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The Perspective of Fiqh Maxims and Their Application in Divorce Cases

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ABSTRACT

Divorce is a form of termination of marital relations which has broad social, psychological and legal implications. From the perspective of Islamic jurisprudence, divorce (ṭalāq) is permissible but is seen as the most hated act by Allah among halal things. This article aims to examine divorce through the approach of fiqh rules (qawā'id fiqhiyyah) in order to understand the limitations, wisdom, and application of the law in the context of modern society. This research uses a library research method by examining primary and secondary sources such as classical books by scholars. The results of the study show that these rules are the basis for deciding whether divorce is permissible when the marriage can no longer realize the goals of sakinah, mawaddah, wa rahmah, and causes harm to one of the parties. In its application, the application of Islamic jurisprudence to divorce cases can help religious judges and the public understand that divorce is not just a legal-formal issue but is also part of an effort to uphold the welfare and justice according to the principles of Islamic law

INTRODUCTION

The rules of fiqh are important guidelines for Muslims in resolving various legal issues encountered in daily life (Latifah, 2024, p. 145). Without these guidelines, a person cannot know the boundaries between what is permissible and what is not, nor can they determine which actions are more important to do or leave undone. In every action or behavior, Muslims are bound by values and guidelines derived from religious teachings and good traditions.

In Islam, these main guidelines refer to the guidance of the Qur'an and Sunnah of the Prophet. Allah commands His people to obey Him and His Messenger, as He says in Surah Ali 'Imran verse 32: "Say (O Muhammad), obey Allah and His Messenger. If you turn away, then indeed, Allah does not like the disbelievers." To this day, Muslims continue to rely primarily on the Qur'an and Sunnah in their behavior, actions, and resolution of various legal issues, either directly or through principles that can be understood from these two sources.

The Qur'an as a guide for life contains perfect teachings, although most of them are in the form of general principles (Efendi and Iskandar, 2024, pp. 5–6). The perfection of these teachings is explained in Surah al-Mā'idah verse 3, which affirms the perfection of religion and the perfection of blessings. Similarly, Surah al-An'ām verse 38 states that nothing is omitted from the Book. However, these principles are then explained in more detail through the Sunnah of the Prophet, both in the form of his words, deeds, and his approval of the actions of his companions (Aziba, Zhumi, Purbowo, and Rozaq, 2025, p. 25).

Based on this, the question arises: Are the rules of fiqh still necessary if the Qur'an and Sunnah already provide the basic rules? The answer is that the rules of fiqh are still very necessary. In understanding Islamic law, a mujtahid or fiqh expert must begin by deriving laws from the Qur'an and Sunnah, but due to the large number of general provisions, a methodological tool in the form of fiqh rules is needed to help interpret, develop, and apply these principles in more specific cases, including in family law matters.

One of the important issues in Islamic family law is divorce. In Sharia sources, divorce is considered permissible but greatly detested by Allah, as stated by the Prophet: "The most detestable thing to Allah is divorce." (HR. Abu Dawud). To understand divorce more

comprehensively, the fiqh approach provides a framework for weighing the *maslahat* (benefits) and *mafsadah* (harm) of a case.

Divorce is part of the dynamics of family life that occurs because of the bond of marriage. The process can take place inside or outside the court system. Legally, Article 38 of Law No. 1 of 1974 in conjunction with Article 113 of the Compilation of Islamic Law states that a marriage can be terminated due to death, divorce, or a court decision (Damayanti, 2024, p. 32). Abdul Kadir Muhammad, as quoted by Andika Syahputra, explains that divorce includes *death*, *khulu'* (divorce initiated by the wife), *talak* (divorce initiated by the husband), and a court decision known as *cerai batal* (Syahputra, 2024, p. 22).

From a fiqh perspective, divorce is not only understood from the texts of the Sharia, but also through the approach of fiqh rules (*al-qawā'id al-fiqhiyyah*) which serve as general principles in determining the law. In the context of divorce, these rules help assess the situation of the household based on the balance between *maslahat* and *mafsadah*. Among the relevant rules are:

1. *al-ḍarūrāt tubīḥ al-maḥẓūrāt* (emergency situations may permit something that is otherwise prohibited) (Aulia, Sari, and Nur, 2025, p. 275).
2. *al-mashaqqah tajlib al-taysīr* (difficulty brings ease) (Maulida, Syandri, and Nurdin, 2025, p. 425),
3. *dar' al-mafāsid muqaddam 'alā jalb al-maṣāliḥ* (preventing harm takes precedence over bringing benefit) (Lisnawati, Maulina, Rizhal, Herlina, and Nafis, 2025, p. 244).

A study of these rules shows that divorce can be a sharia solution when a household is no longer able to provide peace, benefit, or protection for spouses and children. In conditions full of harm, divorce is seen as a justified way out in order to maintain stability, safety, and greater values of benefit. Thus, the application of fiqh rules becomes an important instrument in understanding and determining legal decisions related to divorce in a proportional manner and in accordance with the principles of sharia.

METHODS

This study uses a qualitative approach with a normative (juridical-normative) type of research. This approach was chosen because the focus of the study is directed at conceptual and textual analysis of

Islamic legal sources related to divorce, particularly through a review of the rules of fiqh (al-qawā'id al-fiqhiyyah). This study not only examines theory normatively, but also seeks to understand how these principles of fiqh rules are applied in the practice of divorce law in society and religious courts.

The research data was obtained through library research involving various primary and secondary sources. Primary sources include the Qur'an, Hadith, classical fiqh rule books such as *Al-Ashbah wa an-Nazha'ir* by As-Suyuthi and Ibn Nujaim, and *Majallah al-Ahkam al-'Adliyah*. Meanwhile, secondary sources include books, journals, and scientific articles relevant to divorce law and fiqh rules. To enrich the data, this research may also involve interviews with judges or Islamic law academics to explore practical views on the application of fiqh rules in the settlement of divorce cases.

Data analysis techniques were carried out descriptively and qualitatively using a thematic-normative approach. Each piece of data obtained was analyzed through the stages of reduction, presentation, and conclusion drawing. Normative data was examined through the interpretation of Islamic legal texts, while empirical data (if any) was analyzed using content analysis to reveal patterns and meanings in the application of fiqh rules in the context of divorce.

To ensure data validity, this study used source and method triangulation, which involved comparing data from various references and approaches. Validity is also strengthened through consultation with experts in fiqh and Islamic family law to ensure the accuracy of interpretation. Through this method, the study is expected to provide a comprehensive understanding of the relationship between the principles of fiqh rules and the practice of divorce in the context of contemporary Islamic law.

RESULTS AND DISCUSSION

1. Concepts and Characteristics of Relevant Fiqh Rules in Determining Laws Related to Divorce Cases in the Digital Age of 2025

Fiqh rules (al-qawā'id al-fiqhiyyah) are the methodological foundation of Islamic law that serve as universal guidelines for determining the law on various issues that are not explicitly explained in the text (Iqbal, Nasution, Adly, and Firmansyah, 2025, p. 206). In the

context of family issues, particularly divorce, these principles have a very strategic position because they combine the fixed principles of Sharia (tsawābit) with the dynamic needs of society (mutaghayyirāt).

Divorce, as a legal reality in human life, is a phenomenon that cannot be separated from social, economic, cultural, and technological developments. In 2025, when the structure of society undergoes a transformation towards the digital era, a number of new challenges will arise that require Islamic law, especially in the field of family, to be progressive, adaptive, and responsive (Sholihah et al., 2025, p. 42). In such a situation, the rules of fiqh become an important tool for analyzing, understanding, and providing legal solutions to increasingly complex contemporary household problems.

The application of fiqh principles in divorce cases is not merely an academic formality, but a sharia mechanism that aims to protect the welfare of the family, protect the rights of the weaker party, prevent injustice, and ensure that the process of separation between husband and wife remains within the corridor of Allah SWT's law (Ibrahim, 2024, p. 30).

The rules of fiqh not only provide textual answers to specific issues, but more than that, they provide a comprehensive framework for thinking about new problems that arise as a result of social change. Often, divorce issues are no longer classic forms such as quarrels, violence, or economic disputes alone, but have developed into modern problems such as digital-based violence, loss of financial responsibility due to online gambling addiction, infidelity through social media, the use of technology that destroys family harmony, and even a crisis of trust arising from social life based on the virtual world (Utami, Patimah, Adenan, and Mustakim, 2025, p. 20). In such circumstances, Islamic scholars, judges, and legal practitioners must have a solid fiqhiyah framework so that legal decisions remain fair, proportional, and relevant.

The first rule that has major implications in divorce cases is al-ḍarūrāt tubīḥ al-maḥẓūrāt (emergency situations permit what is otherwise forbidden). This principle asserts that when a person is in a situation that threatens their life, health, or honor, certain prohibitions can be changed to permissions in order to preserve human life (Islamiatia, Indriani, and Hawariah, 2022, p. 105).

In the context of divorce, this rule explains that although divorce is a lawful act that is most hated by Allah, it becomes permissible and even recommended when the marriage becomes a source of harm (ḍarar). Domestic violence (physical, psychological, verbal, sexual), neglect of financial obligations that causes suffering, threats of murder, severe mental pressure, and other conditions that clearly cause harm are forms of emergency that justify divorce (Wahyudi, 2021, pp. 51–52). The Qur'an states: “Do not keep them to cause harm...” (QS. al-Baqarah: 231), which indicates that maintaining a dangerous household is an injustice.

Scholars such as Ibn Qudāmah state that if a husband harms his wife and there is no other way to stop the harm, then the judge must grant a divorce in order to protect the wife's life and honor. In the year 2025, cases of digital violence such as threats via social media, blackmail with private photos, spreading slander, or psychological violence committed online also fall under the category of ḍarar covered by this rule. Therefore, divorce can be a sharia solution to prevent greater harm.

The second principle, which is no less important, is al-mashaqqah tajlib al-taysīr (difficulty brings ease). This principle illustrates that Islamic law is flexible and humanistic in dealing with human difficulties (Zen, 2024, p. 14). In the context of divorce, this rule is usually related to cases where the husband is unable or unwilling to fulfill his obligation to provide financial support. When the wife experiences severe difficulties in life due to the absence of financial support, especially to the extent that it undermines her health, emotional stability, and the future of her children, Sharia provides relief in the form of the right to file for divorce through the mechanisms of fasakh or khulu'.

Both classical and contemporary scholars such as Wahbah az-Zuhailī emphasize that providing financial support is a religious obligation that cannot be neglected (Hadi, 2024, pp. 34–36). If the husband is unable to provide financial support without a valid religious reason, the wife has the right to request annulment of the marriage. In modern reality, many husbands experience economic failure due to online gambling addiction, prolonged unemployment, or laziness. The difficulties endured by wives in such conditions constitute masyaqqah, which according to Islamic law must be eliminated by providing legal relief (Lubis, Pane, and Irwansyah, 2023, p. 2655), namely by allowing divorce. This principle is very important to

apply in 2025 when family economic life is increasingly vulnerable to changes in digital lifestyles.

The third crucial rule is dar' al-mafāsid muqaddam 'alā jalb al-maṣāliḥ (rejecting harm is prioritized over attracting benefit). This rule emphasizes that the main priority of Sharia law is to eliminate danger and harm (Lisnawati et al., 2025, p. 254). In the context of divorce, this rule is often related to cases of infidelity, immoral behavior, abandonment of religious obligations, or actions that morally destroy marital relationships.

Physical and digital infidelity (cyber cheating), secret relationships through chat applications, pornography, or emotional relationships that cross boundaries are major sources of damage in marriage. In cases like this, maintaining the household often only adds to the damage, deepens trauma, and destroys family stability. Therefore, divorce becomes a sharia step to stop the damage.

In the context of 2025, when the opportunities for digital infidelity are very high, this rule becomes an important basis for understanding that the moral damage caused by the digital world can be a legal reason to end a marriage in order to maintain the honor of the family.

The fourth rule that is very relevant is al-'ādah muḥakkamah (custom/habit can be used as law). This principle provides space for the recognition of customs and traditions of society as long as they do not conflict with sharia. In the context of divorce, customs greatly influence the standards of alimony, the form of interaction between husband and wife, behavioral boundaries, and other matters that do not have direct sharia texts (Nathania, Isabella, and Romdoni, 2025, pp. 43–44).

If a husband does not fulfill his obligations according to the standards of his community, such as providing financial support, attention, or fair treatment, this can be grounds for divorce (Dinata, 2024, p. 7). This rule is very important in responding to changes in cultural values in 2025, when living standards are increasingly influenced by digital lifestyles, social media, and shifting gender roles. What is considered reasonable by urban communities may not necessarily be the same as rural communities, and Sharia law allows for these differences. Therefore, judges need to understand the cultural context of the local community before deciding on divorce cases.

These four rules show that Islamic law has tremendous flexibility in regulating family life and providing solutions to modern problems. In religious

court practice, these principles are not only a source of theory, but also a foundation for judges in making decisions. The combination of *nash*, *fiqh* principles, court jurisprudence, and the context of modern life makes each decision more fair, moderate, and in line with the needs of society (Wusqo, 2025, pp. 1–2).

1. On the other hand, the application of *fiqh* principles in divorce cases in 2025 faces a number of challenges, such as an increase in divorce due to digital factors, weak family literacy in dealing with technological changes, the economic unpreparedness of young couples, and a decline in the quality of communication within households (Delyka, Mujahadatuljannah, and Natalia, 2025, p. 45). However, *fiqh* principles offer a framework for resolution that balances religious texts and contemporary realities.
2. Thus, this narrative answers all questions about how *fiqh* rules function as a legal basis in divorce, how they are applied in modern cases, what the basis of the scholars is, how they are relevant in the digital era of 2025, and how *sharia* provides solutions to the increasingly complex dynamics of household problems.

1. Challenges and Opportunities in Implementing Fiqh Rules in Divorce Decisions in Religious Courts in the Context of Modern Society

The implementation of *fiqh* principles in divorce rulings in religious courts in the context of modern society faces complex, dynamic, and multidimensional challenges and opportunities, especially in the era of 2025 when technological developments, changes in social structures, and transformations in family values are occurring very rapidly (Agma, 2025, p. 1).

On the one hand, *fiqh* principles such as *al-ḍarūrāt tubīḥ al-maḥzūrāt*, *al-mashaqqah tajlib al-taysīr*, *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*, and *al-'ādah muḥakkamah* provide an Islamic legal framework that is flexible, elastic, and responsive to changing times. However, on the other hand, the application of these principles in divorce rulings faces the reality of modern life, which is not always in line with the classical social patterns when these principles were formulated by the scholars. Changes in the character of the family, differences in patterns of financial support, the emergence of new forms of domestic disputes, the involvement of technology in marital conflicts, and the increasing awareness of the rights of women and children

mean that the implementation of *fiqh* principles requires reinterpretation and a more contextual reinterpretation (Alam, 2024, p. 120).

One of the biggest challenges lies in the changing forms of harm (*ḍarar*) in households, which now stem not only from physical violence, but also include psychological, digital, financial, and social violence that are never explicitly discussed in classical *fiqh* books (Ulfa and Ardli, 2025, p. 44). For example, digital-based domestic violence through the distribution of photos without permission, excessive control through applications, or threats through social media. These forms of *ḍarar* are not mentioned in the *turats* books, so judges must interpret rules such as *al-ḍarar yuzāl* and *dar' al-mafāsīd* with a contextual *ijtihad* approach. Challenges arise when digital evidence must be assessed according to both *fiqh* standards and statutory regulations. This requires judges to have dual capacities: understanding *sharia* values while also mastering digital technology as a source of evidence, something not found in the classical *fiqh* context.

Furthermore, the application of the principle of *al-mashaqqah tajlib al-taysīr* faces challenges when new forms of hardship arise for husbands or wives due to modern economic pressures. For example, a husband may experience layoffs due to the digital economy, or a wife may experience mental exhaustion due to the double burden of work and household chores. In classical terms, *mashaqqah* is often interpreted as physical or material hardship, but in the modern context, *mashaqqah* can take the form of emotional exhaustion, burnout, social media addiction, emotional detachment, or pressure due to a digital lifestyle. Religious courts must be able to interpret this rule as a basis for legal relief to prevent the aggrieved party from prolonged suffering. However, the main challenge is that not all forms of *mashaqqah* can be proven concretely, so that decisions sometimes depend only on the subjective assessment of the judge, which of course has the potential to cause inconsistency in decisions (Salmah, 2024, p. 56).

Another very important challenge is determining the standard of maintenance in the context of the *al-'ādah muḥakkamah* rule. In modern society, standards of living, family lifestyles, and economic levels vary greatly from one region to another, and even from one family to another (Badruddin and Kurniah, 2023, pp. 25–29). Classical teachings state that the standard of

living follows local customs (ma'rūf), but now these customs themselves have become very fluid, changing rapidly and influenced by digital globalization. Families accustomed to living with digital economic standards (online shopping, modern lifestyles, technology-based educational needs) have different living requirements than traditional families.

Religious court judges must assess whether a husband's inability to meet certain maintenance standards falls under the category of *ḍarar*, which can lead to divorce, or whether it is simply a general economic condition that must be tolerated (Anggrahini, 2023, p. xxxiii). This is challenging because setting "fair" maintenance standards in a modern context is not as simple as referring to local customs as in classical times.

In addition, another challenge arises from the increased legal awareness of women, which has led to a surge in divorce lawsuits (*cerai gugat*). On the one hand, this is a positive development because it shows that women are increasingly able to fight for their rights. However, on the other hand, this requires the Religious Court to ensure that the application of fiqh rules is not gender biased. In divorce cases, for example, many husbands manipulate the grounds for divorce by accusing their wives of "nusyuz" without a deep understanding of the context of modern families. This is where rules such as *dar' al-mafāsīd* must be implemented fairly, namely by rejecting arguments that have the potential to cause greater harm, such as stigma, neglect of child support rights, or unilateral reduction of wives' rights (Kurniawan, 2022, pp. 31–32).

The next challenge is the lack of synchronization between fiqh law and positive law. Although the KHI attempts to accommodate sharia values, many of its provisions do not fully reflect the flexibility of fiqh rules. For example, in the case of *syiqāq* (continuous quarrels) criteria, the KHI does not explain in detail modern *mafsadah* standards such as digital violence, gaslighting, or financial abuse. Judges must exercise *ijtihad* by connecting fiqh rules and KHI provisions, which of course requires high analytical capacity (Iqbal, 2018, p. 28). Administrative challenges such as the high caseload in religious courts also limit the space for judges to conduct in-depth *ijtihad* based on fiqh principles.

However, behind these challenges lie great opportunities that can strengthen the role of fiqh principles in divorce rulings in modern society. First, fiqh

principles are essentially universal, flexible, and adaptive, making them highly compatible with changing times. The principle of *al-ḍarar yuzāl*, for example, can cover all new forms of harm, including digital violence, without having to wait for specific rules to be enacted. Similarly, the principle of *al-'ādah muḥakkamah* provides opportunities for judges to include modern customs such as the use of gadgets, digital education standards, or the emotional needs of families as part of their legal considerations. This is a great opportunity to keep Religious Court decisions relevant and responsive.

The next opportunity is the development of contemporary fiqh and the rise of *Maqāṣid al-Syarī'ah* studies, which increasingly emphasize benefit, protection of life, honor, family, and future generations. *Maqāṣid* provides a very strong framework for strengthening the implementation of fiqh principles in a modern context. For example, in cases of digital adultery, the application of *dar' al-mafāsīd* can be strengthened by the *maqāṣid* of protecting honor (*ḥifẓ al-'ird*). In cases of digital domestic violence, the principle of *al-ḍarūrāt tubīḥ al-maḥẓūrāt* can be reinforced with the *maqāṣid* of protecting life (*ḥifẓ al-nafs*). Thus, fiqh principles are not only legal principles, but also *maqāṣid* instruments that work integratively in court decisions.

Another very important opportunity is the strengthening of the digital religious court system, such as e-court, e-litigation, and electronic evidence, which makes it easier to prove divorce cases, especially those related to digital evidence (Arsyad et al., 2025, p. 197). This makes it easier for judges to apply fiqh rules related to evidence (*al-bayyinah*) and modern 'urf. With well-documented digital evidence, judges can more easily determine the form of *ḍarar*, measure the level of *mafsadah*, and assess family customs in the context of 'urf.

In addition, growing public awareness of women's and children's rights provides opportunities for fiqh principles such as *dar' al-mafāsīd* and *al-mashaqqah tajlib al-taysīr* to be further promoted. In the context of modern society, the protection of children after divorce has become a major issue, and fiqh principles have a strategic position in providing a legal basis for the rights of custody, financial support, education, and psychological protection of children (Sumirat and Wahyudin, 2021, pp. 168–194).

Another great opportunity is the development of academic research in Indonesia, which is increasingly focused on the reconstruction of contemporary family fiqh. This opens up space for the Religious Court to adopt the results of this research as a basis for strengthening the implementation of fiqh rules. Thus, the Religious Court's decisions are not only based on classical texts and positive regulations but are also supported by contemporary scientific studies.

Overall, the implementation of fiqh principles in divorce rulings in religious courts in modern society is a field of interaction between major challenges and strategic opportunities. The challenges arise from changes in the nature of harm, technological developments, diversity in maintenance standards, cultural changes, increased gender awareness, and the lack of synchronization between fiqh and positive law (Ahyani, 2025, pp. 116–117). However, the opportunities arise from the elastic nature of fiqh principles, the development of maqasid syariah, the digitization of the judiciary, increased awareness of the protection of women and children, and the support of contemporary fiqh research. All of this shows that fiqh rules remain relevant, functional, and very important as a philosophical and practical foundation in deciding divorce cases in the modern era.

Evaluation of the Effectiveness of the Application of Fiqh Rules in Providing Legal Certainty in Divorce Decisions

The evaluation of the effectiveness of the application of fiqh principles in providing legal certainty in divorce judgments is an important study in the context of modern Islamic family law, especially in 2025 when social, technological, and cultural dynamics are undergoing rapid transformation. The rules of fiqh basically function as universal principles that guide the process of determining laws on various juz'i (specific) issues in the lives of Muslims. In the realm of divorce, the effectiveness of its application is measured through the extent to which the rule is able to produce a just, consistent, predictable, and protective verdict for vulnerable parties. This evaluation not only sees the rules of fiqh as a legal doctrine, but also as a method of ijtihad that must be able to answer the needs of modern society, while ensuring that the decisions of the Religious Court remain oriented towards maqāṣid al-syarī'ah as the highest goal of Islamic law (Suhaili, 2025, p. 30).

To assess this effectiveness, it must first be understood that legal certainty in Islamic family law is

not merely interpreted as uniformity of decisions, but includes aspects of norm clarity, consistency in the application of principles, and the ability of the law to provide a sense of security for society. Fiqh rules such as al-yaqīn lā yuzāl bi al-syakk (certainty is not lost due to doubt), al-ḍarar yuzāl (harm must be eliminated), al-mashaqqah tajlib al-taysīr (difficulty brings ease), and al-‘ādah muḥakkamah (custom can be used as law), are fundamental instruments that can enrich the aspect of legal certainty if applied proportionally and consistently by judges. The evaluation of their effectiveness must be seen from how these rules are used as real considerations in divorce decisions and the extent to which their application can be understood, accepted, and reapplied in similar cases on an ongoing basis.

One of the main indicators of the effectiveness of the application of fiqh rules is the consistency of decisions between judges and between regions. In practice in the Religious Courts, there are many recurring divorce cases, such as ongoing disputes, domestic violence, lack of financial support, or infidelity. Fiqh rules should provide universal guidelines to ensure that every case with similar characteristics is decided based on the same principles. However, in reality, there are still variations in decisions between judges, even in very similar cases. For example, the standard of proof related to psychological violence, which refers to the principle of al-yaqīn lā yuzāl bi al-syakk, is often interpreted differently, resulting in inconsistent decisions. This variation shows that the effectiveness of the rules in providing legal certainty is sometimes not optimal due to differences in the judges' capacity for ijtihad and differences in understanding the context of modern cases. This evaluation shows that the absence of a standard for applying fiqh rules means that legal certainty has not been fully achieved (Jainah, 2024, p. 8).

The second indicator is the ability of fiqh rules to provide answers to contemporary issues, especially those not found in classical literature. In the case of modern divorce, there are many new problems such as digital violence, online infidelity, gadget addiction, gaslighting, and financial abuse through digital transactions (Arsyad and Ja'far, 2025, p. 216). In this context, fiqh rules such as al-ḍarar yuzāl and dar' al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ should be able to adapt to assess these new forms of harm. Evaluations show that although fiqh principles are elastic, not all

judges have sufficient methodological skills to connect these principles with modern realities. As a result, some judges prefer a textual approach rather than a contextual approach when dealing with new cases, which ultimately makes decisions less responsive to social developments (Sudirman, 2007, p. xvii). This reduces the effectiveness of fiqh rules in ensuring legal certainty, because the parties to the case may not get a decision that is in line with the conditions of the times and their needs.

The third indicator is the readability and transparency of the verdict, namely the extent to which the judge's considerations based on fiqh rules are clearly written in the verdict and legal considerations. The evaluation shows that several Religious Court verdicts explicitly mention fiqh rules, but most still write them implicitly or do not mention them at all. In fact, explicitly stating the basis of fiqh rules is very important to ensure accountability and make it easier for the public to understand the pattern of decisions. If the basis for the considerations is not clearly written, this has the potential to reduce the function of fiqh rules as an instrument of legal certainty because the public cannot use them as a reference in future cases. Transparency in legal reasoning is essential for the public to understand the judges' thought processes and for decisions to be predictable and not cause legal uncertainty (Hasibuan, 2024, p. 78).

Indikator keempat adalah kecocokan antara fiqh principles and positive legal frameworks, particularly the Compilation of Islamic Law (KHI). Fiqh principles should ideally form the philosophical basis for each article in the KHI. In practice, there are many articles in the KHI that are in line with fiqh principles, such as provisions on alimony, custody rights, and grounds for divorce (Davala, 2025, p. x). However, when there is a paradigm shift between classical fiqh and modern social practices, judges must perform *ijtihad takhriji* or *ijtihad tatbiqu* to harmonize the articles of the KHI with fiqh principles. Evaluations show that the ability of judges to perform this harmonization process still varies, resulting in inconsistent decisions. This challenge has an impact on the effectiveness of fiqh rules in providing legal certainty, because fiqh rules are not always used proportionally in interpreting general KHI articles. This is where it is necessary to increase the capacity of judges in the methodology of *istinbath* law so that fiqh rules can be implemented more optimally.

Another important aspect is the ability of fiqh rules to provide protection to vulnerable parties, especially women and children. In modern divorce cases,

women and children are often the most disadvantaged parties, economically, socially, and emotionally. Fiqh principles such as *dar' al-mafāsid* and *al-ḍarar yuzāl* should provide a strong basis for judges to ensure that the rights of women and children are fulfilled fairly. Evaluations show that more and more Religious Court judges are beginning to use the *maqasid* approach in deciding sensitive cases such as custody, alimony, and protection from psychological abuse (Khuluq, 2025, pp. 2–3). This shows an increase in the effectiveness of fiqh rules in maintaining legal certainty because the decisions have become more responsive to the principle of substantive justice. However, there are still some cases where the decisions tend to be formalistic so that they do not fully reflect the spirit of fiqh rules. This shows that its effectiveness is not yet evenly distributed in all regions.

The next indicator is the use of digital evidence in proving cases, which is an important element in modern divorce cases (Pratama, 2025, pp. 63–64). The rule of *al-bayyinah 'alā al-mudda'ī* (the burden of proof lies with the accuser) must now be applied in the context of digital evidence such as message recordings, screenshots, or digital transaction histories. Evaluations show that the use of digital evidence strengthens the effectiveness of the fiqh rule because it makes it easier for judges to objectively ascertain the existence of harm (Harahap, Raehana, and Maryati, 2025, p. 572). With the existence of digital evidence, the application of the *al-yaqīn* principle becomes more measurable. However, challenges arise when judges lack the technical expertise to assess the validity of digital evidence, resulting in differences in the quality of judgments between judges. Thus, the effectiveness of the fiqh principle in providing legal certainty is greatly influenced by the ability of judges to understand aspects of modern technology.

In addition, the effectiveness of the application of fiqh rules is greatly influenced by the guidance and training of judges. Evaluations show that in regions where judges receive intensive training on contemporary fiqh, *maqasid sharia*, and modern family law, divorce rulings are more consistent, richer in fiqh arguments, and better reflect the principle of legal certainty (Pakarti, 2023, p. 335). Conversely, in regions with limited training, the application of fiqh principles tends to be normative, rigid, and unresponsive to modern societal conditions. Therefore, the quality of rulings is closely related to the quality of human resources, which affects

the extent to which fiqh principles are effective in creating legal certainty.

Finally, the effectiveness of applying fiqh principles is also related to public acceptance. In a modern society that is increasingly critical and legally literate, Religious Court decisions will be considered effective if they are understandable, perceived as fair, and capable of providing concrete solutions to family issues (Hamzah, Abdurrohim, and Ahyani, 2025, p. 19). Evaluations show that decisions that use fiqh principles clearly and relevantly tend to be better accepted by the community. Conversely, decisions that do not include fiqh considerations or appear to be far from the principles of substantive justice tend to cause dissatisfaction. This proves that fiqh principles still have strong legitimacy in the legal consciousness of Indonesian Muslims, and therefore their application is very important in maintaining legal certainty.

Overall, the evaluation of the effectiveness of the application of fiqh rules in divorce rulings shows that these rules have great potential to provide legal certainty, as long as they are implemented consistently, comprehensively, and contextually. The success of their application is determined by the competence of judges, modern standards of evidence, consistency with positive law, and the ability of the principles themselves to respond to contemporary problems. Despite a number of challenges, there are ample opportunities to improve the effectiveness of fiqh application, particularly through strengthening the *ijtihad* method, utilizing digital evidence, enhancing judge training, and integrating the principles of *maqasid al-syariah* into every ruling. Thus, fiqh remains the main foundation in establishing legal certainty for divorce cases in the modern era.

CONCLUSION

Overall, the application of fiqh principles in determining divorce law in the digital era of 2025 shows that Islamic law has flexibility, relevance, and a high ability to adapt to modern social dynamics. Principles such as *al-ḍarūrāt tubīḥ al-maḥẓūrāt*, *al-mashaqqah tajlib al-taysīr*, *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*, and *al-'ādah muḥakkamah* are not only theoretical guidelines, but also serve as a methodological framework capable of addressing complex contemporary family issues such as digital violence, online infidelity, failure to provide financial support due to online gambling addiction, changes in financial support

standards due to technological lifestyles, and communication crises within households. Although its implementation in the Religious Court faces challenges in the form of changes in modern forms of harm, difficulties in digital evidence, the diversity of new fluid customs, the lack of synchronization between fiqh and positive law, and the increase in divorce cases due to gender awareness, great opportunities are also open through the elastic nature of fiqh rules, the strengthening of the *Maqāṣid al-Syarī'ah* approach, the digitization of the judicial system, the development of public legal literacy, and the support of contemporary fiqh studies. Empirically, the application of fiqh rules has been proven to provide a more fair, moderate, and beneficial direction for the settlement of divorce cases, although its effectiveness still needs to be improved through standardization of interpretation, increasing the capacity of judges in reading digital evidence, harmonizing fiqh and positive regulations, and strengthening the perspective of protecting women and children. Thus, it can be concluded that fiqh principles remain a strategic instrument in realizing legal certainty, justice, and benefit in divorce rulings in the modern era, while also serving as a bridge between permanent sharia values and the reality of Muslim families that continue to change due to technological and social developments.

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