

Reevaluating Divorce Rejection in Indonesia's Religious Courts: Integrating *maqashid syariah* and Human Rights Perspectives

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Abstract:

The phenomenon of the rejection of divorce petitions by Religious Court judges for lawsuits filed by husbands against their wives has sparked significant discourse within the Islamic family law system in Indonesia. Such rejections are influenced not only by formal legal rules but also by considerations of *maqashid syariah* and human rights principles, particularly in the effort to safeguard family welfare and protect women's rights. This article aims to provide a juridical analysis of the practice of rejecting divorce petitions by Religious Court judges from the perspectives of *maqashid syariah* and human rights, and to formulate a model for reformulating family law policy that is both responsive and just. This study employs a literature research approach by reviewing primary legal sources, court decisions, and recent relevant journal articles and books. The findings reveal that the rejection of divorce petitions by judges is based on discretionary authority regulated under national legislation and the Compilation of Islamic Law, to maintain *mashlahah*, prevent harm, and strengthen the protection of women's and children's rights. Further findings emphasise the need for policy reform in family law by integrating *maqashid syariah* with human rights principles, whether through regulatory reform, judicial training, or strengthening advocacy and protection mechanisms for vulnerable parties. The article concludes that the synergy between *maqashid syariah* and human rights is a crucial foundation for realising an inclusive, adaptive, and just Islamic family law system in Indonesia.

Keywords: Divorce Petition Rejection, Religious Court Judges, Maqashid Syariah, Islamic Family Law Reform

INTRODUCTION

The rejection of husbands' divorce petitions in Indonesia's Religious Courts has become a significant issue in family law. This practice is not merely a technical legal matter; it reflects broader social concerns such as gender justice, the protection of women's rights, and the evolving interpretation of *maqashid syariah* in modern society (Affandi et al., 2025; Isman et al., 2024). The importance of this research lies in its ability to illuminate how religious court decisions impact family dynamics, particularly in terms of safeguarding vulnerable parties, especially women, against arbitrary divorce. As divorce rates rise and family structures evolve, understanding the judicial rationale behind such rejections helps foster a deeper dialogue about how Islamic law and national legal standards can work together to ensure justice (Husain et al., 2024; Ismail et al., 2024). Addressing this issue is critical for ensuring that legal systems protect human dignity while upholding the values of justice and equality. Thus, this research contributes significantly to the ongoing discourse surrounding family law reform in Indonesia.

The problem addressed in this study centres on the tensions between *maqashid syariah* principles and human rights in Indonesia's Religious Courts. Although the legal foundations for divorce are firmly established in both Islamic law and national legislation, the rejection of divorce petitions often exposes flaws in their application. Specifically, judges' discretionary power to reject divorce petitions filed by husbands raises questions about fairness, gender equality, and the protection of women's rights. This raises a fundamental issue: how can judges balance the principles of family preservation as outlined in *maqashid syariah* with the need to protect individual rights and freedoms, particularly in the case of women who may be trapped in unhealthy or abusive relationships? Addressing this gap is vital for creating a more just and responsive legal system that genuinely upholds the rights of vulnerable parties, particularly women, within the framework of Islamic law and human rights (Rosli et al., 2025; Sukri & Fauzan, 2025).

In practice, the rejection of divorce petitions in Indonesia's Religious Courts has become a phenomenon that reflects not only the application of law but also the social dynamics surrounding family values. A notable case is the divorce proceeding of AT, a public figure, who filed for divorce against his wife. Despite citing prolonged conflicts, the court rejected his petition on the grounds of unmet material requirements and potential for reconciliation (CNN Indonesia, 2025). Similarly, in Erin's case, the court upheld a prohibition on children testifying in divorce cases, demonstrating how legal and psychological considerations intersect in divorce proceedings (KapanLagi.com, 2025). Such rejections, while often rooted in legal formalism, illustrate the challenges judges face in balancing *maqashid syariah* and the need for gender justice in practice. These cases highlight the evolving role of religious courts in addressing contemporary family issues, particularly the protection of women's rights and the preservation of family cohesion.

Previous research has largely focused on the normative aspects of Islamic law and its relationship with national legal standards in divorce cases (Ismail et al., 2024; Nafisah et al., 2024). Studies have primarily compared Islamic law to statutory law, analysing how Islamic family law interacts with modern legal frameworks. Still, they have often failed to deeply explore the integration of *maqashid syariah* with contemporary human rights principles. While some research has addressed divorce in religious courts, the focus has been mainly on descriptive analysis or theoretical exploration, without addressing the complex tensions that arise in practice (Ibrahim et al., 2025; Isman et al., 2024). Furthermore, the intersection between *maqashid syariah* and human rights in divorce decisions remains largely unexplored. This research gap presents an opportunity to conduct a more critical analysis of how these two paradigms can be harmonised to create a fairer system for adjudicating divorce petitions.

In addition to the gap in the theoretical understanding of *maqashid syariah* and human rights in the context of divorce, prior studies have often overlooked the historical and social dynamics that influence judicial decisions (Angelosanto, 2023; Isman et al., 2024). Many studies focus on how legal texts are applied but fail to examine broader social forces, including shifting gender norms and the evolving role of women in Indonesian society (Kandia & Wiryawan, 2025; Nigah, 2024). Moreover, there is a lack of empirical research on how judges navigate the complexities of these frameworks when deciding divorce petitions. This article fills that gap by offering a comprehensive analysis of the tensions and potential for integration between *maqashid syariah* and human rights, thus providing a more nuanced understanding of the challenges and opportunities in Indonesia's family law system.

The novelty of this research lies in its attempt to bridge the gap between *maqashid syariah* and human rights in the context of divorce petitions rejected by Religious Courts in Indonesia. Unlike previous studies, this article does not focus solely on theoretical or normative comparisons but also critically examines the practical implications of judicial discretion in divorce cases (Riesthuis, 2023; Turmudi, 2025). By analysing high-profile cases and the evolving role of judges in applying both *maqashid syariah* and human rights principles, this article brings new insights into the intersection of legal norms, social dynamics, and gender justice in Indonesia. The study also highlights the importance of reformulating family law policy in light of these evolving needs, offering a path forward for a more inclusive and just legal system. Addressing this gap is crucial to ensuring that Indonesia's family law system adequately protects the rights of vulnerable parties, particularly women.

The central research problem of this study is how to reconcile the principles of *maqashid syariah* with contemporary human rights standards in the rejection of divorce petitions filed by husbands. The study argues that while *maqashid syariah* emphasises the preservation of family unity and social stability, it must be applied in a way that considers the individual rights of women, particularly their right to freedom from harmful relationships. This article contends that judicial discretion in divorce cases should be guided by the dual principles of protecting the public benefit (*mashlahah*) and ensuring justice by safeguarding women's rights and non-discrimination. The study's contribution lies in proposing a model for reformulating family law policy in Indonesia that integrates these two frameworks, thereby providing a more balanced and just system for adjudicating divorce petitions.

This article makes a significant theoretical and practical contribution by offering a new perspective on how *maqashid syariah* and human rights principles can be integrated into the judicial process for rejecting divorce petitions. The study's theoretical contribution lies in developing a more nuanced understanding of how these two paradigms can coexist and complement each other in the context of Indonesian family law. In practice, the findings provide valuable insights for policymakers, judges, and legal practitioners on reforming family law to protect women's rights better, ensure substantive justice, and strengthen the integration of *maqashid syariah* with human rights values. This research is crucial for the ongoing evolution of family law in Indonesia and for fostering a more equitable legal system that upholds both Islamic values and contemporary human rights.

RESEARCH METHODS

This study adopts a qualitative approach grounded in library research as its main strategy to examine the phenomenon of Religious Court judges' rejection of divorce petitions filed by husbands against their wives, particularly from the perspectives of *maqashid syariah* and human rights within the Indonesian legal system (Granikov et al., 2020; Sari & Asmendri, 2020). The qualitative approach was chosen for its ability to capture the complexity and depth of meaning underlying the evolving texts, norms, and legal practices (Alejandro & Zhao, 2024). This research model enables the researcher to explore philosophical, juridical, and social aspects through the study of relevant literature and the critical interpretation of secondary data. The pattern is based on narrative and reflective analysis, in which the formulation of problems and discussions is rooted in conceptual argumentation, theoretical synthesis, and comparative studies of the rejection of divorce petitions in religious courts, in the context of *maqashid syariah* and human rights

principles. Library research in this context draws upon authoritative sources such as legal research methodology books, recent scholarly articles, legal documents, and relevant Religious Court decisions. This model is believed to provide deeper theoretical and practical contributions, as it is supported by systematic analysis and scientifically accountable arguments (Dahal, 2023; Miller et al., 2023; Morgan, 2022).

The data collection technique in this study involved identifying and compiling both primary and supporting literature sources from credible online databases and digital libraries (Almusaed et al., 2025; Candra Susanto et al., 2024; Mtisi, 2022). This process included searching for books, journal articles, dissertations, statutory regulations, case law, and current legal news relevant to the research topic. Content analysis techniques were employed to select, classify, and examine the literature based on themes, interconnections, and their contributions to the formulation of the research problems. Data sources were selected based on validity, currency, and credibility, prioritising literature published within the last five years, both national and international. Searches were conducted through Google Scholar, Scopus, ScienceDirect, and university digital catalogues. In addition, primary legal sources, such as statutes and Religious Court decisions rejecting divorce petitions, as well as secondary sources in the form of articles and legal research methodology books, served as key references to support the arguments. Data validity was enhanced through triangulation and cross-checking among sources to ensure objectivity and comprehensiveness of the analysis (Kawar et al., 2024; Morgan, 2024; Schlunegger et al., 2024).

The data used in this study are secondary, derived from written documents, both primary (e.g., statutory regulations and court decisions) and secondary (e.g., books and journal articles). The data are presented using a descriptive-analytical method across several stages: issue identification, literature collection, critical reading, thematic analysis, and conclusion drawing. Each research finding was analysed using appropriate theories or models, such as the theory of *maqashid syariah*, justice theory, and the human rights paradigm. The collected data were then systematically organised into a scholarly narrative, articulated in argumentative language, and reinforced with relevant quotations and paraphrases from literature sources. Data presentation also prioritises logical clarity and coherence across sections, thereby providing a comprehensive and objective picture of judges' rejection of divorce petitions in the context of Islamic family law in Indonesia (Mbanaso et al., 2023).

RESULTS AND DISCUSSION

Theoretical Foundation and Conceptual Framework

Divorce is a significant aspect of the family law system in both Islamic law and Indonesia's national legal system. From the perspective of Islamic law, divorce (*thalak*) is considered a last resort, to be undertaken only after all avenues for reconciliation have been exhausted, and its process must adhere to ethical principles and syariah norms. Classical fiqh texts emphasise that *thalak* is the prerogative of the husband, but in the development of modern law, there has been a paradigm shift placing the court as the final authority to validate and assess the grounds for divorce in accordance with *maqashid syariah* and the principle of justice. In the context of Indonesian national law, divorce is regulated by Law No. 1 of 1974 on Marriage and its implementing regulations, which stipulate that divorce may only take place before a court after the court has attempted reconciliation between the parties, and the grounds for divorce must be legally proven in

court. This strengthened role of the court constitutes a form of legal protection for both parties, especially the wife, so that divorce is not executed arbitrarily and safeguards the rights of vulnerable parties (Suadi, 2022; Xiangwei, 2022, 2022). As outlined in the table below, this regulatory model demonstrates synergy between Islamic and national law, aiming to balance the rights and obligations of husband and wife while considering family welfare and the protection of substantive justice (Sar'an et al., 2024; Ubaidilah & Husna, 2023).

Table 1. Comparison Between Islamic Law and Indonesian National Law in Divorce

Aspect	Islamic Law	Indonesian National Law
Legal Basis for Divorce	<i>Thalaq</i> (husband's prerogative) is to be exercised after all reconciliation efforts have failed.	Law No. 1 of 1974 on Marriage requires a court process after reconciliation attempts.
Role of the Court	Limited, mainly to verify the reasons for divorce and prevent further harm.	The court has a more significant role, deciding based on evidence and verifying claims before granting a divorce.
Rights and Obligations of Spouses	Husband has the right to divorce, but both spouses retain mutual responsibilities for family welfare.	Equal rights for both husband and wife, including custody, maintenance, and protection from violence.
Objective of Divorce	Preserving family honour and preventing harm to all parties involved.	Ensuring justice and fairness, with particular focus on protecting the rights of women and children.
Human Rights Consideration	Primarily concerned with the protection of family interests rather than individual rights, especially women's rights.	Emphasises women's rights, including protection from violence, child custody, and fair distribution of assets.

The rights and obligations of husband and wife in divorce cases are fundamental aspects regulated by both Islamic and national law. In Islam, the rights and obligations of husband and wife emphasise mutual protection, encouragement towards goodness, and the prioritisation of justice and compassion as the foundation for a harmonious, loving, and merciful family (*sakinah, mawaddah, wa rahmah*) (Djidin, 2024; Sar'an et al., 2024). In the event of household conflict, both parties may present arguments and defences before the court, while the judge balances interests and prevents discrimination or the violation of rights. National law, through the Marriage Law, underscores that husbands and wives have equal standing, rights, and obligations, including rights over child custody, maintenance, and protection from violence. This protection is further strengthened by Constitutional Court decisions and Supreme Court jurisprudence, which broaden the interpretation of justice and protection of women's rights in divorce cases (Fadil et al., 2024; Suadi, 2022). The transformation of these rights and obligations signals a progressive family law policy that does not rest solely on normative texts but also takes into account social, psychological, and human rights contexts in practice (Purwanti & Natalis, 2025; Smith, 2025).

The theory of *maqashid syariah* serves as the primary theoretical framework for understanding family and gender protection in divorce cases in Indonesia. The concept of *maqashid syariah* highlights five central objectives of the syariah: protection of religion, life, intellect, progeny, and wealth. In the context of family, *maqashid syariah* underscores the importance of protecting the dignity, honour, and welfare of women and children, as well as preventing all forms of injustice or arbitrary actions (Rahmawati et al., 2025; Sukri & Fauzan, 2025). The application of *maqashid syariah* in divorce aims to ensure that divorce does not result in greater harm to any party and to guarantee the realisation of

mashlahah (public benefit) and substantive justice (Fadhilah et al., 2025; Usthyawati et al., 2025). As illustrated in Table 2 below, in the practice of religious courts, the *maqashid syariah* approach serves as a reference for judges to comprehensively assess the reasons and consequences of divorce, including its psychological, social, and economic impacts on wives and children. Thus, *maqashid syariah* is not only a normative discourse but also an essential instrument for transforming family law towards greater justice and inclusivity (Ipansyah & Hafidzi, 2025; Majid, 2025).

Table 2. Role of <i>Maqashid Syariah</i> in Protecting the Rights of Women and Children in Divorce		
Aspect	<i>maqashid syariah</i> (Islamic Law)	Indonesian National Law
Objective	Protecting religion, life, intellect, progeny, and wealth, with emphasis on the welfare of the family.	Protecting family welfare and ensuring substantive justice for both spouses and children.
Focus in Divorce	Protecting the dignity and welfare of women and children, and preventing harm to the family.	Ensuring women's protection, particularly in child custody and protection from violence.
Protection of Women	Protecting women's honour and dignity, allowing for reconciliation before divorce is granted.	Legal safeguards for women's rights in divorce, including custody and protection from harm.
Protection of Children	Ensuring children's welfare, both socially and psychologically, by preventing family dissolution without careful consideration.	Prioritising child custody, maintenance, and welfare post-divorce.
Substantive Justice	Prioritising <i>mashlahah</i> (public benefit) and preventing <i>mafsadah</i> (harm) in family dynamics.	Ensuring justice and fairness, considering social, psychological, and human rights aspects.

The principles of human rights in divorce disputes serve as an important basis for the enforcement of justice and protection of women’s rights. Internationally, instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) emphasise the need to protect women's rights in all family law processes, including the right to a fair trial, protection from violence, and equal rights in child custody and economic resources. Indonesia’s national law has ratified several international human rights instruments and incorporated them into its legal system through the Human Rights Law and related regulations. In religious court practice, human rights principles are reflected in the strengthening of equality before the law, respect for women’s rights, and the protection of children in divorce cases (Harun, 2025; Ridho & Ritonga, 2023). The synergy between human rights norms and national family law is key to creating a fair, progressive, and responsive family law system that meets the needs of women and children (Inamah et al., 2024; Moradipoor, 2025).

Nevertheless, in practice, tensions frequently arise between *maqashid syariah* and human rights, especially regarding the scope of judicial discretion in rejecting divorce petitions filed by husbands. On one hand, *maqashid syariah* prioritises *mashlahah* and harm prevention, while on the other, human rights emphasise the individual's autonomy, including women’s right to freedom and substantive justice. Such tensions are evident in cases where judges reject divorce petitions to preserve family unity or prevent harm to the wife and children, yet risk violating women's rights if decisions are not grounded in principles of equality and non-discrimination. Thus, there is a need for theoretical synthesis and a paradigm renewal within the family law system, so that *maqashid syariah* and human rights can work in tandem and complement each other in the pursuit of justice in religious court proceedings (Ibrahim et al., 2025; Imam Tabroni et al., 2022)

The *maqasid syariah*, as a theoretical framework in Islamic law, emphasises the five main goals of *sharia*, namely the protection of religion, soul, intellect, descent, and property. In the context of divorce, *maqasid syariah* focuses on the maintenance of family honour, especially to protect the rights of women and children. However, implementing *maqasid syariah* in the practice of religious courts often involves more complex social and legal dynamics. In Indonesia, despite the rules that prioritise the protection of the family in divorce, human rights, especially women's rights to freedom and protection from violence, often intersect with the more conservative values of *maqasid syariah*. Therefore, it is important to examine how these two perspectives interact to shape religious court decisions on divorce rejection (Fitriyani et al., 2023; Nizar, 2020).

In practice, religious courts in Indonesia have sought to accommodate the principles of *maqasid syariah* and human rights, although challenges remain. One concrete example is how religious court judges assess the reasons for divorce filed by the husband and whether they are in line with the *maqasid syariah*, which aim to protect the family. On the other hand, religious courts are also expected to adhere to human rights principles, including women's right to protection and justice in divorce proceedings. Therefore, religious courts must balance these two perspectives, taking into account not only the normative aspects of the law but also the social and psychological conditions faced by the parties, particularly women and children. Thus, the application of *maqasid syariah* and human rights in the context of divorce in Indonesia must be seen as a dynamic process that adapts to changing social developments (Busriyanti et al., 2025; Cahyono, 2024).

Juridical Analysis of the Rejection of Divorce Petitions by Religious Court Judges

The legal basis for rejecting divorce petitions filed by husbands is clearly regulated by various legal instruments in Indonesia, both those derived from Islamic law and those from national law. Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI) stipulate that every divorce petition must be filed and proven before the religious court. Judges may reject a petition if the grounds presented by the husband are considered insufficient, do not meet the requirements set forth in Article 19 of Government Regulation No. 9 of 1975, or fail to fulfil the element of "reasons justified by *syariah*." In addition, the Supreme Court, through Circular Letter No. 3 of 2018, emphasises the importance of protecting the rights of wives and children in every divorce case and requires judges to make optimal efforts at reconciliation before deciding the case. These legal foundations provide judges with space to conduct an in-depth assessment of the substance of petitions rather than their formal aspects, thereby preventing husbands from abusing divorce rights and causing injustice or harm to wives (Babakhani, 2023). Thus, the regulatory structure in Indonesia reflects a balance between the husband's right to file for divorce and the protection of women, as mandated by the principles of substantive justice and *maqasid syariah* (Fadhilah et al., 2025).

The authority and discretion of judges in deciding divorce cases are crucial to Indonesia's religious court system. Judges are granted the power to assess and consider not only the legal reasons submitted but also *mashlahah* (public benefit), the protection of women's rights, and the social-psychological impacts on the family. Such discretion is evident in judicial practice, where judges do not merely serve as interpreters of the law but also as mediators, counsellors, and protectors of the rights of vulnerable parties, especially wives and children. In divorce cases, judges are required to verify the truth of the reasons given, ensure that reconciliation efforts have been maximised, and assess the potential

harm if divorce is granted or denied. This authority allows judges broad interpretive latitude to uphold the principles of justice, *mashlahah*, and human rights protection without disregarding applicable legal boundaries. Recent studies indicate that judicial discretion is strongly influenced by social developments, understanding of gender justice, and internal dynamics within the religious court (Jayadi et al., 2025; Sya'diyah et al., 2025). In the context of rejecting husbands' divorce petitions, this discretion is crucial to ensure that decisions do not conflict with the principles of non-discrimination and protection of vulnerable groups.

Case studies of the rejection of divorce petitions in practice, including high-profile cases such as AT's, demonstrate the real complexities and challenges faced by religious courts in Indonesia. In such cases, judges are often confronted with grounds for divorce advanced by husbands that are deemed insufficient or merely normative, such as claims of conflict without concrete evidence or allegations of disharmony unsupported by facts. In the AT case, the judge repeatedly rejected the divorce petition because the material requirements had not been met and reconciliation opportunities remained. The judge also denied requests to present children as witnesses, prioritising the protection of children's rights in family court proceedings. Such rejections often elicit diverse responses from the public, ranging from support for judges' firmness in protecting the rights of wives and children to criticism of potential violations of individual autonomy in ending a marriage. These dynamics reveal that the practice of religious courts is not only based on legal texts but is also profoundly influenced by ethical, sociological, and *mashlahah*-oriented considerations (Fadhilah et al., 2025; Usthyawati et al., 2025).

The implications of judicial rejection of divorce petitions for the protection of women's rights are significant in shaping the face of family law in Indonesia. Rejections based on considerations of *maqashid syariah* and the principle of substantive justice can serve as a bulwark against arbitrary divorce, abandonment, or economic violence. However, if not accompanied by objective and gender-sensitive considerations, such rejections risk creating new forms of discrimination, prolonging the suffering of wives, or hindering women's rights to justice and freedom from unhealthy relationships. Empirical research finds that the quality of judicial reasoning greatly determines decision outcomes, making the training and strengthening of judges' capacity in gender and human rights perspectives highly important. Efforts to integrate *maqashid syariah* values with human rights principles in religious court decisions remain a central agenda in the reform of family law in Indonesia (Suadi, 2022; Xiangwei, 2022).

Jurisprudential analysis and case comparisons across various religious courts indicate a trend of increasing judicial rejection of divorce petitions in recent years. Such decisions are generally based on the principles of family *mashlahah*, protection of the rights of children and wives, and efforts to curb rising divorce rates. Comparative studies across regions find variation in evidentiary standards and in the interpretation of divorce grounds, depending on social context, judges' educational backgrounds, and local traditions. Supreme Court jurisprudence affirms that judges must maintain a balance between protecting individual rights and the collective welfare of the family, and avoid rulings that disadvantage the weaker party. Some decisions demonstrate a shift toward restorative justice approaches and family mediation, prioritising the protection of women's rights in every divorce case. This data further reinforces the urgency of policy reform and ongoing training for religious court judges to keep pace with social developments and modern human rights principles (Hussain, 2025; Mohiuddin, 2024).

In the practice of religious courts in Indonesia, judges often reject divorce applications based on a variety of legal and social considerations that are not always reflected in the text of laws or compilations of Islamic law. One example of a case that illustrates this is the AT case at the Jakarta Religious Court, where the divorce application filed by the husband was rejected by the judge on the grounds that the reasons given were not strong enough and did not meet the criteria set out in Article 19 of Government Regulation No. 9 of 1975. In this case, the judge found that the couple's conflict could still be resolved through reconciliation efforts, so there was no valid reason to continue the divorce. This decision shows how judges not only rely on formal reasons, but also consider the social and psychological aspects of the family that can influence their decision. This highlights the role of judges as mediators, who not only apply the law textually but also take into account social conditions.

On the other hand, although laws and regulations provide a clear legal basis regarding the rejection of divorce, such as the need to reconcile and validate the grounds for divorce, in practice, there are variations in the application of the law in religious courts. Some judges tend to reject divorce applications on grounds considered insubstantial, such as claims of unprovable incompatibility. However, in some jurisdictions, judges may be more pragmatic and accept divorce as a final solution when it is believed that the marriage is no longer tenable. This difference reflects the tension between legal theory, which prioritises reconciliation efforts, and legal practice, which often has to deal with the complex realities of family life. This suggests that, despite clear rules, the application of the law in religious courts is often influenced by judges' interpretations, which can vary depending on the social and cultural context in which they serve (Pidduck et al., 2022; Suhendra et al., 2025).

Perspectives of *Maqashid Syariah* and Human Rights on the Rejection of Divorce Petitions

The argument for *maqashid syariah* in judicial decisions rejecting divorce petitions is based on the conceptual framework that every syariah legal policy must aim to realise *mashlahah* (public benefit) and prevent harm to individuals and society. In the context of divorce rejection, religious court judges are empowered to consider the *maqashid syariah*: preserving family honour, preventing the adverse impacts of divorce on wives and children, and upholding broader values of justice and *mashlahah*. *Maqashid syariah* demands that the rejection of a divorce petition should not be a mere legal formality but must also uphold the principles of protecting women's rights, safeguarding children's psychological security, and fostering social cohesion. Contemporary studies indicate that judicial rejection of divorce is more readily socially accepted when grounded in clear and transparent considerations of *maqashid syariah*, thereby avoiding perceptions of discrimination or partiality. Additionally, *maqashid syariah* provides a moral justification for judges to intervene in divorce petitions when the grounds for divorce do not meet the *mashlahah* criterion and may threaten family tranquillity and social stability (Rosli et al., 2025). To better understand the decision-making process judges follow when applying *maqashid syariah* in divorce cases, the following flowchart illustrates the steps taken to balance family welfare with individual rights, ensuring that the rejection of divorce is based on comprehensive considerations of justice and public benefit.

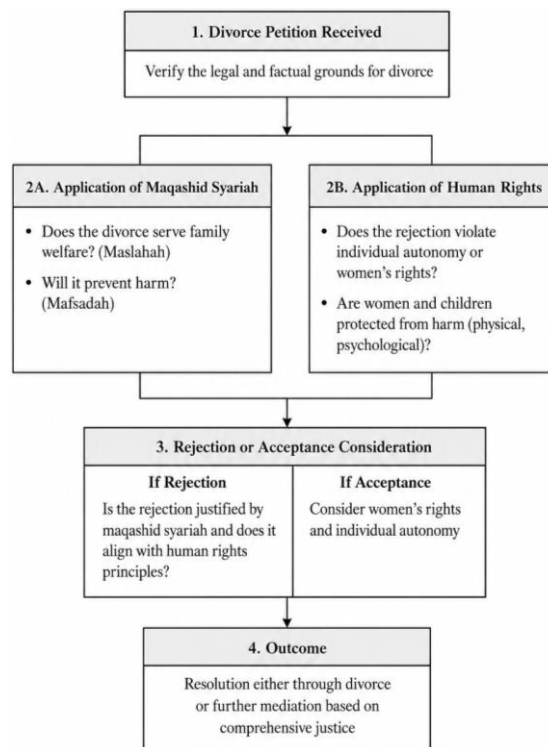


Figure 1. Decision-Making Process of Religious Court Judges

A critical review of women's rights protection in *maqashid syariah* shows that the paradigm of protection extends beyond material concerns to encompass the rights to justice, equal treatment, and protection from all forms of violence or discrimination. *Maqashid syariah* explicitly places the protection of women's dignity and honour among the *syariah's* uncompromisable objectives. However, in practice, the implementation of *maqashid syariah* often falls short of being fully responsive to the needs of modern women, particularly in relation to their right to seek an exit from failed or potentially harmful marriages. Thus, the protection of women's rights within *maqashid syariah* requires adaptive and contextual reinterpretation, ensuring that judicial decisions genuinely prioritise harm prevention and the fulfilment of substantive justice. Recent discourse also emphasises the importance of strengthening gender perspectives in the interpretation of *maqashid syariah*, so that all dimensions of women's rights receive equal protection alongside the broader values of *mashlahah* inherent in Islamic law (Harefa, 2025; Sar'an et al., 2024).

Analysing the compatibility of the rejection of divorce petitions with human rights principles presents a unique challenge in religious courts. International human rights principles, as enshrined in CEDAW and the Convention on the Rights of the Child, affirm that every individual, including women, has the right to liberty, justice, and protection from all forms of discrimination. Judicial rejections of divorce must be legally justified to ensure that such decisions do not hinder or negate women's rights to freedom from unhealthy relationships, justice, and fulfilment of basic needs. Religious court practice grounded in *maqashid syariah* will align with human rights principles if judges consistently ensure that rejections are not based on gender bias but on objective considerations of *mashlahah*, justice, and the protection of vulnerable parties. Recent literature also highlights the importance of gender-sensitive training for judges so that their decisions do not conflict with the spirit of non-discrimination and universal justice guaranteed by human rights (Hussain, 2025; Mohiuddin, 2024).

The potential for gaps or harmony between *maqashid syariah* and human rights depends largely on judges' paradigms and interpretive capacities in integrating the two frameworks into divorce rulings. When *maqashid syariah* is understood rigidly and prioritises only family protection without regard for women's individual rights, the potential for disharmony with human rights principles increases. Conversely, if *maqashid syariah* is applied progressively, accommodating the values of freedom, equality, and non-discrimination central to human rights, harmony and synergy are more readily achieved. Disparities can be narrowed through continuous education, dialogue among Islamic scholars and human rights experts, and regulatory reforms that strengthen the protection of women in family law. Comparative studies across various Muslim-majority countries also indicate that the adaptation of *maqashid syariah* to the development of global human rights has enhanced legal protection for women in divorce proceedings (Siregar et al., 2024; Smith, 2025). This intersection and potential synergy between *maqashid syariah* and human rights principles can be clearly visualised in the diagram below, which highlights both the shared values and the areas of tension that require addressing for greater harmony in divorce rulings.

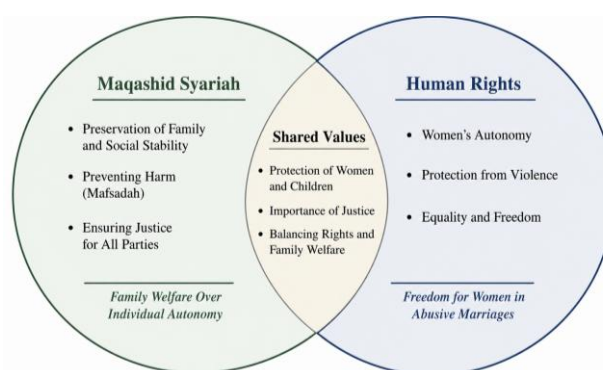


Figure 2. Graphical Representation of the Balance between *Maqashid Syariah* and Human Rights in Divorce Rejection

Reflecting *mashlahah* values and non-discrimination in the rejection of divorce petitions is essential in steering the reform of Islamic family law in Indonesia. *Mashlahah*, as the main objective of *maqashid syariah*, must be realised concretely in the protection of women's rights, the recognition of human dignity, and the prevention of greater harm to vulnerable parties. The principle of non-discrimination serves as a critical benchmark for assessing the extent to which judicial decisions provide justice and equal treatment, especially in domestic conflicts that often place women in vulnerable positions. Reforming religious court decisions based on *mashlahah* and non-discrimination not only fosters a more just family law but also strengthens Indonesia's position in the global map of human rights enforcement in Muslim-majority countries. In this context, the rejection of divorce petitions must always be accompanied by objective considerations, rational argumentation, and a commitment to universal humanitarian values as mandated by *maqashid syariah* and human rights principles (Muzam, 2023; Purnomo et al., 2024).

From the perspective of *maqasid syariah*, the rejection of divorce applications by religious courts can be seen as an effort to protect families and prevent greater losses for husbands, wives, and children. *Maqasid syariah* emphasises the protection of the general welfare (*mashlahah*) and the prevention of damage (*mafsadah*), which means that divorce should be avoided as far as possible if there is still a possibility to repair the relationship and maintain family harmony. Therefore, in many cases, religious court judges prefer to

postpone divorce and offer an opportunity for reconciliation, aiming to protect the family's honour and sustainability. However, this often clashes with individual rights, especially women's right to freedom and protection from physically or psychologically harmful situations, which are a matter of concern from a human rights perspective. In this context, *maqasid syariah* must be understood progressively, balancing family interests and individual rights to avoid injustice, especially against women in unhealthy relationships (Alzoraiki et al., 2023; Arif et al., 2025).

Meanwhile, from a human rights perspective, the rejection of divorce can raise serious problems related to individual freedom and the right to live free from violence or suffering in the household. Human rights principles, as enshrined in CEDAW, demand that women be given the freedom to make decisions related to their lives, including in the case of divorce if the marriage threatens their well-being. In this regard, religious courts should not only consider aspects of *maqasid syariah* that emphasise family protection, but also provide space for women's right to be free from violence and oppression in marriage. When women's rights are not well accommodated, especially in the context of decisions that impose the sustainability of a broken marriage, it can lead to injustice and violations of women's human rights. Therefore, it is important to achieve synergy between *maqasid syariah* and human rights, so that religious court decisions not only protect the family as a whole, but also guarantee the rights of women and children as vulnerable parties (Husain et al., 2024; Syamanta et al., 2024).

Recommendations for Reformulating Family Law Policy in Indonesia

The urgency to reform Indonesia's family law system in line with *maqashid syariah* and human rights principles has become increasingly evident amid the rising complexity of divorce cases and society's demand for substantive justice. The current legal system, which tends to be normative and textual, often fails to anticipate social developments, the need to protect women's rights, and the realities of power relations within households. Therefore, reforming the family law system is essential so that divorce regulation, judicial discretion, and the protection of vulnerable parties are aligned with the aims of *mashlahah* and universal justice principles. Recent studies underscore the need to reconstruct legal norms that are not only text-based but also place *maqashid syariah* and human rights as foundational pillars in every judicial process. The integration of these two frameworks is believed to strengthen legal protection for women and children, reduce dysfunctional divorce rates, and increase public trust in the religious court institution (Carter & Boehm, 2019; Robita & Anwar, 2025).

Strategies for integrating *maqashid syariah* and human rights principles into divorce proceedings should be concretely implemented through regulatory reform, judicial training, and strengthened case management in religious courts. Regulatory reform can be realised by including more explicit provisions concerning women's rights protection, standards of evidence, and gender-sensitive mediation procedures. Moreover, ongoing training for judges is crucial to ensure that the perspectives of *maqashid syariah* and human rights are consistently internalised in judicial practice. Integration efforts also require cross-sectoral collaboration among government, academics, and civil society organisations to develop judicial guidelines that are responsive to social change. Policy studies indicate that adaptive, context-specific implementation of integration strategies will reduce the likelihood of discriminatory rejections of divorce petitions and reinforce the legitimacy of religious courts within the national legal system (Siregar et al., 2024).

Policy models for protecting women's rights in the divorce process must adopt a multidimensional approach that accounts for legal, psychological, and social factors. Such policies can be operationalised through the establishment of minimum protection standards, such as mandatory alimony, equal rights to child custody, and protection from physical and psychological violence. Furthermore, regulations should establish evaluation and monitoring mechanisms involving independent bodies to ensure the effective implementation of protections. Comparative studies across several countries demonstrate that family law systems that allow the direct involvement of psychologists, counselors, and women's protection agencies in divorce proceedings have been effective in reducing the potential for discrimination and the neglect of women's rights. These policy models must also accommodate local dynamics and ensure access to justice for women who are socially and economically marginalised (Annamalah et al., 2025; Marwa & Mustika, 2024).

The roles of religious courts, legislators, and society in family law reform are inseparable. Religious courts serve as the primary implementers of justice and *mashlahah* in divorce proceedings, while legislators are responsible for updating regulations to remain responsive to society's evolving needs. At the same time, society serves an oversight and advocacy function to ensure that the implementation of family law does not deviate from the principles of non-discrimination and human rights protection. Constructive dialogue among stakeholders is a primary prerequisite for achieving effective, inclusive, and sustainable reform. Recent literature also recommends establishing public consultation forums as spaces for community aspirations and legal education grounded in the values of *maqashid syariah* and human rights, to strengthen social participation in the reformulation of family law (Inamah et al., 2024; Wang et al., 2024).

The implications and prospects for future restructuring of judicial discretion are largely determined by the quality of training and oversight systems, as well as the reformulation of policies responsive to changing times. Judicial discretion must be directed toward strengthening the principles of *mashlahah* and women's rights protection, rather than serving as a loophole for gender bias or human rights violations. Discretionary reform can be pursued through the issuance of judicial guidelines, codes of ethics, and regular evaluation mechanisms of divorce case decisions. In addition, collaboration between legal education institutions and judicial oversight bodies must be strengthened to ensure judges' capacity to translate *maqashid syariah* and human rights into practice. Library research also highlights the importance of a meritocracy system in judge recruitment and improvement in professional legal education, so that the prospects for restructuring judicial discretion become more accountable and oriented toward substantive justice (Adiyono & Sholeh, 2025; Hidayah, 2023).

The reformulation of family law policy in Indonesia must begin by strengthening the integration between *maqasid syariah* and human rights principles in every divorce decision. One important step is to clarify and update existing regulations, such as the Marriage Law No. 1 of 1974 and the Compilation of Islamic Law, to align with evolving social, cultural, and gender-justice understandings in Indonesia. These adjustments include implementing policies that are more responsive to women's needs in divorce, such as the right to protection from domestic violence, child custody, and protection of economic welfare. In addition, there needs to be more explicit rules regarding valid evidence in divorce, especially for reasons of incompatibility or domestic violence, so that religious courts can make decisions that are more evidence-based rather than based solely on conservative social or religious norms (Bisaccia Meitl, 2024; Mintert et al., 2020).

In addition to regulatory reform, increasing the capacity of religious court judges is also an important step in family law policy reform. Judges should be given more in-depth training on human rights principles, gender justice, and how to integrate *maqasid syariah* with the needs of individual rights. This training will help judges make fairer, more objective decisions amid the complexity of divorce cases. In addition, religious courts need to improve their mediation and consultation mechanisms, involving psychologists and family counsellors, to ensure that any divorce decision considers all aspects, including legal, social, and psychological. This approach will create a more inclusive and responsive family law system that not only protects the rights of the family as a whole but also prioritises the welfare of women and children, who are more vulnerable parties (Bottomley, 2022; Stambe & Meyer, 2023).

CONCLUSION

This study found that the rejection of husbands' divorce applications in Religious Courts has a strong legal basis in *Maqasid syariah*, national law, and the Compilation of Islamic Law, which prioritise family protection and substantive justice. The judge's rejection of divorce aims to ensure that it is not carried out in a hurry or to the detriment of the more vulnerable parties, taking into account aspects of *mashlahah* and the prevention of losses. These findings provide an important lesson: family law policies grounded in *maqasid syariah* can prevent unfair divorces, strengthen protections for women, and uphold the principle of non-discrimination in family law. This research also shows how judges play a crucial role in harmonising the principles of *maqasid syariah* with human rights in the practice of divorce law in Indonesia.

Scientifically, this research contributes to the development of a more responsive and equitable family law policy model in Indonesia by integrating the values of *maqasid syariah* and human rights principles. This contribution provides new insights into the role of judges in maintaining a balance between textual law and social values, as well as in protecting women in divorce. However, this study has limitations in its scope of analysis, focusing only on Indonesian Religious Courts and not comparing them with other countries. Further research can explore international comparisons in the application of *maqasid syariah* and human rights, and examine the impact of family law reform on the protection of women's rights more empirically.

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