

# Wife's Divorce Lawsuit and Husband's Rejection of Khuluq in the Perspective of Islamic Law

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## ABSTRACT

This article explores the phenomenon of a wife filing for divorce against her husband and the rejection of khul' (mutual divorce) from the perspective of Islamic law. Using a normative juridical approach and textual analysis of Qur'anic verses, hadiths, and scholars' opinions, it explains the conditions under which a wife may seek divorce, the mechanism of khul', and the circumstances in which khul' may be rejected. The study findings reveal that Islam provides space for women to uphold their rights while emphasizing the importance of justice, responsibility, and consultation in resolving marital conflicts.

**Keywords:** Wife's Divorce Lawsuit, Rejection of Khuluq, Islamic Law.

## ABSTRAK

Artikel ini membahas fenomena gugat cerai yang diajukan seorang istri kepada suami serta penolakan khuluq dalam perspektif hukum Islam. Dengan menggunakan pendekatan yuridis normatif dan analisis tekstual terhadap ayat-ayat Al-Qur'an, hadits, serta pandangan ulama, artikel ini menjelaskan kondisi-kondisi yang membolehkan seorang istri mengajukan cerai, mekanisme khuluq, serta situasi di mana penolakan khuluq terjadi. Hasil penelitian menunjukkan bahwa Islam memberikan ruang bagi perempuan untuk mempertahankan haknya, namun juga menekankan pentingnya prinsip keadilan, tanggung jawab, dan musyawarah dalam menyelesaikan konflik rumah tangga.

**Kata Kunci:** Gugatan Cerai Istri, Penolakan Khuluq, Hukum Islam.

## INTRODUCTION

Marriage in Islam is a very sacred institution and full of worship values. Through marriage, it is hoped that a family will be formed that is sakinah, mawaddah, and rahmah, as stated in the word of Allah SWT:

ومن آياته ان خلق لكم من انفسكم ازواجا لتسكنوا اليها وجعل بينكم مودة ورحمة ان في ذلك لآيات لقوم يتفكرون

Meaning: "And among the signs of His power is that He created for you wives from among yourselves, so that you would be inclined and feel at ease with them, and He made between you feelings of love and affection. Indeed, in that there are indeed signs for a people who think." (QS. Ar-Rum: 21).

However, it is undeniable that marriage does not always run smoothly. In some cases, household conflicts can escalate to a situation where divorce becomes the last resort. Divorce in Islam is known as thalak, which means the dissolution of the marriage

bond through an official statement from the husband. However, the development of Islamic law and its implementation in various countries, including Indonesia, provides space for wives to file for divorce. This divorce suit is known as khuluq, which is a divorce application filed by the wife by providing certain compensation to the husband as a condition for divorce.

In Islamic law, khuluq is specifically regulated based on evidence from the Qur'an, hadith, and the views of scholars. One of the evidence that explains the permissibility of khuluq is the word of Allah SWT:

وإن خفتن أن لا يقيما حدود الله فلا جناح عليهما فيما افتدت به

Meaning: "If you fear that they (husband and wife) will not be able to carry out the limits ordained by Allah, then there is no sin on either of them for what the wife gives to redeem herself." (QS. Al-Baqarah: 229).

Apart from that, the hadith of Rasulullah SAW narrated by Ibn Abbas is also the main basis for the ability of khuluq:

إن امرأة من أزواج ثابت بن قيس جاءت إلى النبي صلى الله عليه وسلم فقالت: يا رسول الله، لا أبايعه في دين ولا في خلق ولكني أكره الكفر في الإسلام، فقال رسول الله صلى الله عليه وسلم: أتردين عليه حارثتك؟ قالت: نعم، فقال رسول الله صلى الله عليه وسلم لثابت: خذ حارثتك وفارقها

Meaning: "The wife of Thabit bin Qais came to the Prophet SAW and said, 'O Messenger of Allah, I do not criticize Thabit's morals or religion, but I do not want to live with him.' The Messenger of Allah SAW said, 'Are you willing to return his garden?' He replied, 'Yes.' The Messenger of Allah SAW said to Thabit, 'Accept his garden and divorce him.'" (Narrated by Bukhari, No. 5273).

In practice, there is a phenomenon where the husband rejects the request for khuluq submitted by the wife. This rejection can occur for various reasons, including disagreement with the compensation offered or the view that the wife's reasons for filing for divorce are not strong enough. In the context of Islamic law, this rejection of khuluq raises important questions regarding the justice, rights, and responsibilities of each party in the marriage.

This issue becomes increasingly relevant in the context of Indonesian society, where religious courts record an increase in the number of divorce lawsuits each year. Based on data released by the Religious Courts of the Supreme Court of the Republic of Indonesia, the number of divorce cases is more dominant than divorce cases filed by husbands. In the annual report of the Supreme Court, it is stated that in 2023, more than 70% of divorce cases filed were divorce suits from wives (Religious Courts of the Supreme Court of the Republic of Indonesia, 2023).

This phenomenon raises various questions, both from an Islamic law and social perspective. What is the Islamic law's view on divorce suits by wives? What are the conditions that allow a wife to file for khuluq? How is the principle of justice upheld if the husband rejects the khuluq? These questions are an important foundation for understanding more deeply the relationship between Islamic law and social reality in the context of divorce.

In addition, divorce in Islam is not only a matter of dissolving the husband and wife relationship, but also concerns responsibility towards children, women's rights,

and other social consequences. In this case, Islam strongly emphasizes the principles of justice and deliberation in resolving household conflicts. The Prophet Muhammad SAW said:

أباح الله تعالى الطلاق وفي رواية أباح الله تعالى الطلاق في أحسن ما يحب الله وإن أباح الله تعالى الطلاق في أحسن ما يحب الله

Meaning: "The halal thing that Allah hates most is divorce." (HR. Abu Dawud, No. 2178).

This hadith shows that divorce is the last step that can only be taken if all reconciliation efforts have been made but have not yielded results. This paper attempts to examine more deeply the phenomenon of divorce lawsuits by wives and the rejection of khuluq from the perspective of Islamic law. With a normative legal approach and analysis of the texts of the Qur'an, hadith, and the views of scholars, this study aims to provide a comprehensive understanding of this issue. This study will also look at the social and psychological implications of the rejection of khuluq on wives, husbands, and the family as a whole.

## METHODS

This research method uses a normative legal approach to understand the phenomenon of divorce lawsuits by wives and rejection of khuluq from an Islamic legal perspective. This approach focuses on the study of legal norms contained in Islamic legal texts, such as the Qur'an, hadith, and the views of scholars. With this approach, the study aims to examine in depth the principles of Islamic law regarding divorce and khuluq, and to find conformity or differences with divorce practices that occur in Indonesian society (Misbahul Munir, 2020). This study also looks at how Islamic law plays a role in providing solutions for women who file for divorce and face rejection of khuluq (Muhammad Abduh, 2019).

To explore this topic, the textual analysis method is applied to relevant verses of the Qur'an and hadith regarding divorce and khuluq (Rachmawati, 2018). This study utilizes Islamic legal texts as the main source to understand the Islamic legal view on divorce filed by wives, either through talak or khuluq (Rachmawati, 2018). Verses related to women's rights, the divorce process, and the obligations of husbands and wives will be analyzed to find a clear and comprehensive legal basis (Rachmawati, 2018). In addition, hadiths explaining the act of divorce and khuluq will be studied to determine the extent to which these principles are accepted and applied in family life in society (Ahmad bin Hanbal, 2017).

With this approach, this study aims to provide a comprehensive understanding of the problem of divorce in Islam, especially divorce lawsuits by wives and rejection of khuluq (Misbahul Munir, 2020). Through an analysis of the texts of the Qur'an, hadith, and the views of scholars, this study will explore the concept of justice in divorce and khuluq and find a fair solution for all parties involved (Misbahul Munir, 2020). The results of this study are expected to provide a positive contribution to developing Islamic family law in Indonesia, by emphasizing the importance of protecting women's rights and upholding the principle of justice in every divorce case (Misbahul Munir, 2020).

## RESULTS AND DISCUSSION

### Marriage, Divorce and Rejection of Divorce Sues

#### 1. Concept of Marriage and Divorce in Indonesian Law

In Indonesian law, marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family. The law governing divorce in Indonesia is Law Number 1 of 1974 concerning Marriage, where divorce can only be carried out in court (Law Number 1 of 1974 concerning Marriage).

#### 2. Divorce Lawsuit Process

A divorce lawsuit can be filed by a husband or wife for certain reasons regulated in Article 39 of the Marriage Law and the Compilation of Islamic Law (Article 39 of the Marriage Law and the Compilation of Islamic Law). When a wife files for divorce, she must have a valid reason and meet the specified requirements (Article 39 of the Marriage Law and the Compilation of Islamic Law).

#### 3. Rights and Obligations of Husband and Wife

The rights and obligations of husband and wife are regulated by law, including the right to file for divorce. In some cases, a husband can reject a divorce suit, especially if he feels that the problem can still be resolved without divorce (Article 34 of the Marriage Law).

#### 4. Case Analysis of Husband's Rejection of Wife's Divorce Suit

- a. Husbands may reject a divorce suit for various reasons, including:
- b. Economic factors: Many husbands are worried about the economic consequences after divorce.
- c. Psychological factors: Husbands may feel that separation will have a negative impact on children and family.
- d. Religious reasons: Some husbands feel that divorce is against their religious beliefs.

#### 5. Legal Process for Rejection of Divorce

If a husband rejects his wife's divorce suit, the judge will consider various aspects, including evidence and the wife's reasons for filing the suit. In this case, the husband still has the right to refuse, but the judge has the authority to decide whether the marriage can still be maintained or not (Article 40 of the Marriage Law).

#### 6. Social and Psychological Impacts

This rejection can have quite a big impact, both on the husband, wife, and children. Psychological impacts such as stress, feelings of depression, and anxiety are often experienced by parties who want to separate. On the other hand, society often has a certain view of divorce which can cause social stigma (R. Marzuki, 2019).

### Legal Maintenance

#### 1. Definition of Inner Maintenance

Inner maintenance in marriage includes fulfilling emotional needs, intimacy, and affection between husband and wife. This fulfillment is considered an important element that maintains a harmonious relationship (S. Rahman, 2018).

#### 2. Legal and Religious Aspects

In Islamic law, a husband has an obligation to fulfill his wife's physical and spiritual needs. The inability to continuously fulfill inner maintenance can be used as a reason for a wife to ask for divorce (*fasakh*) (Compilation of Islamic Law, Article 117). Meanwhile, in civil law in Indonesia, the reason for the inability to provide spiritual sustenance can be the basis for divorce if accompanied by strong evidence and refers to the principles that have been regulated in the Marriage Law (Law Number 1 of 1974, Article 19)

#### 3. Factors Causing Inability to Provide Spiritual sustenance

- a. Physical and Psychological Health: Health disorders such as sexual dysfunction, serious illness, or psychological problems can be the cause of the inability of a husband/wife to meet the spiritual needs of their partner.
- b. Emotional and Environmental Factors: Prolonged conflict, character incompatibility, and stress can reduce a person's desire or ability to have a healthy relationship.
- c. Social or Economic Problems: Social or economic problems often make one of the partners too stressed, so that spiritual needs are neglected (N. Suryani, 2019).

### **Iddah Period and Its Law**

#### **1. Definition of Iddah Period**

The iddah period is a waiting period that must be undergone by a woman after a divorce or death by her husband before remarrying. The iddah period aims to ensure the cleanliness of the uterus from pregnancy and provides time to reflect on decisions and psychological conditions after divorce or the death of a husband (S. A. Masyhur, 2021).

#### **2. The Law of the Iddah Period in Islam**

The iddah period is regulated in the Al-Quran and Hadith. Allah SWT says in Surah Al-Baqarah verse 228 regarding the obligation of iddah for divorced women, and in Surah At-Talaq verse 4 regarding the iddah period for women who have been divorced or whose husbands have died. Rasulullah SAW also explained the provisions of iddah in several hadiths.

### **Wife's Divorce Lawsuit from an Islamic Law Perspective**

A wife's divorce lawsuit is a form of divorce initiated by the wife and is part of the concept of divorce in Islamic law which is regulated in detail in fiqh books. This divorce does not only involve legal aspects, but also social and moral dimensions. In this context, Islamic law gives the wife the right to file for divorce, known as talak gugat. In the Syafi'i and Hanafi schools, divorce is permitted if there is a valid reason according to Islamic law, such as household disputes that can no longer be maintained, injustice experienced by the wife, or the husband's inability to carry out his obligations as head of the household. This process is a means to resolve conflicts in the household in a fairer manner and in accordance with the teachings of Islam (Abdul Wahab, 2020).

#### **1. Procedures and Requirements for Wife's Divorce Lawsuit**

According to Islamic law, a divorce lawsuit filed by a wife can be done through two main channels. First, the wife can file a divorce petition with the local religious court, which is the official institution that handles marital and divorce disputes. Second, the wife can go directly to her husband to ask for a divorce directly, on the condition that the husband is willing to give permission or grant the divorce petition. However, the best way to ensure justice is through the religious court process, which functions as an institution that makes legal decisions based on Islamic law (Muhammad Ali As-Sabuni, 2018).

Some of the requirements that must be met by a wife who files for divorce are that there are legitimate and clear reasons, such as domestic violence, injustice experienced by the wife, the husband's inability to meet household needs, or disharmony in the relationship that cannot be resolved. In addition, the wife must also show that efforts have been made to resolve the problem, such as mediation or

counseling, which have not produced positive results. If the reasons submitted are considered legitimate, the religious court can process the divorce petition and issue a decision in accordance with Islamic law.

## 2. Review of Islamic Law on Wife's Divorce Lawsuit

From the perspective of Islamic law, a wife's divorce lawsuit is considered valid if it is carried out for reasons justified by Islamic law. Several hadiths of the Prophet Muhammad SAW state that divorce can be done if there is a clear and fundamental reason. One of the hadiths that is often quoted in relation to this is the hadith narrated by Aisha ra., which reads, "A woman should not ask for a divorce from her husband without a valid reason, unless he has committed a bad deed." This hadith shows that a divorce suit filed by a wife should not be filed without a clear and valid reason, such as an act of violence, infidelity, or the husband's inability. In practice, Islamic law provides room for a wife to file for divorce if the husband and wife relationship can no longer be maintained. However, this must be done in a legal manner and through the correct procedure so that there is no injustice to either party. In some cases, when a wife files for divorce for a valid reason, the religious court will consider relevant evidence and witnesses to ensure that the reason is in accordance with Islamic law. Thus, a divorce suit filed by a wife becomes a legitimate right, as long as the procedure is carried out correctly and the reasons submitted are accepted (Muhammad Ali As-Sabuni, 2018).

## Rejection of Khuluq in the Perspective of Islamic Law

Khuluq is a form of divorce in Islamic law that involves an agreement between husband and wife. In khuluq, the wife files a divorce application on the condition that she return the dowry or part of the property received from the husband as a form of compensation. In this case, the wife decides to divorce not because of violence or infidelity, but rather because of incompatibility in the household relationship that can no longer be repaired. Khuluq provides an alternative for the wife to terminate the marriage bond in a more peaceful manner and based on agreement (Muhammad Syamsuddin, 2016).

However, not all khuluq applications can be accepted by the husband or the court. Several factors can cause a khuluq application to be rejected, such as disagreement between the husband and wife regarding the amount of dowry to be returned or the husband's refusal to accept the divorce. In this case, the husband has the right to reject the khuluq application, although in practice, the religious court will try to resolve this issue in a fair manner, taking into account the rights and obligations of each party.

### 1. Procedures and Requirements for Khuluq

In Islamic law, the main requirement in the khuluq process is that the wife must be willing to return the dowry that was received from the husband at the time of marriage. The amount of dowry returned is usually agreed upon between the husband and wife, taking into account the husband's ability and mutual agreement. However, in some cases, the husband may reject the khuluq request because he disagrees with the amount of dowry requested to be returned. This disagreement can be one of the factors that causes the rejection of the khuluq request (M. Quraish Shihab, 2013).

In addition, in the practice of religious courts, if there is a significant disagreement between the husband and wife regarding the dowry issue, the court will try to find a fair solution, which not only benefits one party, but also considers the rights of both parties. Therefore, it is important for the court to be able to facilitate effective mediation so that both parties can reach an adequate agreement.

## 2. Islamic Law Review of Rejection of Khuluq

Rejection of a request for khuluq can occur if the husband does not agree with the amount of dowry to be returned or objects to the reasons put forward by the wife. However, Islamic law still emphasizes that divorce must be carried out in a fair manner and not harm one another. As explained in the hadith of the Prophet Muhammad SAW narrated by Abu Hurairah ra., "If you divorce your wives, then do it in a good manner and without any mistreatment." This hadith provides guidance that in every divorce, be it a divorce suit from the wife or khuluq, must be carried out with full consideration and no party should be harmed.

If the husband rejects the request for khuluq, the religious court will seek a fairer solution, such as mediating or finding a way for the divorce to be carried out with the consent of both parties. This rejection of khuluq is often caused by personal or emotional factors, which can be overcome with a wiser approach and based on fair law (Supreme Court Regulation of the Republic of Indonesia Number 9 of 2006 concerning Mediation Procedures in Court).

## Legal Implications of Wife's Divorce Lawsuit and Rejection of Khuluq

### 1. Implications for Wife's Rights

In the case of a wife's divorce lawsuit, Islamic law grants certain rights to the wife that must be fulfilled by the husband, such as the right to iddah maintenance and the right to child maintenance if any. Iddah maintenance is the maintenance given by the husband to the wife during the iddah period, which is the waiting period required for a divorced wife. In addition, the right to child maintenance is also the responsibility of the husband if the divorce involves children who are still minors (Compilation of Islamic Law Article 149 concerning the rights of the wife after divorce and the husband's obligations)

Rejection of the khuluq application can cause the wife to feel neglected and can lead to a more formal divorce through the court process. In this case, the wife's rights must be fulfilled fairly and must not be ignored by the husband. Therefore, it is important for the court to ensure that the wife's rights remain protected in every divorce process, whether through a divorce lawsuit or khuluq (Compilation of Islamic Law Articles 149 and 152 which regulate the protection of the wife's rights after divorce in the Indonesian legal system)

### 2. Implications for the Family

Both a divorce lawsuit and rejection of khuluq have a significant impact on the family, especially on children who may become victims of tension in the household. Children involved in the divorce process often face major emotional impacts, such as feelings of anxiety, confusion, and insecurity. Therefore, religious courts must carefully consider children's rights, especially in terms of child maintenance and custody (Law No. 1 of 1974 concerning Marriage)

This needs serious attention so that divorce can be carried out by considering its impact on children, as well as ensuring that they continue to receive attention, affection, and protection from both parents.

## CONCLUSIONS

A wife's divorce suit and the rejection of khuluq in Islamic law not only affect the relationship between husband and wife, but also have a profound impact on the family, especially the rights of the wife and children involved. When a wife files for divorce on

legitimate grounds and in accordance with Islamic law, this gives the wife the right to end the marriage in a fair and structured manner. In this process, it is important to ensure that each step follows the procedures set out in Islamic law, so that both parties receive fair treatment. On the other hand, the rejection of a khuluq request, even if based on disagreements regarding the dowry or other reasons, can cause greater tension in the household. If this conflict is not resolved wisely, it will most likely culminate in a formal divorce involving the court process. In this context, the religious court plays a very important role in maintaining balance and justice, both for the wife who files for divorce and for the husband who may reject khuluq. The court must take into account the rights of both parties, and provide a just and wise solution, through mediation and legal measures in accordance with the principles of Islamic law, to ensure that divorce does not only end the marriage bond, but also respects the wider rights of the family, especially the rights of children who are often the victims of such tensions.

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