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***Maqasid Al-Shari'ah* perspectives in solution of divorce cases for early marriage**

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Abstract---This study aims to analyze the causes of divorce for early marriage, judges' considerations in deciding divorce cases for early marriage based on Islamic law, which refers to the *maqasid al-shari'ah* perspective, and the impact of divorce due to early marriage — conducted this research at the Religious Court of Boné Regency with the participants consisting of senior judges, junior judges, and the community taking care of divorce at the Boné Regency religious court. The research method used is descriptive qualitative with research instruments are observation sheets and interview guidelines. The sampling technique used is purposive and accidental sampling. The basis for using purposive sampling is to determine the perception of the Religious Courts determined based on predetermined criteria and accidental sampling, which is used to conduct interviews with people who happen to be carrying out divorce arrangements at the Religious Courts of Boné Regency. The number of samples set in this study was 10 people with analytical techniques referring to the concepts and theories of Miles and Huberman. The results showed that the dominant factors causing divorce in the study areas were cases and leaving a partner. The judge's considerations in deciding cases have

referred to *maqashid al-shari'ah*. The impact caused by an early divorce can be bad for individuals and their families.

Keywords---Islamic Law, *Maqāsid Al-Syariah*, Marriage, Divorce.

1. Introduction

The phenomenon of early early marriage in Indonesia during the COVID-19 pandemic has increased significantly. The increase in the number of early marriages in Indonesia is indicated by the increase in the number of applications for early marriage dispensation (under 19 years) compared to the previous year. Based databoks.com shows that in January-June 2020, as many as 34,000 applications for early marriage dispensation (under 19 years) were submitted, and 97% of them were granted, while in 2019, there were only 23,700 applications (Yosepha Pusparisa, 2020). There are various factors behind marriage at a young age, including family economic problems, the influence of local religious and cultural norms, and the lack of education related to early marriage. The trend of early childhood marriage is due to the phenomenon of a cultural shift (Yekti Satriyandar, 2019). In research Andina shows that early marriage can have serious and lasting negative effects. When a girl becomes pregnant, this can significantly impact her education, health (due to complications from childbirth), and job opportunities, affecting her future life and income (Andina, 2021).

Data obtained from the Boné Religion Court of South Sulawesi for marriage dispensation throughout 2020 were 412 people. This data increased compared to the previous year, while the divorce rate throughout 2020 was recorded as many as 909 cases dominated by young people and the women sued (Jamaluddin, Junior Clerk of Religious Court Law Class I/A Boné, Interview 05/23/2020). From these data, it can be seen that the increase in the number of early marriages and divorces during 2020 has a directly proportional relationship. The impact of early marriage during the Covid-19 pandemic is directly proportional to the case of early marriage divorce. The quantitative of marriage and divorce applications during the Covid-19 pandemic shows a very significant increasing trend (Kaltimtoday, 2020). The statement by research (Octaviani & Science, 1369) that underage marriage is very potential for divorce, research shows 50% of early age that ends in divorce, divorce is done at the age of marriage. Only one to two years. Halmi and Lerner's research examines the impact of divorce on children's health (Halmi & Lerner, 2016), Rubin's research examines the impact of divorce on child psychology (Rubin, 2010) and Brian D'Onofrio conducts research on parental divorce on children's psychological conditions (D'Onofrio & Emery, 2019). The research that will be carried out is more focused on the aspect of solving marital problems based on the *maqasid al-shari'ah* perspective.

Law Number 1 of 1974 concerning Marriage confirms that the minimum age for marriage is 19 years. Paragraph (2) also explains that related to "deviation" can only be done through submitting a request for dispensation by the parents of one or both parties of the prospective bride and groom to the religious court for those who are Muslim and the district court for the other if the male and female parties are involved—women under 19 years of age. The increasing number of underage

divorces is a form of normative legal deviation, although it can still do it with some requirements from the authorities. The increasing number of early childhood marriages and divorces requires a solution to suppress the increase in early childhood marriage and divorce cases.

In Islamic Law, *maqāsid al-syarī'ah* is a law that comes from the revelation of Allah (SWT) and as part of the solution set for humanity for the benefit of the people because the determination of law in Islam must lead. It should note that Allah (SWT) as *shari'ah* (who establishes *shari'ah*) does not create laws and regulations just like that. However, they made laws and regulations with a specific purpose and purpose. Ibn Qayyim al-Jauziyah, as quoted by Khairul Umam, states that the purpose of *shari'ah* is the benefit of servants in this world and the hereafter (Khairul Umam, 2001). Shari'ah is all fair, everything contains mercy, and everything contains wisdom. Every problem that deviates from justice, mercy, benefit, and wisdom is not a *shari'ah* provision. Meanwhile, the social changes faced by Muslims in the modern era have several serious problems related to Islamic law. Therefore, *maqāsid al-shari'ah* will always face social change. The research that will carry out is more focused on resolving divorce issues fairly and not exceeding the limits of the *al-Qur'an* and *al-Sunnah*, which are not interfered with by the human mind. As stated in the study Toriquddin, *maqāsid al-shari'ah* is a value and meaning that is used as a goal for the benefit of the humans (Toriquddin, 2010).

1.1 Research Problem

The main problem to be discussed in this study is how to resolve divorce cases for early marriage, based on the judge's decision from the *maqāsid al-syarī'ah* perspective. Furthermore, the main problem is described in the following sub-problems:

1. What are the causes of divorce for early marriage?
2. What is an alternative solution to the problem of early marriage divorce based on *maqāsid al-syarī'ah* perspective?

2. Literature Review

2.1 Maqashid Al-Shari'ah Theory in Islamic Law

The study of *maqāsid al-shari'ah* theory in Islamic law is very important. The urgency is based on the following considerations. First, Islamic law is a law that comes from God's revelation and is intended for humanity. Therefore, it will always face him with social changes. In such a position, whether Islamic law, whose main source (*Al-Qur'an* and *Sunnah*) was revealed in the past few centuries, can adapt to social changes. The answer to this question can only be given after a study has been conducted on various elements of Islamic law, and one of the most important elements is the theory *maqāsid al-shari'ah*. Second, judging from the historical aspect, attention to this theory has been carried out by the Prophet Muhammad (SAW), his companions, and the generation of *mujtahids* after him. Third, knowledge of *maqāsid al-shari'ah* is the key to the success of a *mujtahid* in his *ijtihad* because it is based on the purpose of the law that every problem in *mu'amalah* between fellow human beings can be returned.

Abdul Wahhab Khallaf, an expert in *ushul fiqh*, stated that the shari'ah texts could not be properly understood except by someone who knew *maqāsid al-shari'ah* (the purpose of law) (Abd al-Wahab Khallaf, 1968, p. 198). This opinion is in line with the views of another fiqh expert, Wahbah al-Zuhaili, knowledge of *maqāsid al-shari'ah* is a *dharuri* (urgent) issue for *mujtahids* when it comes to understanding texts and making legal *istinbath*, and for people others to know the secrets of the *Shari'ah* (al-Zuhaili, 1998, p. 1017). Indeed, suppose one examines all the commands and prohibitions of Allah in the *Qur'an*, as well as the orders and prohibitions of the Prophet, (SAW) in the sunnah formulated in fiqh. In that case, it will see that all of them have a specific purpose and nothing is in vain. Moreover, all of them have deep wisdom, namely as a mercy for humanity, as confirmed in several verses of the *Qur'an*, including in Surah *Al-Anbiya* ':107, regarding the purpose of the Prophet Muhammad being sent: "And We did not send you, except as a mercy for the whole world" (Surah *Al-Anbiya* ':107) Mercy for the whole world in verse above is defined by the benefit of the people. Meanwhile, in simple terms, a benefit can be interpreted as good and can be accepted by common sense. Accepted by reason implies that reason can know and understand the motives behind the determination of law, namely because it contains benefits for humans, either explaining the reasons themselves by God or by way of rationalization.

2.2 The Role of *Maqashid al-Syariah* in the Development of Islamic Law

Knowledge of *maqāsid al-shari'ah* as emphasized by Abdul Wahab Khalaf is essential, understanding and understanding about *maqāsid al-shari'ah* can be used as a tool in understanding the editors of *al-Qur'an* and *as-sunnah*, helping Conflicting arguments (*ta'arud al-adillah*) and what is very important is to establish a law in a case whose legal provisions are not included in the *Qur'an* and *as-Sunnah* when using semantic (linguistic) studies. The *istinbath al-law* method using *qiyas* (analogy), *istihsan*, and *maslahah al-mursalah* can be used in the development of Islamic law by using *maqāsid al-shari'ah* as the basis.

For example, the *Qiyas* method can only be implemented if the *maqāsid al-shari'ah* can be determined, such as finding the legal ratio (*illat al-hukm*) of a legal problem law regarding alcohol according to research by scholars that *maqāsid al-shari'ah* is forbidden. *khamr* because of its intoxicating nature can damage the human mind, thus what is *illat al-hukm* from *khamr* is an intoxicating and destructive nature of the mind, while *khamr* is only one example of many things that have the same nature with it, especially with the development of science and technology today, there are so many properties of chemical substances that have the same properties and functions with the example of *khamr* above, from here the development of Islamic law can be done using existing methods. Therefore, the method of determining Islamic law through the *maqāsid al-shari'ah* approach determines the law by using *qiyas*, *istislah* (*maslahah murslah*), *istishab*, *syad al-dzari'ah* and *'urf* by the *ushuliyun* is also called *maqāsid al-tsanawiyah*.

2.3 *Maqasid Al-Syari'ah* Perspective in Islamic Marriage Law in Indonesia

Maqāsid al-shari'ah, which developed in Islamic marriage law, is *maqāsid*, which is based on Indonesianness, and modern, namely Human Rights, in which it

develops science which Kuntowoyo develops in the form of Prophetic Social Sciences, and which becomes three pillars, transcendence, humanization, and liberalization, or by analyzing the views of *maqāsid al-shari'ah* from Nurcholis Madjid, with the dialectic of the three ideas of Islam, Indonesianness, and Modernity (Nurchalis Madjid, 1992). This is also in line with the *jargon* of the classical Ulama *Al-Muhafazah ala Qadim as-Salih wa Al-akhzhu bi al-Jadid Al-Aslah*, (Maintaining the old that is good and taking the better new one), related to this rule, Amin Abdullah defines it as a principle of Tradition and Translation (M. Amin Abdullah, 2003). First, the rule of *al-'ibrah bi al-maqāsid la bi al-alfaz*. This rule is the primary concern of interpreters and *mujtahids* in exploring the law from the *Qur'an* and *Sunnah*, not the letters and characters but the purpose they contain. The basis is the ethical-moral ideals of a verse and not specific legislation or literal formulations so that it is easy to know and understand the context. Second, the rule of *jawāz naskh al-nuṣūs bi al maslahah*. Teaching rules that are annulled using the logic of benefit are permissible. This rule is deliberately set because Islamic law is aimed at realizing benefit and rejecting damage. This principle must be the basis, and the actual substance of legal problems must be in the minds of fiqh experts, so deviations from this principle mean legal ideals. Third, the rule of *yajuzu tanqih al-nusus bi al-'aql al-mujtama'*. This rule states that public authorities have the authority to amend several legal-specific provisions that are relative and tentative so that when there is a relationship between public reason and literacy of teaching texts, public-authorized reason perfects, perfects, and modifies.

There are four kinds of skills in Islamic law: first, the ability to accept imperfect laws (*ahliyyatul wujūb an-nāqishah*), where the legal subject is in the mother's womb. Second, the ability to receive perfect law (*ahliyyatul wujūb al-kāmilah*) is owned by legal subjects from birth to death. Third, the ability to act legally is not perfect (*ahliyyatul ada' annāqishah*), which is owned by legal subjects at the age of *tamyīz*. Fourth, the ability to act in perfect law (*ahliyyatul adā' al-kāmilah*) is owned by legal subjects since they are adults until they die. So, in the fiqh literature and fiqh proposals, the ability to act in law is only said to be perfect when the legal subject enters adulthood. According to most Islamic jurists, maturity is marked by physical signs in the form of *iḥtilām* (wet dreams) or menstruation. Still, if these signs are not found, then maturity is marked by age, which is 15 years. Hanafi jurists state that adulthood is 18 years for men and 17 years for women (Abd al-Wahab Khallaf, 1968, p. 112). If the style of maturity is very diverse in the law or legal system, a person can be considered an adult because he is married also based on this age, and this becomes a parameter in the law on marriage limits. Several legal rules regulate the age limit for adults in Indonesia. The age limit for maturity in-laws and regulations is not the same as one another.

Law No. 22 of 2009 article 81 chapter (2) states that at the age of 17 years, they have the right to get a driver's license, while this conflicts with the logic and rules of the Juvenile Court Law. Second, 17 is still categorized as a child, so if there is a violation, such as traffic violations, it can happen if the trial is a child trial. Third, the age of marriage in customs and culture in Indonesia, customary law does not recognize the age limit for minors and adults. Customary law only recognizes incidentally whether a person, due to age and mental development, should be

considered competent or incompetent, capable or incapable of carrying out specific legal actions in certain legal relationships. This means whether he can take into account and maintain his interests in the legal actions he faces.

3. Methods

This study uses a descriptive analytical qualitative research approach. According to Noeng Muhadjir, qualitative research is more consistent following the field's conditions in obtaining the field description results (Noeng Muhadjir, 2005, pp. 86–87). Qualitative research is a research procedure that produces descriptive data in written or spoken words from observable people or actors (Nurul Zuhriah, 2006, p. 92). The descriptive method is a method that describes the symptoms that exist at the time of the study. Qualitative research is research with an interpretive paradigm, in which the researcher engages in ongoing and continuous experience with the participants. This involvement will later raise a series of strategic, ethical, and personal issues in the research process (John W. Creswell, 2013, pp. 264–265).

This type of research is descriptive qualitative, namely research whose analysis uses descriptive-qualitative analysis, which aims to determine how judges consider divorce cases from the *maqasid al-syariah perspective*. This is done so that the truth of something can be obtained by capturing phenomena or symptoms that radiate from the object study (Sugiyono, 2013, p. 31). Theoretically, qualitative research intends to find patterns of interactive relationships, describe complex realities, and gain an understanding of meaning following phenomena that occur in the field.

The data source of this research is the whole of the informants who can provide data following the problem under study. The determination of the informants of this research was done intentionally because they were believed to be able to provide information to be explored. Some of the informants include judges and litigants. Data sources in this study are classified into two types, namely primary data sources and secondary data sources. Primary data is data that researchers get directly related to the research focus. The data examined by the researchers were obtained from several data sources consisting of judges, clerks, and litigants. Secondary data is a data source that does not directly provide data to data collectors, for example, through documentation or through people who are not directly involved in the scope of the research (Sugiyono, 2013, p. 193). Data collection is used in field research (Field Research), collecting data by conducting direct research on the object to be studied. In this study, the role of the researcher is as a key instrument in collecting data using direct observation, interviews, and document studies.

The data processing process follows the theory of Miles and Huberman, as quoted by Sugiyono, that the data processing process goes through three stages, namely data reduction, data presentation (data display), and verification or conclusion (Sugiyono, 2013, p. 246). Data analysis consists of three stages: data presentation, data analysis in reduction, and concluding. First, presentation or display of data, namely presenting various data in a phenomenological descriptive manner in one complete narrative. Verification or drawing conclusions, namely

looking for patterns, relationships, themes, similarities, and things that often arise from research results (Husaini Usman, 2000, p. 87).

4. Result and Discussion

4.1 The Factors Causing of Divorce Early Marriage

A divorce is an event that will occur officially in marriage, and both of them have no obligation to carry out their duties as husband and wife. Couples who are divorced but do not have children, then the separation does not cause psychological trauma to the children. But for married couples who have children, there are psycho-emotional opportunities for their children. However, as the results of research by Ramadhani et al., parental divorce has a negative impact on children, both physically and psychologically (Ramadhani & Krisnani, 2019). These findings show that divorce cases during 2020 experienced an increase, mainly due to experience and leaving a partner. These factors by the judge's assessment that the factors causing the occurrence of events, especially for married couples, consist of several things, including:

Economic factors, continuous factors, and factors that vary greatly, among others, the existence of social media, each partner lacks trust in their partner, the presence of a third party, causing excessive jealousy, the occurrence of infidelity. Still, the most prominent is leaving other parties and the non-fulfillment of external needs (Nurmiati, Class Religious Court Judge I/A Bonê, Interview 07/21/2020).

The high divorce rate in the first Bonê court was related to cases between husband and wife based on the results that occurred for several reasons, including repeated and protracted problems that resulted in housewifery disharmony, other causes related to social media that caused jealousy between partners. Quarrels in the housewifery also occur because one partner feels more committed to early marriage couples who are still emotionally unstable. This finding explains the results of an interview with one of the religious courts in Bonê Regency that the factors that occur in early marriage couples divorce are as follows:

Factors that cause divorce among couples of child age are continuous bickering caused by many things, including domestic violence, husbands who are lazy to earn a living, often go out at night, play gambling, and drink alcohol as interference from other parties. Third, other parents interfere too much in their children's housewifery affairs (Husniwati, Class Religious Court Judge I/A Bonê, Interview 07/21/2020).

According to the informant, Nurbulan said that the factors causing the divorce between Nurbulan and her husband were as follows:

The divorce between my husband and me was due to frequent fights between us, caused by my husband constantly questioning the shopping money that had been handed over to me, even taking it back and then using the money to buy liquor with his friends, until he was drunk. Most of the money he earns is used for gambling. Besides that, my husband is also openly dating other women so that I, as a woman, can no longer afford to continue a

housewifery full of suffering. In the end, I decided to file for divorce from my husband (Nurbulan, Housewife, Interview 06/2/2020).

The results of Eka Susylawati's found that disputes and quarrels were a strong reason for divorce in religious courts (Susylawati, 2008). According to Birditt, it is explained that cases of quarrels that occur in marriage are caused by conflict behavior that leads to destructive actions from both the husband and wife so that no solution is found in their marriage (Birditt et al., 2010). The second factor is the high number of divorce cases in the Religious Courts Class I/A Bonê in 2020 is the case of leaving a partner. Based on the search results that in general, men or husbands leave their wives and children without providing physical and spiritual support during their absence, so this is what triggers wives to file for divorce. The results of the interview as follows:

Factors of continuous disputes and quarrels, then the next is one party leaving the other party, getting drunk, gambling—impotence, and domestic violence, as well as economic factors (Jamaluddin, Junior Clerk of Religious Court Law Kelas I/A Bonê, Interview 07/21/2020).

The interview above can indicate that the occurrence of divorce cases caused by problems leaving a spouse is significant potential in influencing divorce cases. Leaving one of his partners describes an unstable psychological condition. This happens because there is no more extended comfort in the housewifery, so that a stable psychological condition is critical in providing comfort in the housewifery. Deborah's research explains that the cause in the housewifery to leave their partner occurs due to unstable psychological conditions (Anderson & Saunders, 2003). Meanwhile, Taherkhani's research explains that the factor of leaving his partner occurs because of an element of humiliation or harassment that causes hurt in one partner (Yiğit Gençten & Genc, 2020).

Collins' research in his book *Sociology for marriage and Family* stated that 83% of men and 76% had said that infidelity and infidelity were the main factors in divorce. This study indicates that the factor of infidelity due to infidelity is correlated with high divorce rates. Infidelity can occur because one partner feels dissatisfied. This happens mostly to men, as in Badruddin's research explaining the factors that influence the husband's divorce from his wife due to dissatisfaction in the housewifery and having relationships with other parties (Nasir, 2012). While in Widodo's research, the factor of leaving a partner is the highest factor causing divorce from the data he obtained. Furthermore, Widodo's research explains that this results from the problems faced by the wife in marriage related to the rights she should receive during the marriage, but the husband ignores these rights to the wife (Widodo, 2014).

The implication of all the factors causing the divorce, which is the reason for the applicant in filing a lawsuit, impacts not realizing the purpose of marriage. The decline in the divorce rate in Islamic law refers to *maqāsid al-sharīah* which can be done in several ways including, First understanding about *maqāsid* or marriage (family) law, Second, forming a housewifery that must be based on the objectives of *sakinah*, *mawaddah*, and *warahmah*. Third, the purpose of marriage is to create a calm, peaceful, and peaceful psychological condition between husband and wife. Islamic law has regulated the pattern of husband and wife

relations with "*mu'asyarah bu al-ma'ruf*", namely treating husband or wife in the best way that will not hurt both partners; Islam also regulates sexual intercourse procedures and other rules.

The essence of marriage is the regeneration of descents so that they can maintain survival. However, Islam has arranged marriage so that the descents is legal and avoids things that have been prohibited by Islam, such as promiscuity, which can negatively impact both individually and on their descents. Promiscuity is an act that does not reflect religious values, so Islamic rules prohibit this act because it has a negative impact on their descents. As a result, it can provide opportunities for buying and selling children, adoption and this is contrary to Islamic *shari'ah* law. Therefore, marriage prescribed by Allah (SWT) aims to regulate family life. Badran Abu Al-Ainai Badran in *al-Fiqh al-Muqaran li al-Ahwal al-Syakhshiyah* (p.10-11) explains that the family is vital to pay attention to, in which a man and a woman meet. With a very sturdy inner strap. Furthermore, Badran explained that to preserve descents must be through the formation of a family because through the family (*al-zawaj*), other families (*al-usrah*) will be realized and nurtured well. In contrast, family development is the main joint in building a more prosperous society. Because of the importance of this family, Islamic *shari'ah* pays special attention and establishes detailed laws compared to other legal issues. Islamic *shari'ah* guides how to prepare to form an ideal family, starting from choosing a potential partner, applying and regarding who can be proposed, to the marriage process. Islamic law also provides instructions on how to resolve conflicts in family life.

4.2 Alternative Solution to the Problem of Early Marriage Divorce Based on *Maqāṣid al-Syarī'ah* Perspective

Based on the description above, the alternative solution in maintaining domestic life is to understand each other and unite the principles from the beginning of marriage, which is very important because it is one of the important keys in achieving a happy housewifery. Requires an attitude of consistency between husband and wife even though it is difficult to implement. The attitude of tolerance towards the behavior and habits of partners can maintain the psychological and emotional conditions of each partner so that things related to attitudes or behavior that are not following the partner can be avoided through mutual respect. Each husband and wife must carry out emotional control in avoiding fights because, without the control of each partner, this will have a negative impact and can lead to uncontrollable fights in the housewifery. Another thing that needs to be considered in avoiding fights is that each partner has an open attitude. This aspect can provide an open attitude to each other so as not to cause suspicion between partners. The aspect of communication is also very important in domestic life because interactive and open communication can maintain the integrity of the housewifery and minimize conflicts that occur in the housewifery life of husband and wife. Finally, married couples can admit their mistakes and apologize to their partners because this attitude can provide comfort and maintain good relations between husband and wife.

The next solution is to conduct counseling by involving all elements, starting from village facilitators, community communities, taklim councils, and social groups.

So it can minimize the occurrence of early marriage. As for other efforts that can be done, namely collaborating with the education office, women's empowerment office, the Ministry of Religion through suscatin by providing counseling about the various dangers that are usually caused by young Marriage, then conducting counseling about regulations, namely the Law of the Republic of Indonesia No. 2019 on the amendment to the Law of the Republic of Indonesia of 1974 concerning Marriage, which is related to the minimum age for Marriage, namely both men and women must be the same in terms of the minimum age limit for Marriage, which is 19 years (Syarifah Suhra, Head I of the Muslimat NU Bonê, Interview 07/30/2020).

The next regulation is the Law of the Republic of Indonesia No. 35 of 2014 concerning amendments to the Republic of Indonesia No. 23 of 2002 on child protection. The law emphasizes legal sanctions for those who marry at the age of a child; then, there must be a regional regulation and a village regulation related to the prohibition of Marriage for under-age. Through the Integrated Service Center for Women and Children Empowerment, efforts can be made through DP3A through the Integrated Service Center for Women and Children Empowerment, after this abbreviated as P2TPZA. It is a unit that carries out integrated service functions for women and children victims of violence by providing recommendations to be considered for judges through the dispensation for the marriage of under-age (Syarifah Suhra, Head I of the Muslimat NU Bonê, Interview 07/30/2020). Considering the number of early marriage dispensations in Bonê Regency, which is increasing daily, the prevention program for early marriage in Bonê must be further increased. The marriage dispensation rate in Bonê has increased to 178 children applying for dispensation in 2020. Although challenges in preventing early marriage, starting from unregistered marriages, this practice is still quite large in the number of early marriage (Bonê Religious Court Data Source, 2020).

Therefore, the conditions for granting dispensations need to be strictly tightened to reduce the number of children's age representation, even though the obstacles or challenges currently being faced are quite severe. However, it isn't easy to prevent early marriage, including unregistered marriage and marriage dispensation, because both are the biggest contributor to early marriage. Therefore, there is a need for a legal basis that requires prospective couples to take pre-marital courses. The Planning, Implementation, Marriage Preservation Agency, abbreviated as BP4, should have an active role in conducting pre-marital courses in collaboration with religious leaders. As for other consequences arising from early marriage based on existing facts, poverty and unemployment, in addition to health, can lead to worsening of reproductive health, increasing number of divorces, domestic violence, both physical and non-physical violence, deteriorating quality of human resources. Worsening child care because children take care of children, even though one of the objectives of the Shari'a is to maintain offspring for the sake of realizing the benefit and rejecting all forms of breakage.

The basis of consideration in determining divorce cases for early marriage is one of the most important aspects in determining the realization of the value of a fair decision because it involves the benefit and harm to both the plaintiff and the

defendant, for the author wants to examine further the results of the decision using the *maqāshid al-sharīah* theory. Study further; it is necessary to approach the divorce law stipulated in deciding cases, especially regarding divorce due to marriage at a child's age. One of the developments of science, especially in the context of Islamic law, is called *maqāshid al-sharīah*; for this reason, in this discussion, it is further reviewed how the perspective of *maqāshid al-sharīah* on Judge Decisions in divorce cases at the Bonê Religious Court.

One of the developments of science, especially in the context of Islamic Law is what is called *maqāshid al-sharīah*, for that in this discussion, it is studied further how the perspective of *maqāshid al-sharīah* sharia on Judge Decisions in divorce cases at the Bonê Religious Court. Allah (SWT) revealed Islamic law to provide goodness and benefit to humans, namely to protect the interests and needs of humans in this world and the hereafter. *Maqāshid al-sharīah* is the goals and secrets that Allah has set in every law that has been prescribed, namely to achieve individual and community happiness, maintain the law, and so on to prosper the world so that it reaches the stage of perfection, goodness, progress, and high civilization. According to *al-sharīah* in his book *Al Muwafaqat Fi Ushulis Syariah* and maintaining the benefit or interests of humans in living life in the world, it also aims to maintain human interests after their death. Therefore, it proves that the arrival of Islam is a mercy to humans and the world.

Divorce is the abolition of marriage by a judge's decision or the demands of one of the parties to the marriage. Divorce is often also interpreted as the dissolution of a marriage when the parties are still alive based on justifiable reasons and determined by a judge's decision. From Islamic law, divorce is divided into two major groups, namely *talak* and *Faskh*. With the stipulation that any divorce that arises due to causes from the husband is called *talak*, a divorce arising from the wife's reasons is called a sued divorce. In principle, divorce is permitted divorce by the legislator because the husband and wife will not be able to live in harmony as husband and wife anymore. But, meanwhile, the absence of harmony can occur because one or both parties do or experience something that can shake the housewifery happiness (family).

Divorce is the last action that can take after first taking various efforts for peace and improvement. However, if these efforts are not successful, then there is no other way but to divorce for the happiness expected after the divorce. Therefore, one of the principles adopted in national marriage law and according to religious teachings is to make it difficult for divorce (divorce) because divorce means the failure of marriage to form a happy, eternal, and prosperous family. The theory that is used as the basis for analyzing judges' considerations in deciding divorce cases is the *maqāshid al-sharīah* theory popularized by Imam Asyātibih, that the essence of sharia is to achieve benefit and reject harm. Furthermore, the benefit referred to by Imam Asyātibih is mashalih as the goal of the *Shari'ah*, which is divided into three namely benefit at the *daruruyah*, *hajiyyat*, and *tahsiniyah* levels and the next theory is the theory developed by Imam Al-Ghazali, who is known as Addarury Al-Khamsah, namely the maintenance of religion, the maintenance of soul, maintenance of reason, maintenance of offspring and maintenance of the property.

5. Conclusion

The results of the study show that the factors that cause divorce for early marriage consist of two factors, namely internal factors and external factors (a) Internal factors, namely: continuous occurrence factors, which one partner often causes drunk, mainly gambling, unable to afford meet the needs for wife and children, lack of trust in each partner, weak lust, one party leaves the other party, frequent domestic violence (b) External factors, namely: The presence of third party interference, social media factors, the factor of the unfaithfulness of one partner and environmental factors that are not supportive, the matchmaking factor of parents, the developmental factor of the times. The two divorce factors will result in the non-realization of the maintenance of benefits in the housewifery life of each child-age couple; in fact, there will only be danger or harm. The judge's consideration in deciding divorce cases for early marriage is based on considerations of benefit because legal facts show that the maqāshid of a marriage creates a sakinah, mawaddah, and warahmah family has not been realized. Such housewifery life no longer brings benefits, and if the housewifery is continued, it will cause far greater harm, namely the safety of religion, soul, mind, lineage, and property, therefore to maintain the benefit of life for the couple, then divorce is a way out of the housewifery turmoil. Therefore, under certain conditions, marriage can be sacrificed for the sake of religion, soul, mind, lineage, and property to achieve benefit and reject harm, then the judge's decision is following the concept of maqāshid al-syariah. The impact of divorce for early marriage consists of two, namely positive and negative impacts, while the positive impact is that couples who feel oppressed feel free from various problems, while the negative impact is that they feel inferior to their status, become a burden on their parents, the impact on children is to increase it—psychological problems in children.

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