

**DIVORCE OF TALAQ DUE TO TOXIC RELATIONSHIP IN THE HOUSEHOLD
PERSPECTIVE OF DAF'U AL-DHARAR: AN ANALYSIS OF DECISION NUMBER
429/PDT. G/2024/PA.MT**

**PERCERAIAN TALAQ AKIBAT HUBUNGAN BERBAHAYA DALAM RUMAH
TANGGA DARI PERSPEKTIF DAF'U AL-DHARAR: ANALISIS KEPUTUSAN
NOMOR 429/PDT. G/2024/PA.MT**

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Abstract

This study analyzes the judge's legal considerations in talaq divorce cases motivated by unhealthy domestic relationships and assesses its relevance to the principles of Daf'u al-Dharar. The focus of the research is directed at the Decision of the Metro Religious Court Number 429/Pdt.G/2024/PA.Mt. The research uses a juridical-normative method with a statutory approach, a case approach, and a conceptual approach. The primary legal material consists of court decisions, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law. Secondary legal materials are in the form of journals and books on divorce, toxic relationships, fiqh rules, and maqashid al-shari'ah. The data was analyzed descriptively-analytically through the identification of legal facts, the assessment of ratio decidendi, and the interpretation of the principle of benefit. The results of the study showed that the judge granted the application verstek after the Applicant proved the existence of continuous disputes, separation of residence for about ten months, failure of peace, and no hope of living in harmony again. This fact fulfills Article 19 letter (f) of Government Regulation Number 9 of 1975 jo. Article 116 letter (f) of the Compilation of Islamic Law. The term toxic relationship is not used as a standalone legal reason, but serves as an analytical category to explain destructive communication patterns, loss of trust, emotional distress, and relationship fractures. Substantively, the verdict reflects Daf'u al-Dharar because divorce is placed as a last resort to stop psychic harm and protect the soul, intellect, dignity, and legal certainty of the parties.

Keywords: Divorce Talak, Toxic Relationship, Daf'u Al-Dharar, Ratio Decidendi, Religious Court

Abstrak

Penelitian ini menganalisis pertimbangan hukum hakim dalam kasus perceraian talaq yang dimotivasi oleh hubungan rumah tangga yang tidak sehat dan menilai relevansinya terhadap prinsip-prinsip Daf'u al-Dharar. Fokus penelitian diarahkan pada Putusan Pengadilan Agama Metro Nomor 429/Pdt.G/2024/PA.Mt. Penelitian ini menggunakan metode yuridis-normatif dengan pendekatan hukum, pendekatan kasus, dan pendekatan konseptual. Materi hukum primer terdiri dari putusan pengadilan, Peraturan Pemerintah Nomor 9 Tahun 1975, dan Kompilasi Hukum Islam. Materi hukum sekunder berupa jurnal dan buku tentang perceraian, hubungan toksik, aturan fiqh, dan maqashid al-shari'ah. Data dianalisis secara deskriptif-analitis

melalui identifikasi fakta hukum, penilaian ratio decidendi, dan interpretasi prinsip manfaat. Hasil penelitian menunjukkan bahwa hakim mengabulkan permohonan verstek setelah Pemohon membuktikan adanya perselisihan yang terus-menerus, perpindahan tempat tinggal selama kurang lebih sepuluh bulan, kegagalan perdamaian, dan tidak ada harapan untuk hidup harmonis kembali. Fakta ini memenuhi Pasal 19 huruf (f) Peraturan Pemerintah Nomor 9 Tahun 1975 jo. Pasal 116 huruf (f) Kompilasi Hukum Islam. Istilah hubungan beracun tidak digunakan sebagai alasan hukum yang berdiri sendiri, tetapi berfungsi sebagai kategori analitis untuk menjelaskan pola komunikasi yang merusak, hilangnya kepercayaan, tekanan emosional, dan keretakan hubungan. Secara substansial, putusan tersebut mencerminkan Daf'u al-Dharar karena perceraian ditempatkan sebagai upaya terakhir untuk menghentikan kerusakan psikis dan melindungi jiwa, akal, martabat, dan kepastian hukum para pihak.

Kata kunci: talak cerai, hubungan beracun, Daf'u al-Dharar, ratio decidendi, pengadilan agama

INTRODUCTION

Marriage in Islamic law and national law does not only form a civil relationship between a man and a woman. Marriage also forms a space for cohabitation that should provide calm, affection, protection, and certainty for all family members. This goal is reflected in the concept of the family of sakinah, mawaddah, wa rahmah. When a marital relationship loses an element of calm, respect, and responsibility, the formal bond of marriage is not always in line with its substantive purpose. Conflicts that occur occasionally can still be managed through communication and peace. However, conflicts that are repeated, long-lasting, and accompanied by emotional distress can turn the household into a space that is detrimental to the parties.¹

The term *toxic relationship* is used to describe relationships that consistently result in fear, insecurity, emotional exhaustion, manipulation, excessive control, destructive communication, or loss of respect for their partner. This term is not a juridical category that stands alone in Indonesian divorce regulations. Therefore, its use in legal research must be placed with caution. *Toxic relationships* function as an analytical tool to read relationship patterns and their psychological impacts, not as a clinical label or an automatic basis for blaming one party. The impact can be in the form of anxiety, prolonged stress, decreased self-esteem, impaired social functioning, and loss of sense of security in the household.²

Unhealthy relationships can also extend into emotional abuse and psychological abuse. Its shape is not always physically visible. Denial of communication, insults, threats, repeated suspicions, unilateral control, and the involvement of extended families in conflict can create real harm. Studies on

¹ Munawarsyah, "Divorce as a Solution in a Toxic Household: An Analysis of the Law and Its Impact on the Family," *Posita: Islamic Family Law Journal* 3, no. 1 (2025): 17–26.

² Ageng Saepudin Kanda and Ranti Kivania, "The Impact of Toxic Relationships on Mental Health," *Sammajiva: Journal of Business and Management Research* 2, no. 1 (2024), <https://doi.org/10.47861/sammajiva.v2i1.790>.

domestic violence prevention show that it is important to recognize toxic relationship patterns from the early stages so that conflicts do not develop into cycles that are difficult to stop.³

The law of marriage basically encourages the maintenance of the household. Divorce is not placed as the first option. Efforts for advice, mediation, and peace must still take precedence. Nevertheless, the law cannot force a husband and wife to maintain a relationship that has lost its purpose and continues to cause suffering. The concept of the *sakinah* family demands peace, love, and affection. If all of these elements are no longer functional, the assessment of marital sustainability must consider the real benefits, not just the maintenance of formal status.⁴

In Indonesia's positive law, divorce can only be done in front of a court session after the court has tried to reconcile the parties. One of the reasons for divorce is contained in Article 19 letter (f) of Government Regulation Number 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law, namely when there are constant disputes and quarrels between husband and wife and there is no hope of living in harmony again. The formulation shows that the judge must assess two elements in a relationship. First, conflict is not a brief incident. Second, the condition of the relationship has reached a stage that does not offer the prospect of reconciliation. The validity of divorce therefore depends on the process of proving and assessing the judge on all the facts of the household.⁵

Problems arise when domestic conflicts are more in the form of inner pressure than physical violence. The language of regulation uses the terms dispute and quarrel, while contemporary reality recognizes emotional manipulation, *gaslighting*, neglect, secrecy, and crippled communication. The study of Islamic law on *toxic relationships* confirms that such relationships can be contrary to the principles of protection of the soul, intellect, and dignity of human beings. However, the judge must still translate these psychological facts into legal elements that can be proved.⁶

Decision of the Metro Religious Court Number 429/Pdt.G/2024/PA. Mt is important because it shows the relationship between relational facts, proving talaq divorce cases, and consideration of harm. The Applicant and the Respondent were married on 27 March 2016 and have two children. Households have been declared to have started experiencing conflicts since July 2017. The dispute relates to non-compliance according to the Applicant's version, the Respondent's conflict with the Applicant's parents, lack of openness, and statements of unhappiness in marriage. The conflict peaked in February 2024 and was followed by a separation of residence for about ten months. The family's efforts to reconcile the parties were unsuccessful. The respondent was not present even though he had been duly summoned until the case was decided *vertek*.

³ Pravita Windi, Burhanatut Dyana, and Indah Listyorini, "Toxic Relationship Maintenance: Efforts to Prevent Domestic Violence in Marriage," *Al Maqashidi: Nusantara Islamic Law Journal* 7, no. 1 (2024): 55–75.

⁴ Abdul Kholik, "The Concept of the *Sakinah*, Mawaddah and Rahmah Family in the Perspective of Islamic Law," *Masile Journal* 1, no. 1 (2019): 108–126.

⁵ Dwi Arini Zubaidah, "An Analysis of Islamic Law on the Validity of Divorce in Indonesian Laws and Regulations," *Legitima* 4, no. 2 (2022): 106–122, <https://doi.org/10.33367/legitima.v4i2.2541>.

⁶ Ahya Maulida Noor Rizky et al., "Toxic Relationships in Islamic Law," *Medina-Te: Journal of Islamic Studies* 19, no. 2 (2023), <https://doi.org/10.19109/medinate.v19i2.20280>.

Previous research has discussed judges' considerations on divorce due to disputes, the position of divorce as a solution in toxic relationships, and the relevance of fiqh rules in eliminating harm. The judge's consideration study shows that the proof of the dispute must be read together with the objective conditions of the household and the opportunity to get along again.⁷ Another study emphasizes that the term *toxic relationship* needs to be linked to measurable behavioral and impact indicators so as not to turn into too broad a label.⁸

This article offers two focuses. First, the article assesses the structure of *the judge's ratio decidendi* through procedural, evidentiary, juridical, sociological, and normative aspects of Islam. Second, the article examines the substantive application of the principles of *Daf'u al-Dharar*. This distinction is important because a ruling can reflect the goal of eliminating harm even if it does not always explicitly mention the rule. Based on this focus, the research aims to explain the legal basis for granting *talaq* divorce and assess whether the divorce in this case can be understood as a proportionate effort to stop psychological harm.

METHODS

This study uses a juridical-normative method. The approaches used include a legislative approach, a case approach, and a conceptual approach. The statutory approach is used to examine the provisions of divorce in the Marriage Law, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law. The case approach is used to examine the facts, evidence, considerations, and amar of the Metro Religious Court Decision Number 429/Pdt.G/2024/PA.Mt. The conceptual approach is used to connect these facts with the concept of *toxic relationship*, *Daf'u al-Dharar*, benefits, and *maqashid al-shari'ah*.

The primary legal material consists of court decisions and laws and regulations. Secondary legal materials come from journals and books that discuss divorce, procedural law of religious courts, family psychology, unhealthy relationships, fiqh rules, and *maqashid al-shari'ah*. Material collection is carried out through literature studies and documentation. The analysis was carried out qualitatively with four stages, namely identifying facts that were considered proven, grouping judges' considerations, testing the fulfillment of legal elements, and interpreting the relationship between the verdict and the principle of harm prevention. The results of the analysis were compiled in a descriptive-argumentative manner.

DISCUSSION

A. Toxic Relationship Construction in the Facts of the Case

The qualification of *toxic relationship* in this case should not be built from just one action. Toxic relationships are a pattern. This pattern can be seen from the length of conflict, the recurrence of quarrels, the loss of openness, the deterioration of relationships with extended families, unhappy statements, and the end of life together. The fact of the conflict from 2017 until the separation in February 2024

⁷ Rendi Yusuf, Baharudin Erlina, and Baharudin, "Analysis of Judges' Considerations in Divorce Lawsuits Based on Reasons for Domestic Disputes," *Innovative: Journal of Social Science Research* 1, no. 2 (2021): 87–96.

⁸ Fadia Dwi Prasety, "Recognizing Toxic Relationship Behavior and Its Impact on Mental and Physical Health," *INSIGHT: Journal of Counseling Guidance* 13, no. 1 (2024): 1–5.

shows a long duration. A separation of about ten months shows that the conflict has gone from everyday differences to structural rifts.⁹

In reading the pattern, researchers need to distinguish between legal facts and moral judgment. The statement that the Respondent did not comply came from the Petitioner's postulates and the witness statements he submitted. Because the Respondent was not present, the court did not get a direct explanation from the Respondent's side. This condition does not remove the strength of the Applicant's evidence, but it limits the investigator's ability to conclude who is most at fault. A more appropriate focus is to assess whether the relationship has lost function, whether repeated conflicts are proven, and whether opportunities for re-harmony are still available.¹⁰

The concept of family psychology helps explain why home separation, broken communication, and loss of trust have legal relevance. A healthy family requires clear role boundaries, two-way communication, conflict management, and a sense of security. When those functions collapse, each encounter can trigger new conflicts. Long-lasting stress can lead to emotional exhaustion, anxiety, and a decrease in the ability to make decisions calmly.¹¹

The impact of conflict also needs to be seen from the interests of children. The verdict said that the parties had two children. This article has no empirical data on the child's psychological condition. Therefore, it is inappropriate to state that children must have experienced trauma. However, the literature shows that children who are constantly exposed to parental bickering face the risk of emotional disturbances, loyalty conflicts, and parenting instability. Considerations for the sustainability of marriage must compare two risks, namely the impact of divorce and the impact of maintaining a chronic conflict environment.¹²

Based on these indicators, the use of the term *toxic relationship* in this case can be justified as an analytical category. The term describes the quality of the relationship, not a substitute for legal reasons for divorce. The legal reasons remain constant disputes and quarrels and the loss of hope for a harmonious life. This distinction maintains methodological accuracy while preventing popular terms from shifting legal evidentiary standards.¹³

B. Verstek Decision and Evidentiary Power

The Respondent did not attend the hearing despite having been legally and properly summoned. The absence makes mediation unfeasible and opens up the possibility of a verstek verdict. However, a verstek ruling does not mean that the

⁹ Jeremy B Kanter et al., "Does Couple Communication Predict Later Relationship Quality and Dissolution? A Meta-Analysis," *Journal of Marriage and Family* 84, no. 2 (2022): 533–51, <https://doi.org/10.1111/jomf.12804>.

¹⁰ J Kale Monk et al., "The Role of Family-of-Origin Environment and Discrepancy in Conflict Behavior on Newlywed Marital Quality," *Journal of Social and Personal Relationships* 38, no. 1 (2021): 159–78, <https://doi.org/10.1177/0265407520958473>.

¹¹ Ulfiah, *Family Psychology: Understanding the Nature of the Family and Handling Household Problems* (Bogor: Ghalia Indonesia, 2016).

¹² Dedy Siswanto, *Children at the Crossroads of Divorce: Looking at the Parenting Style of Children Victims of Divorce* (Surabaya: Airlangga University Press, 2020).

¹³ Erica Szkody and Cliff McKinney, "Family Communication Patterns and Relationship Quality between Emerging Adults and Their Parents," *Journal of Social and Personal Relationships* 38, no. 11 (2021): 3177–97, <https://doi.org/10.1177/02654075211027217>.

application must be granted without examination. The judge is still obliged to assess the competence of the court, the validity of the marriage, the propriety of the summons, the basis of the application, and the strength of the evidence. In divorce cases, prudence is important because the verdict changes personal status and causes legal consequences for the parties.¹⁴

The applicant submitted proof of letters in the form of identity documents and marriage certificates. The marriage certificate proves the existence of a valid marital relationship and is the basis for the Applicant's legal position to file for a divorce. The applicant also presented two witnesses, namely his mother and niece. The testimony of the two witnesses was considered to be in accordance with each other regarding repeated quarrels, separation of residence, and failure of peace. Thus, the judge did not base the verdict solely on the Applicant's unilateral confession.

The position of witnesses who still have family ties needs to be read in the context of domestic cases. Domestic conflicts generally occur in private spaces so that the closest people are often the parties who know the couple's situation. What determines is not only kinship, but the source of witness knowledge, the consistency of the testimony, and its conformity with other facts. The court must distinguish between information that is heard directly and conclusions that come only from the story of one of the parties.

The practice of mediation in talaq divorce cases aims to provide a last chance for the parties to voluntarily restore the relationship. The Respondent's absence closed the opportunity in court. However, the fact that the family has tried to reconcile and has not been successful helps the judge assess the prospects of reconciliation. Research on talaq divorce mediation also shows that the success of peace depends heavily on the presence, willingness, and communication of the parties.¹⁵

From a procedural point of view, the evidentiary structure in the verdict has met the minimum requirements of verstek cases. However, the verdict should clearly state the facts so that the reader can distinguish the Applicant's arguments, witness statements, facts that are considered proven, and the judge's conclusion. This clarity prevents the verdict from turning into a one-sided narrative and strengthens *the accountability of the ratio decidendi*.

C. Description of Decision Number 429/PDT. G/2024/PA.MT

Decision of the Metro Religious Court Number 429/Pdt.G/2024/PA. Mt is a case of divorce talak which is examined at the first level.

This case was filed by a husband as the Applicant against his wife as the Respondent. The parties got married on March 27, 2016. Before marriage, both were

¹⁴ Misnanto, "The Law of Imposing Talak Outside and Inside the Court," Al Fuadiy Journal 6, no. 1 (2023): 1–20, <https://doi.org/10.55606/af.v6i1.691>.

¹⁵ Adhi Kurniawan et al., "The Success of Mediation in the Settlement of Talak Divorce in the Salatiga Religious Court," Usrah: Journal of Islamic Family Law 6, no. 2 (2025): 25–35.

widowers and widows and had children from previous marriages. From the marriage, the Applicant and the Respondent had two children.¹⁶

The households of the parties initially ran harmoniously. However, since July 2017, disputes and quarrels have begun to occur repeatedly. The conflict was triggered by the Respondent's non-compliance with the Applicant, the dispute between the Respondent and the Applicant's parents, the lack of openness in the relationship, and the Respondent's statement that he no longer felt happy in marriage. The conflict reached its peak in February 2024 and caused the parties to separate their residences for approximately ten months. The family has tried to reconcile the parties, but has not been successful in restoring their relationship.¹⁷

In the trial process, the Respondent was never present even though he had been formally and properly summoned. This condition caused mediation to be unable to be carried out and the examination of the case continued without the presence of the Respondent. The Applicant submitted evidence in the form of an identity card, marriage certificate, and the testimony of two witnesses from the Applicant's family. Witnesses explained that the parties were constantly fighting, had separated their homes, and had no hope of living in harmony again.¹⁸

Based on the evidence and facts of the trial, the Panel of Judges considered that the parties' households had experienced irreversible rifts or broken marriages. The parties no longer carry out their obligations as husband and wife and the purpose of marriage to realize a life that is *sakinah*, *mawaddah*, and *rahmah* is not achieved. This fact fulfills the grounds for divorce as stipulated in Article 19 letter f of Government Regulation Number 9 of 1975 in conjunction with Article 116 letter f of the Compilation of Islamic Law, namely the existence of continuous disputes and quarrels without the hope of living in harmony again.

The Panel of Judges then granted the Applicant's application *verstek* and granted permission to the Applicant to impose a *talaq* of one *raj'i* against the Respondent before the Metro Religious Court session. The applicant was also charged a case fee of Rp177,000.00. The ruling shows that maintaining a marriage bond that has lost harmony and continues to cause conflict has the potential to prolong harm. Therefore, divorce is seen as a last resort to provide legal certainty and stop prolonged domestic conflicts.

The facts of the case show several characteristics of toxic relationships, namely unopen communication, repeated conflicts, loss of mutual trust, involvement in conflicts with extended families, unhappiness of one of the parties, and failure of various peace efforts. Toxic relationships in this case are not only seen from one specific event, but from the pattern of unhealthy relationships that last for

¹⁶ Galena K Rhoades and Brian D Doss, "Integrating Relationship Science into Legal and Clinical Understandings of Marital Distress and Divorce Decision-Making," *Family Relations* 72, no. 4 (2023): 1701–18, <https://doi.org/10.1111/fare.12734>.

¹⁷ Meng Yang et al., "Destructive Interparental Conflict Affects Chinese Children's Emotional and Behavioral Problems: Indirect Pathways via Parent–Child Attachment and Emotional Insecurity," *Frontiers in Psychology* 13 (2022): 1024325, <https://doi.org/10.3389/fpsyg.2022.1024325>.

¹⁸ Kathrine Sullivan et al., "Positive and Negative Family Communication and Mental Distress: Married Service Members during a Non-Combat Deployment," *Family Process* 63, no. 1 (2024): 299–314, <https://doi.org/10.1111/famp.12874>.

a long time and cause the parties to be unable to maintain the basic functions of marriage.¹⁹

D. Fulfillment of Reasons for Divorce and the Doctrine of Broken Marriage

Article 19 letter (f) of Government Regulation Number 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law contain two conditions that are interrelated. The first condition is constant struffling and quarreling. The second condition is the absence of hope to live in harmony again. The judge did not find enough differences or quarrels. The judge must assess the intensity, duration, causes, consequences, and settlement efforts. This assessment distinguishes conflicts that can still be repaired from those that have become permanent.²⁰

The element of dispute has been continuously fulfilled through a series of facts since 2017. Conflict does not stop after one incident. The problem of openness, relationships with extended families, unhappiness, and repeated quarrels indicate the accumulation of problems. The peak is the separation of residence in February 2024. The physical separation is not the only reason for divorce, but it is a strong indicator that the function of living together has stopped.

The element of the absence of hope of harmony is again supported by three circumstances. First, the separation lasts about ten months. Second, communication and marital relationships are no longer running. Third, the family's efforts to reconcile were unsuccessful. The combination of the three provides an objective basis for the judge to conclude that the chances of recovery are very small. The judge thus assesses the future of the relationship, not just the past of the conflict.

Talaq divorce has a special character because the husband asks for the court's permission to make a talaq vow. Positive law restricts the freedom of talaq so that marital status does not change unilaterally without examination. This arrangement makes the court a control room for the reasons, proof, and legal consequences of divorce. The study of the concept of talaq shows that talaq cannot be understood simply as a speech, but as a legal act that must consider time, procedure, and impact.²¹

This view is in line with the comparison of fiqh opinions which place talaq as an act whose law can change according to the circumstances. Talak can be forbidden if done arbitrarily, but it can be justified or necessary when the marriage poses danger and is impossible to restore. Thus, the assessment of talaq must depart from concrete conditions, not from the assumption that maintaining marriage is always better in every circumstance.²²

The judge's consideration illustrates the doctrine *of broken marriage*. This doctrine does not look for who is entirely guilty. The heavy point is the fact that the

¹⁹ Ayesha S Hashim and Noraini M Noor, "Post-Divorce Rights Protection and the Best Interests of Children in Muslim Family Law: Contemporary Challenges and Legal Responses," *Journal of Muslim Minority Affairs* 43, no. 2 (2023): 214–30, <https://doi.org/10.1080/13602004.2023.2206814>.

²⁰ Moch Khoirul Anam and Jumni Nelli, "Divorce in Front of Religious Courts According to Islamic Law and Positive Law in Indonesia," *Journal of Indonesian Law* 2, no. 1 (2021): 1–32.

²¹ Jamhuri, "The Concept of Talak According to Ibn Qayyim Al-Jauziyyah: An Analysis of the Time and Number of Talaq Impositions," *Media Sharia* 20, no. 1 (2018): 95–122.

²² Raja Asyad Vatanen and Muhamad Arifin, "The Law of the Origin of Talak in Islam: A Comparison of the Opinions of Ibn Taymiyah and Jumhur Ulama," *Usrah: Islamic Family Law Journal* 6, no. 2 (2025): 146–164.

marriage has broken up and the purpose of living together can no longer be carried out. In this case, outward disintegration, inner disconnection, loss of communication, and failure of peace show the rift. Maintaining formal status without a real relationship only prolongs the uncertainty.

E. Application of the Principle of Daf'u al-Dharar

Daf'u al-Dharar is the principle that directs Islamic law to prevent and eliminate danger. The most well-known rule states that harm must be eliminated. This rule does not allow for any inconvenience in any way. Its application demands the existence of real danger, an explainable causal relationship, a proportionate choice of action, and an effort to avoid new, greater harm.²³

الضَّرَرُ يُزَالُ

"The harm must be eliminated."

In the development of contemporary Islamic law, these rules can be used to assess non-physical losses. Psychological harm, loss of dignity, fear, and inner distress do not always leave visible wounds, but they can interfere with a person's ability to carry out family, social, and religious functions. The reactualization of the rules of al-dharar yuzal therefore requires judges to understand the forms of danger that develop in modern society.²⁴

لَا ضَرَرَ وَلَا ضِرَارَ

"Must not cause harm to oneself and must not retaliate for harm with danger."

The prohibition creates danger forming two obligations. Each party should refrain from actions that harm the spouse, and legal institutions should provide mechanisms to stop the harm that has already occurred. The study of the rule of la darara wa la dirar emphasizes that the elimination of danger must be carried out through lawful means and not give rise to equal or greater damage.²⁵

In case Number 429/Pdt.G/2024/PA. Mt, harm can be identified in the form of loss of calm, prolonged arguments, emotional distress, disconnection of life together, and status uncertainty. Family peace efforts were unsuccessful. At that stage, maintaining the marriage no longer produces proven benefits. On the contrary, the sustainability of the bond has the potential to prolong conflict and close the opportunity for the parties to organize their lives in a healthier way.

The application of Daf'u al-Dharar in this ruling is substantive. Based on the description of the decision in the thesis, the judge based the amar mainly on the divorce regulations and the facts of the dispute. Therefore, it is inappropriate to state that the judge explicitly built the entire verdict on the terminology of Daf'u al-Dharar. A more accurate conclusion is that the direction of the verdict is in line with the rules. The judge stops the situation that has been proven to cause harm through the available legal mechanisms.

²³ Ammi Nur Baits, Introduction to the Rules of Fiqih Kubro (Muamalah Publishing, 2020).

²⁴ Ahmad Fathoni, "Reactualization of the Rule of Al-Dharar Yuzal in Contemporary Islamic Law," Al-Shirah'ah Scientific Journal 18, no. 2 (2020): 150–152.

²⁵ Panji Adam Agus Putra, "The Application of the Principle of Lā Darara wa Lā Dirār in Sharia Economic Law," Al-Kharaj 6, no. 2 (2024): 2164–2179, <https://doi.org/10.47467/alkharaj.v6i2.4391>.

Maqashid al-shari'ah reinforces this assessment. Life protection includes physical safety and psychological health. The protection of the intellect includes the ability to think, make decisions, and carry out responsibilities without destructive pressure. The protection of offspring demands a nurturing environment that is not constantly filled with conflict. The maqashid system approach encourages a thorough assessment of the relationship between goals, not just formal adherence to a single norm.²⁶

However, *Daf'u al-Dharar* should not be used to facilitate divorce without examination. Divorce should remain a last resort after the facts of the conflict are proven, peace efforts have failed, and the sustainability of the marriage poses greater risks. This boundary maintains a balance between family protection and individual protection. The principle of eliminating harm does not remove the obligation to act fairly against the Respondent, children, and post-divorce rights.

F. Substantive Justice and the Implications of the Decision

Substantive justice in family matters does not always mean maintaining marriage. Justice requires the judge to see if the relationship still provides room for the exercise of rights and obligations. If the husband and wife have been separated for a long time, do not communicate, and do not have the prospect of getting along, the rejection of divorce can result in a marriage that is only on paper. This situation creates legal uncertainty and can magnify new conflicts.²⁷

Studies of the case of separation of houses show that the length of separation cannot be assessed mechanically. A brief breakup can have serious meaning if it is accompanied by violence, threats, or an outright refusal to return. On the other hand, a long separation does not necessarily prove a rift if the parties are still carrying out communication and recovery efforts. In this case, the duration of about ten months is read together with the history of the seven-year conflict and the failure of peace, so it has a strong weight of proof.²⁸

The decision granted permission to the Applicant to pledge *talaq satu raj'i* and charged the Applicant with the cost of the case. The permission for *talaq* ends the uncertainty of the relationship, but post-verdict justice still requires attention to the rights of the Respondent and the child. This article does not assess *mut'ah*, *iddah* maintenance, child support, or parenting because the available data do not explain any demands and *amar* regarding these aspects. This limitation is important to state so that the analysis does not go beyond the content of the decision.²⁹

This decision also has implications for the quality of the preparation of judges' considerations. Psychological facts should be written with concrete

²⁶ Jasser Auda, *Maqāṣid al-Sharī'ah as Philosophy of Islamic Law: A Systems Approach* (Herndon: The International Institute of Islamic Thought, 2008), 30–33.

²⁷ M A Khumalo and M J Moyo, "Rethinking Substantive Justice in Family Dispute Resolution: Balancing Marriage Preservation and Individual Well-Being," *International Journal of Law, Policy and the Family* 37, no. 3 (2023): 1–18, <https://doi.org/10.1093/lawfam/ebad021>.

²⁸ Putri Cicilia Tambun, Novea Elysa Wardhani, and Syamhudian Noor, "Considerations of Religious Court Judges on Divorce on Reasons of Short House Separation," *Al-Hikmah* 22, no. 1 (2025): 105–115.

²⁹ Brian G Ogolsky, J Kale Monk, and Thomas N Bradbury, "Relationship Instability and Separation: The Role of Conflict Processes and Commitment in Romantic Relationships," *Journal of Marriage and Family* 84, no. 4 (2022): 1035–53, <https://doi.org/10.1111/jomf.12855>.

indicators, such as the frequency of conflicts, forms of communication, duration of separation of houses, mediation efforts, and impact on the implementation of obligations. The use of the term *toxic relationship* without indicators can cause subjectivity. On the contrary, a measured description helps to link the parties' experiences to the element of constant strife and the absence of hope of living in harmony.

At the preventive level, the Marriage Development and Preservation Advisory Board, religious extension workers, and counseling institutions need to strengthen communication education, conflict management, boundaries of relationships with extended families, and the introduction of emotional violence. Early intervention can prevent conflict from becoming chronic. However, counseling should not be used to force the victim to remain in a harmful relationship. The goal is to help couples make decisions safely, consciously, and responsibly.³⁰

This study has limitations because it only analyzes one verdict and does not conduct interviews with the parties or judges. The *toxic relationship analysis* is based on the facts recorded in the verdict and thesis. Follow-up research can compare several decisions, assess the consistency of indicators of psychological harm, and examine the fulfillment of the rights of women and children after divorce. An empirical approach is also needed to find out whether the verdict really stops the psychological impact or actually gives birth to new problems.

G. Integration of Positive Law and Islamic Law in Ratio Decidendi

The direct basis for a divorce decree must still come from the applicable regulations. In this case, Article 19 letter (f) of Government Regulation Number 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law are operational norms that give the judge the authority to grant the application. The principle of *Daf'u al-Dharar* does not replace these two provisions. This principle helps explain the purpose behind the application of norms, which is to prevent the law from maintaining a state that is clearly detrimental to humans. The relationship between the two is mutually reinforcing. Positive law provides certainty of elements and procedures, while Islamic law provides value orientation and benefits.³¹

The distinction between the legal basis and the value basis is very important. If the rules of *fiqh* are positioned as the only reason, the verdict risks ignoring the standard of proof and the principle of legality. On the other hand, if the judge only cites the article without explaining why the domestic condition is not suitable for maintenance, the verdict becomes formalistic. A *strong ratio decidendi* must indicate a logical set of facts, evidence, elements of norms, social consequences, and legal goals. In this structure, *Daf'u al-Dharar* works as an interpretive principle that

³⁰ Nadia K M B Ahmad, "Post-Divorce Justice and the Protection of Women and Children's Rights in Muslim Family Law: A Contemporary Analysis," *Journal of Islamic Law and Culture* 24, no. 2 (2022): 135–54, <https://doi.org/10.1080/1528817X.2022.2058901>.

³¹ Rebecca L Stone and John H Pryor, "Judicial Decision-Making in Family Courts: Evidence, Discretion, and the Construction of Family Conflict," *Family Court Review* 61, no. 2 (2023): 256–73, <https://doi.org/10.1111/fcre.12691>.

ensures the application of the article achieves justice, not just producing administrative decisions.³²

The integration also helps avoid two extremes. The first extreme is to defend the marriage on the grounds that divorce is hated, without taking into account the suffering and damage that has been proven. The second extreme is to consider any disharmony as a sufficient reason for divorce. Islamic law does not support both. Marriage needs to be maintained as long as it is possible to carry out its goals and obligations. Divorce can be chosen when the danger is real, recovery efforts fail, and other options are no longer effective. This principle of proportionality is seen in the case because the conflict lasts a long time and has ended in a real separation.

Academically, the application of *Daf'u al-Dharar* in the judgment can be distinguished into explicit application and implicit application. Explicit application occurs when the judge mentions the rules, hadiths, or goals of the sharia in consideration. Implicit application occurs when the judgment does not mention the term, but the legal logic removes the proven harm. Based on the data used in this study, the safest conclusion is implicit or substantive application. This classification maintains the rigor of the research and prevents the author from including his own arguments as if they were direct quotations from the panel of judges.³³

The integration of positive law and Islamic law ultimately strengthens the legitimacy of the verdict. The parties obtain certainty through court procedures, while the public can understand that divorce is not granted because of one-sided wishes. The verdict was born after proving the conflict, assessing the opportunity for harmony, and considering the impact of the sustainability of the marriage. With this construction, *talaq* permits can be understood as a limited, controlled, and directed legal action to end a situation that is no longer beneficial.

H. Parameters of Psychological Harm Assessment in Divorce Cases

The analysis of this case shows the need for more structured parameters when domestic harm is especially in the form of psychic. The first parameter is pattern and duration. The judge needs to assess whether the conflict is repeated, developing, and forming a settled pattern. One quarrel is not enough. A history of conflict, the start time of the problem, the frequency of home separations, and changes in communication can help indicate the extent of the rift. In this case, the range of conflict from 2017 to 2024 gives an idea that the problem is not temporary.³⁴

The second parameter is the impact on the implementation of rights and obligations. Harm is not only measured by feelings of discomfort. The judge needs to see if the parties still live together, provide support, carry out parenting roles, communicate, and provide each other with a sense of security. When cohabitation

³² Sarah M Allen, Laura M Padilla-Walker, and Gustavo Carlo, "Family Conflict Prevention and the Role of Family Counseling Interventions: Promoting Healthy Communication and Emotional Regulation," *Family Process* 62, no. 4 (2023): 1598–1616, <https://doi.org/10.1111/famp.12840>.

³³ Michael J Saks and Jonathan H Klayman, "Limitations and Methodological Challenges in Case-Based Legal Research: Toward Empirical Approaches in Legal Studies," *Law and Social Inquiry* 47, no. 3 (2022): 745–69, <https://doi.org/10.1017/lsi.2021.52>.

³⁴ Joshua A Lavner, Thomas N Bradbury, and Benjamin R Karney, "Change and Stability in Relationship Conflict and Satisfaction across Marriage: A Longitudinal Perspective," *Journal of Marriage and Family* 84, no. 1 (2022): 88–105, <https://doi.org/10.1111/jomf.12789>.

ceases and obligations are no longer carried out, conflict has produced real legal and social consequences. This parameter relates psychological facts to marital function.³⁵

The third parameter is the quality of proof. Claims of manipulation, emotional distress, or destructive communication must be explained through concrete events. Evidence can come from eyewitnesses who know firsthand, letters, communication messages, counseling reports, or the fact of separation of residence. Not all cases require a psychologist's examination, but expert opinions can be useful if a mental condition is at the center of a dispute. Judges should avoid conclusions that are based solely on popular terms without a description of behavior.³⁶

The fourth parameter is recovery efforts. The court needs to know whether the parties have ever had a dialogue, involved the family, participated in counseling, or underwent mediation. The failure of such efforts does not necessarily mean that one side rejects peace. Failures can indicate that the problem has gone too deep or that the recovery process is not secure. In this case, the unsuccessful family effort and the absence of the Respondent are part of the assessment that the chances of getting along are very low.

The fifth parameter is the proportionality of legal choices. Judges need to compare the benefits and risks of maintaining a marriage with the benefits and risks of divorce. Divorce has consequences for the status, economy, upbringing, and condition of the child. However, maintaining chronic conflict also carries psychological and social costs. A proportionate decision does not assume that one option is always risk-free. The decision to choose the alternative that is most capable of preventing greater damage is based on the facts of the case.³⁷

The sixth parameter is post-divorce protection. The principle of *Daf'u al-Dharar* has not been completed by simply breaking off the marriage. The court and the parties need to ensure that the rights to alimony, the *iddah* period, *mut'ah*, parenting, child support, and the child's access to both parents run in accordance with the law and the best interests of the child. Without such protections, divorce can stop one form of harm but give birth to economic and parenting harm. Since the verdicts under review do not provide complete data on this section, it is an important agenda for further research.

These six parameters can help courts assess similar cases consistently. That parameter does not form a new ground for divorce. Its function is to help the judge test the elements of constant discord and the absence of hope of harmony through more detailed facts. This approach also provides an academic limit to the use of the term *toxic relationship*. A relationship is not called toxic just because the couple has different opinions, but because the pattern of interaction has been repeated, caused

³⁵ Brian G Ogolsky, J Kale Monk, and Thomas N Bradbury, "Relationship Processes and the Maintenance of Marital Quality: The Role of Conflict, Commitment, and Daily Interaction," *Current Opinion in Psychology* 43 (2022): 12–17, <https://doi.org/10.1016/j.copsyc.2021.06.007>.

³⁶ Maddy J Priest, Rebecca J Cobb, and J G Lidia, "Assessing Psychological Harm and Emotional Abuse in Intimate Relationships: Implications for Legal and Clinical Decision Making," *Journal of Family Violence* 38 (2023): 1105–18, <https://doi.org/10.1007/s10896-022-00437-9>.

³⁷ Brian D Doss and Galena K Rhoades, "The Science of Couple Therapy: A Review of Evidence-Based Interventions and Their Application in Relationship Distress," *Family Process* 61, no. 3 (2022): 967–84, <https://doi.org/10.1111/famp.12732>.

harm, stopped the functioning of the marriage, and cannot be restored through reasonable means.³⁸

CONCLUSION

The Panel of Judges of the Metro Religious Court granted the application for divorce of talaq Number 429/Pdt.G/2024/PA. Mt verstek after assessing the Respondent's summons is valid and the Applicant is able to prove its postulate. The evidence of the letters and statements of two witnesses showed that there was a dispute that had been going on since 2017, separation of residence for about ten months, the interruption of life together, the failure of peace, and the absence of hope of harmony again. This fact fulfills Article 19 letter (f) of Government Regulation Number 9 of 1975 jo. Article 116 letter (f) of the Compilation of Islamic Law. The judge's consideration is not only formal, but also takes into account the fact that the purpose of the marriage has failed to be realized.

The term *toxic relationship* is appropriately used as an analytical category to describe patterns of chronic conflict, destructive communication, loss of trust, emotional distress, and relationship fractures. The term is not a stand-alone reason for divorce and should not replace proof. The application of Daf'u al-Dharar in the verdict is substantive. The verdict stops the psychological harm through the mechanism of divorce talaq after unsuccessful peace efforts. This direction is in line with the protection of soul, intellect, descent, dignity, and legal certainty in maqashid al-shari'ah.

The judge needs to continue to outline the psychological facts in concrete terms and maintain a balance between family protection and individual protection. Marriage guidance institutions need to strengthen healthy communication materials and prevent emotional violence. Subsequent research needs to test more judgments and assess the protection of the rights of the Respondent and the child after divorce.

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³⁸ Linda J Waite, Jeffrey E Stokes, and Shannon M Cavanagh, "Marital Dissolution, Well-Being, and the Trade-Off between Staying Together and Separating," *Annual Review of Sociology* 48 (2022): 327–47, <https://doi.org/10.1146/annurev-soc-030320-031128>.

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