
Maslahah-Based Judicial Reasoning in Divorce Cases Involving Extramarital Relationships: A Case Study of the Gorontalo High Religious Court

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ABSTRACT

A marriage may remain legally intact on paper while, in reality, it has already collapsed under betrayal, emotional rupture, and irreparable harm. This study aims to analyze the philosophical, legal, and sociological arguments employed by the judges of the Gorontalo High Religious Court in deciding a divorce case involving an extramarital relationship, and to examine how the principle of *maslahah* is constructed within that judicial reasoning. Using a qualitative juridical case-study design, the research focuses on Decision Number 12/Pdt.G/2013/PTA.Gtlo and is supported by interview data with judges. The findings show that the judges' reasoning was built through the integration of philosophical considerations of substantive justice, juridical considerations based on positive law, Islamic legal norms, and jurisprudence, as well as sociological considerations derived from the factual breakdown of the marital relationship. The discussion further demonstrates that the decision was substantively guided by a *maslahah*-oriented logic, particularly the principle of *dar'u al-mafāsīd muqāddam 'alā jalb al-maṣāliḥ*, by which divorce was treated as a means of preventing greater harm when the continuation of marriage no longer served its essential purposes. This study concludes that *maslahah* provides an operationally valid framework for understanding judicial reasoning in appellate divorce cases within religious courts. The research implies that Islamic legal values are not merely theoretical references, but can function as practical judicial tools for aligning legal certainty, justice, and social reality in family law adjudication.

Keywords: Divorce Cases; Judicial Reasoning; *Maslahah*.

Introduction

Divorce is one of the consequences of domestic conflict that cannot be resolved constructively. One factor that often triggers divorce is infidelity, including a phenomenon known in the Indonesian social context as the presence of another man. Infidelity in a household can be influenced by various factors, including the development of social media (Zainuddin, 2020), which opens up new spaces for interaction, low religious standards that impact on weakening moral commitment, and unresolved internal conflicts between husband and wife (Wartaku id, 2020). These conditions ultimately contribute to the rising divorce rate and weakened family resilience (Khaerul Fajridan Mulyono, 2017). Data from the Gorontalo Religious Court shows that from 2018 to the present, there have been approximately 1,000 divorce cases per year, with the dominant case being divorce by lawsuit (738 cases) and divorce by divorce (266 cases). This figure shows that on average more than three married couples divorce every day, which indicates the urgency of studying the dynamics of divorce, especially those caused by infidelity (Mursyid Djawas, 2022).

From an Islamic legal perspective, divorce is permitted but is positioned as a last resort (*ultima ratio*) when marital life can no longer be maintained without causing harm. This principle indicates that consideration of the benefit (*maslahah*) is a crucial aspect in determining the validity of a divorce. Several previous studies have discussed the use of fiqh principles (*al-qawā'id al-fiqhiyyah*) in religious court decisions, particularly in marriage and divorce cases. These studies generally highlight the application of principles such as *ad-d'arar yuzāl* and *dar'u al-mafāsīd muqaddam 'alā jalb al-maṣ āli ḥ* (Muhammad Taufiki, 2022). Furthermore, other studies have also examined the use of *ushuliyah* and *fiqhiyyah* principles in sharia legal arguments in sharia economic cases. On the other hand, normative aspects related to the reasons for divorce have also been regulated in Article 19 of Government Regulation Number 9 of 1975 and Article 116 of the Compilation of Islamic Law, which recognizes continuous disputes and quarrels as grounds for divorce (Yusnita Eva, 2020).

The latest study attempts to reveal and dig deeper into the judge's arguments regarding divorce cases due to the presence of another dream man. Benefit considerations in the High Religious Court's decision can be based on *al-qawā'id al-fiqhiyyah*. The position of *al-qawā'id al-fiqhiyyah* in court decisions (*qada*) is important, in deciding the welfare of a family. *Al-Qawā'id al-fiqhiyyah* is a legal standard in general rules, from these rules the laws of something that falls under its scope are known (Ali Ahmad al-Nadwi, 1994). According to Abu Muhammad Izz al-Din ibn Abd al-Salam *al-qawā'id fiqhiyyah* is a way to obtain *maslahah* and

reject *mafsadat* (Asjmuni A. Rahman, 1991) its relation to divorce decisions at the High Religious Court.

However, these studies still have limitations. First, studies that specifically examine judges' *maslahah arguments* at the appellate court level, particularly in divorce cases due to infidelity, are still very limited. Second, most studies tend to be descriptive and have not yet examined in depth the construction of judges' arguments from an integrated philosophical, juridical, and sociological perspective. Third, there are not many studies that explicitly link the application of *al-qawā'id al-fiqhiyyah* with the practice of judicial reasoning in the concrete context of high religious court decisions. Therefore, there is a research gap that needs to be filled, particularly in understanding how *the maslahah* principle is operationalized in judges' deliberations at the appellate level.

Based on this gap, this study aims to analyze the judge's arguments in divorce decisions due to the presence of another ideal man at the Gorontalo High Religious Court using a *maslahah* perspective. This study uses a qualitative design with a juridical approach and case studies. The main data is the Decision of the Gorontalo High Religious Court Number 12/Pdt.G/2013/PTA.Gtlo obtained from the official website of the Supreme Court of the Republic of Indonesia, and supported by interviews with judges. Data analysis was carried out using *content analysis techniques* through several stages, namely: (1) identifying the legal arguments used by the panel of judges, (2) categorizing these arguments into philosophical, juridical, and sociological aspects, and (3) analyzing them from a *maslahah* perspective.

Thus, this study poses two main questions. First, what are the philosophical, legal, and sociological arguments of the judges of the Gorontalo High Religious Court in deciding divorce cases due to the presence of another man? Second, how is the construction of the judges' *maslahah* argument in these decisions? The purpose of this study is to fill the gap in previous studies by providing a comprehensive analysis of the application of *the maslahah* principle in judicial reasoning, particularly at the appellate court level, and to strengthen theoretical understanding of the integration of Islamic legal values in religious court practice.

Methods

This research uses a qualitative case study design with a juridical approach. The juridical approach is used to analyze the consistency and conformity of the judge's considerations with positive legal norms, Islamic legal principles, and relevant legal doctrines. The case study was chosen because it allows for an in-

depth exploration of the construction of judicial reasoning in a concrete decision (Yin, 2018). The case selection in this study was based on several criteria. First, the decision originated from the appellate level, namely the High Religious Court, thus representing a more comprehensive legal reasoning process than the first level. Second, the case relates to a divorce caused by a third party (another ideal man), which is substantively relevant to the focus of the research. Third, the decision contains relatively comprehensive legal considerations, allowing for analysis of philosophical, juridical, and sociological dimensions. Based on these criteria, the Decision of the Gorontalo High Religious Court Number 12/Pdt.G/2013/PTA.Gtlo was selected as the main object of the research.

The research data sources consist of primary and supporting data. Primary data consists of court decision documents obtained from the official website of the Supreme Court of the Republic of Indonesia. Supporting data was obtained through semi-structured interviews with judges experienced in handling divorce cases in religious courts. Interviews were conducted purposively with informants deemed competent and relevant to the research topic (Creswell & Poth, 2018). The number of respondents was determined based on the principle of data saturation, which occurs when the information obtained is repetitive and no longer yields new findings (Guest et al., 2006). Interview procedures included developing interview guidelines, conducting interviews both in person and online, and data transcription and verification.

The data analysis in this study used content analysis techniques with a qualitative approach. An analytical framework was developed to identify, categorize, and interpret the legal argumentation patterns used by judges. The analysis process was carried out in several stages. First, an in-depth reading of the decision documents was conducted to identify the structure and substance of the legal reasoning. Second, coding of parts of the judges' reasoning relevant to the research theme was carried out. Third, grouping the coding results into analytical categories that reflect philosophical, juridical, and sociological aspects. Fourth, interpreting the findings from the perspective of the principle of *maslahah* by referring to the principles of Islamic jurisprudence (*al-qawā'id al-fiqhiyyah*). This approach is in line with the qualitative content analysis framework that emphasizes the systematic interpretation of textual meaning (Krippendorff, 2018).

In this study, the philosophical aspect is operationalized as the judge's considerations related to the values of justice, morality, and the objectives of law (*maqāṣid al-sharī'ah*). The juridical aspect is operationalized as considerations referring to positive legal norms, such as statutory regulations and sources of Islamic law recognized in the religious court system. Meanwhile, the sociological

aspect is operationalized as considerations that take into account the social conditions of the parties, the impact of the decision on the parties' lives, and the resulting social benefits. These three aspects are analyzed integratively to reveal how the principle of *maslahah* is used in the judge's judicial reasoning in deciding divorce cases.

Findings

Before discussing the findings of this study, it is necessary to first describe the case as set out in Decision Number 12/Pdt.G/2013/PTA.Gtlo, which forms the primary basis of the present analysis.

Based on the facts in the divorce case filed at the Gorontalo High Religious Court, the Appellant's (husband) and Appellant's (wife) household had been strained since 2003, when Appellant returned from studying in Japan. The husband and wife frequently had disputes and arguments, stemming from the wife's relationship with another man. Evidence of a relationship with another man, marked by the presence of intimate SMS and emails from the man, which entered the Appellant's (wife) *cellphone* and email. Even though the man had signed a statement that he would not interfere with the Appellant's household. However, the argument between the Appellant and the Respondent continued when the Appellant as the wife and the man went to Jambi and Pontianak together, so that the disharmony in their household reached its peak. This was further exacerbated by information that was later proven that the man embraced the Appellant when leaving the Sakti Medika Clinic, and evidence of money transfers from the man to the Appellant's (wife) account was found, even though according to the Appellant the money had been transferred back to the man's account number.

The Appellant's heart as a husband still cannot accept the Appellant (his wife) back, because of the Appellant's (wife) relationship with another man. Added to this is the wife's attitude of bringing up the case of an office staff staying overnight at his wife's house, which causes the Appellant's (wife) attitude to be unwilling to hold a thanksgiving before leaving for Hajj and a thanksgiving after returning from Hajj, as well as the Appellant's lack of sympathy and indifference to the Appellant during the Hajj. The Appellant's hard heart resulted in his refusal to allow the Appellant to follow the Appellant's work transfer to Yogyakarta.

The Philosophical, Legal, and Sociological Arguments of the Judges of the Gorontalo High Religious Court in Deciding Divorce Cases

The findings show that the judges of the Gorontalo High Religious Court constructed their reasoning through the integration of philosophical, legal, and sociological arguments in deciding divorce cases involving an extramarital

relationship. Philosophically, the judges emphasized that divorce may be justified when a marriage has lost its emotional and spiritual foundation, so that maintaining the marital bond would no longer realize justice but instead prolong the suffering of the parties. In this respect, the judges did not focus merely on the formal continuity of marriage, but on whether the household still reflected the essential objectives of marriage, namely harmony, mutual trust, and emotional attachment.

In philosophical considerations, the judge of the Gorontalo High Religious Court emphasized the values of substantive justice and benefit in household relations. The judge did not merely consider the formal continuation of a marriage, but also further assessed the quality of the relationship built between husband and wife. In this case, the judge assessed that the parties' relationship had lost its main foundations of harmony, trust, and emotional attachment. These indicators were evident in the intensity of repeated conflicts, the parties' inability to reconcile, and the involvement of a third party that exacerbated the rift. The judge then concluded that maintaining the marriage under these conditions no longer reflected the ideal goals of marriage but instead had the potential to prolong the suffering of both parties.

Furthermore, the findings indicate that judges view divorce not as a mere failure, but as an alternative solution to avoid greater harm. This consideration reflects an orientation toward justice that is not only normative but also contextual, taking into account the realities faced by the parties. Thus, philosophically, judges place the interests of protecting the individual above the formal continuity of the institution of marriage.

The philosophical arguments based on:

"If a husband is determined to give divorce, then surely Allah is All-Hearing, All-Knowing." (QS. Al Baqarah/2:227)

From the legal perspective, the judges based their reasoning on a combination of procedural law, statutory provisions, Islamic legal norms, and judicial precedents. The appellate decision referred to the procedural validity of the appeal, the applicable provisions on divorce under Indonesian positive law, the Compilation of Islamic Law, and relevant Supreme Court jurisprudence. The judges also considered the wife's conduct in maintaining a relationship with another man as a form of marital breach that contributed to the collapse of the household, and they linked this legal evaluation to the husband's right to seek divorce and to the obligation to provide *mut'ah* after the divorce. These juridical arguments show that the judges framed their decision within a structure of legal certainty and normative legitimacy.

Furthermore, regarding the argument of the judge of the Gorontalo High Religious Court based on the Jurisprudence of the Supreme Court of the Republic of Indonesia Number 23KAg/1998 dated March 17, 1999 that living apart without a shared residence is one of the facts that is the reason for a divorce according to Article 119 letter (f) of PP No. 9 of 1975. The trigger for a rift in the household is due to the infrequent meeting, which causes a loss of quality in carrying out relationships in the household.

The judge's argument was based on the fact that the husband-wife relationship had been inharmonious since 2003 or since the wife returned from her studies. In Japan, there were frequent disputes and arguments between the two women caused by the wife having a relationship with another man. This was indicated by the presence of intimate text messages and emails from the man that entered the wife's *cellphone* and email. The quarrel between the two women continued when the wife and the man went to Jambi and Pontianak together, so that the disharmony in their household reached its peak. This was then made worse by information that was later proven that the man embraced the Appellant when he left the Sakti Medika Clinic, and evidence was found of a money transfer from the man to the Appellant's account, even though according to the Appellant the money had been transferred back to the man's account number.

The legal arguments provide a chronological social fact of divorce, influenced by social media use, which leads to jealousy among husbands toward their wives, often receiving intimate text messages (SMS) and emails from other men. The wife's uncontrolled social interactions, as a married woman, have a negative impact on her household and lead to negative perceptions in society. Because a husband who has divorced his wife is considered a widower and his ex-wife a widow, these connotations tend to be viewed negatively.

Confirmed by Sitti Khatijah Yahyah, Judge of the Sengkang Religious Court, Wajo Regency:

If one party in a married couple has an affair, such as a wife having another man or a husband having another woman, then it can be categorized as an act of *nusyuz*. Because in fact, a harmonious household life is ideally supported by the love and affection of each party. If the husband and wife or one of them no longer have a sense of affection, it will result in a household that will always have arguments and can even lead to separation. Then such a household is very difficult to be harmonious and built again, the solution is divorce in order to fulfill the principle of preventing harm is prioritized over gaining benefit.

In line with the opinion of Mansur, Judge of the Fak-Fak Religious Court, West Papua:

That if one of the married couples is clearly proven to have had an affair with another woman or with another man by presenting evidence that the judge can be sure of as true during the trial, then it can be categorized as having committed *nusyuz* and can be a reason for divorce in court.

Based on the opinions, if a household is no longer harmonious and there is no mutual trust between husband and wife because of the presence of a third party and there is no mutual awareness to change into a household that is *peaceful and loving*, and *mercy* caused by a third party (infidelity), it can be categorized as an act of *nusyuz* which is one of the reasons for filing a divorce suit at the Religious Court.

From the sociological perspective, the judges took into account the concrete social reality of the parties' marital life, particularly the prolonged conflict, the loss of trust, the repeated disputes, and the negative social consequences arising from the wife's relationship with another man. The evidence of intimate messages, email communication, travel together, and financial transactions reinforced the judges' conclusion that the marriage had become deeply fractured and socially untenable. Thus, the sociological argument did not merely describe background facts, but functioned as an important basis for showing that the continuation of the marriage would no longer provide benefit to the parties and would instead intensify harm. Overall, the first finding demonstrates that the judges' reasoning was not built on a single legal basis, but on an integrated argument that combined substantive justice, normative legality, and empirical social conditions.

The Maslahah Argument on the Construction of the Judges' Decisions

The second finding reveals that the judges' decision was substantively constructed through the principle of *maslahah*, although this principle operated not only as an abstract Islamic legal value but as a practical framework for resolving marital conflict. The judges considered that preserving the marriage would be futile because the relationship had lost its essential spirit and emotional foundation, and its continuation would only produce greater harm for both parties. In this context, the decision reflects the application of the principle *dar'ul al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*, meaning that preventing harm takes precedence over attaining benefit. The judges therefore treated divorce not as a purely formal legal consequence, but as a means of avoiding a more damaging situation in a household that could no longer be restored.

The construction of this *maslahah* argument was supported by the integration of philosophical, legal, and sociological considerations. Philosophically, the judges linked justice to the protection of the parties from a

harmful and empty marriage. Legally, they relied on recognized legal sources, including the Qur'an, the opinions of *fuqahā'*, positive legal provisions, and judicial precedents, while still orienting these norms toward beneficial outcomes. Sociologically, they grounded their reasoning in the factual deterioration of the marital relationship and the broader impact of infidelity on the parties' lives. In this sense, *maslahah* functioned as the underlying logic that connected normative legal materials with the lived reality of the case.

The findings further indicate that the judges' reasoning can be understood within the broader framework of *maqāṣid al-sharī'ah*, especially the effort to protect the self, dignity, and social well-being of the parties. The decision suggests that when reconciliation is no longer realistically possible, maintaining the marriage may no longer serve the purposes of Islamic law. Thus, the second finding confirms that the judges' reasoning was not limited to a formal application of legal rules, but was constructed through a *maslahah*-oriented approach that prioritized the prevention of greater harm and the realization of a more just and workable outcome for the parties.

Discussion

The Philosophical, Legal, and Sociological Arguments of the Judges of the Gorontalo High Religious Court in Deciding Divorce Cases

Then Abdur Rahman Ash-Shabuni's opinion in the book *Madahurriyyatuz zaujain fit-thalaq* states that "Islam has chosen the path of divorce when domestic life experiences severe tension and turmoil where the marriage bond depicts a marriage without a soul, so that by requiring to continue preserving and maintaining the marriage means the same as punishing one of the parties with life imprisonment and this is about the spirit of justice."

Then the judge considered that maintaining the Appellant and Appellee's household was a futile matter, because their hearts had been broken so that the spirit of the marriage bond was no longer there, and would even add to the loss for both parties. This is in line with the rules of *maslahah* or *درء المفساد مقدم* "Rejecting *mafsadah* takes precedence over achieving *maslahah*." (Djazuli, 2011).

The basic meaning of *maslahah* is to realize benefits (*jalb al-manfa'ah*) or avoid harm (*daf'u al-madarrah*). As stated by al-Ghazali, *maslahah* is to maintain and realize shar'ah in the form of maintaining religion, soul, intellect, descendants, and property (Al-Ghazali, 1997). The application of the concept of *maslahah* in divorce cases still depends on the pattern of legal reasoning that contains *maslahah* applied by legal experts (Al-Ghazali, 1997).

Yusuf Al-Qaradawi's term is that the substance of *maslahah* desired by Islamic law could be a combination of *al-maslahah al-fardiyyah* and *al-maslahah al-mujtama'iyah*, and a combination of *al-maslahah al-qumiyyah al-khassah* and *al-maslahah al-insaniyyah al-'ammah*. Furthermore, from a philosophical perspective, it is an aspect that is rooted in truth and justice. The function of a judge is not merely to uphold the law but also to uphold or provide justice to those seeking it through legally binding court decisions. Judges also need a philosophy of law to ensure their decisions truly reflect justice (Sugijanto Darmadi, 1998).

A judge's decision is made to provide a solution or answer to a concrete case or problem, so legal philosophy actually provides a general basis or "*grand theory*" for judges in choosing legal theories or legal doctrines to strengthen their arguments or interpretations of the provisions of legislation that are used as references in the legal considerations of their decisions (Peter Mahmud Marzuki, 2017). Of course, it should also be noted that in reality not all judges always explicitly use legal theory or legal doctrine as the basis for legal considerations in deciding a case (Achmad Ali, 2008).

Judicial decisions are generally heavily influenced by positivist legal philosophy, which is characterized by the principle that judicial decisions must prioritize legal certainty in the sense of conformity of the judicial decision with positive/written law. However, along with the development of schools of thought that allow judges to make legal discoveries, the influence of *freirechtslehre* (free legal teaching) legal philosophy in judicial decisions is also seen (Malihot Janpieter Hutajulu, 2000).

As in the decision of this research, the judge used legal sources to argue the philosophical aspects of the QS. Al-Baqarah/2:227 and the opinion of Abdur Rahman Ash-Shabuni in the book *Madahurriyyatuz zaujain fit-thalaq*, regarding the permissibility of divorce if it is really an emergency and there is no other solution that can be taken to maintain the integrity of the household.

The legal considerations put forward by the Panel of Judges at the Gorontalo High Religious Court is Article 7 paragraph (1) of Law No. 20 of 1947. The judge's argument regarding the appeal application submitted within the time limit and procedures for appeal as stipulated in the law, then the appeal application is declared acceptable. In accordance with the provisions of concerning Repeat Trials, as *judex factie*, the Gorontalo High Religious Court is obliged to conduct a re-examination of the case being appealed against.

The procedures or steps that the appellant must take are:

- 1) The appeal application must be submitted in writing or orally to the Gorontalo Court within the time limit.

- 2) Pay the costs of the appeal case (Article 7 of Law No. 20 of 1947 Article 89 of Law No. 7 of 1989).
- 3) The clerk shall notify the court of the existence of an appeal (Article 7 of Law No. 20 of 1947).
- 4) The appellant can submit an appeal memorandum and the appellant can submit a counter appeal memorandum (Article 11 paragraph (3) of Law No. 20 of 1947).
- 5) No later than fourteen days after the application is notified to the opposing party, the Clerk shall give both parties the opportunity to see the case documents at the Gorontalo High Religious Court office (Article 11 paragraph (1) of Law No. 20 of 1947).
- 6) The appeal case files are sent to the Gorontalo High Religious Court no later than one month after the appeal case is received.
- 7) A copy of the appeal decision was sent by the Gorontalo Religious Court to the Gorontalo High Religious Court which examined the case at the first instance to be delivered to the parties.
- 8) The Gorontalo High Religious Court delivered a copy of the decision to the parties;
- 9) After the decision has obtained permanent legal force, the clerk will notify the court of the date for the trial to witness the declaration of divorce by summoning the Applicant and Respondent in divorce cases and provide a divorce certificate as evidence of the divorce letter no later than seven days in cases of contested divorce.

The procedures for resolving cases at the appeal level are as follows:

- 1) The appeal case file is recorded and given a register number.
- 2) The Chief Justice of the High Religious Court makes a determination regarding the Panel of Judges who will examine the files.
- 3) The clerk appoints a substitute clerk who will assist the assembly.
- 4) The substitute clerk submits the files to the chairman of the panel.
- 5) The substitute clerk distributes the case files to the High Court Panel of Judges.
- 6) The High Court of Justice ruled on the appeal.
- 7) A copy of the decision is sent to both parties through the Court of First Instance.

The argument of the panel of appellate judges considered betraying marriage (cheating) as part of *nusyuz*. According to the provisions of Article 84 paragraph (1) of the Compilation of Islamic Law which states that the main obligation for a wife is to be physically and mentally devoted to her husband within the limits permitted by Islamic law. Several aspects that form the basis of the judge's argument in the divorce case decision, especially in this case regarding

divorce by *talaq*, the judge looked more at the legal aspect to categorize the wife as *nusyuz*. Here lies the imbalance in the existing regulations, the legal material that the judge is guided by, appears unbalanced because it only mentions the wife's *nusyuz*, not the husband's *nusyuz*. In fact, the husband is more likely to have an affair than the wife, because he works more in the public sphere and interacts with many people.

There are many forms of infidelity that can be categorized as *nusyuz*, from the major to the minor, from simply venting to intimate relationships. All are forms of abuse that eliminate the true essence of family. Whatever the reason and however severe the form of infidelity, it cannot be justified whether committed by men or women. The triggers are many and varied, but they all boil down to disharmony in the husband-wife relationship (Khaerul Fajridan Mulyono, 2008). As stated in the description of the case decision No. 12/Pdt.G/2013/PTA.Gtlo, the divorce occurred due to the presence of another man (infidelity).

The impact of infidelity can certainly leave deep trauma, especially for the victim, such as disappointment, shame, loss of self-confidence, feelings of hurt, and difficulty regaining trust in their partner. Furthermore, other impacts of infidelity include a loss of zest for life, leading to suicide attempts. Furthermore, it is easy to vent emotions to children. Mental health and the rights a child deserves are also compromised and not properly fulfilled. Disturbed mental health and unfulfilled rights lead to children growing up unhappy. Such conditions can potentially lead to children becoming delinquent, which not only disturbs the family but also the community (Rikho Afriyandi and Khabib Mustofa, 2021).

The next argument of the panel of appellate judges is that the ex-husband is obliged to provide *mut'ah* to his ex-wife. Based on the provisions of Article 158 letter (b) of the Compilation of Islamic Law and based on the Jurisprudence of the Supreme Court of the Republic of Indonesia Number 184K/Ag/1995 dated September 30, 1996, *mut'ah* must be provided by the ex-husband to his ex-wife, provided that the divorce is at the husband's will. The purpose of giving *mut'ah* is as a souvenir to comfort the heart of the wife who has been divorced, adjusted to the husband's ability by looking at his income, *mut'ah* can be in the form of money or goods.

The legal aspect is the primary aspect, based on applicable laws. Judges, as applicators of the law, must understand and seek out laws relevant to the case at hand (Andy Yentriyani, 2016). Judges can assess whether the law is fair, beneficial, or provides legal certainty if enforced, as one of the purposes of law is to create justice (Ahmad Rifai, 2011).

The implementation of legal thinking requires every judge to always adhere to and be guided by the law. The will of the law becomes the will of the judge. The reality of the law is in accordance with the content of the law itself. This ensures that the resulting decision is oriented and based on the law (Soerjono Soekanto, 1983).

Judges' decisions that tend to use normative legal arguments, show that judges predominantly use the size of statutory regulations as a tool in solving problems (A. Salman Maggalatung, 2014). The logic of their thinking is deductive logic, namely placing general rules or legal articles into concrete cases. When the things mentioned in the law have appeared in the trial, then that is what is used as the basis for legal considerations, without considering other aspects such as philosophical and legal aspects.

The nuances of judges' thinking based on the legal aspect cannot be separated from their position as professionals whose views always see and understand the law as *rules* (Rusli Muhammad, 2014). The legal responsibility of judges requires them to always align all steps of their lives with the law when facing and resolving cases with logic and legal teachings, without considering and thinking about aspects outside the law. Likewise, when formulating and issuing decisions, their considerations are solely legal considerations.

The sociological aspect considers the cultural values that exist within society (Supriyadi and Siti Suriyati, 2022). Textually, as previously mentioned, the law requires judges to explore the values that exist within society. Sociologically, this requires judges to make legal discoveries (Sudikno Mertokusomo and A. Pitlo, 1993). Judges may not reject cases on the grounds that the law is absent, incomplete, or unclear. However, under the pretext of freedom, judges must decide based on their beliefs (Nafi Mubarak, 2014).

The public expects that the implementation of the law will be beneficial, as the law is for humankind. Therefore, the implementation of the law must not cause public unrest, as its purpose is to provide a sense of justice for the public. Although justice is inherently subjective and individual, judges are required to be more thorough, observant, and professional in examining and deciding cases to ensure a sense of justice for the public.

In order for a judge's decision as a legal product to be accepted by society, to exist and be treated in society, it must have four elements, namely (Nafi Mubarak, 2014):

- 1) Embodying legal values recognized by society. Law was born as a means to resolve various social issues, in order to achieve order and peace in interactions with others in society. These two things are philosophically the purpose of law.

However, not all existing rules in society that have been codified can have their legal values known. Conversely, there are also many legal values in society that have not been codified but are known with certainty in certain communities and are even seen as fundamental to social life. The judge's obligation is to seek, discover, follow, and apply the legal values that exist in society.

- 2) Embodying respected legal values, the existence of legal values in society is greatly influenced by how much those values are respected. Society views ideal legal values as those where all elements can accept them as a means of resolving problems that arise in society. The main factor that greatly influences the survival and development of these legal values depends on how much society values and applies them.
- 3) Embodying the values of law that are adhered to, it is often assumed that legal compliance is closely related to legal awareness. Therefore, no matter how well-known and even respected the legal values are, if society does not obey them, then the law cannot be categorized as living and developing legal values in society. Obedience is seen as one of the main elements, but it is impossible to achieve obedience to the law if society does not know its source and appreciate the benefits of these legal values.
- 4) Contains recognized legal values, the recognition factor of a law is a relative matter, it is intended so that certain people or community groups who are not in the applicable system, also know the existence of these legal values. With formal legal recognition, it can bind the legal needs of people who are outside the legal system after interaction with a society that respects these legal values.

These four elements must be met if a legal product is to be truly accepted as a legal principle in society. Administratively, the legal and philosophical aspects emerge more frequently than the sociological ones. In divorce cases, the decision is based on the presence of another woman, which is the object of this research. The judge in his legal argument remains based on philosophical, juridical, and sociological aspects. Although sociological aspects tend to be or are rarely involved because the judge focuses on normative (written) legal regulations, in this research decision the judge still argues based on sociological aspects according to the chronology of the case that occurred in the divorce application at the Gorontalo High Religious Court.

The Maslahah Argument on the Construction of the Judges' Decisions

The arguments used by the judge from the philosophical, legal and sociological aspects will be detailed in a table and then analyzed from the *maslahah aspect* as follows:

Table 1. Arguments of the Gorontalo High Religious Court Judge

PTA name and No Verdict	Philosophical Arguments	Legal Argument	Sociological Arguments	<i>Maslahah</i> Argument
PTA Gorontalo Number 12/Pdt.G/ 2013/PTA. Gtlo.	QS. Al-Baqarah/2:227 which means: "If a husband is determined to give divorce, then indeed Allah is All-Hearing, All-Knowing." Furthermore Abdur Rahman Ash-Shabuni's opinion in the book <i>Mada hurriyyatuz zaujain fit thalaq</i> is that: "Islam has chosen the path of divorce when domestic life experiences severe tension and turmoil where the marriage bond depicts a marriage without a soul, so that requiring them to preserve and maintain a marriage means the same as punishing one of	The Supreme Court of the Republic of Indonesia Jurisprudence Number 23K/Ag/1998 dated March 17, 1999, living separately without a shared residence, is one of the facts that is the reason for divorce according to Article 119 letter (f) of PP No. 9 of 1975. The trigger for a rift in the household is due to the infrequent meeting, thus causing a loss of quality in carrying out relationships in the household. Betraying marriage by committing	It has become a social fact that the chronology of divorce is influenced by social media use, which leads to jealousy among husbands toward their wives due to frequent SMS messages and intimate emails from other men. The wife's uncontrolled social interactions, as a married woman, have negative repercussions within the household and lead to negative public perception.	Maintaining the Appellant and Appellee's household is a futile matter, because their hearts have been broken so that the spirit of the marriage bond no longer exists, and it will even cause further harm to both parties if it continues to be maintained. This is in line with the rules of <i>maslahah</i> <small>درء المفساد مقدم على جلب المصالح</small> "rejecting <i>mafsadah</i> takes precedence over achieving <i>maslahah</i> "

	<p>the parties with life imprisonment and this is about the spirit of justice."</p> <p>The spirit of the marriage bond no longer exists, it will even increase harm for both parties. In line with the rules of <i>maslahah</i> or <i>درء المفساد مقدم</i> "Rejecting <i>mafsadah</i> takes precedence over achieving <i>maslahah</i>"</p>	<p><i>nusyuz</i>. In accordance with the provisions of Article 84 paragraph (1) of the Compilation of Islamic Law: "the main obligation for a wife is to be devoted physically and spiritually to her husband within the limits permitted by Islamic law."</p> <p>Regarding the granting of <i>mut'ah</i> according to the provisions of Article 158 letter (b) of the Compilation of Islamic Law and based on the Jurisprudence of the Supreme Court of the Republic of Indonesia Number 184K/Ag/1995 dated 30 September 1996,</p>		
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		mut'ah must be granted by the ex-husband to the ex-wife, on the condition that the divorce is at the husband's will.		
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Source: Decision of the Gorontalo High Religious Court Number 12/Pdt.G/2013/PTA.Gtlo.

After examining the judge's arguments from the philosophical, legal, and sociological perspectives on Table 1, we found the following linguistic use of the *maslahah* principle, which is situated in the philosophical aspect:

The judge considered that maintaining the Appellant and Appellee's household was a futile matter, because their hearts had been broken so that the spirit of the marriage bond was no longer there, and it would even cause further harm to both parties if it continued to be maintained. This is in line with the rules of *maslahah* "درء المفساد مقدم على جلب المصالح" rejecting *mafsadah* takes precedence over achieving *maslahah*" (Djazuli, 2011).

In making legal arguments in this case, the Panel of Judges still uses strong legal sources, namely the Al-Qur'an, the opinions of fuqaha, Law no. 1 of 1974 in conjunction with Law no. 16 of 2019 concerning Marriage, and strengthened by the Compilation of Islamic Law. Because what is more important is that when, according to the benefit, it is no longer possible to reconcile quarrels and disagreements in the household, then instead of causing harm, it is better to decide by divorce. The use of legal sources, as long as the benefit is the main thing and as long as the KHI does not conflict with the rules of Islamic fiqh or benefit, then it can be used and can be adjusted to these rules.

When related to the term, disputes often occur in the household. This reason is flexible and loose enough to be used as an excuse. The judge's *ijtihad* in adopting beneficial values here is how the judges translate them which can ultimately be used as a strong reason for the panel of judges in deciding the case.

The application of the principles of *maslahah* and *mafsadah* in considering the value of *maslahah* and its urgency, according to the scholars of *maslahah* related to humanity there are five levels (*al-kulliyat al-khamsah*), namely: protecting religion (*hifz ad-din*), protecting the soul and (*hifz an-nafs*), protecting reason (*hifz al-'aql*), protecting descendants (*hifz an-nasl*), and protecting property (*hifz al-mal*). The five levels are realized sequentially. To realize *al-kulliyat al-khamsah* there are media

that are framed in three levels of *maslahah urgency* namely *daruriyyah* (elementary), *hajiyyah* (complementary), and *tahsiniyyah* (supplementary).

The three levels of urgency of the above *maslahah* can be realized sequentially so that *maslahah* at the level of *daruriyat* is prioritized over *darurah tahsiniyyah*. If there is a contradiction between several *maslahah* at the same level of urgency, then it is necessary to examine the value of the *maslahah* of each. In such a situation there are two possibilities: *First*, if the position of the contradictory *maslahah* is at a different level of value, such as between *hifz an-nafs* and *hifz ad-din*, then the *maslahah* with a higher level of value must be prioritized over rice at the lower level. *Second*, if both *maslahah* are at the same level of value, then it is necessary to examine the second consideration, namely the consideration based on the level of breadth of the *maslahah* (Muhammad Sa'id Ramadan, 1973).

Considerations regarding the breadth of *maslahah* have different scopes, so that some *maslahah* benefit only a small number of people, while others have a wider reach. In the study of *maqasid According to sharia*, benefits that benefit many people are prioritized over those that benefit one person. Benefits that satisfy the community of a region must be set aside if they contradict the community of a country, and so on. From this arises the principle: *al-maslahah al-'ammah muqaddamun 'ala al-maslahah al-khassah* (general benefits take precedence over specific benefits) (Muhammad Sa'id Ramadan, 1973). Steps that can be taken in analyzing Religious Court decisions include exploring the texts of the decisions by examining whether they contain values of *maslahah* (beneficial values). Then, the reasons presented in the texts are examined using the *masalik al-'allat method*.

The application of *maslahah* in the decisions of Religious Court judges, there are two ways to indicate that the decision contains *maslahah*. If one of these two elements appears and is used as an argument in determining the decision then the Religious Court decision is using *maslahah* elements. The two elements of *maslahah* are: *first*, through the application of the rules of *maslahah* in linguistic meaning, meaning that in this decision there are sentences in writing that benefit or prevent harm or something similar and *second*, through the application of *al-qawa'id al-fiqhiyyah* which in writing and in linguistic meaning is present in the content of the decision (Muhammad Sa'id Ramadan, 1973). As in decision No. 12/Pdt.G/2013/PTA.Gtlo, the method of *maslahah* is present explicitly in the judge's decision.

Maslahah values exist and are present in Religious Court decisions. Divide *maslahah* and *mafsadah* into two: namely *maslahah al-adna* and *maslahah al-aqsa*, as well as *mafsadah al-adna* and *mafsadah al-aqsa*. In applying *maslahah* analysis, Atho Mudzhar explained that in determining the decision of the Religious Court it is

certain that the Religious Court judge takes into account the benefit of both parties but in interpreting *maslahah* it is necessary to examine whether *the maslahah* is momentary (*al-maslahah al-adna*) or reaches far-reaching benefit values (*al-maslahah al-aqsa*) for the future of both parties to the lawsuit.

The judge can decide on a legal decision that is considered *beneficial* according to the considerations of the panel of judges. However, it may have effects or consequences that cause *mafsadah* (*al-mafsadah al-aqsa*) at a later date or vice versa, the legal considerations are considered to be like *mafsadah* (*al-mafsadah al-adna*) on one of the parties in the case but contains future problems (*al-maslahah al-aqsa*) for both parties in the case (Mohamd Atho Mudzhar, 2008). As per the judge's decision at the Gorontalo High Religious Court.

Consideration of *maslahah* in every judge's decision, *al-maslahah al-adna* is only taken when there is no distant problem, but when there is a form between *al-adna* and *al-aqsa*. Likewise, in the case of *mafsadah*, what is taken into consideration is whether the *mafsadah* is far or near. If there is a difference between a close *maslahah* and a distant or near *mafsadah*, then the rule applies "Rejecting *mafsadah* that is near and far is more important than accepting *mafsadah* that is near." (Djazuli, 2011).

As found in this research decision, the judge used the above-mentioned rules linguistically in his legal argument to decide a divorce case due to the presence of another man or an affair the wife had with a college friend while studying in Germany. The affair occurred via social media in the form of text messages and emails, and even involved frequent face-to-face meetings, according to evidence found by the husband and testimony from a witness.

Conclusion

This article was written to address the limited scholarly attention to how judges at the appellate level construct their reasoning in divorce cases involving extramarital relationships, particularly from the perspective of Islamic legal values. The study has shown that the judicial reasoning of the Gorontalo High Religious Court is built through the integration of philosophical, legal, and sociological arguments, thereby demonstrating that divorce adjudication in religious courts is not merely a formal application of legal norms but also a process of aligning justice, legality, and social reality. In this respect, the research is important because it contributes to the current state of knowledge by clarifying how appellate judicial reasoning in family law is constructed in a more comprehensive and context-sensitive manner.

The study further confirms that the principle of *maslahah* provides a scientifically defensible and operationally valid framework for understanding the construction of judges' decisions in such cases, particularly where the continuation of marriage would generate greater harm than its dissolution. This finding contributes to the field by showing that *maslahah* is not only a normative concept in Islamic legal theory, but also an applicable model of judicial reasoning in religious court practice, while at the same time opening further avenues for research through comparative studies across court levels, broader case variations, and deeper examination of the explicit use of *al-qawā'id al-fiqhiyyah* in judicial decisions. Overall, this study concludes, both generally and specifically, that the operationalization of Islamic legal values in appellate divorce decisions can be understood most clearly through a *maslahah*-based approach that explains not only why the judges decided as they did, but also how that reasoning serves the broader objectives of justice and harm prevention in Islamic family law.

This study has limitations because it focused on only one case study, so the findings cannot be broadly generalized. Therefore, further research is recommended to expand the scope of cases, including comparing decisions at different court levels and examining variations in the application of *maslahah* in the context of divorce cases with diverse causal factors.

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