

THE PHENOMENON OF WIVES SUING FOR DIVORCE: A STUDY IN INDONESIA- MALAYSIA BORDER COMMUNITIES IN SAMBAS, WEST KALIMANTAN

Asman¹

ABSTRACT

This study examines the legal claims made by wives to their husbands from the perspective of the Indonesia-Malaysia border community in Sambas, West Kalimantan. Maṣlaḥah al-ḍarūriyyah, maṣlaḥah taḥsīniyyah, and maṣlaḥah ḥājiyyah served as the foundation for this investigation. This study examines the legal claims made by wives to their husbands from the perspective of the Indonesia-Malaysia border community in Sambas, West Kalimantan. Maṣlaḥah al-ḍarūriyyah, maṣlaḥah taḥsīniyyah, and maṣlaḥah ḥājiyyah served as the foundation for this investigation. Qawl jadīd claims that the Imām Shāfi'ī ṭalāq bā'in ṣuḡhrā school is also known as khulu', wherein a husband must obtain a new marriage contract in order to reunite with a woman who has become mentally ill due to bā'in ṣuḡhrā and is prohibited from making amends with her during the period of 'iddah. The research topic, which asks: What is the benefit of the wife's lawsuit to the husband from the standpoint of maṣlaḥah?, develops the subject matter in order to make this study focused and methodical. This kind of qualitative research uses an Islamic legal perspective while

¹ Senior Lecturer, Department of Shariah, Institut Agama Islam Sultan Muhammad Syafiuddin Sambas, Jalan Raya Sejangkung Kawasan Pendidikan Tinggi No. 126, Sebayan, Sambas, Kalimantan Barat, asmanarwan@gmail.com

doing fieldwork. The Malay Sambas community, who commit divorce, is the study's informant. According to the findings of the study, that (2) There is a shift in times or lifestyles where the values of marital justice are no longer applied in marriage such as ignoring religious rules, knowing the law but not obeying the law only as a formality so that it is easy to divorce, (3) the involvement of the Legal Aid Institute and the Legal Aid Post in the divorce process of married couples to be cheerful.

Keywords: *phenomenon, wives suing, divorce, Indonesia-Malaysia border*

INTRODUCTION

According to Islamic beliefs, marriage is a sunnah of the Prophet SAW and is intended to uphold the advantages of a husband and wife in creating a peaceful home as well as to worship and follow Allah SWT. Islamic teachings teach that in marriage each couple expects a harmonious home life, love and affection, loyalty, and harmonization between husband and wife, so that there is no intention to destroy the marriage that has been built on the based on the covenant in the marriage itself². The Qur'an has explained and given its exact description in Surah al-Rūm/30:21³ that a marriage is an education in forming a peaceful and loving family order as well as love and affection commonly referred to in Islamic teachings by the term *sākinah mawaddah wa rahmah*, which is based on religious norms so as require communication and interaction between husband and wife so as to protect and protect each other in the family. Marriage law is an integral part of Islamic Sharī'ah which is inseparable from the dimensions of Islamic creed and morals.⁴

Al-Rāzī explains the purpose and purpose of the explanation of the verse al-Rūm/30:21 as summarized in the word *litaskunu* which implies the

² Asman, *Pengantar Hukum Keluarga Islam* (Jambi: PT. Sonpedia Publishing Indonesi, 2023), 1.

³ Kementerian Agama RI, *Al-Quran dan Terjemahnya* (Jakarta: Diponegoro, 2019), 324.

⁴ Mariani Amberi, 'Efforts to Prevent Child Age Marriage in The Study of Islamic Legal Philosophy and Indonesia Positive Law', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, vol. 7/1 (2023): 239-260, <http://dx.doi.org/10.22373/sjkh.v7i1.12404>.

obligation to present a *mawaddah* and *rahmah* atmosphere.⁵ Even according to al-Rāzī, with the command *litaskunu* which is also one of its meanings is to multiply offspring in the sense of reproduction that takes place during the marriage that is fostered so as to give birth to the next generation of terms in Islamic teachings trust or entrustment of Allah SWT, the so-called biological child.⁶ Jalāl al-Dīn al-Maḥallī in his book explains in the frame of *fiqhiyyah*, the meaning of marriage using the term *al-nikāḥ* or *tazwīj*, which literally means “intercourse or mixing”.⁷ *Shar‘ī nikāḥ* is a contract that contains justification for conjugal relations using *lafaz inkāḥ* (marrying), or *lafaz tazwīj* (marrying). From this explanation, marriage is a mission that has a purpose for the happiness of the world and the hereafter because marriage is a long worship.

The goal of marriage has been thoroughly examined in the Compilation of Islamic Law Chapter II Article 3 in order to produce an agreement that explains that one of the goals of marriage is to envision a peaceful home life in Islamic terms, specifically a family that is *sākinah mawaddah wa rahmah*. Therefore, it is anticipated that marriage will safeguard the establishment of the family and contribute to the family life that has been nurtured, ultimately resulting in the birth of a harmonious and peaceful family that forms a minor component of a social life pertaining to the rights and responsibilities of husband and wife in a respectable community setting. According to Kurniati, the vertical-coordinated relationship between husband and wife in the domestic environment of the household has reduced the relationship between the two as equal partners in building a family that is *sākinah* towards servitude to Allah SWT as the primordial purpose of the marriage itself.⁸

⁵ Abū Abd Allāh Muḥammad, *Maḥāṭib al-Ghayb*, vol. 12 (Jakarta: CD Maktabah al-Shāmilah, 2005), 225.

⁶ Taurat Afati, Ani Wafiroh & Muhamad Saleh Sofyan, ‘Upaya Pasangan Suami Istri Tidak Memiliki Keturunan Dalam Mempertahankan Keharmonisan Rumah Tangga (Studi Kasus di Desa Siru Kabupaten Manggarai Barat NTT)’, *Al-Ihkam: Jurnal Hukum Keluarga*, vol. 14/2 (2022): 161-184, <https://doi.org/10.20414/alihkam.v14i2.6927>.

⁷ Robi’atul Adawiya, *Reformasi Hukum Keluarga Islam dan Implikasinya Terhadap Hak-Hak Perempuan Dalam Hukum Perkawinan Indonesia dan Malaysia* (Jawa Barat: Nusa Litera Inspirasi, 2019), 69.

⁸ Ahmad Dakhoir & Sri Lumatus Sa’adah, ‘Meta-Juridical Analysis on the Legal Arguments beyond Changes in Indonesian’s Marriage Age Rule’, *Al-Ihkam: Jurnal Hukum & Pranata Sosial*, vol. 18/1 (2023): 80-101, <https://doi.org/10.19105/al-lhkam.v18i1.7162>.

In Islam, marriage is meant to shield married couples from conflict so that harmony and peace are attained in the home. If a married couple is always having unhappy arguments that end in divorce, there won't be any peace in the home.⁹ Because divorce is a halal act but is hated by Allah SWT.¹⁰ The occurrence of divorce against married couples in Islam is very understanding of the incident, because Islam provides opportunities for guidance, both by divorce *ṭalāq* and by divorce lawsuit. This is in order to create justice and independence between married couples who are in conflict. In the review of Islamic legal literature, Islamic law permits the breakup of marriages even if it is forced that the divorce case is more beneficial than the marriage itself which has long been bound.

Divorce lawsuit is a divorce lawsuit filed by the wife.¹¹ Law No. 1 of 1974 and Government Regulation No. 9 of 1975 do not call this “divorce lawsuit” but say that this divorce is a lawsuit. The word “Divorce Lawsuit” as stated in Article 40 of Law Number I of 1974 concerning Marriage, and Article 114 of Presidential Instruction Number I of 1991 concerning the Compilation of Islamic Law (KHI), is intended to apply to husband or wife, this is emphasized in Article 20 (1) of Government Regulation Number 9 of 1975 concerning Marriage, that “A divorce lawsuit is filed by a husband or wife or his attorney to the Court whose jurisdiction includes the place of residence of the defendant”. Article 114 of the Compilation of Islamic Law confirms that, the breakup of a marriage caused by divorce, can occur due to ‘*ṭalāq*’ and ‘divorce suit’, but in the Court, a divorce lawsuit filed by the husband is known as divorce *ṭalāq*, while a divorce lawsuit filed by the wife is better known as “divorce lawsuit”. Article 119 of the Compilation of Islamic Law states that *ṭalāq bā'in ṣughrā* is *ṭalāq* that should not be referred to but may be a new marriage contract with her ex-husband even in ‘*iddah*’. According to *qawl jadīd*, the school of Imām Shāfi'ī *ṭalāq bā'in ṣughrā* is also called *khulu*’.

In Islamic teachings, divorce is explained as based on the hadith of the Prophet SAW as follows:

⁹ Muzakkir Abubakar, ‘Meningkatnya Cerai Gugat Pada Mahkamah Syar'iyah’, *Kanun Jurnal Ilmu Hukum*, vol. 22/2 (2020): 302-322, <https://doi.org/10.24815/kanun.v22i2.16103>.

¹⁰ Mirsa Yainahu, ‘Cacat Badan Sebagai Alasan Perceraian (Undang-undang No. 1 Thn. 1974 Tentang Perkawinan dan KHI)’, *Al-Mizan: Jurnal Kajian Hukum dan Ekonomi* (2021): 1-18, <https://doi.org/10.59115/almizan.v7i01.55>.

¹¹ Khoiruddin Nasution, *Hukum Perkawinan & Warisan Di Dunia Muslim Modern* (Yogyakarta: Academia & Tazafa, 2012), 184.

*“Azhar bin Jamīl told us ‘Abd al-Wahhāb al-Thaqāfī told us Khālid of ‘Ikrimah from Ibn ‘Abbās that: The wife of Thābit bin Qays came to the Prophet (peace and blessings of Allah be upon him) and said: “O Messenger of Allah, I am not reproaching Thābit bin Qays for his religion or morals, but I am afraid of kufr in Islam”. So the Prophet (peace and blessings of Allah be upon him) said: “Do you want to return his garden?” He replied: “Yes”. The Prophet (peace and blessings of Allah be upon him) said: “Accept the garden, and divorce it with ṭalāq one”.*¹²

The explanation of the above hadith shows that the right of divorce is sued, in the sense that the wife can claim the divorce of her husband by paying damages or *‘iwāḍ* to the husband, and the wife can divorce herself through *ṭalāq bā’in ṣughrā*.¹³ Although the right to divorce basically belongs to her husband. In the process of *ṭalāq bā’in ṣughrā* or *khulu’* there is a provision to give compensation *‘iwāḍ* to the husband, in this case according to the *tafsīr ‘ulamā’* fiqh this is mandatory and a condition in *ṭalāq bā’in ṣughrā* or *khulu’*.¹⁴

Ṭalāq bā’in ṣughrā itself is a solution in Islam namely in the study of fiqh in relieving the heavy burden of domestic problems, an example of the contract is the wife saying to her husband: “divorce me and you will get compensation or *‘iwāḍ* from me in the form of one thousand dirhams”. This legal agreement has legal implications that the *bā’in ṣughrā* of divorced women.¹⁵ The permissibility of divorce in Islam is a solution for a wife against the arbitrariness of her husband, which leads to a loss of love and affection or the wife’s displeasure with the husband’s attitude and behavior. On the other hand, the high rate of divorce from wives to their husbands through *ṭalāq bā’in ṣughrā* in Sambas Regency needs a more in-depth study in terms of constituents and in terms of benefits.

According to the study’s preliminary data, which was acquired directly from the Sambas Religious court following a brief interview with Mr. Bustani, divorce cases have consistently increased from year to year. The most recent data, which was collected in December 2022, totaled 6,661

¹² Muslim, *Ṣaḥīḥ Muslim*, vol. 4 (Bayrūt: Dār al-Fikr, 1995), 2671, *ḥadīth* no. 4867.

¹³ Sayyid Sabiq, *Fiqh Sunnah*, trans. Moh. Thalib, vol. 8 (Bandung: Al-Ma’arif, 1994), 94.

¹⁴ Muhammad Fu’ad Abdul Baqi, *Fathul Bari* (Kairo: Daarul Hadits, n.d.), 5273.

¹⁵ Tirmidzi, ‘Hadits Tirmidzi Nomor 1107’, Ilmu Islam - Portal Belajar Agama Islam, <https://ilmuislam.id/hadits/35584/hadits-tirmidzi-nomor-1107>.

divorce cases.¹⁶ The high number of wives using *ṭalāq bā'in ṣuḡhrā* to sue their husbands in the Sambas Religious Court is very concerning. Considering the age distribution of divorce plaintiffs as a result of the Religious Court's development¹⁷ and with five individuals and a 50% percentage, the highest age group in the Malay Sambas community is between 25 and 35 years old, as evidenced by the 20 informants who were divorced wives to their husbands. While there are three persons aged 25 and under, the proportion is 30%, and there are only two people aged 36 and older, the percentage is 20%.¹⁸ This indicates that the majority of divorce litigants are between the ages of 26 and 35, with 50% and 30% of them being under the age of 25.¹⁹ According to these statistics, the majority of divorces in the Sambas Regency's Class 1B Religious Court involved wives suing their moms. In 60–80% of divorce instances, *ṭalāq bā'in ṣuḡhrā* is the cause.

Based on the case above, by looking at divorce in the border area of Indonesia-Malaysia every year increases, especially the divorce of the wife to her husband through *ṭalāq bā'in ṣuḡhrā*, the researcher wants to conduct a more in-depth study in finding from the side of truth and benefit in divorce lawsuit of wife to her mother in the form of *ṭalāq bā'in ṣuḡhrā*. Likewise, the values of justice after divorce and divorce and how to overcome the wife's *bā'in ṣuḡhrā ṭalāq* to her mother are studied through the benefit of the Sambas Malay community in West Kalimantan.

DISCUSSION

This is the high point of a family's life in the Sambas region, Sambas Regency, West Kalimantan, and it has to do with divorce proceedings, particularly those in which the wife is suing the husband. Researchers wish to provide statistics on the population of Sambas Regency prior to entering the divorce case. Data sources from the Sambas Regency Population and Civil Registration Office, Semester 1 2020 Aggregate Data, show that there

¹⁶ Bustani (Judge for Handling Divorce, Sambas Religious Court Class 1 Sambas Regency, Sambas), in interview with the author, 7 December 2022.

¹⁷ Mahkamah Agung Republik Indonesia, 'Daftar Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/list_perkara/page/333/, accessed on 31 December 2022.

¹⁸ Lisa (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.

¹⁹ Lisa (Divorce Handling Administration Staff), in interview with the author, 5 December 2022.

are 562,298 Muslims, 11,686 Christians, 18,231 Khatolik, 192 Hindus, 43,327 Buddhists, and 3,023 Confucians.²⁰ The majority of people in Sambas Regency are Muslims, according to the population data. As a result, Sambas Regency has a high number of divorce cases, particularly among Muslims.

The occurrence of a high divorce rate raises the question of why the number of cases increased year between 2015 and 2022 in the preliminary data set of this study that can be disclosed in this dissertation, such as: Following a brief chat with Mr. Bustani, the Sambas Religious court provided the most recent data, which showed 6,661 divorce cases in December 2022. Divorce cases consistently rise from year to year,²¹ especially at the Sambas Religious Court, the number of divorce lawsuits made by clover wives increases until 2022 every year, reaching 1000 cases of divorce lawsuits from wives to their husbands through *ṭalāq bā'in ṣughrā*.²² The reasons for divorce according to field researchers are economic factors, no more harmony, lack of religious understanding in the family, layoffs, influence from social media, false reports of wives filing for divorce without the husband's knowledge, and the rest is domestic violence.

Sambas Regency in 2022 ranked top in divorce cases out of 14 districts in West Kalimantan.²³ The Junior Registrar of Religious Court Appeals immediately communicated this.²⁴ According to Hidayat, there are about 2000 divorce court cases filed each year, with 65 percent of divorces filed

²⁰ Opendata Kalbar, 'Jumlah Penduduk Kabupaten Sambas Menurut Agama Sumber Data Dinas Kependudukan Dan Pencatatan Sipil Kabupaten. Sambas, Data Agregat Semester 1 Tahun 2022', Diskominfo Kalbar, <http://data.kalbarprov.go.id/dataset/jumlah-penduduk-kabupaten-sambas-menurut-agama/resource/06c34046-8b23-4dea-89a2-f0aa0d7f5e46>, accessed on 26 December 2022.

²¹ Bustani (Judge for Handling Divorce), in interview with the author, 7 December 2022.

²² Mahkamah Agung Republik Indonesia, 'Statistik Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/statistik_perkara, accessed on 5 December 2022.

²³ Randi (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.

²⁴ Hamdani (Junior Registrar of Religious Court Appeals, Sambas), in interview with the author, 17 June 2022.

by people between the ages of 30 and 40, 30 percent by young people under the age of 30, and 5 percent by people over 50.²⁵

Additionally, the 16-year-old child involved in this divorce complaint case was a young youngster. There are also many instances of children being divorced at an early age, beginning at 16. In actuality, some people find it impossible to cope with the difficulties of modern life. According to Siti Marhamah,²⁶ he clarified that the wife, the plaintiff in the divorce case, already knew the cause of the divorce in their home, which led to the dissolution of their marriage. Sambas Regency was the top-ranked region in 2022 for divorce cases, particularly those involving a wife's separation from her husband by *ṭalāq bā'in ṣughrā*.²⁷ On December 20, the 2020-2022 data update revealed that 6,600 divorce cases had been filed by wives against their spouses.²⁸

To date, the West Kalimantan region's Regional Child Protection and Supervision Commission Commissioner has coordinated and asked for regional support for Sambas Regency's child protection implementation. Nani underlined that the Sambas Regency government's plan would include laws pertaining to premarital education scheduled in accordance with the materials provided, which was a prerequisite to hold a marriage, in light of the divorce storm issue. Premarital education provided by the Office of Religious Affairs (KUA) is beneficial for the first provision of marriage following a young marriage, due to the fact that the current marriage age is at least 19 years.²⁹

Twenty informants provided information on the age distribution of divorce claims as a result of changes in the Religious Court and the Sambas

²⁵ Zulfahmi Dhamiri (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.

²⁶ Siti Marhamah (Primary Judge at Sambas Court, Sambas), in interview with the author, 4 December 2022.

²⁷ Melly (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.

²⁸ Mahkamah Agung Republik Indonesia, 'Daftar Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/list_perkara/page/333/, accessed on 5 December 2022.

²⁹ Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.

Malay community.³⁰ There are five individuals, 50% of them are between the ages of 25 and 35, who divorce their wives from their husbands. While there are three persons aged 25 and under, the proportion is 30%, and there are only two people aged 36 and older, the percentage is 20%.³¹

This indicates that the majority of divorce litigants are between the ages of 26 and 35, with 50% and 30% of them being under the age of 25. According to these statistics, divorces between wives and their husbands accounted for the majority of the divorces that took place in the Class 1B Religious Court of Sambas Regency. 60-80% of divorce cases that occur, are divorce lawsuits. From statistical data, Sambas Regency has the number one highest divorce rate out of 14 districts in West Kalimantan. Regarding the 19 Sambas Kabupaten subdistricts with the highest divorce rates, Pemangkat, Tebas, Selakau, and Jawai.³²

Finally, early divorce also occurs frequently, and most people who file for divorce are truly prepared to get married. The average age of marriage is barely two to five years old. There are even those who just got married in 2021, in 2022 they have divorced. The Sambas religious court also recorded early marriages, due to promiscuity that had been carried out, and the family environment was not supportive. Early divorce ultimately results from a lack of maturity, inability to comprehend their spouse, frequent absences, lower income, and a continued preoccupation with technology. In order to prevent a high rate of divorce, particularly divorce between a wife and her husband, Sambas Regency was tasked with handling the issue.

This statistical data, which was obtained from the Sambas Religious Court Class 1B, was analyzed between 2020 and 2022 in order to investigate the high rate of wife-to-husband divorces in the Malay Sambas population in Sambas Regency.

³⁰ Mahkamah Agung Republik Indonesia, 'Statistik Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/statistik_perkara, accessed on 28 December 2022.

³¹ Lisa (Divorce Handling Administration Staff), in interview with the author, 5 December 2022.

³² Siti Marhamah (Primary Judge at Sambas Court, Sambas), in interview with the author, 4 December 2022.

Table 1: Data on divorce of wife lawsuits in Sambas Religious Court

No	Year	Guguat Divorce Case												Sum Divorce Lawsuit
		Moon												
		Jan	Feb	Mar	Apr	May	June	July	Ags	Sept	Oct	Nov	Dec	
1	2020	80	147	80	174	166	174	170	186	166	174	186	80	1.783
2	2021	150	140	170	160	55	78	90	99	102	98	89	81	1.223
3	2022	81	76	85	79	71	76	92	93	83	84	77	81	978

Source: Sambas Religious Court Class 1B

Looking at the divorce data of divorce claims of wives to their husbands through *talāq bā'in ṣughrā* obtained from the Sambas Religious Court data from 2020, 2021 and 2022, it can be seen that the number of divorces divorced by wives to their husbands in Sambas Regency in 2020 the number of divorces divorced from wives to their husbands was 1,783 pairs, in 2021 the number of divorce from wives to their husbands was 1,223 and in 2022 the number of divorces divorced from wives to their husbands was 978 pair. From this data, it can be known the number per month and per year of divorce from a wife to her husband at the Sambas Class 1B Religious Court. The cause of divorce from the wife to her husband is inseparable from those caused by domestic economic problems, disputes and constant quarrels in the household and leaving one of the parties. The Sambas Class 1B Religious Court provided the immediately obtained cause of the wife's divorce from her spouse. After the researcher knows the number of divorces divorced from the wife to her husband the researcher will analyze in terms of age divorce.

Researchers dug up age data of divorce plaintiffs based on information from the administration handling divorce cases at the Sambas Class 1B Religious Court. Here is the data that the author got.

Table 2: Classification of divorce age data in Sambas Religious Court

No	Age	Sum	%
1	25 Years old and under	3	30%
2	26 Years to 35 Years	5	50%
3	36 Years and above	2	20%
Total (n =10)		10	100%

Source: Sambas Religious Court Class 1B

Based on the age data of divorce from the wife to her husband through *talāq bā'in ṣughrā* above, the results of the development in the Sambas Religious Court Class 1B in the table can be seen from a sample of 10 people

obtained from the years 2020, 2021, and 2022. The plaintiff divorced the wife from her husband through *ṭalāq bā'in ṣuḡhrā* performed by the wife, with the highest age between 25 and 35 years old with a total of 5 people with a 50%. Additionally, there are only two plaintiffs aged 36 and beyond, representing a 20% percentage, while three individuals in the sample are under the age of 25, representing a 30% percentage. According to the sample, the average age of divorce plaintiffs who use *ṭalāq bā'in ṣuḡhrā* to transfer their wives to their husbands is higher between the ages of 25 and 35, and the percentage is 50% and 30% for those under 25.

Looking at the conditions for divorce in PP No. 9 of 1975 and the Compilation of Islamic Law. Researchers obtained data on the causes of divorce in Sambas Religious Court Class 1B as because of the development of interviews and administrative data. From the provisions for divorce in PP No. 9 of 1975 and the Compilation of Islamic Law Article 116. Researchers found that there are 15 most domain cases each year of divorce lawsuits in Sambas Religious Court Class 1B Sambas Regency from 2020, 2021 and 2022. In accordance with point (1) in PP No. 9 of 1975 and the Compilation of Islamic Law Article 116 with the term “unconscious/unrecoverable”.

Table 3: The most dominant cases of divorce causes of divorce of a wife to her husband in Sambas Court Class 1B from years 2020, 2021, and 2022

No	The Most Dominant Cases	2020	2021	2022	Sum
1	Disputes and quarrels	270	144	244	658
2	Economic problems	328	110	210	648
3	Leave either party	501	258	359	1118
4	Drunk	73	53	54	180
5	Nikah siri	73	63	73	209
6	Online gambling	68	25	26	119
7	Domestic violence	67	40	41	148
8	Parenting issues	65	46	47	158
9	Prison	63	43	44	150
10	Third-party interference	55	35	36	126
11	Adultery/Infidelity	53	33	34	120
12	Disability/Incurable disease	50	30	31	111
13	Polylogamy license	50	40	50	140
14	Crisis of faith, apostasy	50	40	50	140
15	Cultural factors	50	30	31	111
	Total	1.816	990	1.330	4.136

Source: Sambas Religious Court Class 1B

Here are three causes of divorce from a wife to her husband through *ṭalāq bā'in ṣughrā* which dominate the most every year in Sambas Religious Court Class 1B in 2020, 2021, and 2022.

Table 4: Cases that dominate the causes of divorce of a wife to her husband through in Sambas Court Class 1B from years 2020, 2021 and 2022

No	The Most Dominant Cases	2020	2021	2022	Sum
1	Leave either party	501	258	359	1118
2	Disputes and quarrels	270	144	244	658
3	Economic problems	328	110	210	648
	Total	1099	512	813	2424

Source: Sambas Religious Court Class 1B

The data above explain that, there is the most dominating case in divorce cases of divorce from wives to their husbands through *ṭalāq bā'in ṣughrā* in Sambas Regency. From the identification of data there are 15 cases of the dominant causes divorce causes of divorce from the wife to her husband through *ṭalāq bā'in ṣughrā* every year, in the 15 causes of divorce from the wife to her husband through *ṭalāq bā'in ṣughrā* there are 3 cases that dominate the most. The cause of divorce of a wife to her husband through *ṭalāq bā'in ṣughrā* is seen from the figure every year. Furthermore, the author draws the most dominating cause based on the highest number of causes of divorce from wives to their husbands through *ṭalāq bā'in ṣughrā* from the years 2020, 2021 and 2022, there are three most dominant causes difficult to overcome, namely, that is, leaving one of the parties, continuous disputes and quarrels and household economic problems.

1. Analyst Wives Suing For Divorce: A Study In Indonesia-Malaysia Border Communities In Sambas, West Kalimantan

Undang-Undang marriage No 1 of 1974 in Article 37 states that, if the marriage breaks up due to divorce, joint property is regulated according to respective laws. According to a statement from Mr. Bustani, Judge of the Sambas Religious Court, he said:

“Property in marriage is divided into three types, namely inheritance, joint property and property acquired, property obtained during marriage is joint property, while property

*obtained by each party as inheritance or gifts called grant property”.*³³

One of the divorce respondents filed a divorce lawsuit against her husband through *ṭalāq bā'in ṣughrā* conducted by VT (29 years) (wife) and DM (30 years) (husband) related to marital property, VT said:

*“The issue of property from our marriage has no demands, each brings his property, I bring my property, and my ex-husband brings his property, but in my ex-husband’s property there is a living for his child which is his obligation”.*³⁴

Furthermore, according to WN (26 years old) a widow has one son from the results of her marriage with her legal husband, she is concerned about marital property after marriage, namely:

*“The property I obtained during the marriage was for the needs of me and my child, while the property obtained by my husband was a living from him, after we divorced the problem of my property was to provide for the children only, my husband only demanded ransom for divorce, and regarding foreign property each of us had no demands because it was the inheritance obtained from parents”.*³⁵

According to the explanation from VT (29 years old) and DM (26 years old) the impact of property from their marriage there is no claim related to acquisition property and foreign property, but VT and DM only pay for the child’s living expenses because it is still the responsibility of their ex-husband and the impact on the child.

In this context, a *mumayyiz* child means that he can analyze what is good for him and what is not good for him. In *fiqhiyyah*, the *mumayyiz* period starts from the age of seven until reaching puberty. At this time, children are able to distinguish what is not good and what is good for him. Therefore, he is considered to be able to decide for himself whether to obey his father or mother.³⁶ However, the Ministry of Justice believes that it is merit that

³³ Bustani (Judge for Handling Divorce), in interview with the author, 7 December 2022.

³⁴ Vetri (Plaintiff Divorce), in interview with the author, 6 December 2022.

³⁵ Wirna (Plaintiff Divorce), in interview with the author, 4 December 2022.

³⁶ Satria Effendi, *Problematika Hukum Keluarga Islam Kontemporer* (Jakarta: Prenada Media, 2005), 171.

judges should consider when determining the interests of children under the age of 11.³⁷

While the positive impact of divorce from the wife to her husband through *ṭalāq bā'in ṣughrā* in Sambas Regency, as expressed by one of the respondents interviewed by the researcher as a sample in the field, the following is his statement. WN (26 years old) a widow has one son from her marriage with her legal husband. WN conveyed the impact of divorce to her husband through the *ṭalāq bā'in ṣughrā* that she felt from her divorce:

*“During the period of my marriage with my husband I was always depressed, humiliated, sad, and felt not appreciated at all. But after the divorce I was not depressed anymore and felt more relieved, I felt free born and inner because the child was with me”.*³⁸

Seeing the words of WN (26 years old), she felt the positive impact of her divorce from her husband, WN felt relieved after divorcing from her sister, the existence of conflicts in the household that led to divorce made foreigners who experienced divorce feel calm and relieved after the divorce occurred. The feeling of relief after divorce felt by WN because there are often disputes in the household that make them always conflict in the household that does not end.

Divorce is an event that neither husband nor wife expects. However, the decision of divorce of the wife to her husband through *ṭalāq bā'in ṣughrā* must be taken by the woman because according to her there is no other choice. After the divorce, the economic impact is not reduced because now they can live with their parents, can work again, even if the salary is small, because the job is not fixed. But that does not mean that there are no more problems, although the effects of divorce seem to have been noticed for a long time, psychological problems are the most serious problems felt by a woman. The behavior of husbands who do not maintain fidelity and do not respect household duties is very disappointing.

One example of divorce is a divorce lawsuit from a wife to her husband through *ṭalāq bā'in ṣughrā* carried out by VT (29 years) (wife) and DM (30 years) (husband), whose address is Tebas Kuala Village, Tebas District, Sambas Regency, West Kalimantan, the couple has two children aged 8 and 4 years. VT's husband's job is a fruit trader in the Market and VT is a

³⁷ Slamet Abidin dan Aminuddin, *Fiqih Munakahat 2* (Bandung: Pustaka Setia, 1999), 184.

³⁸ Wirna (Plaintiff Divorce), in interview with the author, 4 December 2022.

housewife and also helps her husband sell fruit. During his time as a fruit trader, VT's husband always ignored the income for his children and wife, because what was given by VT's husband met the needs of his children and wife, especially VT's husband who was drunk and liked to play women. The occurrence of a rift in the VT and DM household is that VT's husband was caught giving another woman VT's husband cheating.

As VT narrates:

*"I filed a lawsuit (divorce) for my husband to the Sambas Religious court and asked for help from the legal institution to facilitate my divorce process, on the grounds that because my DM (husband) was caught cheating on me with another woman outside the home, with the prospect of my husband's inadequate family support and neglecting me and my children. So that I make a living for the family. My husband agreed to divorce him, so my husband asked for a ransom as a condition for returning the dowry he gave me first, and I agreed so that my heart would not stir anymore and could focus on the future of the children at home".*³⁹

With this incident, VT sued her husband DM for divorce because she could no longer bear to see her husband's behavior and also VT often received physical violence by her husband when he was fighting. So VT filed a lawsuit to the court and to facilitate the divorce process, VT asked for help from legal institutions in Sambas so that the divorce case process was not so long waiting. The suit was approved by DM (her husband) on the condition that VT (his wife) return the goods given to VT.

Based on the results of the researcher's interview with the judge of the Sambas Religious Court Class 1B and respondents taken from the administrative data of the Religious Court regarding the impact contained in the divorce of the wife to her husband through *ṭalāq bā'in ṣughrā*, it can be connected *maṣlaḥah* to answer and draw conclusions about the issue of divorce from the wife to her husband through *ṭalāq bā'in ṣughrā* in Sambas Regency. If we look at the reasons that a wife can use to ask for a divorce, then they are a form of fulfillment of the wife's *ḥājiyyah* to her husband. For reasons of losing the purpose of marriage, which is to create a happy family. According to al-Ṣhātibī, if *al-ḥājiyyah* is not noticed, difficulties and difficulties arise, but not to the point of inflicting harm, which is usually the case with *al-maṣlaḥah al-ḍarūriyyah*. The category *al-ḥājiyyah* actually

³⁹ Veti (Plaintiff Divorce), in interview with the author, 6 December 2022.

leads to the perfection of *al-darūriyyah*, whereby in truth *al-ḥājīyyah* all *mashaqqah* is lost and balance and rationality are created so as not to give rise to extremism (*al-ifrāt wa al-tafrīt*).

While maintaining the continuity of the household is *al-maṣlaḥah al-darūriyyah*, the effort to maintain the continuity of the household takes precedence over divorce. This, the judge must be more careful in investigating divorce cases so that the presence of the defendant in court is imperative for the judge to strive for the fulfillment of *al-maṣlaḥah al-darūriyyah* for both the defendant and the plaintiff. As al-Ṣhātibī asserts, absolutes are *maṣlaḥah* should not be subjective and relative. Relatability can be based on the nature of comparing *maṣlaḥah* with circumstances such as *hawā al-nufūs* (personal pleasure), *manāfi'* (personal gain), *nāl al-shahwāt* (fulfillment of bad wishes) and *aghrād al-nāfs* (self-interest).

According to al-Ṣhātibī, all of the above considerations provide a relative and subjective understanding of *maṣlaḥah*, which is not a Sharī'ah consideration of *maṣlaḥah*, even though it is customary (customary). The second trait of *maṣlaḥah* is that it must be universal. This universal cannot be influenced by the *takhalluf* of its individual elements. For example, laws are made based on the universal provision that these penalties usually deter people from committing crimes. However, there are people who, even if convicted, cannot prevent the commission of a crime, but the exclusion does not affect the enactment of the general provisions of the criminal law. *Sharī'ah al-Ghālib al-Akthar* (dominant majority), which is the general definitive element in considering *maṣlaḥah*.

2. *Maṣlaḥah* Aspects of Wife-to-Husband Lawsuit in Sambas Malay Society

Judging from the *maṣlaḥah* aspect, the purpose of the special law of Islam is to realize benefit and avoid harm. Amrullah Hayatudin explained that the *maṣlaḥah* seen from the power of its argument to achieve benefit in the establishment of law is divided into three parts, namely *maṣlaḥah al-darūriyyah*, *maṣlaḥah taḥsīniyyah* and *maṣlaḥah ḥājīyyah*.⁴⁰ Related in this study which discusses the *khulu'* divorce in Sambas *maṣlaḥah* perspective, the researcher will discuss from the benefit of *khulu'* divorce in Sambas Regency which consists of aspects of *maṣlaḥah al-darūriyyah*, aspects of *maṣlaḥah ḥājīyyah* and aspects of *maṣlaḥah taḥsīniyyah*.

⁴⁰ Amrullah Hayatudin, *Ushul Fiqh Jalan Tengah Memahami Hukum Islam* (Jakarta: Prenada Media, 2014), 84.

First, the *maṣlahah al-ḍarūriyah* aspect, this aspect is mandatory for humans because it maintains survival in what Allah Almighty has given. There are five aspects that need to be protected from the *maṣlahah al-ḍarūriyah* as explained by al-Ṣhāṭibī, namely: *hiḏz al-Dīn* (religion) obedience to worship Allah Almighty, *hiḏz al-Nafs* (guarding one's soul/life) guarding the safety of one's persons, *hiḏz al-'Aql* (guarding one's intellect) guarding one's conscience, *hiḏz al-Nasl* (guarding one's offspring) safeguarding one's dignity and honor, *hiḏz al-Māl* (guarding one's property) protecting one's possessions or wish to possess.

Such as the case of the cause of divorce of the wife to her husband through *ṭalāq bā'in ṣuḡhrā* has certain reasons, as in the case decided namely Number: 20 / Pdt.G / 2019 / PA. SBS, the handling of the case was chaired by judge H. Ivan Yuzni Amarullah Murtadlo,⁴¹ proposed by W (pseudonym kan) 26 years old to her husband an (pseudonym kan) 28 years old. The reason for the wife filing for divorce from her husband through *ṭalāq bā'in ṣuḡhrā* against her sumnya to the Sambas Religious Court Class 1B is that the husband has no responsibility for his household, often leaves his wife and children for a long time without any news and returns home instead of being indifferent to his wife and children. With this incident, the wife becomes the backbone of the family by working hard with the aim of meeting household needs, the wife is not appreciated by the husband, the husband always says dirty things to the wife, the husband always physically abuses the wife, always gets angry without any reason, and always exaggerates small problems in the household so that it becomes a quarrel.

From this case the aspect of *maṣlahah al-ḍarūriyah* lies in the aspect of *hiḏz al-Nafs* (safeguarding the soul/life), because in that case one of the causes of divorce *khulu'* is that the wife always receives physical violence from her husband. In the concept of *maṣlahah* the wife's actions are appropriate, she sues her mother because a wife is trying to protect her soul or life from the persecution of her mother. So that *hiḏz al-Nafs* is preferred to avoid harm that brings benefits to a wife. Furthermore, the factor causing the filing of divorce from the wife to her husband through *ṭalāq bā'in ṣuḡhrā* for another reason is that the wife is not fulfilled by her biological income. This case is as stated in case No. 582/Pdt.G/2019/PA. Sbs, with letter number B-452/Kua.14.05.05/PW.01/06/2019 and date of registration of

⁴¹ Mahkamah Agung Republik Indonesia, 'Data Seluruh Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/index.php/detil_perkara, accessed on 26 December 2022.

people, June 21, 2019.⁴² On behalf of the wife (pseudonym) as plaintiff age 26 years and husband with (name disguised) as defendant age 29 years. Their marriage has been around for about five years and the wife filed her lawsuit on June 21, 2019 after a peak of disputes occurred between husband and wife. The plaintiff filed a lawsuit against the defendant during the marriage period of approximately five years.

From this case, the aspect of *hifz al-Nasl* lies in the aspect of *hifz al-Nasl* (keeping offspring) because in that case one of the causes of divorce *khulu'* is that the wife does not get satisfaction from her husband so it is difficult to get offspring. In the concept of *maṣlahah* the wife's actions are appropriate, she sues her mother because a wife seeks to obtain biological satisfaction from her husband. So *hifz al-Nasl* is preferred to avoid harm that brings benefits to a wife.

From these two cases, the *maṣlahah al-darūriyah* aspect of the context of *hifz al-Nafs* (safeguarding the soul/life) and *hifz al-Nasl* (guarding offspring) of both contexts falls into the category of *maṣlahah al-darūriyah* which discharges with primary needs. Therefore, there is no longer any reason not to rush in solving problems that arise in the family. If there is no solution, it can happen in the plaintiff's family and the defendant will not be able to achieve harmony and happiness as desired in building a household. So, the decision of the Judge of the Sambas Class 1B Religious Court in the trial is to realize the benefit of the plaintiff and the defendant. If there is no decision, it will cause more harm with the incident, the aggrieved is the wife.

Second, the *maṣlahah* aspect of *ḥājiyyah*, an aspect that must be present in human life. *Maṣlahah ḥājiyyah* is required by every individual human being to avoid difficulties and to resist corruption in human life. The main principle in *maṣlahah ḥājiyyah* is to avoid difficulties, ease the burden of life and facilitate married couples in fostering married life. In essence, the *maṣlahah* aspect of *ḥājiyyah* is to maintain the five points of benefit such as safeguarding religion, soul, reason, time, and wealth. It is just that the use is in accordance with each other's interests to realize human benefit.

The *maṣlahah* aspect of *ḥājiyyah*, for example in maintaining religion, is by carrying out religious provisions such as performing the five daily prayers. In order to avoid conflicts in the household, married couples after marriage in Sambas Regency must bind each other in matters of carrying out obligations such as praying five times because praying five times can prevent evil and bad behavior in the household.

⁴² Mahkamah Agung Republik Indonesia, 'Data Seluruh Perkara'.

Maṣlahah ḥājīyyah, in the soul of his mass seeks halal sustenance and enjoys halal food. In looking for sustenance, you should look for it in a halal way, because halal sustenance will bring chaos in the family so that it can save lives in the family. Therefore, it is expected that the husband as the head of the family must seek sustenance in a halal way and provide children and wives with halal food. As Allah SWT says in QS. al-Baqarah/2:168:

يَأْيُهَا النَّاسُ كُلُّوْا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ ۚ إِنَّهُ
لَكُمْ عَدُوٌّ مُّبِينٌ ﴿١٦٨﴾

“O men, eat what is lawful more good than that which is on earth, and do not follow the steps of Satan; for verily Satan is a real enemy to you”.⁴³

(Surah al-Baqarah, 2: 168)

The above verse explains and teaches those who are building a home life Allah SWT recommends eating halal food and seeking sustenance in a halal way not to follow the path of Satan, actually Satan is a real enemy from the prophet Adam to his current descendants (humans).

Maṣlahah ḥājīyyah in maintaining reason, for example, married couples are obliged to study science or religious knowledge. This science aims to develop knowledge for married couples in order to avoid difficulties in life and can avoid conflicts in the household. For example, the high divorce rate in Sambas Regency with the science of married couples can think it is better to maintain survival in a family than to break the marriage cord. That is the principle of keeping the intellect because from the intellect man can distinguish what is good and what is good in his life.

Maṣlahah ḥājīyyah in maintaining offspring, this aspect is related to the period or upbringing of children. If the parents divorce, it will also have an impact on the child's future. Because in this study the consequences of divorce greatly affect children in Sambas Regency. Thus, maintaining offspring is more important because *nasab* is the next generation who needs education from both parents.

Furthermore, *maṣlahah ḥājīyyah* in the table of wealth, this aspect is related to wealth in marriage. In marriage is inseparable from individual property and innate property. The impact of divorce in Sambas Regency also affects property in marriage, so it is very necessary to maintain property

⁴³ Kementerian Agama RI, *Al-Quran dan Terjemahnya*, 25.

while still being able to maintain the marriage maintain it because it enters the realm of avoiding difficulties in avoiding damage (*mafsādāt*) in marriage.

Third, the *maṣlahah taḥsīniyyah* aspect, in this aspect the *maṣlahah* that exists in the needs of human life needs to him does not reach the *ḍarūrī*, nor does it reach the level of *ḥajjyah*, but these needs need to be fulfilled in order to give perfection and beauty of life to humans. This aspect must be instilled in the husband couple in Sambas.

Maṣlahah taḥsīniyyah in the aspect of maintaining religion, for example following religious instructions aims to uphold dignity as a human being, while carrying out obligations towards Allah SWT. For example, in family life, the wife must cover her body both inside the house and outside the home, the husband and wife must maintain the cleanliness of their bodies, cleanliness of clothes and safety of residence. Therefore, pinning is included in commendable morals in building a household.

Maṣlahah taḥsīniyyah in the aspect of guarding the soul, in this body the most emphasized aspect is eating and drinking. This principle relates to the modesty of married couples and the ethics of married couples in the household. Because this will in no way threaten the existence of the soul of the married couple or complicate their lives.

Maṣlahah taḥsīniyyah in the aspect of maintaining reason, in this sense the most emphasized aspect avoids delusional of a high level or wanting something beyond ability. For example, today's lifestyle competition, but today's lifestyle if you can keep up with married couples does not threaten the existence of reason like a married couple. So that it can still maintain its home life.

Maṣlahah taḥsīniyyah in the aspect of maintaining offspring, in this order of offspring things that must be considered are such as the decree of how to ask (*khiṭbah*) and reception (*walīmah*) in marriage. This is just to complete the activities of the wedding. Regarding offspring like a married couple, after marriage, there must be a purpose of the marriage, one of which is to get offspring or *nasab*. But if there are no offspring it does not threaten the existence of time and does not make it difficult, while the married couple is still willing to try to get offspring means that they can still maintain the integrity of the household. But there is also the absence of children, married couples decide to end their marriages as in Sambas Regency, the cause of divorce one of which is not having children or time.

Maṣlahah taḥsīniyyah in the aspect of safeguarding property, in this aspect the most emphasis is on avoiding the deceptive and speculative nature. As a married couple must really be honest in making the household

open to each other, especially in terms of marital property. From that, married couples must be able to maintain their wealth in building a household. Because the divorce case in Sambas has a huge impact on property in marriage. Not a few problems of marital property are adequate problems. But if you can maintain the property, it is better to be married, if you cannot maintain it, it must bring benefits so that the breaking of the marriage bond does not adversely affect the dignity of the marriage.

Based on the explanation of three aspects, namely the *maṣlahah al-darūriyyah*, the *maṣlahah* aspect of *ḥājiyyah* and the *maṣlahah* aspect of *taḥsīniyyah* are Sharī‘ah to preserve or maintain the benefit of avoiding *mafsādāt* like life. In married life, of course, there are many problems that require a solution, according to what al-Shāḥibī said, bringing more benefit than bringing harm. Therefore, in the case divorce in Sambas, the settlement must really bring benefits or benefits. The rule that becomes the legal consideration divorce is whether divorce has benefits or even provides benefits like a married couple who will break the marriage cord. As A. Djazuli said, “resisting damage must take precedence over attracting benefit”. The point is that when a matter seems to have benefits (*maṣlahah*), but there is also damage, it must be prioritized to avoid the *mafsādāt*, because the harm can expand and spread everywhere, so that it can cause greater damage in the household.

Next is the aspect to *maṣlahah* which is aimed at the institution of marriage organizers. In organizing marriages, KUA must especially strengthen material on how to realize *sākinah* family and the impact of divorce for prospective brides (suscatin) who will marry. If you look at the premarital course conducted by KUA Sambas Regency, it is only done as a formality if the requirements are sufficient. The bride and groom’s course must be effective and as good as possible before the marriage contract, the material must be improved, the resource person must be able to understand so that the bride and groom can understand the material so that the *maṣlahah* aspect is clearer.

In addition to *maṣlahah* there are also *muḍārāt* from parents’ divorce, namely: first, *muḍārāt* on the psychological husband/wife, second *muḍārāt* on the development of children and third *muḍārāt* on wealth. *Muḍārāt* on husband/wife, namely for ex-husbands and wives, the existence of divorce makes their status widow and widower. *Muḍārāt* in children is that children will feel restless, confused, embarrassed, worried, upset, and often filled with feelings of hatred, resentment, so that children become rebellious against their families. *Muḍārāt* on property is the arrangement of property for ex-husbands and ex-wives.

CONCLUSION

The reality of divorce is the divorce of the wife to her husband through *ṭalāq bā'in ṣughrā in* Sambas, Sambas Regency, namely: (1) Disputes and quarrels, (2) Economic problems, (3) Leaving one party, (4) Drunkenness, (5) Serial marriage, (6) Online gambling, (7) Domestic violence, (8) Childcare problems, (9) Imprisonment, (10) Third party interference, (11) Adultery/Infidelity, (12) Incurable Defects/Diseases, (13) Polytechnic Permits, (14) Crisis of faith, Apostasy, (15) Cultural factors. Of the 15 (fifteen) constituencies of *khulu'* divorce in Sambas Religious Court Class 1B Sambas Regency, there are 3 (three) constituencies that dominate the most, namely: household economic problems, disputes and quarrels and leaving one party legal.

The aspect to *maṣlahah* divorce is inseparable from the aspect of *maṣlahah al-darūriyyah*, the aspect of *maṣlahah ḥājīyyah* and the aspect of *maṣlahah taḥṣīniyyah*. From these three aspects, solutions emerged in suppressing the high number of *khulu'* divorces in Sambas Regency based on cumulative data in the field that most dominate the causes of the high number of *khulu'* divorces, namely household economic problems, disputes and quarrels and leaving one party. Marriage Guidance for Prospective Brides (Bimwin Catin) in implementation provides reinforcement to prospective brides related to learning marriage fiqh, family formation and controlling the economy in the family as well as providing education to brides after marriage about new life. The Marriage Development and Preservation Advisory Board (BP4) plays a role in this. *Islāh* properly is very necessary, so that non-litigation resolution efforts can be made before the case is brought to court in the form of settlement. The court mediation process also needs to be optimized before the case is heard, so that it is not limited to formalities and trapped in legal technical regulations. It is necessary to return the mediator's view to the *hakam* (conjugal family representative) to optimize mediation.

REFERENCES

- Ahmad Dakhoir & Sri Lumatus Sa'adah, 'Meta-Juridical Analysis on the Legal Arguments beyond Changes in Indonesian's Marriage Age Rule', *Al-Ihkam: Jurnal Hukum & Pranata Sosial*, vol. 18/1 (2023): 80-101, <https://doi.org/10.19105/al-lhkam.v18i1.7162>.
- Amrullah Hayatudin, *Ushul Fiqh Jalan Tengah Memahami Hukum Islam* (Jakarta: Prenada Media, 2014).

- Asman, *Pengantar Hukum Keluarga Islam* (Jambi: PT. Sonpedia Publishing Indonesi, 2023).
- Kementerian Agama RI, *Al-Quran dan Terjemahnya* (Jakarta: Diponegoro, 2019). Abū Abd Allāh Muḥammad, *Mafātīḥ al-Ghayb*, vol. 12 (Jakarta: CD Maktabah al-Shāmilah, 2005).
- Khoiruddin Nasution, *Hukum Perkawinan & Warisan Di Dunia Muslim Modern* (Yogyakarta: Academia & Tazzafa, 2012).
- Mahkamah Agung Republik Indonesia, 'Daftar Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/list_perkara/page/333/, accessed on 31 December 2022.
- Mahkamah Agung Republik Indonesia, 'Statistik Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/statistik_perkara, accessed on 5 December 2022.
- Mahkamah Agung Republik Indonesia, 'Data Seluruh Perkara', Sistem Informasi Penelusuran Perkara Pengadilan Agama Sambas, https://sipp.pa-sambas.go.id/index.php/detil_perkara, accessed on 26 December 2022.
- Mariani Amberi, 'Efforts to Prevent Child Age Marriage in The Study of Islamic Legal Philosophy and Indonesia Positive Law', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, vol. 7/1 (2023): 239-260, <http://dx.doi.org/10.22373/sjkh.v7i1.12404>.
- Mirsa Yainahu, 'Cacat Badan Sebagai Alasan Perceraian (Undang-undang No. 1 Thn. 1974 Tentang Perkawinan dan KHI) ', *Al-Mizan: Jurnal Kajian Hukum dan Ekonomi* (2021): 1-18, <https://doi.org/10.59115/almizan.v7i01.55>.
- Muslim, *Ṣaḥīḥ Muslim*, vol. 4 (Bayrūt: Dār al-Fikr, 1995), 2671, *ḥadīth* no. 4867. Muhammad Fu'ad Abdul Baqi, *Fathul Bari* (Kairo: Daarul Hadits, n.d.).
- Muzakkir Abubakar, 'Meningkatnya Cerai Gugat Pada Mahkamah Syar'iyah', *Kanun Jurnal Ilmu Hukum*, vol. 22/2 (2020): 302-322, <https://doi.org/10.24815/kanun.v22i2.16103>.
- Opendata Kalbar, 'Jumlah Penduduk Kabupaten Sambas Menurut Agama Sumber Data Dinas Kependudukan Dan Pencatatan Sipil Kababupaten. Sambas, Data Agregat Semester 1 Tahun 2022', Diskominfo Kalbar, <http://data.kalbarprov.go.id/dataset/jumlah-penduduk-kabupaten-sambas-menurut-agama/resource/06c34046-8b23-4dea-89a2-f0aa0d7f5e46>, accessed on 26 December 2022.

- Robi'atul Adawiya, *Reformasi Hukum Keluarga Islam dan Implikasinya Terhadap Hak-Hak Perempuan Dalam Hukum Perkawinan Indonesia dan Malaysia* (Jawa Barat: Nusa Litera Inspirasi, 2019).
- Satria Effendi, *Problematika Hukum Keluarga Islam Kontemporer* (Jakarta: Prenada Media, 2005).
- Sayyid Sabiq, *Fiqh Sunnah*, trans. Moh. Thalib, vol. 8 (Bandung: Al-Ma'arif, 1994).
- Slamet Abidin dan Aminuddin, *Fiqh Munakahat 2* (Bandung: Pustaka Setia, 1999).
- Taurat Afiati, Ani Wafiroh & Muhamad Saleh Sofyan, 'Upaya Pasangan Suami Istri Tidak Memiliki Keturunan Dalam Mempertahankan Keharmonisan Rumah Tangga (Studi Kasus di Desa Siru Kabupaten Manggarai Barat NTT)', *Al-Ihkam: Jurnal Hukum Keluarga*, vol. 14/2 (2022): 161-184, <https://doi.org/10.20414/alihkam.v14i2.6927>. Tirmidzi, 'Hadits Tirmidzi Nomor 1107', *Ilmu Islam - Portal Belajar Agama Islam*, <https://ilmuislam.id/hadits/35584/hadits-tirmidzi-nomor-1107>, accessed on 31 December 2022.
- Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.

INTERVIEW

- Bustani (Judge for Handling Divorce, Sambas Religious Court Class 1 Sambas Regency, Sambas), in interview with the author, 7 December 2022.
- Hamdani (Junior Registrar of Religious Court Appeals, Sambas), in interview with the author, 17 June 2022.
- Lisa (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.
- Melly (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.
- Randi (Divorce Handling Administration Staff, Sambas Religious Court Class 1 Sambas Sambas Regency, Sambas), in interview with the author, 5 December 2022.

Siti Marhamah (Primary Judge at Sambas Court, Sambas), in interview with
the author, 4 December 2022

Veti (Plaintiff Divorce), in interview with the author, 6 December 2022.

Wirna (Plaintiff Divorce), in interview with the author, 4 December 2022.

Zulfahmi Dhamiri (Divorce Handling Administration Staff, Sambas
Religious Court Class 1 Sambas Sambas Regency, Sambas), in
interview with the author, 5 December 2022.