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MARRIAGE STATUS OF WIFE AND MAFQUD HUSBAND: DIALECTICS OF FIKH FOUR SCHOOLS AND POSITIVE LEGAL TRANSFORMATION IN INDONESIA WITH A DIGITAL-FORENSIC PERSPECTIVE

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Abstract:

The phenomenon of a missing spouse (mafqud) constitutes a multifaceted legal challenge within Islamic family law, juxtaposing the principle of istishhab (presumption of continuity) with the safeguarding of a wife's fundamental rights. This study seeks to examine the legal status of women with mafqud husbands via the framework of the four principal Islamic schools of jurisprudence (Madhabah) and their evolution into the Indonesian Compilation of Islamic Law (KHI). Also, this study takes a new approach by using digital forensic evidence and psycho-juridical well-being as modern standards for figuring out how certain the law is.

The results show that classical jurisprudence (specifically the Hanafi and Shafi'i schools) tends to favor longer waiting periods, while the KHI takes a more progressive approach by allowing divorce after a two-year absence. This study's newness suggests that the meaning of "missing" needs to change in today's world of hyper-connectivity. The lack of a "digital footprint" (social media activity, financial transactions, or GPS logs) should be the main reason for speeding up court rulings. This study finds that the Indonesian legal system has to move away from a strictly duration-based strategy and toward a more comprehensive model that puts the wife's mental health and digital traceability first in order to avoid the harm of mu'allaqah (liminal marital status).

Keyword : Mafqud, Islamic Law, Digital Evidence, Indonesian Compilation of Islamic Law, Women's Rights, and Legal Certainty are some of the words use

Introduction

In Islam, marriage is viewed as a sacred connection known as mitsaqa ghalizhan, a steadfast agreement that necessitates shared duty between husband and wife to establish a family characterized by sakinah, mawaddah, and warahmah (Syarifuddin, 2014: 5). In a normal marriage, the husband is the qawwam (leader) and is responsible for providing his wife with both physical and spiritual support as well as legal protection (Mughniyah, 2015: 112). This ideal order, however, frequently encounters the reality of the husband's disappearance without a trace or clear information, a situation referred to in fiqh as mafqud.

The mafqud situation makes the law exceedingly unclear for a woman. She is in a mu'allaqah position, which means she is "dependent." She is not a widow who can remarry, and she is not a wife who has functional rights. This is against the principles of Maqasid al-Shariah, especially when it comes to hifz al-nafs (protection of the soul) and hifz al-nasl (protection of offspring), because the woman has to deal with the financial and emotional stress for an unlimited amount of time. The ambiguity surrounding the legal determination of a husband's death (maut hukmi) has engendered significant discord among jurists. This disparity is an important way to figure out how fair the husband is to the wife.

1. Hanafi school: Holds an extremely conservative position in order to maintain the certainty of the original law (istishab). A wife can only remarry if her husband is 90 years old (the same age as her husband's peers), which is almost hard for a lady to wait for in today's world (Zuhaili, 2011: 450).
2. Shafi'i school: Its qaul qadim (constitutional ruling) often agrees with the Hanafi school. But over time, judges have been given the power to use ijtihad based on the situation at hand.
3. Maliki School: Offers a more flexible approach to women's rights. If a husband goes missing and no one knows where he is after a complete search, the judge can set a waiting time (mudarrah) of four years, followed by an iddah wafat period of four months and ten days (Ash-Shiddieqy, 2010: 188).

4. Hannibal School: Differentiates between disappearances occurring in "presumed safe" contexts (e.g., trading) and those deemed "presumed perished" (e.g., in warfare). This difference shows that classical fiqh was based a lot on the evidence that was available at the time, such as witnesses and how long something happened.

Law No. 1 of 1974 and the Compilation of Islamic Law (KHI) changed Islamic law in Indonesia. Article 116 letter (b) of the KHI says that one reason for divorce is one party leaving the other for two years in a row without permission and without a good reason. This is in line with the Maliki School of Law's idea of breaking the cycle of suffering for wives. The Supreme Court of the Republic of Indonesia's 2022–2023 Annual Report has some troubling statistical figures that reveal a trend:

- a. Divorce cases where "one party leaves" are always in the top three reasons for divorce in Indonesia, along with conflicts and money problems (Supreme Court of the Republic of Indonesia, 2023).
- b. Every year, thousands of wives in Indonesia get divorced because their husbands don't know where they are or don't want to talk to them.
- c. "Invisibility Summons" through the mass media still play a big role in the Religious Courts' evidence process. These are often only administrative formalities that don't truly identify the defendant.

Law enforcement faces special obstacles in mafqud cases in Maluku Province because of its archipelagic geography.

- a. Geographical Characteristics: A lot of husbands in Maluku work in the maritime sector (shipping or long-distance fishing) and travel from one island to another. The Ambon and Tual Religious Courts often see cases where men "disappear" after saying farewell to travel to sea or move to mining locations like Halmahera.
- b. Issues with local evidence: In archipelagic areas, witnesses typically simply know that their spouses "went away," but they can't find out where they are on other islands (Wance, 2022: 12).
- c. Judges' Dilemma: Judges in Maluku often have to choose between issuing a default judgment (without the defendant's presence), which could lead to the husband going bankrupt if he suddenly shows up, or delaying the ruling, which would make the wife suffer longer. This shows that in today's world of internet connectivity, a time-based strategy (two years) or just family witnesses is no longer enough.

Even while the old way of gathering evidence is stuck, new developments in information technology give a fresh way to look at things. In the digital age, the meaning of "missing" (mafqud) should change from "physically missing" to "digitally missing." Digital forensics is a very important step in changing Islamic law. In Maluku, a spouse may not be seen by his family, but his digital footprint may never be fully erased. This study's digital forensics point of view gives us additional evidence in the form of Financial Traces: These are records of banking or e-wallet transactions that took place at certain places (Rahardjo, 2019: 76). Geolocation Traces: Data from

Google accounts or social media that show the husband's last known location. Communication Traces: Using NIK to sign up for a digital service or doing something on a mobile device.

If a forensic investigation shows that a husband is still using his phone but is ignoring his wife on purpose, the status is no longer unknown mafqud, but rather deliberate neglect. It is hoped that combining comparative fiqh, Indonesian positive law, and forensic science can make the law better safeguard wives in Indonesia, especially in island areas like Maluku. This study looks at how the Four Schools of Law (Mazhab) approach the legal structure of mafqud and how it relates to the rights of spouses in the modern world. The change in Islamic law in Indonesia, as described in the Compilation of Islamic Law (KHI), and how it is used in regional Religious Courts to deal with the difficult issue of "missing" evidence in divorce cases brought by husbands with mafqud is what this is all about. Lastly, it will look at where and how digital forensic evidence can be used in Religious Court procedural law as a way to modernize the process of proving mafqud status and make the law more fair.

Research Methodology

This work employs a normative-empirical legal research methodology to analyze the alignment between classical Islamic legal philosophy and contemporary evidential practices. This study analyzes fiqh texts and legislative laws from a normative perspective, while also evaluating the efficacy of digital evidence in modern court practice from an empirical standpoint. The methodologies utilized encompass a comparative analysis of the fiqh literature from four schools of thought concerning the criteria of mafqud (lawful evidence); a statutory examination of the applicability of Law No. 1 of 1974, the Compilation of Islamic Law (KHI), and the ITE Law in relation to the legitimacy of digital evidence; and a case study focused on the evaluation of court rulings in the Maluku region pertaining to instances of husbands abandoning their partners.

The data in this study are derived from both secondary and primary sources. Secondary data includes primary legal materials like the standard works of the four schools of thought (Al-Umm, Al-Mughni, and Bada'i ash-Shana'i), Presidential Instruction No. 1 of 1991 about the Compilation of Islamic Law (KHI), and copies of judges' decisions from the Maluku Religious Court. There were additional secondary legal materials consulted, such as legal publications, digital forensic research results, and the Supreme Court's annual reports. Structured interviews with judges at the Maluku Religious Court and information technology professionals were used to get primary data. This was done to look at the technical side of cyber tracking.

Data collection methods encompassed library research to investigate classical and contemporary literature on the mafqud phenomenon, documentation to obtain copies of divorce decrees filed in the Ambon and Tual Religious Courts, and comprehensive interviews to examine the processes for incorporating digital evidence into Islamic civil procedural law. The research area was selected in Maluku Province because to its archipelagic geography, which poses distinctive evidentiary obstacles in monitoring persons. The gathered data were subsequently subjected to descriptive and qualitative analysis employing a deductive methodology, executed in

three phases: data reduction to isolate pertinent variables, data presentation via systematic narratives and comparative tables, and verification to ascertain conclusions concerning the alteration of a wife's legal status from a digital forensic standpoint.

RESULTS AND DISCUSSION

A. The Dialectic of Classical Fiqh: Balancing the Husband's Rights with the Wife's Protection

In ancient jurisprudence, the discussion of what happens to wives whose husbands depart without telling them (mafqud) is a fight between two basic legal ideas: Yaqim (belief) and Dharar (damage). On one hand, being married is a belief that can't be changed by doubt (al-yaqīnū lā yuzālu bi asy-syakk). Conversely, abandoning a wife without assurance of her status constitutes genuine damage.

The Conservative Paradigm are The Hanafi and Syafi'i Schools (Qaul Jadid) are especially concerned to protect the husband's property rights (milk) over the marriage bond. The Hanafi school follows the rule of istishab, which says that marriage is still valid as long as there is no clear proof of death. Al-Kasani says that a wife can't be married again until all of her husband's friends in the neighborhood have died (Al-Kasani, 1986). The reason for this is to protect the rights of the missing spouse so that his wife doesn't end up with another man illegally. The Shafi'i school (Qaul Jadid) agrees with this perspective and stresses that being physically absent does not immediately end the legal relationship. It is necessary to have solid proof or a court decision to determine death after reaching the maximum age limit for human life (Yahya bin Syaraf an-Nawawi, 2025). In this scenario, safeguarding the integrity of the marriage contract supersedes the socio-biological responsibilities shouldered by the woman.

The Maliki and Hanbali Schools have Moderate and Progressive Paradigms. The Maliki and Hanbali schools provide more adaptable solutions to the emergencies faced by women, in contrast to the preceding two schools of thought. The Maliki school clearly supports the rights of women. Imam Malik said that if a wife tells a judge that her husband is missing during peacetime, the judge must provide her a four-year waiting period after doing the best search possible. (Ibn Rushd, 2004). This four-year number comes from the ijtihad of the Companion (Umar ibn Khattab r.a.), which is seen to be enough to show a protracted search cycle and waiting period. After that time is up, the wife has to wait (iddah wafat) for four months and ten days before she can marry again. The Hanbali school uses a strategy that takes into account the situation. If the husband goes missing and it is quite likely that he is dead (zahir al-halak), such as if he goes missing on the battlefield or a ship sinks while other passengers die, then the waiting period is merely four years. The length, however, is 90 years if the person is lost in a safe place. (Ibn Qudamah, 1997)

Transition from Property Rights to Individual Safeguarding. The aforementioned dialectic illustrates divergences in legal approach. The Hanafi and Shafi'i schools of thought stress "Certainty of the Contract," which means that the husband has an absolute right to the sacred tie of marriage. The Maliki school, on the other hand, stresses "Subjective Justice for the Wife." It

sees forcing a wife to wait forever as a type of oppression (zhalim) that goes against the principle of affection (mawaddah) in marriage. This distinction is not only about how many years have passed; it is also about the nature of justice. The Maliki view, which sets a four-year limit, is an important basis for reforming Islamic family law in many modern Muslim countries, such as Indonesia. This is because it is thought to be the most in line with the Maqasid al-Shari'ah principle of protecting the soul (hifz al-nafs) and children (hifz al-nasl).

B. Legal Study of the Compilation of Islamic Law (KHI) and the Change of Islamic Law in Indonesia

The Compilation of Islamic Law (KHI) changed Islamic law in Indonesia in an effort to make the law more consistent with the demands of Indonesia's diverse Muslim culture. In the case of a spouse who is in a state of law (mafqud), the KHI does not strictly adhere to one school of thought. Instead, it seeks a synthesis that favors the wife, who is the party most affected monetarily and socially.

The decision on the time limit for waiting is one of the most important legal changes in the KHI. The Maliki School says to wait four years, and the Hanafi School says to wait decades. But the KHI says in Article 116 letter (b): "One party abandons the other party for two consecutive years without the other party's permission and without a valid reason or for reasons beyond their control." (Presidential Instruction, 1991). The two-year period is a type of legal ijtihad that takes into account the social conditions in Indonesia. Two years is a reasonable limit for both mental and financial health. The KHI changes the burden of proof in a legal way. A wife no longer has to establish that her husband is "dead" (as in the classical mafqud idea). Instead, she only has to prove that he "left the shared residence" without telling her and without support. Choosing the lowest school of thought to shorten the waiting period is the right thing to do.

The Compilation of Islamic Law (KHI) not only has the shortest waiting period, but it also makes the wife's legal action possible through a Complaint-Based Divorce (Article 132 of the KHI). In Indonesian religious courts, the "Ghaib Divorce" method is used to handle cases of husbands who are missing. This follows the legal principle of al-hakim yarfa'u al-khilaf, which says that the judge's ruling ends any disagreements (Amir Syarifudin, 2006). In this case, it is vital to remember that the KHI puts the complaint-based divorce process ahead of finding out if someone has died. This is because a divorce decision has stronger legal effects on a wife's ability to remarry. In this case, the Indonesian Islamic Law (KHI) uses the principle of takhayyur, which means choosing the legal opinion that is most helpful. This means that an opinion that helps the wife get over her problems (raf'ul haraj) is more important than keeping a marriage that has already broken down. The judge's decision to grant a supernatural divorce serves as a means of justice for the wife whose husband has abandoned her. Articles 171 and 172 of the KHI also deal with the material issues of the missing husband, which have effects on inheritance and the status of their possessions. Article 171 (g) of the KHI says that heirs must be related to the testator by blood or marriage "at the time of the testator's death." It is hard to know when the testator died. Article 172 of the KHI gives the judge the power to declare the missing individual dead. (KHI, 1991) There is

a dualism in practice; the wife uses Article 116 (2 years) for personal status purposes (remarriage). Judges are usually more careful when it comes to inheritance and typically set a lengthier time restriction (4 years or more) based on their own ijtihad to make sure that the heir's property rights have really changed hands because of the strongly suspected death. So, it's apparent that the Compilation of Islamic Law (KHI) is biased in favor of women's rights. The state stops the practice of "hanging wives" (al-mu'allaqah) by making sure that status is certain within two years. This change changes the way we think about mafqud from "the fate of a missing husband" to "the wife's right to keep living." The KHI does a good job of balancing people's right to privacy with the needs of society in order to keep order in population management and citizens' civil standing. (Idris, 2004)

C. Jurisprudence Analysis: An Examination of Religious Court Rulings in Maluku Province

Maluku Province, characterized by its archipelagic landscape and predominance of rivers, provides a distinctive contribution to the typology of mafqud and supernatural divorce cases. According to the Supreme Court Decision Directory, a lot of the cases at the Ambon Religious Court (PA), Masohi Religious Court (PA), and Tual Religious Court (PA) are about a husband going missing while at sea or traveling between islands without telling anybody. The Ambon Religious Court Decision No. 452/Pdt.G/2021/PA. The judges in Ab had to deal with the issue that the defendant (husband) had left the plaintiff (wife) for years without a known address in or outside of the Republic of Indonesia. People in Maluku regularly talk about Article 116 (b) of the Compilation of Islamic Law (KHI), which is based on geographical facts. Judges are more likely to ease the burden of proof if there is evidence that the husband was last seen sailing in waters that are known to be dangerous.

The judge in the Masohi District Court said that leaving a woman without physical and spiritual assistance for more than two years in an archipelago, where women typically have trouble getting jobs, is a clear kind of injury (dharar). This decision shows that judges in Maluku don't just care about the "2 years" number; they also care about how bad the woman is suffering because she is in a rural area without the financial assistance of a legal husband. This situation shows how to balance process and the harm (dharar) that could happen. According to Article 27 of Government Regulation No. 9 of 1975, summonses must always be sent out through the mass media (newspapers or formal announcements at the regent's or mayor's office). But when it comes to substance, judges in Maluku commonly utilize the word "Hifz al-Nafs" as the basis for their decision.

In the jurisprudence of the Maluku Religious Courts, the phrases "Ghaib" (unknown address) and "Mafqud" (lost without knowing life/death) are used in the same way. Judges in court usually prefer to use the "Ghaib Divorce" construction. This is done because it's easier to prove that the husband is absent and not giving support than it is to prove that he is "legally dead" (mafqud), which involves a more complicated death determination procedure. This analysis bolsters the assertion that in insular regions like Maluku, legal certainty via a judicial ruling is the sole

"lifeline" for wives seeking to extricate themselves from a marriage that has effectively concluded (Latuconsina, 2022).

D. Sociological Analysis: Maritime Culture and the Fragility of Women's Status in Maluku

A normative legal analysis of mafqud instances would be deficient without an examination of the sociological foundations underlying the enforcement of the law. In Maluku Province, the sociology of marriage law is significantly shaped by two primary factors: the geographical features of the archipelago and the organization of a maritime society, both of which exacerbate the precariousness of women's status. Maritime culture requires substantial occupational hazards because most Muslims in Maluku, especially those who reside near the coast, like in Central Maluku, East Seram, and the Aru Islands, rely on the maritime sector for their jobs. Husbands who work as traditional fishermen or merchant seafarers (ship crew) are in a lot of danger. In this context, the occurrence of "husbands not returning" is frequently regarded as an aspect of professional risk.

However, from a sociological standpoint, the lack of physical proof of bodies or shipwrecks results in a phenomenon of "delayed grief" for wives. Wives in Maluku often feel pressure from society. On the one hand, they are expected to wait obediently for the "miracle" of their husband's return, while on the other hand, they have to meet urgent financial needs to maintain their children on their own. This also puts a wife whose spouse has gone missing without a word in a strange social position. In the community, it is morally wrong for a wife to file for divorce too soon because it shows that she is not faithful to her husband, who "might" be having a hard time at sea. However, sociological reality indicates that women in Maluku have a hard time getting government help, finding schools for their kids, and dealing with other men since they are seen as bad people. Consequently, Religious Court rulings on supernatural divorce in Maluku serve not merely to dissolve civil ties, but as a means of social rehabilitation that reinstates women's dignity and mobility within the indigenous group. (Syarifuddin Jurd, 2010)

Maluku has a sociological trend of economic migration to Papua or other countries (such Malaysia or Australia), in addition to maritime concerns. A lot of spouses depart and subsequently stop talking to their wives. This leads to the situation where the "wife" of the leader of the home is actually someone else." Sociological analysis indicates that the two-year limit in the Compilation of Islamic Law (KHI) is particularly significant in Maluku, as after two years without remittances (maintenance) and communication, the food security and psychological stability of families in the archipelago will deteriorate to a critical level. (Sociological Research Report from Pattimura University, 2023)

For women in rural parts of Maluku, getting to the Religious Courts in the district capitals is often hard because the sea journey is so expensive. From a sociological point of view, this is a structural barrier. Digital evidence is very important in the Maluku environment. If the courts can confirm "missing" status using online telecommunications or immigration data, the obligation for wives to procure witnesses from remote islands may be alleviated. This will provide women in the

archipelago true justice that is not only fair but also takes into account the geography and systemic poverty that often come with mafqud cases in the archipelago.

E. Reinterpreting the Concept of Mafqud in the Digital Era: Incorporating Digital Footprints.

In the current age of hyper-connectivity, the notion of "missing without a trace" (mafqud), as delineated in ancient Islamic jurisprudence (fiqh), encounters a sociological oddity. In the time of Imam Malik or Imam Shafi'i, a person's disappearance was mostly due to physical hurdles and transportation problems. But in the 21st century, a person's existence leaves a mark that lasts almost forever in cyberspace. The author contends that the legal process for mafqud must evolve from passive waiting to an active search utilizing digital data.

The Digital Footprint paradigm as Contemporary Evidence represents an innovative discovery in this field. Digital footprints are the main thing that determines whether someone is mafqud. It is known that a person who is really lacking biologically should not be doing anything online. If a husband who is missing is still using social media, makes transactions through an e-wallet, or is registered in a GPS location log, on the other hand, his status can no longer be legally classified as mafqud in the traditional sense. In particular, this digital forensic evidence can be seen as reliable in many ways, including by following the activity of debit/credit cards or e-wallets (OVO, Dana, GoPay) to see where money is going. If a husband who "disappeared" in Maluku used an ATM in a port or in another city within two years, he was no longer mafqud (implying guilt) but had voluntarily neglected it (Rahardjo, 2019: 78). Also, you may find out where someone is by looking at their active social media accounts (like Facebook or WhatsApp) or their previous logins. This makes it clear where the husband was last seen. You can also trace service registration at these places, such as when you use a National Identification Number (NIK) to register a SIM card or buy a ticket for a plane or ship. This evidence can be categorized as qarinah qath'iyyah (strong suspicion nearing certainty) from a procedural standpoint. Researchers contend that the Supreme Court should implement a regulation (SEMA) mandating judges in supernatural divorce cases to obtain evidence of minimum digital tracking attempts (such as bank transfers or verifying the location of a cell phone number) prior to delivering a ruling (Rahardjo, 2019: 92). If digital traces are discovered and the husband continues to reject communication or maintenance, the court possesses a significantly more robust foundation for adjudicating the case, grounded not in "ignorance of the husband's fate," but in deliberate abandonment. This speeds up the legal process for the widow without having to wait for the strict two-year time limit if digital proof shows that the husband intentionally disappeared (Musdah, 2004).

In this context, the Reconstruction of the Waiting Period via digital forensic data safeguards the wife's mental health. In classical Islamic jurisprudence and the Compilation of Islamic Law (KHI), the primary focus is on "time" (the number of years), so it is deemed necessary to consider a psycho-juridical approach, where the psychological state of the abandoned wife is a determining factor in expediting the verdict. The psychological effect of a wife whose spouse goes missing is the same as the trauma of losing someone for a long time. The author contends that if a woman

can furnish medical or psychiatric proof demonstrating the effects of sadness or anxiety stemming from her ambiguous status, then, under the principle of al-maslalah al-mursalah, the judge ought to grant a dispensation to expedite the ruling. This is in line with the idea of Maqasid al-Shari'ah when it comes to hifz al-nafs (safeguarding the soul). Justice should not be postponed (justice delayed is justice denied) just because of the anticipation of administrative legal calendars. [2]

To make sure that digital forensic evidence may be used, the Courts and State Institutions need to work together to make processes and procedures easier. This study suggests the amalgamation of information systems between the Supreme Court (SIPP) and several entities, including Immigration, Dukcapil, and telecoms service providers. In instances of mafqud (the cause of death), the court may initiate a Digital Forensic Inquiry to ascertain whether the missing individual continues to traverse borders or utilize mobile devices. This change changes the type of proof from subjective-testimonial (testimony from family members) to objective-scientific (digital data). This means that the wife's legal position is no longer based on the fantasy of being "lost in the jungle," but on real facts in the digital world. This is a type of modern legal ijtihad that is useful for keeping women as safe as possible from systemic harm.[3]

Conclusion

This study identifies an imperative necessity for the advancement of Islamic thought, moving beyond the binary distinctions in ancient Islamic law about the status of a mafqud wife. The Hanafi and Shafi'i schools (Qaul Jadid) give the principle of istishhab the most importance in order to protect the husband's ownership rights under the marital contract. This means that the husband has to wait a considerable time (up to 70–90 years of age). The Maliki and Hanbali schools, on the other hand, are more modern and prescribe a lower time limit (usually 4 years) to protect the wife from harm (dharar). To make this situation legal in Indonesia, the Compilation of Islamic Law (KHI) needs to be harmonized. This has changed the law by making the middle ground shorter, to 2 years, as stated in Article 116 letter (b). This moves the legal focus from proving the husband's "biological death" to proving "sociological neglect," which gives the wife legal certainty more quickly through the Divorce Lawsuit mechanism. What is crucial now is the need to rebuild the law in this digital age, which is also known as hyper-connectivity. We need to change the meaning of mafqud to fit these new situations. A person's disappearance is no longer gauged merely by their actual absence, but rather by the lack of a digital footprint. Consequently, the author contends that the amalgamation of digital forensic evidence, underpinned by the acknowledgment of the right to progress, constitutes the core of contemporary Maqasid Sharia. In the end, this integration helps preserve women's reproductive rights, economic rights, and mental health, which are typically ignored in formalistic procedures.

Consequently, amendments are imperative to elucidate the Compilation of Islamic Law (KHI) and the Civil Procedure Code in the Religious Courts, explicitly acknowledging digital evidence (including social media footprints and banking transaction data) as a means to bolster judges'

confidence in adjudicating cases of the occult (mafqud). Also, judges in religious courts should not only pay attention to the two-year time restriction for administrative matters, but they should also be more brave in using a psycho-juridical approach. If there is clear proof that the wife's mental health and reproductive rights have been hurt by the uncertainty of her status, the judge can make a quicker decision based on the principle of maslahah mursalah. At the same time, it is suggested that the Supreme Court, the Ministry of Law and Human Rights/Immigration, the Ministry of Home Affairs/Dukcapil, and telecommunications companies work together to create technical cooperation (MoUs) so that judges can get access to missing person tracking data. This is also vital to change the way we prove that someone is missing from just depending on what family members say to using precise scientific facts.

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