

Rejection of Wife towards *Iwadh Khulu'*: A Maqasid Sharia Perspective

Arfiana

^{1,2,3} Departement of Islamic Family Law, Universitas Islam Negeri Datokarama Palu

ABSTRACT

Women were perceived as having a nasty and disturbing image in pre-Islamic times. They are considered worthless and subordinated beings whose presence causes many problems. They have no personal independence, their rights can be taken away from them, and their bodies can be trafficked or passed down through the family, which puts them in a precarious situation. Women are considered not worthy of being treated humanely in these circumstances. In Buol Regency, problems have been related to this *iwadh khulu'*. In this case, the wife did not receive the *iwadh khulu'* payment that was handed down to her because, during the time of marriage, the wife was treated improperly by her husband, such as not given a living to support her and her children, often being left alone without news, and not infrequently the husband commits domestic violence to the wife. Based on that, the researchers are interested in further researching this issue and have written a thesis entitled "Rejection of Wife towards *Iwadh Khulu'* from a Maqashid Sharia Perspective (Case Study at the Buol Religious Court). The approach used in this research is qualitative. Data was gathered through observation, interviews, and documentation. The analysis was done through data reduction, data presentation, and verification. To ensure that the data obtained was valid and credible, analysis and checking of the validity of the data were carried out. The results of this study indicate that the wife's rejection of *iwadh khulu'* in the Buol district is based on a mental inability to accept all the burdens she has received during the marriage period. In the view of maqasid sharia, this is included in *Hifdz Akl* and *Hifdz Nasl* because refusal is made only based on the wife's mental condition in facing *Khulu'* (Divorce Lawsuit).

ARTICLE INFORMATION

Keywords:

Iwad Khulu,
divorce, wife
rejection, maqashid
sharia, Islamic law

1. Introduction

Marriage, as referred to in the Marriage Law Number 1 of 1974, is an effort to form a prosperous and lasting family. Husband and wife need to support and improve each other so everyone can progress and achieve material and spiritual well-being. Islam states that marriage must adhere to Islamic principles for a harmonious, prosperous family. Welfare is the construction of inner and outer peace as a result of the fulfillment of physical and spiritual demands that lead to happiness, especially affection between family members, as well as harmony in the way family members use their rights and obligations.

If there is an agreement between the husband and wife trying to make the marriage successful, as described above, it will be clear from the depiction. Indonesia is holding *sighat taklik*, read out after signing the marriage contract. The idea is that a wife is not treated cruelly and needlessly by her husband. According to Islamic law and positive Indonesian law, a marriage can end due to the death of one of the spouses or divorce between husband and wife. Each has different legal consequences. According to Marriage Law No. 1 of 1974 and the Compilation of Islamic Law, marriages can be void due to death, divorce, and court decisions (Law No. 1 of 1974 concerning Marriage in Indonesia article 38).

According to the Fuqaha, Khulu' is a method of dissolving a marriage. However, in khulu', there is compensation, unlike other types of divorce in general. Islam establishes the formal conditions for divorce that a wife obtains from her husband by paying a ransom, compensation, or iwadh. The idea of khulu' is usually considered a type of divorce. In some fiqh literature, it is included in the discussion of divorce books so that the rules that apply to divorce mostly apply to khulu' (Amir Syarifuddin - 2014). The wife must be removed from her husband's authority so that he cannot reconcile without her consent. Khulu' is defined as "a divorce that occurs as the woman's request by offering a ransom or iwadh to the husband and with the husband's consent" in the Compilation of Islamic Law article 1 letter (i).

The Religious Courts require justifications for divorce and taklik talak violations to grant

divorces through the khulu'. Taklik talak refers to a type of commitment in which the husband promises to depend on the occurrence of divorce his wife if it turns out that one or more of the promises made in the future are broken. Divorce is governed by rules or laws in Indonesia, both by law and by the Islamic Law Compilation (KHI). Regarding iwadh money, it is explained in the KHI article 148:

- a) A wife who uses the khulu' technique to file for divorce must submit her request and reasons to the religious court closest to her residence.
- b) Wives and husbands must be summoned to the Religious Court within one month to hear their statements.
- c) During the trial, the Religious Court explains the impact of khulu' and provides guidance.
- d) The Religious Court must decide whether or not the husband can promise divorce before the Religious Court hearing after the parties reach an agreement regarding the amount of iwadh or ransom money. This decision cannot be contested or appealed.
- e) Additional settlements are made in accordance with Article 131 paragraph (5).
- f) The Religious Court will examine and decide if there is no agreement regarding the ransom or iwadh.

Regarding the amount of iwadh regulated in the Minister of Religious Affairs Decree No. 441 of 2000, the amount is Rp. 10,000 (Decree of the Minister of Religious Affairs No.441 of 2000). However, divorces are carried out before the Religious Courts, so the divorce filed by the wife must be terminated before the court, and the iwadh must be submitted through court to the husband. In Buol Regency, there was a problem related to this iwadh khulu'. In this case, the wife refused to pay for the iwadh khulu' because, during the marriage, her husband treated the wife improperly, such as not being given a living to support her and their children. She is often left without any notice/news and even commits domestic violence towards his wife.

2. Literature Review

2.1 *The origin of Wife's Khulu toward the husband*

Divorce is an inevitable part of marriage because there is no divorce without marriage.

e-ISSN: 2715-4572

p-ISSN: 2716-1439

Marriage is the beginning of a man and woman living together as husband and wife. Everyone wants their marriage to last for the rest of their lives.

Islam prohibits divorce because it contradicts the purpose of marriage, which is to form a *sakinah*, *mawaddah*, and *rahmah* family. According to Article 3 of the Compilation of Islamic Law, marriage must produce a household that is *sakinah*, *mawaddah* and *rahmah*. Husband and wife should know their rights and obligations to start a family. Thus, the rights of a husband are also the rights of his wife, and vice versa. To have a happy and secure family, husband and wife must be responsible for providing for each other. How a family responds effectively to its problems is one of the critical elements of a harmonious family. Even though the marriage contract is only valid for a short time, the steps that must be followed and the results that follow are pretty significant in managing a proper family to achieve *sakinah*, *mawaddah*, and *rahmah*, including rights and obligations of each party throughout life, both in this world and in the hereafter. Therefore, Allah SWT calls the marriage contract a *mitsaqan galizan* (a solemn promise).

However, in marriage life, unexpected events occur, resulting in quarrels that destroy the supposedly harmonious married life. All these events cannot be separated from the trials of Allah SWT, both involving husbands and wives. There would be a way out that would improve both parties' relationship if the two could find a proper solution. Islam, on the other hand, offers a way out if you cannot find a solution. Divorce is the ultimate answer after all attempts to keep the family together have failed, even though Allah hates it. The Hadith of the Prophet stated: Hadith from Abdullah Ibn Umar said: Rasulullah SAW Said: "The thing that is lawful yet most hated by Allah SWT is divorce."

Islam gives the husband the right to divorce if he wants to separate from his wife through divorce and the wife the right to *khulu'* or get a divorce by paying a ransom for the husband. Sometimes there are several reasons why a wife separates through *Khulu'*, one of which is a psychological or mental factor that is disturbed due to household problems caused by her husband.

2.2 The Concept of Iwadh Khulu'

Iwadh is a component of *khulu'* as long as it has not passed from wife to husband and divorce is still pending. Divorce will occur if the wife has transferred her *'iwadh* to her husband. *Iwadh* and *Khulu'* are inseparable. Most scholars mention *Iwadh* as one of the pillars of the *Khulu'*. As stated earlier, the basis of *Khulu'* is the payment of ransoms (*iwadh*), so without *iwadh*, *Khulu'* does not exist. It is not considered *khulu'* for a husband to tell his wife, "I let you go," without saying, "*Iwadh*." Likewise, if he did intend to divorce, it would be considered a *raj'i* divorce; However, if he had no intention to divorce, it would not be recognized as valid because the term letting go of the *lafadz kinayah* which calls for intention.

Ibn Rushd defines *'iwadh* as the reward a wife offers to her husband in exchange for a divorce. *Fidyah*, *shulh*, and *mubara'ah* are words used to translate the phrase *khulu'*. They differ in the amount of compensation (*'iwadh*) used, but have the same intention. It is called *Shulh* if the dowry is paid to end the marriage. It is called *fidiyah* if the compensation offered exceeds the dowry received and *mubara'ah* if the wife is not getting paid.

2.3 Legal Basis of Iwadh Khulu'

The majority of scholars agree that *iwadh* is one of the pillars that must be upheld so that the *khulu'* becomes genuine, and that is the reason for the existence of *iwadh* as a component of its provisions. The absence of *iwadh* would also invalidate the *khulu'* because the practice of the *khulu'* itself depended on it. One of the arguments on which the basis of *'iwadh* is contained in Q.S An-Nisa (4): 20.

Based on a hadith narrated by Imam Bukhari and al-Nasa'i from Ibn 'Abbas which means: From Ibn 'Abbas that the wife of Thabit bin Qais faced the Prophet and she said, "O Messenger of Allah, I did not denounce Thabit in matters of religion and morals, but I was afraid of *kufr* after converting to Islam. So Rasulullah SAW said: "Are you going to return the garden to him? Then she replied, "Yes." Then Rasulullah SAW said (to Thabit): "Accept the garden and divorce him first divorced." (HR. Al-Nasa'i).

2.4 The View of Maqasid Sharia's towards Rejection of Iwadh Khulu'

Literally, Maqāshid syarī'ah consists of two words, maqāshid and syarī'ah. maqāshid is intentional or purposeful, and syarī'ah means the way to a water source. The path to this water source can also be the path to the primary source of life. According to asy-Syatibi, maqāshid syarī'ah is the goal that pays more attention to the public interest.

As written in the dictionary and its explanation that Shariah is the law established by Allah for His servants regarding religious matters, or, the law established and ordered by Allah either in the form of worship (fasting, prayer, hajj, zakat, and amaliyah) or muamalah. Aqidah is related to the basics of the faith. Khuluqiyyah is related to ethics or morals. Meanwhile, amaliyah is related to legal aspects arising from human expressions (aqwāl) and actions (af'al). In the systematics of Islamic law, these three are divided into two major parts, namely (1) worship, in which the pattern of human relations with God is regulated, and (2) muamalah in which the pattern of relations between human beings is regulated.

Some think maqāshid is the maslahah itself, the same as attracting the maslahah or rejecting the mafsadah. Ibn al-Qayyim emphasized that syarī'ah is based on wisdom and maslahah for humans in this world or the hereafter. Changes in the law that apply are to ensure that syarī'ah can bring benefits to humans. Some others understand maqashid as five basic Islamic principles: safeguarding religion, soul, mind, lineage, and property. Another perspective is that classical scholars regard the maqāshid as the logic of dispensing a law. In conclusion, maqāshid syarī'ah is "benefits to be achieved by the Shari'a for the benefit of mankind."

The Maqāshid Syarī'ah theory was only known in the fourth century of the Hijri. Abu Abdallah al-Tirmizi al-Hakim first used the term Maqāshid Syarī'ah, then was popularized by al-Imam al-Haramain al-Juaini in several of his books, and he was the first to classify maqāshid syarī'ah into three major categories, namely dharūriyyat, hajiyat, and tahsīniyyat).

Al-Juaini's thoughts about Maqāshid Syarī'ah were further developed by Abu Hamid al-Ghazali (505 H), who wrote extensively about Maqāshid Syarī'ah in his book *Shifa al-Ghalil fi Bāyan al-Syabah wa al-mukhil wa Masalik al-Ta'lil* and *al-Musthasfa fi 'Ilm al-Ushul*. Then al-

Amidi elaborated further on this maqāshid syarī'ah by referring to the basic principles of sharia, namely life, intellect, religion, lineage, and wealth. Furthermore, Maliki Shihab al-Din al-Qarafi adds to the basic principles of sharia with the principle of protection of honor (al-'ird). This opinion is supported by Taj al-Din Abdul Wahab Ibn al-Subqi (771 H) and Muhammad Ibn Ali al-Syaukani (1255 H).

The discovery of Maqāshid Syarī'ah (objectives of Islamic law) provides a conception for Islamic scholars to explain the existence and the need for Islamic law. The goal of Islamic law (Maqāshid Syarī'ah) develops within the Islamic legal tradition through a long process. Although in practice, the use of shari'a objectives as maslahah can be found since the time of the Companions of the Prophet, the roots of discussion regarding Maqāshid Syarī'ah itself have developed gradually.

The essence of Maqāshid Syarī'ah is maslahah, but it is not easy to trace the outset of the idea of maslahah in the ushul fiqh tradition. Human welfare as the goal of Islamic law is indeed a philosophical discussion, but the use of maslahah can not be unknown in the religious practices of Prophet Muhammad's time. However, if what is meant by the discussion of Maqāshid Syarī'ah is a set of frameworks of thought that are clear in form, then al-Burhan by al-Juwaini has a rather clear conception of it.

The highlight of the discussion about Maqāshid Syarī'ah was put forward by a Malikiyyah scholar, namely Abu Ishaq al-Syatibi. The purpose of Islamic law lies in how common welfare is achieved. The measure of welfare refers to the ushul fiqh doctrine known as al kulliyat al-khamsah (five main pillars), or in other words, and it is called Maqāshid Syarī'ah (universal goals of shari'ah). The five main pillars are hifdz al-dīn, guaranteeing freedom of religion; hifdz al-nafs, maintaining survival; hifdz al-'aql, guarantees creative thinking; hifdz al-nasl, ensuring lineage and honor; hifdz al-māl, ownership of property, property and wealth.

In principle, divorce has more harm than good. On the other hand, eternal marriage follows Maqāshid Syarī'ah. According to Izz al-Dīn Abd al-Salām, maṣlahah, and mafsadah are often meant for good and bad, benefit and harm, and useful and useless. All maṣlahah are good, while mafsadah are bad, harmful, and unsuitable

for humans. In the Al-Quran, the word *al-hasanat* (goodness) is often used to mean *al-maṣalih* (goodness), and the term *al-sayyi'at* (badness) is used to indicate *al-mafasid* (damages). Izz al-Dīn Abd al-Salām argues that *maṣlaḥah* has four kinds, namely delicacy, its causes or means, pleasure, and its causes or means. In comparison, *mafsadah* also has four kinds: pain or discomfort, things that cause it, sadness, and its causes.

Islamic law has an important goal: creating the law itself, a benchmark for humans to achieve happiness. The actual lawmaker is only Allah, who does nothing in vain. Everything He does has a purpose for the benefit of humankind. The purpose of Allah's law can be seen from two sides, from a human perspective, that is, from the point of view of the human interests or *mukallaf* and from Allah's point of view as the legislator, or His purpose in making laws.

The purpose of Islamic law lies in how common benefit is achieved. The measure of benefit refers to the *ushul fiqh* doctrine known as *al-kulliyatul al-khams* (the five main pillars), or in other words, it is called *Maqāshid Syari'ah* (the universal goals of *shari'ah*). The five main pillars are *hifdz al-dīn*, guaranteeing freedom of religion; *hifdz al-nafs*, maintaining life; *hifdz al-'aql*, ensures creative thinking; *hifdz al-nasl*, guaranteeing lineage and honor; *hifdz al-mâl*, ownership of property, property and wealth.

This case, when discussed in the context of the *maqashid*, is a specialty; According to Ibn Asyur, this can be connected with the order of *maqashid al-shariah al-khassah*. For *maqashid li shar'i* and *maqashid li al-nas*, Ibn Assyur ontologically complements *maqashid al-syar'iyat al-Khusus* because, in this dimension, the focus of *maqashid* is on two: the act itself (*al-'amal wa al-tasarrufat*) and motivation. He did *maqashid al-shariyyat al-khassah* to achieve *maqashid al-shari'at al-'ammah*. This *maqashid al-khassah* explains the difference between divorce initiated by the husband and divorce initiated by the woman. When prompted by the husband, there is no *iwadh* in its implementation. Divorce was imposed on him, though the wife had requested it. As a result, the husband and wife's initiative is the ontology of divorce. But epistemologically, the way this happens is different because the husband's divorce can result in a first, second, or third *talak*. If the wife

requests the divorce, it can result in *Khulu'* or *Fasakh*. As a result, there is a difference in how the two divorces are implemented, making the *Khulu'* ontology a dualism between *Talak Raj'i* and *Fasakh*.

There is no sin for either party in a divorce that occurs because of the wife's initiative, even though the wife offers *fidyah* or *'iwadh*. Similar to how this information is presented, most Qurtubi scholars agree that it is acceptable to accept the payment for divorce requested by the wife (Abi Abdillah Muhammad bin Ahmad bin Abi Bakr Al-Qurtubi - 2016). *Khulu'* is also called *fidyah* or ransom, Sayyid Sabiq explained, because the wife wants a divorce from her partner and pays a ransom to her husband in return for agreeing to the divorce (Sayyid Sabiq - 2013)

Fasakh itself is etymologically derived from the verb *fasakh*, which means to cancel. In addition, it may indicate to revoke or delete. Sayyid Sabiq described this as ending existing marriages and marital relations. Moreover, there are no orders or prohibitions under this *Fasakh* law; it is basically permissible. Several things cause *fasakh*:

- a. It is proven that the husband and the wife are *mahram/related* by blood (such as siblings, etc.)

Shiqaq means the existence of irreconcilable disputes between husband and wife.

3. Methodology

This study employed qualitative method to understand the fatwa of the Indonesian Ulama Council on the Legal Consequences of Violations of Divorce *Taklik* in Momunu District, Buol Regency. This research was conducted by taking the research location at the Buol Religious Court

Data was gathered through direct, in-depth interviews and written material analysis^{1,2}.

¹ Rusli, R., & Nurdin, N. (2021). Understanding Indonesia millennia Ulama online knowledge acquisition and use in daily fatwa making habits. *Education and Information Technologies*. doi:10.1007/s10639-021-10779-7

²Rusli, R., Hasyim, M. S., & Nurdin, N. (2021). A New Islamic Knowledge Production And Fatwa Rulings: How Indonesia's Young
e-ISSN: 2715-4572
p-ISSN: 2716-1439

The interviews were conducted with the religious figures and local citizens. The data, then, was analyzed through data reduction, data presentation, and verification. From the data analysis, the researchers built themes by categorizing the data according its similarities^{3,4}. The researcher also checks the validity of the data through the verification of , the data from different sources.

2 Results and Discussion

4.1 The Mental Condition of the Wife After Rejecting IwadhKhulu' in Buol District

Conditions are situations or circumstances in the individual both outside and within him. Psychology, according to the Great Indonesian Dictionary, is a science that deals with mental processes, both normal and abnormal, and their influence on behavior; the science of symptoms and activities of the criminal soul; the science of the souls of people or groups (directly or indirectly) related to evil deeds and the effect; social studies that combine sociology and psychology on the psychological aspects of social life.

Psychological conditions are situations that exist in an individual, both outside and inside him, which are related to mental processes, both normal and abnormal, and their influence on behavior and symptoms, activities of the criminal soul, which are directly or indirectly related to the soul of individuals and groups. To find out the condition of a person's soul/mental, people must know:

a. Behavior is an action or activity of the human being that has a vast expanse, including

walking, talking, crying, laughing, working, studying, writing, reading, and so on. From this description, it can be concluded that human behavior is all human activities, both directly observed and outsiders cannot observe.

- b. The social environment or society is a psychological science that studies human behavior based on the influence of the environment in which they live, whether the social environment, the built environment, or the natural environment.
- c. The family environment is the environment that is responsible for behavior, personality formation, affection, attention, guidance, health, and home atmosphere. A harmonious family environment that can transmit exemplary behavior to their children will bear children with a personality with a solid pattern.

Several mental/mental conditions need attention: "mentally healthy, mentally unhealthy, and mentally ill." Mentally healthy, in general, can be interpreted as a mental condition that grows and is based on solid motivation to achieve a better self-quality in family life, work/professional life, and other aspects of life. A mentally unhealthy person is someone who, although potentially has the ability, does not have the desire and effort to actualize that potential normally. A mentally ill person is a person who mentally has various conflicting elements and, thus, often damaging or inhibiting, resulting in erratic behavior such as stress, anxiety disorders, and depression.

To know the psychological condition of a person, people must know the behavior, social or community environment, and family environment. The data that the researchers obtained from some of the informants regarding the mental condition of the wife after the rejection of iwadh khulu' in the Buol district can be explained as follows:

- *Anxiety*
- *Stress*
- *Depressed*

The problems that occurred and also the reasons that led to the occurrence of khulu' in the Buol district are as follows:

Muslim Scholars Interact With Online Sources. *Journal of Indonesian Islam*, 14(2), 499-518.

³Nurdin, N., & Pettalongi, S. S. (2022). Interpretive case study to understand online communication in an e-tendering project implementation. *Jurnal Manajemen Komunikasi*, 7(1), 39-54.

⁴Nurdin, N., & Pettalongi, S. S. (2022). Menggunakan Paradigma Studi Kasus Kualitatif Interpretatif Online dan Offline Untuk Memahami Efektivitas Penerapan E-Procurement. *Coopetition: Jurnal Ilmiah Manajemen*, 13(2), 155-168.

- one of the parties commits adultery or becomes a drunkard, drug addict, gambler, and so on, which is difficult to cure.
- one party leaves the other party for 2 (two) consecutive years without the other party's permission and without a valid reason.
- one of the parties commits cruelty or serious abuse that endangers the other party.
- one of the parties has a disability or illness with the result that they are unable to carry out their obligations as husband or wife;
- there are constant disputes and fights between husband and wife, and there is no hope of living in harmony in the household;
- The husband violates the divorce decree;
- conversion of religion or apostasy, which causes disharmony in the household

4.2 The Perspective of Maqashid Sharia on Wife's Rejection in Iwadh Khulu in Buol District

In the case of khulu', some jumhurs argue that it is considered talak ba'in. On the contrary, scholars from the prominent Zāhirī school, Ibn Hazm, argue that khulu' is talak raj'i. At the same time, those from the Hanbali school believe that khulu' is fasakh (cancellation of contract) as the cancellation of a contract in muamalah. Ibn Hazm said that khulu' includes talak raj'i, which has a period for the husband's return to his wife or the return of mutual pleasure to continue the household that has been separated by divorce. The 'iddah period is the time between the two of them to have the opportunity to become halal again, except when the husband has made the last divorce. If her husband asks for reconciliation with her during her 'iddah period, it is permissible without waiting for her 'iddah to end. Then, the husband returns to his wife what he has taken from her and continues the bond. Allah has clarified that husbands have more rights to return to their wives during waiting times. In this case, Allah says a verse about the period of reconciliation in the Al-Qur'an al-Baqarah verse 228. Ibn Hazm, who views khulu' as talak raj'i, based his opinion on the text of the Al-Qur'an.

On the contrary, the opinion quoted in the book of Ibn Qudāmah, where Imam Ahmad said that the khulu' is fasakh is contained in the hadith narrated by Ibn Abbas, which states that the khulu' is fasakh. In Islam, the discussion of

divorce has been given the right for both of them through an orderly settlement of household problems. For the husband, there is the right to divorce, and for the wife, there is the right to khulu' based on the text of the Quran mentioned above. However, this does not apply because it takes a solid reason to arrive at a rational context so that the request for a divorce to the husband can be carried out with his consent.

This matter seen in the context of reality is specificity in discussing maqāsid. From the view of Ibn 'Āsyur, it can be related to the order of maqāsid al-syarī'at al-khāssah. In this dimension, on the one hand, the object of discussion of maqāsid focuses on the act itself (al-'amāl wa al-tasarrufāt), and on the other hand, focuses on motivation. Therefore Ibn 'Āsyur ontologically divides maqāsid al-syarī'yyat al-khāssah to maqāsid li syāri' and maqāsid li al-nās. For Ibn 'Āsyur, he dedicated maqāsid al-syarī'yyat al-khāssah as a means (wasā'il) to realize maqāsid al-syarī'at al-'ammah). Maqāsid al-khāssah identifies differences in divorces that arise from the husband's or wife's initiative. If it is from the husband, then there is no 'iwad in its implementation, but if the divorce is at the wife's request, then 'iwad is imposed on her. Therefore, the ontology of divorce is the initiative of the husband and wife. However, epistemologically the way this occurs is different because a divorce made by the husband can result in the first talak or third talak, and the divorce requested by the wife leads to khulu' or fasakh, therefore, there is a difference in implementation between the two, so the khulu ontology becomes dualism between talak raj'i or fasakh.

Shaykh As-Sa'di mentions several reasons a wife asks for khulu', including:

1. The wife does not like her husband's behavior.
 2. The wife does not like her husband's bad physique.
 3. There needs to be more in the husband's religious aspect.
 4. There is concern from the wife about her inability to carry out her obligations or anger towards her husband.
 5. Conditions of *khulu'*
- For husbands: a husband, who is going to divorce his wife in the form of khulu, as applicable in divorce, is someone whose words have been taken into account. The

conditions are akil, mature, and act on their own will with intent. If the husband is still immature or mentally ill, then the one who will divorce with khuluk is the guardian. Likewise, if the condition of a person is under supervision because of his cognitive impairment, then the one who accepts the wife's khuluk request is the guardian.

- For wife: She is a person who is still under the husband's responsibility, in the sense that she is his wife or someone he has been divorced but is still in iddah roj'i. The wife can act on the property because for submitting khuluk, she must surrender some property. For this condition, she must be a person who is mature, intelligent, not under supervision, and understand property.

In khulu', the wife may give a ransom that is more than the dowry. According to most scholars, even if they agree to do khulu' by paying a ransom with certain items, it is legal for them to do it. This was also narrated by Usman bin Affan, Ibn Umar, Ibn Abbas, Ikrimah, Mujahid, Khabisah bin Zu'id, Malik, Syafi'i, adherents of the Hanafi and Hambali schools of thought based on an agreement.

The Maliki School and one of the narrations of Imam Hambali argue khulu' occurs without iwadh. According to Imam Hambali, the firm opinion is that iwadh is the pillar of khulu'. If the husband khulu' his wife without 'iwadh, the khulu' is invalid and raj'i divorce does not fall. According to the opinion of Imam Malik, there are two types:

- a. Khulu' is usually in exchange for ransom.
- b. Divorce with the word khulu' even without any ransom, such as the husband saying, "I do khulu' upon you."

Khulu' performed without giving a ransom is valid. This is according to Imam Malik and Ahmad in one of their narrations. Because it is a termination of marriage so it is useful even without ransom, as is the case with divorce. In the khulu' law, there must be a wife's dislike of her husband and the desire to separate from him, so she asks him to separate. If her husband fulfills the request, then the khulu' is fallen so that in that way, the khulu' remains valid, as if the khulu' was carried out with a ransom.

In the case where the wife is mentally disturbed, while it is highly recommended in Khulu' (Divorce Lawsuit), from the maqasid

sharia point of view, this is included in Hifdz Akl and Hifdz Nasl. Because rejection is carried out without any basis, only based on the wife's mental condition in facing Khulu' (Divorce lawsuit).

4 Conclusion

Based on the results of research on the rejection of the wife towards Iwadh Khulu' Maqasid Sharia Perspective the authors concluded that after rejecting iwadh khulu' in the Buol district, the wife's mental condition is undergoing feelings of anxiety, stress, and deep depression. From the maqasid sharia point of view, this is included in Hifdz Akl and Hifdz Nasl. Because rejection is carried out without any basis, only based on the wife's mental condition in facing Khulu' (Divorce Lawsuit).

REFERENCES

- Jumat, G. (2023). Tinjauan Hukum Islam Terhadap Hak Perempuan Dalam Memilih Pasangan Hidup. *Comparativa: Jurnal Ilmiah Perbandingan Mazhab dan Hukum*, 4(2), 169-193.
- Nasaruddin, N. Taklik Talak Dan Perjanjian Perkawinan Menurut Fikih Dan Kompilasi Hukum Islam (Analisis Perbandingan). *Hunafa: Jurnal Studia Islamika*, 4(3), 195-206.
- Nuridin, N., & Pettalongi, S. S. (2022). Interpretive case study to understand online communication in an e-tendering project implementation. *Jurnal Manajemen Komunikasi*, 7(1), 39-54.
- Nuridin, N., & Pettalongi, S. S. (2022). Menggunakan Paradigma Studi Kasus Kualitatif Interpretatif Online dan Offline Untuk Memahami Efektivitas Penerapan E-Procurement. *Coopetition: Jurnal Ilmiah Manajemen*, 13(2), 155-168.
- Rizal, Muhammad, Pettalongi, Sagaf S., Hamka, Hamka, Adhar, Sandhi, & Deeteng, Asman. (2023). Reconstruction of Religious Education Policy through Regional Regulations of Palu City. *INTERNATIONAL JOURNAL OF*

- MULTIDISCIPLINARY RESEARCH AND ANALYSIS*, 06(09), 3950-3957.
- Rusli, Rusli, Hasyim, Muhammad Syarif, & Nurdin, Nurdin. (2021). A New Islamic Knowledge Production And Fatwa Rulings: How Indonesia's Young Muslim Scholars Interact With Online Sources. *Journal of Indonesian Islam*, 14(2), 499-518.
- Rusli, Rusli, & Nurdin, Nurdin. (2021). Understanding Indonesia millennia Ulama online knowledge acquisition and use in daily fatwa making habits. *Education and Information Technologies*. doi:10.1007/s10639-021-10779-7
- Rusli, Rusli, & Nurdin, Nurdin. (2022). Understanding Indonesia millennia Ulama online knowledge acquisition and use in daily fatwa making habits. *Education and Information Technologies*, 27(3), 4117-4140. doi:10.1007/s10639-021-10779-7
- Santoso, Fandi Nur Cahyo, Nurdin, Nurdin, & Pettalongi, Adawiyah. (2022). *Implications of the Implementation of Multicultural-Based Islamic Education in SMA Negeri 4 and SMKN 1 Poso*. Paper presented at the Proceeding of International Conference on Islamic and Interdisciplinary Studies, Palu.
- Yamani, Gasim, & Nurdin, Nurdin. (2023). A Living Quran Exploration of Tawassul Practices in Palu City: A Shortcut or a winding road to God's Grace? *Al Quds: Jurnal Studi Alquran dan Hadis*, 7(2), 385-396.
- Yin, Robert K. (2011). *Qualitative Research From Start to Finish*. New York: The Guilford Press.
- Tolodo, W., Akbar, M., & B, M. T. (2022). Socio Juridical Analysis of Underage Marriage Caused by Pre-Marital Pregnancy: a Case Study in Banggai Island Regency. *International Journal of Contemporary Islamic Education*, 4(2), 16-28.