

CONTINUOUS DISPUTES AND FIGHTS ARE THE MOST POPULAR REASONS FOR DIVORCE

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Abstract

Marriage is a spiritual and physical bond between a man and a woman to form a family that is peaceful, loving, and merciful. However, not all marriages are harmonious and lasting. Data from the Religious Courts shows that the most common reason for divorce in Indonesia is persistent disputes and quarrels. This study aims to analyze the legal provisions related to these reasons, as stipulated in Article 116 letter (f) of the Compilation of Islamic Law and Article 19 letter (f) of Government Regulation No. 9 of 1975, as well as the implementation and development of their formulation through SEMA Number 3 of 2023. In practice, judges have the freedom to assess whether a household conflict has met the requirements of "continuous" and "no hope of reconciliation" to be the basis for a divorce decision. This study shows that economic factors, poor communication, and the presence of a third party contribute to these dominant reasons for divorce. Therefore, strengthening regulations and understanding judges is important to maintain a sense of justice for the parties.

Keywords: *Divorce, continuous quarrels, reasons for divorce, SEMA3, Islamic family law.*

INTRODUCTION

Marriage is a behavior of God's creatures that allows life in the natural world to reproduce. Marriage occurs not only among humans but also among plants and animals. Because humans are rational animals, marriage is a regulated culture that follows the development of human culture in social life. In simple societies, marriage culture is simple, narrow, and closed; in advanced (modern) societies, marriage culture is advanced, broad, and open.¹ Marriage is both a legal and a religious act. The state also has an interest in intervening in marital affairs by establishing and implementing legislation on marriage. The goal is to provide protection for the people as one of the elements of the state, through laws that apply and are enforced against them. To regulate marriage issues, Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law) has been established, which applies to all citizens and communities in Indonesia, and the Compilation of Islamic Law specifically for Muslims. As stated in Article 1 of the Marriage Law, the purpose of marriage is: "*Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God*".

This goal is in line with the meaning of Allah's word in Surah Ar Rum verse 21, which means: "*And among the signs of His power is that He created for you wives from your own kind, so that you will be inclined and feel at peace with them, and He created among you feelings of love and affection. Indeed, in this there are truly signs for a people who think.*" Of course, if each husband and wife can realize the noble goals of the marriage then there will be a positive impact felt by each husband and wife, the children of their parents' marriage, and even in the life of society, nation and state. However, the fact is that it is not easy to realize the noble goals of marriage mentioned above, even though establishing a household is a must for husband and wife when they are bound in a legal marriage bond so that there are quite a few married couples whose households do not reach the goals of marriage and should be built to reach the true goals of marriage, namely forming a family (household) that is peaceful, loving and compassionate, even until one of the parties dies.

¹ Prof. H. Hilman Hadikusuma, *Hukum Perkawinan Indonesia*, Cet.3, Mandar Maju, Bandung, 2007, hlm.1.

It is understood that not all marriages can last forever. Article 115 of the Compilation of Islamic Law (hereinafter referred to as KHI) stipulates that divorce can only be carried out before a Religious Court after the Religious Court has attempted and failed to reconcile the two parties. This is also regulated in Article 39 paragraph (1) of the Marriage Law. The Law explains that marriage, in principle, has made divorce more difficult, because the determination of divorce can only be made before a court, and is also accompanied by certain reasons to strengthen the divorce itself. The dissolution of a marriage can occur due to divorce or can also occur due to a lawsuit. The Marriage Law distinguishes between divorce by divorce and divorce by lawsuit.

The disputing parties can file for divorce for certain acceptable reasons, namely that the husband and wife will not live in harmony as husband and wife, the divorce procedure is regulated in accordance with the statutory regulations themselves.² In Religious Courts, there are two terms for divorce filings to distinguish between the parties. A marriage can be terminated by divorce or by a lawsuit. In a divorce lawsuit, the wife files, while in a divorce lawsuit, the husband files. Divorce is the result of a marriage that is less harmonious between husband and wife caused by many factors, including disputes and arguments caused by conflict between husband and wife. In a household, disputes and arguments between husband and wife are commonplace, but this is the beginning of divorce. Every divorce must begin with a conflict that causes disharmony in the household so that the goal of marriage itself is not achieved, namely to create a family that is *sakinah*, *mawaddah*, and *warahmah*. Divorce itself is a process where previously the husband and wife have certainly tried to maintain their household, but perhaps the best way is to separate, meaning the husband and wife have stopped binding themselves to each other so that the rights and obligations inherent when they were still married also cease.

Divorce is also an attempt to separate a husband and wife from a marriage for certain reasons. Divorce occurs when there is no longer a way out (marriage dissolution). As of July 2025, there were 2,854 divorce cases at the Ciamis Religious Court.³ Learning from this, with the many cases, the most common causes of divorce are continuous disputes and arguments which are also caused by economic factors, poor communication, the presence of a third party or infidelity by one of the parties, as well as social and cultural factors. To overcome this, the Supreme Court then regulates in more detail in the Supreme Court Circular Letter Number 3 of 2023 in the Religious Chamber Legal Formulation (hereinafter referred to as SEMA 3 of 2023) that "Divorce cases on the grounds of continuous disputes and arguments can be granted if it is proven that the husband and wife have had continuous disputes and arguments and there is no hope of living in harmony again in the household followed by a separation of residence for at least 6 (six) months unless the Defendant/Plaintiff is found to have committed domestic violence." Next, the author will explain further regarding the analysis of the causes of divorce due to continuous disputes and arguments and related regulations.

RESULTS AND DISCUSSION

A. Reasons for Divorce in the Marriage Law and KHI

Divorce is carried out before a court hearing, if the husband and wife who filed for divorce are no longer able to repair their marriage through mediation, and divorce is the last resort.⁴ This explanation is in accordance with the provisions contained in Article 39 paragraph (2) of the Marriage Law, which stipulates that:

"To carry out a divorce there must be sufficient grounds, that the husband and wife will not be able to live in harmony as husband and wife."

Based on this, the provisions in Article 39 paragraph (2) of the Marriage Law mean that when filing for divorce, there must be strong and sufficient reasons, so that it appears that the divorce process is actually difficult to carry out.

The grounds for divorce under the Marriage Law are not regulated in a limited manner. Provisions regarding the limited grounds for divorce are stipulated in Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage (hereinafter referred to as PP 9/1975) and the Compilation of Islamic Law (KHI). Article 19 of PP 9/1975 stipulates that:

"Divorce can occur for any reason or reasons:

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

² Linda Yulianti & Any Suryani Hamzah, Efektifitas Pasal 39 Ayat 1 Undang-Undang Perkawinan Tentang Perceraian Pengadilan Pada Masyarakat Desa Apitak, *Jurnal Private Law Fakultas Hukum Universitas Mataram*, Vol. 2, Issue 1, Februari 2022. hlm. 99.

³ Rekap Perkara Diterima Tahun 2025 Wilayah Hukum PA Ciamis, https://kinsatker.badilag.net/Dash_page_perkaraditerima/perkara_persatker_detail/400690, diakses pada Senin, 21 Juli 2025, Pukul 11.30 WIB

⁴ Dahwadin, dkk., *Hakikat Perceraian Berdasarkan Ketentuan Hukum Indonesia*, Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam, Volume 11-Nomor 1, Juni 2020, halaman 92.

- b. *One party leaves the other party for 2 (two) consecutive years without the other party's permission and without a valid reason or for other reasons beyond his/her control;*
- c. *One party receives a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place;*
- d. *One party commits cruelty or serious abuse that endangers the other party;*
- e. *One of the parties suffers from a physical disability or illness as a result of being unable to carry out their obligations as husband/wife;*
- f. *Between husband and wife there are constant disputes and quarrels and there is no hope of ever living in harmony in the household again."*

Furthermore, Article 116 of the KHI also regulates the reasons for divorce in a limited manner, namely:

"*Perceraian dapat terjadi karena alasan atau alasan-alasan:*

- a. *One of the parties commits adultery or becomes a drunkard, addict, gambler, etc. which is difficult to cure;*
- b. *One party leaves the other party for 2 (two) consecutive years without the other party's permission and without a valid reason or for other reasons beyond his/her control;*
- c. *One party receives a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place;*
- d. *One party commits cruelty or serious abuse that endangers the other party;*
- e. *One of the parties suffers from a physical disability or illness as a result of being unable to carry out their obligations as husband/wife;*
- f. *Between husband and wife there are constant disputes and quarrels and there is no hope of ever living in harmony in the household again;*
- g. *Husband violates divorce agreement;*
- h. *conversion or apostasy which causes disharmony in the household."*

Based on the reasons for divorce and the provisions above, it is understandable that a husband and wife who file for divorce before a court must fulfill the reasons set out in PP 9/1975 and the Compilation of Islamic Law (KHI) (for Muslims). This is certainly important so that the husband or wife does not easily consider divorce, especially if the intention to divorce does not actually have sufficient grounds for it when it arises. Although divorce is permitted, it is very important to consider supporting reasons, because the impact of the divorce will not only be felt by those who divorce. However, there is the possibility that others will also be affected by the divorce, for example, the psychological distress of children who can be affected by the divorce, issues of child care or guardianship rights that often give rise to new disputes due to the fight for child custody, and the problem of division of joint assets between husband and wife. Therefore, it is important to be able to think carefully and thoroughly before filing for divorce. Divorce should also be carried out before a court hearing so that the divorce status is valid and all legal consequences of the divorce can be clearly and firmly determined by the court.⁵

B. Reasons for Divorce Due to Continuous Disagreements and Quarrels

Divorce that occurs due to continuous disputes and quarrels is regulated in Article 19 letter (f) of PP 9/1975 and 116 letter (f) of KHI that "between husband and wife there are continuous disputes and quarrels and there is no hope of living in harmony again in the household". If explained and interpreted, the meaning of the article is:

1. If there are continuous disputes and arguments between husband and wife so that there is no longer any hope of being able to live in harmony in the household, this can be used as grounds for divorce.
2. That there are continuous disputes and arguments between husband and wife and there is still hope for husband and wife to live in harmony again in the household, this cannot be used as a reason for divorce.
3. If there are disagreements and arguments between husband and wife that are not continuous, whether there is still hope or no hope for the husband and wife to live in harmony again in the household, this cannot be used as a reason for divorce.

In the Big Indonesian Dictionary, a dispute is a dispute that must be decided first before the main case can be tried and decided, while a quarrel is a dispute, debate, which according to the author, both words are cumulative, which shows that a dispute is different from a quarrel.⁶ Furthermore, in the sentence "continuously," the understanding and development of its meaning is left to the judge to assess whether the disputes and quarrels between husband and wife are categorized as continuous or not, whether there is still hope for living in harmony again or not, or whether after the disputes and quarrels the husband and wife still live in harmony again in their household or not. All is left to the judge's assessment because the judge is the one who has the authority to do so.

⁵ Vivi Hayati, *Dampak Yuridis Perceraian Di Luar Pengadilan*, Jurnal Hukum Samudra Keadilan, Volume 10-Nomor 2, Desember 2015, halaman 226.

⁶ Kamus. 2016. Pada KBBI Daring. Diambil pada 16 Desember 2024, dari kbbi.kemdikbud.go.id/entri/kamus

The existence of provisions stating that disputes and quarrels and added with continuous sentences are not a fixed price as a reason for divorce but are only a tool for the judge to make an assessment whether the husband and wife still have hope to be able to live in harmony again in the household or not, so that the conclusion is that the condition of there being no hope for the husband and wife to be able to live in harmony again in the household is the reason for divorce that dominates the provisions of the reasons for divorce. If so, the continuous condition is not a fixed price for the reason for divorce because in fact there are many cases of husband and wife who never had continuous disputes and quarrels but they never got together as husband and wife, because as soon as the marriage contract was completed they immediately separated and went home to their respective homes. Their marriage was because they were arrested and forced to marry, even though they both wanted to just date and did not want marriage, so in this case the author tends to look at the background of each party that is true and worthy of the judge to make a judgment that they both want a divorce and there is no hope of being able to live in harmony again in the household, for example, a new marriage that is only a few months old, never quarreled let alone continuously and in fact there is no hope of living in harmony in the household, then the element of no hope of living in harmony in the household is the key, if indeed the conscience says that husband and wife will not be able to live in harmony again in the household then why do they need to wait first to go through disputes and quarrels and other conditions that are continuous, if this is what happens then indirectly tortures the hearts of both parties for a long time so that the madlorot is more than the benefits. Therefore, the application of the reason for divorce number 6 above is left to the judge's assessment, especially if the judge can apply it flexibly and flexibly, which is wiser.

There are disputes and arguments that others don't know about, namely disputes and arguments that are secret, not shown in verbal arguments or visible in physical fights, but the husband and wife do not greet each other, do not want to serve their husband or wife for a long time, keep silent or just cry when asked what the problem is going on. So the term dispute and argument is so broad that this reason dominates the reasons for divorce in Indonesia. Then, for the judges, SEMA is also one of the considerations in granting a divorce, SEMA No. 4 of 2014 explains that a divorce suit can be granted if the facts show that the household has broken up (broken marriage) with indicators including:

- a. There have been peace efforts but they have not been successful.
- b. There is no longer good communication between husband and wife.
- c. One party or each party abandons their obligations as husband and wife.
- d. There has been a separation of beds/shared residence.
- e. Other matters found in the trial (such as the existence of WIL, PIL, domestic violence, gambling, etc).⁷

In SEMA No. 1 of 2022, it is further detailed and regarding divorce cases on the grounds of disputes and quarrels that occur continuously, it can be granted if it is proven that the husband and wife have had continuous disputes or have lived apart for 6 months.

Furthermore, this SEMA was also refined by SEMA Number 3 of 2023, so that it reads as follows:

"A divorce case based on the reason of continuous disputes and quarrels can be granted if it is proven that the husband and wife are experiencing continuous disputes and quarrels and there is no hope of living in harmony again in the household, followed by a separation of residence for at least 6 (six) months, unless it is found that the Defendant/Plaintiff has committed domestic violence." However, in examining the cause of the divorce, the Judge considers the SEMA with the provisions of Article 116 of the KHI and Article 19 of PP 9/1975. The SEMA also serves as a basis for the Judge in examining the divorce case with these reasons to further explore the cause in the evidence, whether the Plaintiff's allegation is proven to be true or not.

CONCLUSION

The causes of divorce, as reviewed by Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law, are the most common divorce cases filed in Religious Courts, such as the Ciamis Religious Court. Among the reasons for divorce stipulated in Government Regulation 9/1975 and the Compilation of Islamic Law, the most common reason for divorce in Indonesia is persistent disputes and arguments. Social and cultural factors are increasingly present in today's society, impacting the high divorce rate. Awareness of the situation increasingly enables couples in households to take action on what is happening in their marriages. Economic factors are the dominant reason for divorce, causing continuous disputes and arguments to the point of no hope of harmony in the household. This is followed by online gambling, drunkenness, domestic violence, and other factors.

⁷ Mahkamah Agung Republik Indonesia, *Kompilasi Hasil Rapat Pleno Kamar Mahkamah Agung 2012-2019*, hlm. 153.

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