



Proceeding of 2nd Malikussaleh Internasional
Conference on Law, Legal Studies and Social Science
(MICoLLS) 2022

Divorce Wife Against Husband During The COVID-19 Pandemic
(Research Study At The Bireuen Syar'iyah Court)

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Abstract

This study aims to find out and analyze the legal arrangements for divorcing the wife against her husband during the Covid-19 pandemic from the aspect of Civil Law, Islamic law, the Civil Code and to find out and the purpose of divorce from the wife against her husband in terms of the Criminal Code. The type of research used to answer these problems is juridical-empirical law research using an empirical approach. Data was collected through interview studies and field research. The data analysis used was qualitative analysis. The results showed that the wife's divorce against her husband during the Covid-19 pandemic was the result of economic factors, infidelity and domestic violence. Divorce is a marriage that breaks up as an application submitted by the wife to the Religious Court, which then the respondent (husband) approves, so that the Religious application is the intended application. In Article 39 paragraph (1) of Law no. 1 of 1974, explains that divorce can only be done before the court after the court concerned has tried and failed to reconcile the two parties. Divorce is interpreted as separating or breaking up the relationship as husband and wife. So "divorce" is a word that refers to the circumstances of the meaning of the word "divorce". So it can be understood that in a divorce, what is broken is the relationship as husband and wife, therefore both are no longer allowed to hang out with husband and wife in general. Divorce is the beginning of the destruction in the household caused by the couple themselves and from the many disturbances from other parties. The results obtained indicate that the factors that cause divorce are economic, infidelity and domestic violence. This is what causes divorce.

Keywords

Divorce, Lawsuit for divorce, Pandemic Covid-19.

Introduction

Demands for divorce from husband's wives during the Covid-19 pandemic are increasing from year to year. Divorce has become commonplace in today's society because circumstances and circumstances have changed quite differently from previous societies. This is due to a dispute that led to the divorce of the wife from her husband. The Covid-19 pandemic has had a major impact on people's lives, both economically, politically and socially. Therefore, it cannot be denied that the impact of Covid-19 in today's life is very large and has caused many changes in human life today.

The Covid-19 pandemic has had a detrimental effect on the thermal and external life sectors, including the most important health factor, most of which have lost their luster during this pandemic. workers who make ends meet. In this case, the loss of workers causes the loss of their main income. This is why so many conflicts in the past home ended in divorce. In marriage, we know that a good divorce is not allowed, but nothing can completely sever the marital relationship or a quality wife. In this hall, Islam allows divorce from the most executed to the last step. Such a divorce is always the opposite. Divorce is something that God hates, but know that God hates it.

Dissolution of the marital relationship The divorce lawsuit was due to the delay of the wife's application filed in the Algalmal Court, which was later accepted by the defendant (Salmi), so that the lawsuit was about to be submitted to be granted. In general, litigation means the wife files for divorce through a court process, and the parties in court accept the lawsuit, with the aim of breaking the litigation relationship with the plaintiff (wife) Article 38 of Law no. 1 of 1974 concerning "marriage is death, divorce and on a court decision. The dissolution of a marriage due to death does not require special discussion because neither of the aggrieved parties both recognize their responsibilities and rights". Article 39 paragraph (1) of Law no. 1 of 1974 explains about "divorce can only be carried out in front of a court session after the court concerned has tried and failed to reconcile the two parties and related to article 39 paragraph (2) of the Marriage Law, it is explained that, first, divorce can only be carried out in front of a court session. . Second, in order to divorce, there must be sufficient reason that the husband and wife will not be able to get along as husband and wife. Then in Article 115 of the Compilation of Islamic Law states that "divorce can be carried out in front of a Religious Court trial, after the Religious Court has tried and failed to reconcile the two parties" Although the couple in their married life was initially full of love, it did not seem to fade away. But in reality, if this love is not nurtured, it will fade and can even turn into hatred. Hatred is born, and if husband and wife are not sincere in finding a way out and getting their love back, it will lead to divorce. The absence of bickering in the home is hard to explain, but there are many forms of contention, such as domestic art and rhythms that do not compromise harmony, and some lead to existential, protracted, existential chaos.

The divorce. This is very basic, especially since the courts have the power to decide whether divorce is really possible. The reason for the divorce is also very determined, including all decisions regarding the outcome of the divorce. The rise of divorce in society is often an indication and reason for divorce itself, because many family problems have not been resolved wisely. The family ark is society. If in the past the divorce process in marriage was taboo and embarrassing, then it has become a perception that divorce has become a widespread phenomenon in society. Basically, the occurrence of divorce cannot be separated from various factors that affect the integrity of the marital bond. There are many reasons why a wife files for divorce from her husband, both external and internal in the family. The Marriage Act distinguishes between divorce initiated by the husband, known as talak, and divorce initiated by the wife, known as court divorce.

According to Indonesian law, divorce is included in the scope of civil law and is a complaint offense where if one of the parties files a divorce suit to the court, the divorce process is carried out in the religious courts for Muslims as well as the district courts for non-Muslims. At the Bireuen Syar'iyah Court, most of the ordinary or middle class people applied for divorce for various reasons. Of course, these reasons can be influenced by various factors present in a particular life. The number of couples filing for divorce is increasing every year. Especially as a result of the Covid-19 pandemic which has shaken human life in the health sector and the public economy. Getting married at a young age often has negative consequences without realizing it. Divorce does not only occur in young couples but also in married couples, but one of the consequences of getting married at a young age is divorce.

From the grasshoppers flow above, the researcher finds it important to study it with the title " Divorce Wife Against Husband During the Covid-19 Pandemic (Research study in Mahkamah Syar'iyah Bireuen)".

1. Economic Factor

During the COVID-19 pandemic, many divorces are mainly caused by financial factors which are one of the causes of disputes and quarrels between couples. Especially during the Covid-19 pandemic, the reduction in workforce and widespread social restrictions in the workplace have made many people lose their jobs, making it difficult for workers to carry out their daily tasks. Profitability is also one of the key factors for starting a family, a factor that supports the success or failure of a family. Furthermore, the impact of these economic problems raises several other problems, for example:

a. Responsibility

The responsibility factor was also used as a reason for filing a divorce suit at the Bireuen Syar'iyah Court. Lack of responsibility highlights neglect of family obligations. The reason that the Bireuen Syar'iyah Court does not have jurisdiction over divorce means that the husband is not responsible for supporting the household. Moreover, my husband rarely comes home.

b. Dispute

This factor is very common in family relationships, and not only in marital relationships, but also in everyday life. No couple always gets along without fighting, but when a fight occurs, a man and a woman must find a way out of the marital relationship by deciding on divorce.

c. Communication

Communication factors include factors that affect household harmony between spouses and children. Good communication between family members makes families feel better, happier and love each other more.

2. Infidelity Factor

The factor of infidelity is one of the most common today because it is caused by selfishness on one side, while the other is caused by a dispute between two parties which causes them to lessen or stop loving their partner. As a result, people think of having an affair, thinking that it creates a new atmosphere in them. Outside the home, and cheating on their partner can bring them more happiness.

a. Third party interference factor

This factor is usually associated with husbands or wives whose parents still have both parents, or couples who do not approve of their second marriage, so that parents and family members persuade them to divorce due to lack of services or money transfers. This usually happens in both cases. The couple went abroad. And this is one side, if for example a woman goes abroad and a man returns, if there is a transfer the money will not be spent properly.

b. Moral factors (morals)

If the couple's morals and knowledge about household management are bad, then the of the household will be lost, so household management is an element that must be maintained at all times. Morals (morals) between two partners. Create beautiful and powerful harmonies.

3. Domestic Violence Factor

However, this factor is extremely dangerous and worthless even in an angry state. Violence, especially against wives and children, causes deep trauma for victims. Factors that cause domestic violence can be caused by various factors, including: Constant fighting, no one wants to give in, no one wants to get drunk, often emotional and out of control. The woman decided to file for divorce because it caused a rift and left the woman physically and emotionally hurt and unable to tolerate her husband's treatment. District Court.

4. Efforts to resolve the high rate of divorce during the Covid-19 pandemic

Efforts to resolve the high level of divorce in the Bireuen Syar'iyah Court are through peace efforts or PERMA No.1 of 2016 which contains "mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the parties with the assistance of a mediator". Second, efforts to overcome the high divorce rate during the current pandemic can also be done through preventive efforts, namely efforts to prevent unwanted things such as divorce in the future.

Based on the theory of legal validity put forward by Soerjono Soekanto, the validity of a law is determined by five factors. Since these factors have a neutral meaning, positive and negative effects exist in the content of these factors. The first factor is the legal factor itself. Namely, the Decision of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning the Court Mediation Process. The second factor is the law enforcement factor, namely the judicial apparatus who are in the vicinity of the religious courts. The third factor is the institutions and facilities that support law enforcement. Because without certain institutions and facilities, law enforcement is impossible.

Result

Obstacles in the Implementation of Resolution of High Divorce Lawsuits During the Covid-19 Pandemic The success and failure of mediation are so triggered by the supporting and hindering factors along the mediation mechanism. The following are the factors that support the success of mediation, namely:

1. Strong desire of the parties to divorce

Both parties have a very strong desire to divorce, but when one of the parties mediate, they feel that the religious court is the last place for divorce and not the place to seek solutions or advice from people who want to divorce. Knowing and understanding about marriage. The arrival of the parties to the religious court usually occurs after the family has made peace efforts. This is because Indonesia itself still adheres to adat. This is different from a country that only obeys its own laws.

2. There has been a prolonged and very complex feud

In such a case, the conflict between the parties has gone on for too long and has become very complicated. By not allowing the parties to suppress their emotions during the mediation, the parties will not receive input from the mediator and feel most right. In fact, there are times when the plaintiff can no longer forgive the defendant.

3. Circumstances where the parties cannot be reunited

This condition is often an obstacle for the mediator to reconcile the two parties, causing a deep sense of disappointment that the plaintiff does not want to be reunited and does not want to continue the marriage. So I had no choice but to end the marriage

4. Mediator ability

Mediators must be able to manage and communicate disputes so that they can find a meeting place between the parties that promotes peace. Therefore, the ability of the mediator affects the success of mediation.

5. Spirituality and morals

Spirituality in this case is the basis of the lack of knowledge about religion. Both parties believe that divorce is permissible, even though Allah Almighty hates them. Bad behavior of a party towards his partner makes one party unwilling to reconcile.

6. Sociological and psychological factors

Social factors at this time include many women who already have stable jobs and decent incomes, so they are more likely to be separated from their husbands because they are not afraid of lack of support for themselves and their children. Psychological factors, such as feeling sick or experiencing considerable emotional stress, are often disincentives. The greater the pressure on a person, the stronger the desire to divorce.

7. Third party

During the mediation process, the mediator tries to reach a settlement between the parties, but the intervention of a third party makes this difficult. The third party involved in the divorce can be a family member or an outsider. Lack of family support for the parties to reconcile. Third party interference, such as the presence of another ideal wife, or interference from family members of each party to the dispute.

8. Reasons for Divorce

Article 39 paragraph (2) of Law Number 1 of 1974 concerning Marriage stipulates that "to divorce there must be sufficient reason that between husband or wife will no longer be able to live in harmony as husband and wife in the household. Based on the provisions of Article 39 paragraph (2) of Law Number 1 of 1974 concerning Marriage, the reason for divorce is solely based on the impossibility of achieving harmony between husband or wife in a married life. However, the reason in Article 39 paragraph (2) of Law Number 1 of 1974 concerning Marriage is emphasized again in Article 19 of Government Regulation Number 9 of 1975".

During the discussion, there were various incidents that could be reasons for divorce similar to those contained in Article 19 of Government Regulation Number 9 of 1975 which included the policy of implementing Law Number 1 of 1974 concerning Marriage. The reasons for the divorce in question consist of:

- a. "One of the parties commits adultery, or becomes a drunkard, condensed, gambler, etc. which is difficult to cure;

- b. One party leaves the other party for 2 (two) consecutive years without the permission of the other party and without a valid reason or for other reasons beyond his control;
- c. One of the parties gets a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place;
- d. One of the parties commits cruelty or severe mistreatment that endangers the other party;
- e. One of the parties suffers from a disability or disease which causes them to be unable to carry out their obligations as husband/wife;
- f. Between husband and wife there are continuous disputes and quarrels with no hope of living in harmony again in the house of the date (syiqaq)."

Next to another regulation, namely "Presidential Instruction Number 1 of 1991 in conjunction with Decree of the Minister of Religion of the Republic of Indonesia Number 154 of 1991 concerning the Implementation of Presidential Instruction Number 1 of 1991 dated June 10 concerning the Compilation of Islamic Law", to further say the Compilation of Islamic Law, specifically for those who embraced/religious Islam because of divorce plus 2 (two) things, namely, "Husband violates Ta'lik Talak", Religious conversion or apostasy that causes disharmony that occurs in the household."

As a general rule, divorce is not permitted on religious grounds or by law. Religion considers divorce as the worst thing that can happen in a family relationship (a legal act, but hated by Allah swt), but religion still chooses the path of Islam for each of its followers. Finally divorced.

According to positive law, a divorce is legally granted if the conditions for divorce are met because of a dispute that causes a dispute that is difficult to resolve, or because the husband is unable to fulfill his duties as head of the household, or for other reasons. .the influencing factors may be permitted by law.

a. Types of Divorce in Positive Law

Based on article 38 of Law no. 1 of 1974 states that "a marriage can be terminated for three reasons, namely: death, divorce, and upon a court decision, both divorces must go through a court decision". Divorce is an act to break the marital relationship between husband and wife, not because of the death of one of the parties, but based on the wishes and desires of the parties. In the Compilation of Islamic Law Article 114 that "The breakup of a marriage due to divorce can occur due to divorce or based on a divorce suit".

b. Marriage Conditions

According to Law no. 1 of 1974 the conditions for marriage are contained in article and article 7, namely:

1. Marriage must be based on the consent of the bride and groom.
2. To carry out a marriage, a person who has not reached the age of 21 years must obtain permission from both parents.
3. In the event that one of the parents has died or is in a state of inability to express his will, then the permission referred to in paragraph (2) of this article is sufficient to obtain from parents who are still alive or from parents who are able to express their will.
4. In the event that both parents have died or are in a state of inability to express their will, then permission is obtained from the guardian of the person who maintains it or a family

who has blood ties to a straight line of descent as long as they are still alive and in a state of being able to express their will.

5. In the event that there is a difference of opinion between the people referred to in paragraphs (2), (3) and (4) of this article, or one or more of them do not express their opinion, then the court of law where the person resides shall to enter into a marriage at the request of the person may grant permission after first hearing the persons referred to in paragraphs (2), (3), (4) of this article.
6. The provisions in paragraphs (1) to (5) of this article apply as long as the law of each religion and belief does not determine otherwise. The terms of marriage according to article 7 of Law no. 1 of 1974, namely:
 - a. Marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years.
 - b. In case of deviation from paragraph (1) of this article, you can request a dispensation from the court or other official appointed by the parents of both the male and female parties.
 - c. The provisions regarding the condition of one or both parents as referred to in Article 6 paragraphs (3) and (4) of this Law shall apply which in the case of the request for dispensation, paragraph (2) of this article, without prejudice to those referred to in Article 6 paragraph (6). Conditions of marriage for a widow. For a widow who wants to get married, there is a waiting time.