikāḥ, the fulfillment of alimony has a close relationship with efforts to realize family responsibilities. Marriage not only aims to form a legitimate relationship between a man and a woman, but also has the purpose of creating a happy, protected household that is able to meet the basic needs of all its members. When these needs are not met, the purpose of marriage to present responsibilities becomes difficult to realize.[38]

Neglect of alimony essentially indicates a failure to carry out the responsibilities inherent in the marriage bond. The family, which should be a place of protection and fulfillment of the needs of life, instead experiences economic uncertainty that can affect the relationship between family members. In such conditions, the issue of alimony is no longer seen as a mere economic problem, but as an indication of the failure to achieve one of the important goals of marriage in Islam.

In the context of contemporary households, the issue of livelihood has become increasingly complex because it is influenced by various social, economic, and political factors. Rising living costs, job instability, inflation, conflicts between countries, and the demands of modern family needs are often sources of pressure in the household. In addition, changes in people's increasingly consumptive life patterns can also increase the potential for economic conflicts between husband and wife. This condition shows that the challenges in realizing family welfare in the contemporary era are much more complex than in the past.[39]

Based on this description, neglect of alimony can be understood as a form of failure to realize maqāṣid al-nikāḥ, especially in realizing family responsibilities. Thus, the reason for divorce related to alimony does not only have a juridical basis in positive law,

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[35] https://www.bps.go.id/id/statistics-table/3/yvdou1iwvmltm2h4yzfov1pswkvirxhqtlzwrfvumdkjmw==/jumlah-. Retrieved 23 June 2026.

[36] Compilation of Islamic Law, Article 80 Paragraph (4).

[37] QS. Al-Baqarah (2): 233.

[38] Agus Jatnika, Mumu Fahmudin, and Abdul Kodir Alhamdani, "Legal Protection of Wives for Neglect of Alimony: Integration of Fiqh Approaches and Indonesian Positive Law," *Bureaucracy: JOURNAL OF LAW AND CONSTITUTIONAL SCIENCES* 4, no. 1 (2026): 264–80, https://doi.org/10.55606/birokrasi.v4i1.2539.

[39] Zahrotul Ma'asah and Teguh Hadi Wibowo, "The Impact of Economic Instability on Household Harmony," *AN-Najah: Journal of Islamic and Social Religious Education* 04, no. 01 (2025): 26–38.

but also has a substantive dimension in the form of the non-achievement of the marital goals desired by Islamic law.

The Failure of the Realization of Mawaddah wa Raḥmah in the Case of Domestic Violence

One type of deviation from the rights of family members that can be the reason for divorce is Domestic Violence (KDRT). Article 19 letter (d) of Government Regulation Number 9 of 1975 states that divorce can occur if one of the parties commits cruelty or severe persecution that endangers the other party.[40] Similar provisions are also stipulated in KHI Article 116 letter (d).[41] The existence of this provision shows that the law provides protection for parties who experience violence in domestic life.

Viewed from the point of view of maqāṣid al-nikāḥ, the existence of domestic violence shows that the goal of marriage in the form of love and mutual love or what is famous for the term mawaddah wa rahmah. Moreover, in the concept of maqāṣid sharia (the purpose of the descent of Islamic law) is also contrary to the purpose of sharia in the form of ḥifẓ al-nafs (safeguarding the soul), ḥifẓ al-'aql (safeguarding reason) and ḥifẓ al-'irḍ (safeguarding honor). Allah affirms that the relationship between husband and wife is built on love and affection as stated in Surah Ar-Rum: 21. Thus, the interaction between husbands and wives is ideally based on the attitude of loving each other, protecting, and treating the couple well. Allah Ta'ala believes:

﴿وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ ۚ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَىٰ أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا﴾

"And associate with them (wives) in a good way (makruf). Then if you do not like them, (then be patient) you may not like something, but Allah has done them a lot of good."[42]

Domestic violence is contrary to these principles because it harms one of the parties. Violence, in addition to causing misery for the victim, also aborts the purpose of marriage that Islamic law wants to realize. In such conditions, the household no longer functions as a place to obtain warmth and affection, but rather as a source of fear and pressure for family members.

Domestic violence also has the potential to damage children's development and overall family stability. A child is not a direct victim of the perpetrator, but he is able to remember the incident and make it a sad trauma in his life. This can collapse his mentality because the place that is expected to be a space of warmth and affection is destroyed by cruelty. A child who grows up in a family circle full of cruelty has the potential to suffer from psychological disorders, such as stress, lack of confidence, difficulties in building social relationships, decreased ability to think clearly and decreased sense of security in the family environment.[43] Thus, the impact of domestic violence is not felt by mere married couples, but also by other members.

In the context of contemporary households, domestic violence cases are getting more attention due to increasing public awareness of women's rights and the protection

[40] Government Regulation Number 9 of 1975, Article 19.

[41] Compilation of Islamic Law, Article 116.

[42] QS. An-Nisa (4): 19.

[43] Iva Nurfaizah, "The Impact of Domestic Violence (KDRT) on Children's Mental Health," *Gunung Djati Conference Series* 19 (2023): 95–103, https://www.conferences.uinsgd.ac.id/index.php/gdcs/article/view/1177.

of family members. By 2025, there will be 35,131 cases of domestic violence, with 30,013 cases of female victims.[44] Not only physical acts, but violence arises of various types ranging from emotional, financial to sexual violence such as insulting a partner on social media, having all bank accounts in his own name, requiring his partner to watch obscene spectacles or engage in unwanted sexual activity, and so on.[45]

Based on this explanation, it can be understood that the reason for divorce in the form of domestic violence in addition to having a legal dimension like in positive law, also has a substantive dimension in the form of the loss of the elements of love, protection and harmony which are the most important goals of marriage. Therefore, domestic violence is one of the strong indicators of the failure of the realization of maqāṣid al-nikāḥ in contemporary households.

Failure of Protection of Honor and Nasab in Infidelity and Adultery

Infidelity and adultery are among the cases that often trigger the division of a household to lead to divorce. Surveys show that Indonesia ranks 2nd in Asia in infidelity cases with a figure of 40%.[46] In Indonesia's positive law, the act of adultery is included among the grounds for divorce according to Government Regulation Number 9 of 1975 Article 19 letter (a)[47] and KHI Article 116 letter (a). This provision shows that loyalty is the main element to preserve the harmony of a household.

In the perspective of maqāṣid al-nikāḥ, marriage has the purpose of protecting honor (hifzh al-'irdh) as well as protecting nasab (hifzh al-nasl). Allah Ta'ala said:

﴿وَلَا تَقْرَبُوا الزِّنَا ۖ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا﴾

> *"And do not approach adultery. Indeed, adultery is an abominable act and a bad way."*[48]

The prohibition of approaching adultery is stronger than the prohibition of doing so, because it includes all the factors that introduce, motivate, and lead to it. Moreover, the lust for this act is very strong in most people's souls, so prevention from the beginning becomes more urgent. The Qur'an confirms the evils of adultery by calling it {فَاحِشَةً}, which is a great sin that is considered very despicable by the Shari'a, human nature, and common sense. Adultery includes deviation from the prohibition of Allah, damaging the honor of women, the honor of the family or husband, destroying the sanctity of the bed, mixing up the nasab, and causing various social and moral damages.[49]

Safeguarding honor is interpreted as an effort to maintain the integrity of husbands, wives, and families through a legitimate relationship and to be free from acts that can damage the sanctity of the marital bond. Meanwhile, safeguarding of offspring aims to ensure the continuity of generations through relationships that are justified by sharia so that the children's destiny is clearly preserved.

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[44] https://kekerasan.kemenpppa.go.id/ringkasan. Retrieved 26 June 2026.

[45] https://www.halodoc.com/artikel/bukan-ranah-privat-ketahui-4-jenis-kekerasan-dalam-rumah-tangga. Retrieved 26 June 2026.

[46] Atiah Amalia Fanni, Dewi Natali, and Dwita Magernita Silamba, "Literature Review: Causative Factors and Impacts of Infidelity on Couples and Children in the Family," *Journal of Psychological and Health Sciences* 3, no. 1 (2026): 256–71.

[47] Government Regulation Number 9 of 1975, Article 19.

[48] QS. Al-Isra' (17): 32.

[49] Abdurrahman bin Nashir As-Sa'diy, *Taysiir Al-Karim Ar-Rahman Fii Tafsiir Kalam Al-Mannan*, p. 457.

The occurrence of infidelity indicates betrayal and violation of the commitments built in the marriage contract. When one of the parties forms a bond with a stranger outside the marriage bond, the trust that is the foundation of the household will be damaged. As a result, the dignity of the spouse, the good name of the family, and the sacred bond of marriage are tarnished. Thus, ḥifẓ al-'irḍ is not just about "shame", but also about the preservation of the integrity, dignity, and sanctity of the marital relationship.

On the other hand, if infidelity develops into adultery, then the impact is not only offensive to the dignity side, but also has the potential to interfere with the purpose of sharia in maintaining offspring (hifzh al-nasl). Islamic sharia places marriage as the only legal way to form a family and form offspring that have a clear nasab. Thus, the prohibition of adultery is not intended to maintain individual morality alone, but more than that, it is to maintain the certainty of nasab, children's rights, and social order in society.

In addition to having an impact on the couple's relationship, infidelity has the potential to cause more massive social impacts. The presence of a third party in the household can trigger family conflicts, affect the psychological development of children, and damage the relationship between the extended family of both parties. Thus, the impact of infidelity is more than personal, namely also on the social side which is part of the benefits to be realized through marriage.[50]

In the context of contemporary households, the challenges in maintaining loyalty are becoming increasingly complex. The development of information technology and social media has opened up a much easier and wider space for interaction than before. Cases of infidelity often occur through chats, vulgar comments or turbulent interactions in various media such as whatsApp, Telegram to online motorcycle taxi applications. Communication that is initially ordinary can grow into an emotional bond that goes beyond the boundaries that should be maintained in domestic life. This condition shows that the challenge in maintaining honor and loyalty in the contemporary era does not only come from the direct social environment, but also from the increasingly growing digital space.[51]

Based on this explanation, it can be understood that infidelity and adultery are not merely violations of the fidelity of the spouse, but also reflect the failure of the realization of maqāṣid al-nikāḥ in maintaining the honor, trust, and integrity of the family. Thus, the reason for divorce based on such acts is closely related to the purposes of marriage in Islam.

The Contemporary Household Context in the Realization *of Maqāṣid al-Nikāḥ*

Social changes and technological developments also affect the pattern of interaction in the household. Family life today does not only take place through direct interaction, but also through various digital communication media. This condition on the one hand can facilitate communication between husband and wife, but on the other hand it can present a new form of problem in the marital relationship. Domestic conflicts can develop through digital communication, emotional involvement with other parties through social

[50] https://muhammadiyah.or.id/2026/04/perselingkuhan-adalah-ancaman-bagi-kesehatan-dan-keutuhan-keluarga/. Retrieved 27 June 2026.

[51] Al Fakhri Zakirman et al., "CyberAffair: The Phenomenon of Infidelity in the Digital Era from the Perspective of Fiqh Rules," *SHAUTUNA: Comparative Student Scientific Journal of Madhhab* 05, no. 3 (2024): 769–83, https://doi.org/10.24252/shautuna.v5i3.51465.

media, as well as forms of interaction that have the potential to disrupt trust between husband and wife.

In the perspective of *maqāṣid al-nikāḥ*, the change in the form of interaction does not change the basic purpose of marriage. Marriage is still directed at the formation of a domestic life that brings peace, affection, protection, honor, and sustainability of offspring. Therefore, problems that arise through digital means can still be analyzed based on their impact on these goals. For example, infidelity carried out through digital media can be a form of behavior that damages the trust and relationship between husband and wife if it has met the relevant elements of violation according to the law.

In addition to technological developments, economic pressure is also one of the contexts that need to be considered in the discussion of contemporary households. Inability to meet family needs, neglect of obligations, or conflicts that arise due to economic problems can interfere with the fulfillment of responsibilities in marriage. In the perspective *of maqāṣid al-nikāḥ*, this condition is related to the purpose of creating family benefits and welfare. However, economic pressure cannot be positioned as a reason for divorce in itself. The position must still be seen based on concrete circumstances and associated with the reasons for divorce that have been determined in positive law.

Contemporary domestic problems can also be in the form of violence that is not always in the form of physical violence. Psychological pressure, humiliation, threats, excessive control, or other actions that degrade the spouse can affect the peace and quality of the marital relationship. From the perspective of *maqāṣid al-nikāḥ*, this condition shows that there is a problem with the purpose of marriage that emphasizes the creation of affection, peace, and protection in family life. However, this study is not intended to state the level or prevalence of such violence in society because the research conducted is a normative legal research and does not use empirical field data.

Thus, the contemporary household context shows that the form of failure to realize the purpose of marriage can change along with social and technological developments. However, the change in the form of the problem does not necessarily change the position of *maqāṣid al-nikāḥ* into a stand-alone legal basis for divorce. *Maqāṣid al-nikāḥ* still serves as a teleological framework for understanding whether a domestic problem shows a failure to achieve the purpose of marriage, while the determination of the reasons for divorce still refers to the applicable positive legal provisions.

Analysis of the Suitability of Reasons for Divorce in Positive Law with Maqāṣid al-Nikāḥ

The grounds for divorce in Indonesia's positive law are basically compiled to provide legal certainty regarding the conditions that can be determined as the basis for filing for divorce in court. The stipulation is contained in Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, and KHI. Various reasons such as adultery, drunkenness, abandonment of a partner, being punished, cruelty or persecution, disability or illness as well as constant disputes and quarrels show that positive law seeks to provide a clear measure of the conditions when domestic life can no longer be maintained.

When analyzed from the perspective of maqāṣid al-nikāḥ, most of the reasons for divorce are closely related to the goals of marriage in Islam. Sustained conflict shows the nullity of sakinah in domestic life. Domestic violence reflects the loss of love and affection that should be the foundation of a marital relationship. Neglect of alimony indicates the non-fulfillment of responsibility, while adultery and infidelity indicate a

failure to maintain honor and offspring. Therefore, substantially positive law has accommodated various forms of failure to realize maqāṣid al-nikāḥ even though it does not explicitly mention them.

However, the accommodation is more indirect. Positive law does not make sakinah, mawaddah wa raḥmah, or other marital purposes a reason for divorce. On the contrary, the law formulates the reason for divorce in the form of legal events that can be proven at trial. This approach is chosen because the judicial process requires an objective basis that can be verified through evidence. For example, it will be easier for judges to assess the existence of a continuous conflict with the occurrence of domestic violence, or proven neglect of alimony than to directly measure whether a household still has mawaddah or has lost sakinah. In other words, positive law uses concrete indicators as a representation of the failure of the marriage goal.

On the other hand, not all aspects of maqāṣid al-nikāḥ are explicitly regulated in positive law. For example, the purpose of marriage to build the quality of children's education, to guide the moral and moral development of the family, to improve the spiritual quality of domestic life is not used as a separate reason for divorce. This does not mean that these aspects are not important, but because they are abstract, relative, and difficult to measure juridically. Positive law is basically more oriented towards resolving disputes through legally verifiable measures, while maqāṣid al-nikāḥ has a broader scope as a philosophical goal of the legalization of marriage.

The difference in character between positive law and the concept of maqāṣid al-nikāḥ shows that they are on different levels. Maqāṣid al-nikāḥ serves as a philosophical foundation and an ideal goal to be realized in domestic life, while positive law serves as a juridical instrument for resolving disputes when those goals can no longer be realized. Therefore, the relationship between the two is not a conflicting relationship, but a complementary relationship. Positive law translates the values contained in maqāṣid al-nikāḥ into a more operational form of legal norms so that a judge is able to easily decide a divorce case.

Based on this analysis, it can be understood that the reasons for divorce in Indonesia's positive law have basically accommodated most of the goals of marriage in the perspective of maqāṣid al-nikāḥ, but that the accommodation is carried out through concrete legal indicators, not through the explicit formulation of the purpose of marriage. This condition shows that maqāṣid al-nikāḥ remains relevant as an analytical perspective to assess whether the various reasons for divorce that are determined really reflect the failure to realize the goals of marriage as harmonized by Islamic law.

CONCLUSION

This study shows that maqāṣid al-nikāḥ can be placed as a substantive benchmark for evaluating the success and failure of domestic life. The success of marriage is not solely determined by the permanence of the formal marriage bond, but by the extent to which the goals inherent in the institution of marriage can be realized in family life, especially the realization of sakinah, mawaddah wa raḥmah, the protection of honor and soul, the maintenance of offspring, the fulfillment of rights and obligations, and the creation of family benefits. These findings confirm that the juridical integrity of marriage is not always synonymous with the substantive success of marriage. From the perspective of maqāṣid, the quality of the household must be assessed based on the ability of marriage to bring benefits and prevent harm to husbands, wives, and children, so that maqāṣid al-nikāḥ can function as an evaluative framework to read the quality of family life more comprehensively.

This study further found that maqāṣid al-nikāḥ is not a source of law that independently creates grounds for divorce in the Indonesian positive legal system. The juridical basis for divorce still refers to the grounds specified in the Marriage Law, Government Regulation Number 9 of 1975, and for Muslims, the Compilation of Islamic Law. Nevertheless, there is a substantive correspondence between the reasons for divorce and the purpose of marriage in the perspective of maqāṣid al-nikāḥ. Persistent disputes and quarrels indicate a failure to realize sakinah; neglect of obligations indicates the non-fulfillment of the principles of responsibility and the benefit of the family; violence is contrary to the principles of protection of soul, dignity, and mawaddah wa raḥmah; while infidelity and adultery are related to the failure to maintain honor and offspring. Thus, maqāṣid al-nikāḥ serves as a teleological framework that explains why certain conditions can normatively be the basis for the end of marriage when maintaining the bond has the potential to increase harm.

Based on these findings, the study recommends strengthening the perspective of maqāṣid al-nikāḥ in the development of Islamic family law in Indonesia, especially as an interpretive approach in understanding the reasons for divorce and assessing the sustainability of a household without shifting the applicable positive legal basis. Judges, mediators, and family law institutions can use the orientation of maqāṣid proportionately to assess whether efforts to maintain the marriage still have the prospect of bringing benefits or actually maintaining harm to the parties and children. At the policy level, it is necessary to develop more operational parameters regarding sakinah, family protection, fulfillment of rights and obligations, and the best interests of children so that the values of maqāṣid can be translated more consistently into the practice of resolving family cases. Further research is recommended to test this normative framework through empirical research, including analysis of religious court decisions and interviews with judges, mediators, and couples facing divorce cases, so that it can be known to what extent the considerations of maqāṣid al-nikāḥ actually contribute to dispute resolution and the protection of family interests in practice.

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