

Legal Construction of Cumulative Decisions on Marriage Annulment and Divorce Claims at the Jakarta Religious High Court

Ahmad Yani,¹ Muhammad Husni Abdulah Pakarti,² Ah Fathonih,³ Aden Rosadi,⁴
Soni Zakaria,⁵ Ahmad Hasan Ridwan⁶

Universtas Islam Negeri Sunan Gunung Djati, Indonesia^{1,3,4,6}

Sekolah Tinggi Ilmu Syariah Wal Aqidah Ash-Shofa Manonjaya, Indonesia²

Universitas Muhammadiyah Malang, Indonesia⁵

Email: ahmadyani19659@gmail.com

Keywords:

Annulment;
Cumulative
decision;
Divorce lawsuit;
Legal construction.

DOI:

<https://doi.org/10.19109/nurani.v25i2.30527>

Submitted:

July 31, 2025

Accepted:

December 27, 2025

Published:

December 30, 2025

Pages: 655 - 670

Abstract: *The growing number of petitions for marriage annulment and divorce raises a complex legal challenge, as each is grounded in different legal purposes and carries distinct implications. This issue has emerged in several cases before the Religious Courts within the DKI Jakarta High Religious Court jurisdiction, notably Case Number 3000/Pdt.G/2023/PA.JS, where both claims were filed simultaneously. This study aims to analyze the legal construction and judicial reasoning of judges in deciding cumulative applications for annulment of marriage and divorce lawsuits in the Religious Court within the jurisdiction of the DKI Jakarta High Religious Court. This study adopts a descriptive-analytical socio-legal method, drawing on legal construction theory, judicial reasoning, law enforcement principles, and the doctrine of *maslahah mursalah* to critically analyze judges' legal reasoning and judicial outcomes. Data were analyzed through normative legal analysis supported by case law. The findings reveal that the legal construction applied by judges in handling the accumulation of annulment and divorce claims prioritizes justice, legal certainty, and human rights protection by harmonizing procedural law with substantive Islamic legal principles. The novelty of this research lies in formulating a coherent legal solution that legitimizes the selective acceptance of claims, enabling courts to resolve procedural conflicts while safeguarding the legal status and post-divorce rights of wives and children. This approach offers a workable judicial framework for adjudicating comparable cases within the Religious Courts.*

Introduction

Marriage is a core legal and social institution that formally unites a man and a woman with the intention of building a stable and sustainable family life (Mustafid et al., 2024; Prasetyo & Muhsin, 2023; Setiyawan et al., 2024). Within both Islamic legal doctrine and Indonesian positive law, marriage is not merely a private relationship but a legal institution imbued with moral, religious, and juridical values, including legal certainty, social order, and the protection of individual rights and obligations (Aditya et al., 2023; Faizal et al., 2024; HM et al., 2024).

According to Law No. 1 of 1974 on Marriage, Chapter I Article 1, marriage is defined as a physical and spiritual union between a man and a woman as husband and wife, intended to establish a harmonious, lasting household founded on belief in the One Almighty God (Tim Redaksi Nuansa Aulia, 2015). In the Compilation of Islamic Law (KHI) Chapter II Article 2 explains that, "Marriage according to Islamic law is a marriage, namely a very strong contract or mitsaqan ghalidzan to obey Allah's command and carrying it out is an act of worship" (Tim Redaksi Nuansa Aulia, 2015).

The ideal objective of marriage is the formation of a harmonious and sustainable family unit (*sakinah*), characterized by mutual responsibility, emotional stability, and legal protection for all family members (Judiasih, 2018; Nurhasanah, 2017; Wirastri & van Huis, 2024). Consequently, marriage law is structured to safeguard the continuity of marital unions while also offering legal remedies for situations in which the aims of marriage can no longer be realized (Kamarusdiana et al., 2023; Maloko et al., 2024; Supriyadi & Mustofa, 2009).

In practice, however, marital relationships frequently encounter complex social, economic, and psychological challenges that may culminate in the dissolution of marriage (Hidayah et al., 2023; Juliansyahzen et al., 2024; Nurudin & Tarigan, 2004; Rajafi & Susanti, 2023). Empirical data from the Religious Courts within the jurisdiction of the Jakarta High Religious Court demonstrate that divorce cases dominate judicial proceedings, while petitions for marriage annulment, although fewer in number, continue to emerge as a significant legal phenomenon requiring judicial resolution (Marwan & Mangkupranoto, 1986).

From a doctrinal perspective, marriage annulment and divorce represent two distinct legal regimes with fundamentally different legal bases, procedures, and consequences (Marwan & Mangkupranoto, 1986). Annulment nullifies a marriage from its inception, rendering it legally void, whereas divorce dissolves a marriage that is otherwise valid. This fundamental distinction requires a clear demarcation in procedural treatment and judicial reasoning to prevent normative and logical inconsistencies (Ghazaly, 2003).

Despite this conceptual distinction, judicial practice reveals instances in which petitions for marriage annulment and divorce claims are cumulatively examined and decided within a single proceeding. Such cumulative adjudication raises serious legal concerns, as it potentially generates contradictory legal consequences and undermines the coherence of marital law as a systematic body of norms (Mertokusumo, 1998; Muwahid, 2017)..

The core legal problem addressed in this study arises from the absence of explicit procedural regulation governing the permissibility or prohibition of cumulating annulment petitions and divorce claims within the Religious Court system. This regulatory gap creates uncertainty for both litigants and judges, particularly when confronted with cases that formally satisfy procedural requirements but lack clear normative guidance (Anishchenko et al., 2023; Cornut St-Pierre, 2023; Deulin et al., 2023; Pettignano et al., 2011).

Within this context, judges are required to perform legal discovery (*rechtsvinding*) to resolve cases that fall outside explicit statutory regulation.

While judges are bound by the principle that courts may not refuse to adjudicate cases due to legal lacunae, they are simultaneously obligated to uphold legal certainty, logical consistency, and substantive justice in their decisions.

The tension between judicial responsibilities and normative uncertainty positions judges in a critical role, making legal construction essential. Through methods such as legal interpretation, analogy, and *argumentum a contrario*, judges attempt to reconcile procedural law principles with the substantive consequences arising from cumulative marital claims.

However, the cumulative adjudication of marriage annulment and divorce claims risks producing dualistic legal effects that may erode the integrity of marital law and weaken the predictability of judicial outcomes. This issue is particularly evident in several decisions rendered by Religious Courts within the jurisdiction of the Jakarta High Religious Court, which demonstrate varying judicial approaches to similar legal circumstances.

Several previous studies provide an overview of judicial practices related to marriage annulment and the handling of cumulative lawsuits in Religious Courts. Research by Hariri and Fawzi (2025) examined decisions by the Bandung Religious Court regarding marriage annulment due to coercion. The results show how judges assess evidence and apply Islamic legal principles and the Marriage Law in their deliberations. Furthermore, Maulana et al. (2025) examined a case of marriage annulment in the Medan Religious Court due to a forged marriage certificate. The findings reveal the judicial dynamics that emerge when procedural regulations fail to clearly prescribe mechanisms for annulment arising from formal defects. Meanwhile, Jamil et al. (2024) evaluated the effectiveness of cumulative lawsuit resolution, specifically in divorce and *hadhanah* cases in Religious Courts. This research is relevant because it examines the handling of cumulative lawsuits and judges' considerations in integrating procedural law with substantive law. These three studies provide an important empirical basis for examining the legal construction of cumulative decisions on marriage annulment and divorce lawsuits, as conducted in this study.

Therefore, this research offers a novel contribution by examining the legal construction employed by judges in adjudicating the cumulation of marriage annulment petitions and divorce lawsuits, as well as its practical implementation within Religious Courts. By examining judicial reasoning and legal methodology, this study aims to address normative ambiguities, enhance procedural consistency, and support the development of a more coherent and equitable framework for resolving marital disputes in Indonesia.

Method

This research uses a descriptive-analytical socio-legal approach to understand the legal construction and judicial reasoning of judges in handling the collection of marriage annulment and divorce lawsuits in the Religious Courts within the jurisdiction of the Jakarta High Religious Court. This approach allows researchers to examine legal phenomena contextually, linking judicial practices to substantive and procedural legal principles, and examining how judges align justice, legal certainty, and human rights

protection in their decision-making. The theories of legal construction, judicial reasoning, law enforcement principles, and the doctrine of *maslahah mursalah* are employed as the conceptual foundation for an in-depth analysis of judicial decisions.

The research data was obtained from a study of court decision documents, jurisprudence, and legal literature relevant to marriage annulment and divorce cases. The analysis was conducted through normative legal analysis, which allows researchers to assess the conformity of judges' decisions with applicable legal norms and evaluate the cumulative case resolution methodology applied. This approach provides a comprehensive understanding of judicial practice, constructs a coherent legal construction, and highlights the legal solutions implemented by judges to address procedural conflicts and protect the post-divorce rights of wives and children. The research results are expected to become a practical framework for resolving similar cases in Religious Courts.

Results and Discussion

Judge's Argument as an Instrument of Law Creation

Judicial argumentation functions as an essential instrument of law creation when judges are confronted with cases that exceed the explicit regulatory scope of positive law. This situation becomes particularly apparent in cumulative lawsuits that combine marriage annulment and divorce, as statutory provisions regulate each institution independently without explicitly providing guidance on their concurrent adjudication. In such circumstances, judges are required not merely to apply existing norms, but to actively construct law through structured and reasoned argumentation (Raharjo, 2000; Mertokusumo, 2020).

In Decision No. 3000/Pdt.G/2023/PA.JS, the panel of judges faced a normative gap concerning the procedural and substantive permissibility of examining annulment and divorce claims within a single proceeding. Indonesian marriage law does not expressly prohibit such cumulation, yet it also does not provide a clear procedural framework for it. This ambiguity constituted a normative vacuum that compelled the judges to engage in legal reasoning grounded in argumentation theory rather than strict textualism (Halawa et al., 2020).

The first argumentative step undertaken by the judges was legal issue qualification. The panel expressly recognized that the case encompassed two distinct legal regimes: annulment of marriage, which deals with defects existing at the inception of the marital union, and divorce, which pertains to the dissolution of a valid marriage due to the breakdown of marital relations. By clearly qualifying the nature of the dispute, the judges demonstrated an essential element of legal argumentation: precise problem formulation as the foundation of normative reasoning (Fitriyani, 2021).

The second step involved systematic interpretation of statutory provisions. The judges connected Article 22 of Law No. 1 of 1974 on Marriage (annulment) with Article 39 of the same law (divorce), alongside Article 19 of Government Regulation No. 9 of 1975. Through this systematic approach, the

judges interpreted marriage law as an integrated normative framework rather than a set of isolated provisions, thereby justifying the cumulative examination of both claims (Mertokusumo, 2020).

The third stage demonstrated teleological reasoning, in which the judges oriented their analysis toward the overarching objectives of marriage law. The panel emphasized that the ultimate purpose of marriage regulation is to ensure justice, legal certainty, and social welfare, rather than the mere preservation of formal marital status. Continuing a marriage that was both procedurally defective and substantively broken was deemed inconsistent with these objectives (Raharjo, 2000; Dalziel, 2023).

The fourth step demonstrated dialectical reasoning, a core feature of argumentation theory since Aristotle. The judges carefully considered the competing claims advanced by the parties: the annulment petition premised on defects at the time of marriage and the divorce petition based on the factual breakdown of the marital relationship. Rather than privileging one claim over the other, the judges integrated both through cumulative reasoning, reflecting a balanced and dialogical approach to adjudication (Fitriyani, 2021).

The fifth step involved evidence-based argumentation aligned with the doctrine of broken marriage. The judges assessed concrete factual indicators, including prolonged separation, absence of marital cohabitation, lack of emotional and economic support, and the parties' expressed unwillingness to reconcile. These facts were interpreted as substantive proof of an irretrievable breakdown of marriage, consistent with Indonesian Supreme Court jurisprudence (Raharjo, 2000; Iwannudin, 2024b).

The sixth step illustrated the use of *argumentum a contrario*. While statutory provisions emphasize "continuous disputes and quarrels" as grounds for divorce, the judges reasoned that the absence of overt conflict does not negate marital breakdown. Emotional alienation, silence, and permanent separation were considered stronger indicators of a broken marriage than verbal disputes alone, thereby extending the interpretative scope of statutory grounds (Juanda, 2016).

The seventh step demonstrated legal refinement (*rechtsverfijning*), whereby the judges avoided rigid retroactive application of annulment rules that could produce unjust consequences. Instead, the judges refined the application of annulment provisions to safeguard the civil consequences arising from a good-faith marriage, particularly with respect to the rights and legal status of children (Muwahid, 2017).

The eighth step clarified the distinction between *ratio decidendi* and *obiter dicta*. The legal construction permitting cumulative adjudication formed the binding reasoning of the decision because it directly determined the procedural and substantive outcome of the case, rather than serving as incidental commentary (Aqya, 2023).

The ninth step reflected contextual argumentation, where the judges acknowledged broader social realities, including forced marriages and marriages lacking genuine consent. This contextual awareness informed their conclusion that rigid statutory application would fail to achieve substantive justice in contemporary marital disputes (Elizatun et al., 2025).

The tenth step involved principle-based balancing, particularly between legal certainty, justice, and expediency. The judges determined that simultaneously granting annulment and divorce constituted the most proportionate and equitable resolution for the parties (Raharjo, 2000).

The eleventh step demonstrated jurisprudential alignment, as the judges' reasoning implicitly followed Supreme Court doctrines emphasizing broken marriage over matrimonial fault, as articulated in Decisions No. 38 K/AG/1990 and No. 28 PK/AG/1995 (Iwannudin, 2024b).

The twelfth step involved procedural argumentation, where the judges treated the annulment claim as contentious jurisdiction rather than voluntary jurisdiction. This ensured adversarial fairness and corrected potential misapplications of procedural law (Muwahid, 2017).

The thirteenth step demonstrated temporal reasoning, particularly in relation to the retroactive implications of annulment rulings. The judges carefully delineated the temporal scope of annulment while safeguarding civil consequences arising from good-faith marriage, demonstrating sophisticated legal argumentation (Mertokusumo, 2020).

The fourteenth step reflected ethical restraint, as the judges avoided moral judgment of the parties' conduct and focused instead on legally relevant facts and normative objectives, consistent with judicial ethics principles (Fadhilah, 2023).

The fifteenth step illustrated integration of religious and positive law reasoning, acknowledging Islamic teachings that discourage divorce while affirming its permissibility when harmony is demonstrably unattainable (Iwannudin, 2024a).

The sixteenth step confirmed rejection of the matrimonial guilt doctrine, shifting the focus from fault attribution to factual marital breakdown, consistent with modern Indonesian jurisprudence (Raharjo, 2000).

The seventeenth step underscored that the statutory grounds for divorce serve as functional benchmarks rather than inflexible requirements. Their relevance depends on whether they lead to the ultimate condition of irreparable disharmony (Mertokusumo, 2020).

The eighteenth step demonstrated judicial creativity within institutional limits, where law creation occurred through structured argumentation anchored in statutes, jurisprudence, and legal principles (Halawa et al., 2020).

The nineteenth step confirmed that judicial argumentation produced a concrete legal norm (law in concreto) capable of guiding future cases involving cumulative annulment and divorce claims (Aqya, 2023).

In conclusion, Decision No. 3000/Pdt.G/2023/PA.JS exemplifies how judicial argumentation operates as a practical instrument of law creation. Through systematic, teleological, and evidence-based reasoning, the judges transformed normative gaps into coherent legal solutions, demonstrating that argumentation theory is not merely abstract doctrine, but a decisive mechanism shaping the development of marriage law in Indonesia.

Legal Construction of Reasons for Divorce in a Cumulative Lawsuit for Annulment of Marriage

In Indonesian marriage law, grounds for divorce are not rigidly interpreted as the mere fulfillment of formal legal elements. Instead, they function as a framework for assessing whether the essential objectives of marriage can still be realized. Consequently, judicial consideration is primarily directed toward evaluating the sustainability of a harmonious marital relationship as the fundamental purpose of marriage (Mertokusumo, 2020; Nurdin et al., 2023).

In the practice of cumulative judgments, judges generally ground their considerations on the divorce grounds stipulated in Article 39(2) of Law No. 1 of 1974 in conjunction with Article 19 of Government Regulation No. 9 of 1975, particularly the ground of continuous dispute and persistent conflict which eliminates any reasonable expectation of reconciliation. This basis, often referred to as the “sixth ground,” has become one of the most dominant foundations for divorce judgments in Indonesia. However, judges do not construe it narrowly as merely physical or verbal conflict; rather, it is interpreted as an indication of a substantially damaged marital relationship (Devy et al., 2023; Muwahid, 2017).

Judicial assessment of the evidentiary facts within the framework of the *broken marriage* doctrine becomes particularly crucial in cumulative divorce petitions. Judges undertake a comprehensive evaluation of the psychological, sociological, and factual conditions of the parties’ marital life, such as prolonged communication breakdown, separation of residence from the early stages of marriage, failure to fulfill spousal rights and obligations, and the absence of mutual commitment to preserve the marriage. These circumstances are deemed sufficient to demonstrate that the marriage has reached a state of permanent rupture (*irretrievable breakdown of marriage*) (Panggabean, 2014).

The *broken marriage* doctrine thus provides discretionary space for judges to assess the substantive reality of the marital relationship without requiring the occurrence of open and repetitive disputes. This approach aligns with the principles of utility and justice, as the insistence on proving continuous conflict may instead perpetuate psychological suffering for the parties. Within this context, the conscientious judgment of the court and the pursuit of substantive justice become decisive elements in determining divorce outcomes (Ali, 2015).

The fundamental distinction between cumulative judgments involving annulment and ordinary divorce judgments lies in the complexity of their legal construction. In ordinary divorce cases, judges merely evaluate whether the statutory divorce grounds are fulfilled in a valid marriage. Conversely, cumulative judgments require judges not only to examine the validity of the marriage and the legal implications of annulment but also to determine the continuity of the marital relationship itself. This situation necessitates deeper and more systematic legal reasoning to safeguard legal certainty and the protection of the parties’ rights (Ardhiwisatra, 2012).

These circumstances require judges to undertake legal construction when positive law does not provide clear or comprehensive regulation. The principle that judges are prohibited from refusing to adjudicate a case on the

grounds of the absence or ambiguity of legal provisions reinforces their obligation to discover the law (*rechtsvinding*). In this regard, judges are not merely tasked with applying statutory texts; they are also entrusted with developing the substantive meaning of legal norms so that the law remains aligned with social dynamics and the community's sense of justice (Muwahid, 2017).

Legal construction in cumulative divorce cases is undertaken through various methods of judicial law-finding, including analogy, legal refinement, and *argumentum a contrario*. Analogy is employed when concrete facts share substantive similarity with regulated legal situations. Legal refinement is conducted by applying norms flexibly and proportionately. Meanwhile, *argumentum a contrario* is applied when empirical conditions demonstrate a situation contrary to the assumptions underlying existing legal norms (Juanda, 2016; Hasanah, 2017).

From a legal-theoretical standpoint, legal construction constitutes an integral dimension of the judicial law-finding process. Judicially discovered law acquires binding force because it is embodied in court judgments, distinguishing it from academic doctrine which serves as an indirect legal source. Judges, therefore, may be viewed as functional law-makers, particularly in contexts where written law remains limited or ambiguous (Mertokusumo, 2020).

The application of legal construction in cumulative petitions for marriage annulment and divorce must also take into account the protection of vulnerable parties, particularly women and children. Marriage annulment may entail significant legal consequences for civil status and economic rights; thus, judges are required to formulate decisions that do not produce new forms of injustice. This orientation is consistent with the broader objectives of law in ensuring protection and substantive justice for all affected parties (Ali, 2015).

Accordingly, the legal construction of divorce grounds in cumulative petitions reflects the active judicial role in harmonizing legal certainty, justice, and social benefit. The adoption of the *broken marriage* doctrine demonstrates that Indonesian marriage law is no longer solely anchored in normative formalism, but increasingly attentive to the substantive realities of marital life. As a result, judicial decisions become more responsive to substantive justice and the fundamental objectives of marriage law itself.

Ijtihad of Judges in the Cumulative Decision on Annulment of Marriage and Divorce

The construction of Islamic law is legal *istinbath*, namely exploring the legal provisions contained in the texts of the Qur'an and al-Hadith, both with a linguistic approach (*lughawi*, *mufradat*) and through interpretive analysis or interpretation. In exploring the messages and intentions of the texts of the Qur'an, an Islamic legal methodology is needed, namely the science of *ushul fiqh* in which the rules of *ushuliyah* and *fiqhiyah* are used. The outcome of this process of legal *istinbath* constitutes the ruling that will subsequently be implemented (*tathbiq al-ahkam*).

If the construction of Islamic law is not found to have evidence from the texts of the Qur'an and hadith or with *zhanni* evidence, then the method used

is al-Ijtihad, according to the terminology of ushul scholars, namely devoting one's ability to produce sharia law from detailed sharia evidence. The field of ijthihad includes two things, namely: (1) something that has no text at all, and (2) something that has an uncertain text. These two fields of ijthihad are very broad objects for carrying out ijthihad. This is because a *mujtahid* engages in research to determine legal rulings through various methodological tools, such as *qiyās* (analogy), *istiḥsān* (juristic preference), *istiṣḥāb* (presumption of continuity), adherence to *ʿurf* (custom), and *maṣlaḥah mursalah* (public interest).

Religious Courts in Indonesia have the authority to decide civil cases related to marriage, divorce, annulment of marriage, and other legal aspects related to Islamic family law (Azni et al., 2025). In the High Religious Court (PTA) of DKI Jakarta, one of the legal issues that often arises is regarding the legal construction in cumulative decisions of cases involving annulment of marriage and divorce lawsuits. In this case, the religious court needs to provide legal certainty regarding two separate but related matters, namely the validity of a marriage and the right to divorce as a way out of marital conflict. In combining or accumulating these two types of cases, the court must navigate between the formal rules and the relevant legal substance and consider justice for the parties to the case (Rahmawati & Rahmi, 2023).

Case accumulation refers to the consolidation of two or more interrelated cases into a single judicial proceeding. In the context of annulment of marriage and divorce lawsuits, accumulation means the submission of two related claims: one related to annulment on the basis of the invalidity of the marriage and another in the form of a divorce petition resulting from conflict or problems in the marriage (Arto, 2010).

This merger is done to save time, costs, and facilitate the legal process, considering that both cases usually have the same or related factual basis and circumstances. In cases of marriage whose validity is in doubt, the aggrieved party may want an annulment, but if an annulment is not possible, the party at least asks for a divorce as a way out (Mertokusumo, 2002).

Cumulative law in civil cases, including in the realm of religious courts, refers to Article 21 paragraph (1) of Supreme Court Regulation No. 1 of 2008 concerning Mediation Procedures in Court, which permits the consolidation of lawsuits as long as there are similarities in the object and parties involved. This is also supported by the Compilation of Islamic Law (KHI) which regulates the basis for annulment of marriage and divorce.

Based on Article 71-72 of the KHI, annulment of marriage can be filed if there are conditions that are not met in the marriage. Meanwhile, Article 116 of the KHI provides a legal basis for a wife to petition for divorce on grounds of conflict or other conditions that render the continuation of the marriage impossible. With this regulation, the accumulation of cases of annulment of marriage and divorce lawsuits basically has a legal basis, as long as the application is based on valid reasons and sufficient evidence.

In the jurisdiction of the DKI Jakarta PTA, cumulative cases of annulment of marriage and divorce lawsuit are usually filed with standard procedures that begin with case registration. In the initial stage, the judge is tasked with verifying the completeness and relevance between the annulment

lawsuit and the divorce lawsuit. If both are substantively related, the judge has the authority to combine the two cases into one trial process. This trial is conducted through several evidentiary hearings that present witnesses and other evidence, where the judge evaluates whether the reasons for the annulment of marriage are valid and/or whether the reasons for the divorce lawsuit are sufficient.

This is where the challenge of legal construction arises, namely ensuring that in one decision, both cases can be decided in a balanced manner without violating the rights of either party. This is necessary to ensure that the consolidation of cases does not produce a judgment that is detrimental or inconsistent with the objectives of the law (Syahrani, 2011).

Judges in religious courts, especially in the DKI Jakarta PTA area, have the authority to conduct *ijtihad* in deciding cumulative cases, especially when formal rules provide less clear guidance. This *ijtihad* requires a profound understanding of Islamic legal principles and the ideals of justice that the law seeks to realize. In cases of annulment of marriage accompanied by a divorce lawsuit, judges not only focus on the formal legal aspects but also consider substantive justice to avoid decisions that will harm the wife or husband. This is where the principle of *maslahah mursalah* or public interest in Islamic law is important, which provides room for judges to decide cases by considering the impact on both parties (Syafe'i, 2001).

Among the biggest challenges in this cumulative case is integrating two different forms of claims in one fair decision. This combination can trigger legal debates about the priority of a stronger case between annulment or divorce, especially if there is an element of unfairness in the grounds for annulment of marriage. To overcome this challenge, it is important for the courts to have clear technical guidelines on the procedure for cumulative decisions. The creation of these guidelines can refer to best practices from previous decisions in other PTAs that have successfully handled similar cases. In addition, continuous professional training for judges in the application of contemporary Islamic legal principles, including the practice of *ijtihad muqayyad* (ijtihad constrained by legal parameters), will enhance judicial precision in adjudicating cumulative cases (Basyir, 1988).

Cumulative decisions in annulment of marriage and divorce lawsuits have an important impact in terms of legal certainty for the community. Cumulative decisions allow the resolution of two cases in one decision, so that the parties to the case do not have to go through a separate long process.

This legal implication has a positive effect on the efficiency of the religious court system, especially in reducing the cost and time of the case. In addition, this cumulative decision also functions as a form of legal protection for the parties, because they obtain legal certainty in a short time, which also strengthens public trust in the religious court system (Azhary, 2003).

The legal construction of cumulative decisions in cases of annulment of marriage and divorce lawsuits in the DKI Jakarta High Religious Court area shows that religious courts have the authority and flexibility to combine related cases, as long as the two claims have the same object or are related in fact. Thus, cumulative decisions not only provide faster legal certainty for the

parties to the case, but also function as one of the court's efforts to prioritize the principles of welfare and justice.

The concept of *maslahah mursalah* plays an important role in forming a legal construction to combine (cumulate) the annulment of marriage and divorce lawsuits in the Religious Court. The principle of *maslahah mursalah* (general benefit that is not directly stated in the sharia text) in Islamic law is the basis for judges to achieve benefits, justice, and goodness in every decision taken, especially in complex and cumulative cases such as annulment of marriage accompanied by divorce lawsuits.

According to Ibn Taymiyyah, when a legal ruling becomes difficult to determine, one should assess the matter based on its *maṣlaḥah* (benefit) and *mafsadah* (harm), and derive the judgment accordingly. To be able to make *maslahah al-mursalah* as a proof in determining the law, Malikiah and Hanabilah scholars prescribe three conditions, namely:

1. This benefit is in line with the will of the Sharia' and is included in the types of benefit supported by the text in general.
2. Benefits are rational and certain, not just estimates, so that the law established through *maslahah al-mursalah* really produces benefits and avoids or resists harm.
3. Benefit concerns the interests of many people, not the interests of individuals or certain small groups.

Fundamentally, scholars of the Shāfi'ī school also recognize *maṣlaḥah* as one of the legitimate evidentiary bases in Islamic law. However, Imam Syafi'i, included it in the qiyas, for example, he likened the punishment for drinking alcohol to the punishment of people who accuse of adultery, namely 80 lashes, because drunk people will talk in their sleep and in their sleep talk it is strongly suspected that they will accuse others of committing adultery. Al-Ghazali, even extensively in his *ushul fiqh* books discusses the problem of *maslahah al-mursalah*. There are several conditions put forward by AL-Ghazali regarding *maṣlaḥah* that can be used as evidence in establishing the law, namely:

1. The *maṣlaḥah* is in line with the types of actions of the sharia.
2. The *maṣlaḥah* does not leave or contradict the *nashh* of the sharia.
3. The *maṣlaḥah* is included in the category of *maṣlaḥah* that is *dharuri*, both concerning personal welfare and the welfare of many people and is universal, that is, it applies equally to everyone.

The following discussion illustrates how the concept of *maṣlaḥah mursalah* contributes to constructing a cumulative legal framework for this case:

1. The Importance of *Maslahah Mursalah* as a Principle of Justice
2. The Principle of Justice and Welfare for the Parties Involved
3. Merger to Avoid Negative Impacts on Children
4. Efficient and Fair Legal Construction
5. Protection of Property and Rights of Maintenance In cumulative cases, annulment of marriage and divorce are usually sued
6. Avoiding Potential for Further Conflict

Malikiyah scholars (Hajib, 1328) and Hanabilah (Jauziyyah, 1977) including the group that accepts *maslahah murrasa* as an argument for establishing a new law whose legal explanation is not explicitly stated in the Qur'an and al-maqbulah. This view is accepted because *maṣlaḥah mursalah* is regarded as an inductive conclusion derived from the collective reasoning of various scriptural texts. Even al-Shātibī affirms that *maṣlaḥah mursalah*, as a methodological principle, attains a *qaṭ'ī* (definitive) status, although its application in specific cases may remain *ẓannī* (probabilistic) (Al-Syatibi, 2002).

In responding to *maslahah mursalah*, quoting from Taufiq Yusuf al-Wa'i that there are four groups, namely the first group that rejects the existence of *maslahah mursalah*, the first group is represented by al-Qadi and some scholars of *ushul fiqh*. The second group, absolutely accepts the existence of *maslahah mursalah*, this group is driven by Malik. Third, can accept the existence of *maslahah mursalah* with conditions. The fourth group is driven by al-Ghazali, who accepts the existence of *maslahah mursalah* only on issues that are from themselves (Al-Wa'i, n.d.).

The application of *maṣlaḥah mursalah* in constructing cumulative rulings for marriage annulment and divorce offers a more humane and equitable approach to case resolution. Through this principle, judges can develop decisions that not only fulfill the formal aspects of the law, but also maintain the welfare and benefit of the parties. Merging these two cases through *maslahah mursal* encourages the creation of a legal process that is efficient, fast and oriented towards comprehensive justice, thus providing better legal certainty for the parties.

Conclusion

This study finds that the legal construction of cumulative decisions in cases of annulment of marriage and divorce within the jurisdiction of the DKI Jakarta High Religious Court is predominantly shaped by judicial *ijtihad* aimed at reconciling conflicting legal consequences arising from *ex tunc* annulment and *ex nunc* divorce. The findings show that judges tend to prioritize substantive justice through contextual interpretation and the application of *maṣlaḥah mursalah*, particularly to protect the rights of women and children while enhancing procedural efficiency. However, the absence of explicit procedural guidelines governing the prioritization and sequencing of cumulative claims remains a significant source of potential inconsistency in judicial reasoning.

Based on these findings, this study recommends the development of clear technical guidelines or a Supreme Court regulation that establishes a structured framework for adjudicating cumulative cases involving marriage annulment and divorce, including the determination of claim hierarchy and their corresponding legal consequences. Additionally, continuous judicial training in Islamic legal reasoning and contextual *ijtihad* is essential to enhance the consistency and quality of cumulative decisions across jurisdictions. Such measures are expected to strengthen legal certainty, promote uniformity in judicial practice, and reinforce the role of Religious

Courts as institutions capable of delivering efficient, equitable, and socially responsive justice in complex family law disputes.

References

- Aditya, M. R. E., Khoirunnisa, D., Fawwas, F., Qiston, A., & Azizah, A. Z. (2023). The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 456-470. <https://doi.org/10.22373/ujhk.v6i2.20059>
- Al-Syatibi, A. I. (2002). *al-Muwafaqat fi Ushul al-Syari'ah*. al-Maktabah al-Asriyah.
- Al-Wa'i, T. Y. (n.d.). *Al-Bid'ah Wa al-Maslahah al-Mursalah: Bayanuhâ, Ta'siluhâ Wa Aqwâl al-Ulamâ Fihâ*. Maktabah Dar at-Turaoe.
- Anishchenko, M. A., Gidenko, I., Kaliman, M., Polyvaniuk, V., & Demianchuk, Y. V. (2023). Artificial Intelligence in Medicine: Legal, Ethical and Social Aspects. *Acta Bioethica*, 29(1), 63–72. <https://doi.org/10.4067/S1726-569X2023000100063>
- Aqya, T. Y. (2023). Kajian Upaya Hukum Kasasi Terhadap Putusan Lepas Tindak Pidana Penganiayaan (Studi Putusan No. 810/K/PID/2014). *Verstek*, 10(3), 615. <https://doi.org/10.20961/jv.v10i3.70045>
- Ardhiwisastra, Y. B. (2012). *Penafsiran dan Konstruksi Hukum*. Alumni.
- Arto, A. M. (2010). *Hukum Acara Perdata Peradilan Agama*. Pustaka Pelajar.
- Azhary, T. (2003). *Negara Hukum: Suatu Studi Tentang Prinsip-prinsipnya Dilihat Dari Segi Hukum Islam, Implementasinya Pada Periode Negara Madinah dan Masa Kini*. Bulan Bintang.
- Azni, A., Hafis, M., Zakariah, A. A., Harmanto, A., Miftahuddin, M., & Ihsan, M. (2025). Pseudo-Maslahah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts. *Jurnal Ilmiah Peuradeun*, 13(2). 1399-1420. <https://doi.org/10.26811/peuradeun.v13i2.2047>
- Basyir, A. A. (1988). *Asas-asas Hukum Islam tentang Perkawinan*. Bulan Bintang.
- Cornut St-Pierre, P. (2023). Securitisation from mortgages to sustainability: circulating techniques and the financialisation of legal knowledge. *Transnational Legal Theory*, 14(4), 476–498. <https://doi.org/10.1080/20414005.2023.2286876>
- Dalziel, J. (2023). Undesirable aspects of Christian and secular universities: Reflections on Judge and Haidt. *International Journal of Christianity & Education*, 27(1), 27–49. <https://doi.org/10.1177/205699712111064257>
- Deulin, D., Petrov, V., & Artyushenko, A. (2023). Analysis of legal and socio-psychological aspects of the childfree phenomenon. *Applied Psychology and Pedagogy*, 8(3), 31–44. <https://doi.org/10.12737/2500-0543-2023-8-3-31-44>
- Devy, S., Amrullah, A., & Zulfiana, U. (2023). Divorce Petition Against Drug User Husband: Case Study of Kuala Simpang Syar'iyah Court Decision, Aceh Tamiang. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 281-297. <https://doi.org/10.22373/ujhk.v6i2.12062>

- Elizaton, E., Mujib, A., & Chaerul Firdaus, M. N. R. (2025). Kedudukan Dalil Al-Quran dalam Pertimbangan Putusan Sengketa Ekonomi Syariah. *Hukum Islam*, 25(1). <https://doi.org/10.24014/hi.v25i1.37591>
- Fadhilah, D. R. (2023). Legalisasi Perkawinan Beda Agama Melalui Penetapan Hakim. *Jurnal AL-AHKAM*, 14(1), 32–53. <https://doi.org/10.15548/alahkam.v14i1.6213>
- Faizal, L., Qohar, A., Wahid, A. A., & Rofi'i, H. Y. (2024). A Critical Analysis of Sayyid Husain al-Ṭabāṭabā'i's Thoughts on Mut'ah Marriage in The Book of Tafsīr al-Mizān. *Al-'Adalah*, 21(1), 199–220. <https://doi.org/10.24042/adalah.v21i1.19381>
- Fitriyani, F. (2021). Sensivitas Gender Hakim Banding Dalam Putusan Kekerasan Dalam Rumah Tangga. *Mozaic : Islam Nusantara*, 7(2), 107–130. <https://doi.org/10.47776/mozaic.v7i2.262>
- Ghazaly, A. (2003). *Fiqh Munakahat*. Kencana.
- Hajib, I. (1328). *Mukhtasar Al-Muntahâ*. al-Matba'ah al-Amīriyah.
- Halawa, M., Munawir, Z., & Hidayani, S. (2020). Penerapan Hukum Terhadap Tindak Pidana Pembunuhan Dengan Sengaja Merampas Nyawa Orang Lain (Studi Kasus Nomor Putusan 616/Pid.B/2015/PN. Lbp). *JUNCTO: Jurnal Ilmiah Hukum*, 2(1), 9–15. <https://doi.org/10.31289/juncto.v2i1.228>
- Hariri, M. R., & Fawzi, R. (2025). Analisis Putusan Hakim tentang Penolakan Hakim Atas Gugatan Pembatalan Perkawinan Karena Paksaan. *Jurnal Riset Hukum Keluarga Islam*, 5(1), 39–44. <https://doi.org/https://doi.org/10.29313/jrhki.v5i1.6491>
- Hasanah, S. (2017). Arti Penafsiran Hukum Argumentum A Contrario. In *Hukumonline. com*.
- Hidayah, A., Syafruddin, R. A., Faralita, E., Fahrozi, F., & Rifani, A. (2023). Empirical Factors of Takliq Talaq Through Electronic Media in View of Positive Law And Islamic Law. *Syariah: Jurnal Hukum Dan Pemikiran*, 23(2), 177–190. <https://doi.org/10.18592/sjhp.v23i2.12255>
- HM, M., Hasan, H., Supardin, S., Fikri, M., & Shesa, L. (2024). The Role of Religious Affairs Office (KUA) of Makassar City in Preventing Marriage Violation under the Maṣlaḥah Mursalah Principle. *Al-'Adalah*, 21(1), 125–148. <https://doi.org/10.24042/adalah.v21i1.17017>
- Iwannudin. (2024a). Consideration of Relegious Court Judges in Lampung Province Indonesia in Marriage Dispensation Cases from a Maslahat Perspective. *Smart: Journal of Sharia, Tradition and Modernity*, 4(2).
- Iwannudin, I. (2024b). Judges' Considerations in Deciding on Marriage Dispensation Cases at Religious Courts in Lampung Province, Indonesia. *SMART: Journal of Sharia, Traditon, and Modernity*, 4(2), 107. <https://doi.org/10.24042/smart.v4i2.24534>
- Jamil, M. J., Idham, A. Z., & Imran, A. F. (2024). Efektivitas Penyelesaian Gugatan Kumulasi (Samenvoeging Van Vordering) Perkara Perceraian dan Hadhanah (Studi Putusan 2402/Pdt. G/2023/PA. Mks). *Jurnal Tana Mana*, 5(3), 331–338. <https://doi.org/https://doi.org/10.33648/jtm.v5i3.712>

Legal Construction of Cumulative Decisions on Marriage Annulment and Divorce Claims at the Jakarta Religious High Court

Ahmad Yani et al.

- Juanda, E. (2016). Konstruksi Hukum dan Metode Interpretasi Hukum. *Jurnal Ilmiah Galuh Justisi*, 4(2), 168–180. <https://doi.org/10.25157/jigj.v4i2.322>
- Judiasih, S. D. (2018). *Perkawinan Bawah Umur di Indonesia: Beserta Perbandingan Usia Perkawinan dan Praktik Perkawinan Bawah Umur di Beberapa Negara*. PT Refika Aditama.
- Juliansyahzen, M. I., Nurlaelawati, E., & Ocktoherrinsyah, O. (2024). Bargaining Equal Spousal Roles in Marital Life: The Phenomenon of Wife-Petitioned Divorce Among Middle-Class Muslims in Yogyakarta. *AHKAM: Jurnal Ilmu Syariah*, 24(1), 37-54. <https://doi.org/10.15408/ajis.v24i1.34038>
- Kamarusdiana, K., Rasyid, H., Imron, A., Purkon, A., Rosyid, M., & Suma, M. A. (2023). Family Dispute Resolution Practices in Kepulauan Seribu (Study of the Role of Religious Leaders, Community and State Apparatus). *Syariah: Jurnal Hukum Dan Pemikiran*, 23(2), 163-175. <https://doi.org/10.18592/sjhp.v23i2.11453>
- Maloko, M. T., Indiyanto, A., Fernando, H., & Larasati, Y. G. (2024). Somp Tanah in Makassar Bugis Customary Marriages: Legal, Religious, and Cultural Perspectives. *Jurnal Ilmiah Peuradeun*, 12(3), 1213-1236. <https://doi.org/10.26811/peuradeun.v12i3.1309>
- Marwan, M., & Mangkupranoto, T. (1986). *Hukum Islam II*. Buana Cipta.
- Maulana, M. T., & Rosalina, M. (2025). Analisis Yuridis Pembatalan Perkawinan Disebabkan Akta Nikah Palsu (Studi Putusan Nomor 1121/Pdt. G/2023/PA. Mdn). *Jurnal Hukum Al-Hikmah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, 6(2), 534–556. <https://doi.org/https://doi.org/10.30743/jhah.v6i2.11541>
- Mertokusumo, S. (1998). *Hukum Acara Perdata Indonesia* (1st ed.). Liberty.
- Mertokusumo, S. (2002). *Hukum Acara Perdata Indonesia*. Liberty.
- Mertokusumo, S. (2020). *Penemuan Hukum Sebuah Pengantar*. Maha Karya Pustaka.
- Mustafid; Gemilang, Kemas Muhammad; Putra, Firman Surya; Al Bajuri, Azzuhri; Mawardi. (2024). Alternative Legal Strategies and Ninik Mamak Authority: Dual Administration of Malay Marriage in Koto Kampar Hulu, Riau. *Journal of Islamic Law* 5 (1):1-18. <https://doi.org/10.24260/jil.v5i1.1972>.
- Muwahid, M. (2017). Metode Penemuan Hukum (Rechtsvinding) oleh Hakim dalam Upaya Mewujudkan Hukum yang Responsif. *AL-HUKAMA*, 7(1), 224–248. <https://doi.org/10.15642/al-hukama.2017.7.1.224-248>
- Nurdin, R., Abdullah, M., Fahmi, Z., & Darna, A. (2023). The Role of Customary Leaders as Hakam in Resolving Divorce: A Case Study in Kuta Alam Subdistrict, Banda Aceh City. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 430-443. <https://doi.org/10.22373/ujhk.v6i2.12710>
- Nurudin, A., & Tarigan, A. A. (2004). *Hukum Perdata Islam di Indonesia*. Kencana Prenada Media Group.
- Panggabean, H. P. (2014). *Penerapan Teori Hukum Dalam Sistem Peradilan Indonesia*. PT. Alumni.
- Pettignano, R., Caley, S. B., & Bliss, L. R. (2011). Medical-Legal Partnership: Impact on Patients With Sickle Cell Disease. *Pediatrics*, 128(6), e1482–

Legal Construction of Cumulative Decisions on Marriage Annulment and Divorce Claims at the Jakarta Religious High Court

Ahmad Yani et al.

- e1488. <https://doi.org/10.1542/peds.2011-0082>
- Prasetyo, A., & Muhsin, I. (2023). The Practice of Sīḥah Marriage among the Rifa'iyah Congregation in Sociological and Islamic Marriage Law Perspectives. *Al-'Adalah*, 20(2), 235-256. <https://doi.org/10.24042/adalah.v20i2.19324>
- Raharjo, S. (2000). *Ilmu Hukum* (Cetakan 5). PT. Citra Aditya Bakti.
- Rahmawati, & Diana Rahmi. (2023). Judges' Opinion in Accepting Divorce Cases with Time Limits (Study of Judges of Balikpapan, Banjarmasin, and Pelaihari Religious Court). *Interdisciplinary Explorations in Research Journal*, 1(3), 337–352. <https://doi.org/10.62976/ierj.v1i3.416>
- Rajafi, A., & Susanti, R. (2023). Kaweng Turung: The Absence of State's Role in Harmful Marriage Tradition. *Ahkam: Jurnal Ilmu Syariah*, 23(1). 171-190. <https://doi.org/10.15408/ajis.v23i1.26358>
- Setiyawan, D., Wahyuningsih, S. E., Hafidz, J., Mashdurohatun, A., & Benseghir, M. (2024). Exploring Abhakalan Culture (Early Marriage) in Madura: A Dialogue of Customary Law, Religion, and The State. *Ahkam: Jurnal Ilmu Syariah*, 24(2), 345-364. <https://doi.org/10.15408/ajis.v24i2.36070>
- Supriyadi, D., & Mustofa. (2009). *Perbandingan Hukum Perkawinan Islam di Dunia Islam*. Pustaka Al-Fikris.
- Suwandi, S. (2008). *Semantik Pengantar Kajian Makna*. Penerbit Media Perkasa.
- Syafe'i, R. (2001). *Ilmu Fiqh dan Ushul Fiqh*. Pustaka Setia.
- Syahrani, R. (2011). *Rangkuman Intisari Ilmu Hukum*. Citra Aditya Bakti.
- Tim Redaksi Nuansa Aulia. (2015). *Kompilasi Hukum Islam* (Cetakan 6). CV.Nuansa Aulia.
- Wirastri, T. D., & Van Huis, S. C. (2024). The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms. *Ahkam: Jurnal Ilmu Syariah*, 24(2), 215-232. <https://doi.org/10.15408/ajis.v24i2.38424>