

Settlement of Khulu Talak Cases or Divorce Claims According to Law Number 16 of 2019 Concerning Amendment to Act Number 1 Of 1974 Regarding Marriage and Compilation of Islamic Law

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ABSTRACT

The purpose of the study was to find out the reasons for filing for divorce at the Banjarmasin Religious Court and to find out the legal consequences of divorce on the rights of the wife. Types of empirical legal research or sociological legal research. The research approach uses a statutory approach and a conceptual approach. The results of this study indicate that the reasons that cause a wife to file a divorce petition against her husband at the Banjarmasin Religious Court are due to economic factors, the husband is sentenced to prison, abuse, and infidelity. The reasons for the divorce lawsuit are normative juridical in accordance with Article 19 of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage. The legal consequence of a wife suing for divorce from her husband is that the ex-wife is still entitled to mut'ah and a living based on the Circular Letter of the Supreme Court Number 2 of 2019 and the Regulation of the Supreme Court Number 3 of 2017.

INTRODUCTION

According to Islam, marriage is a holy agreement that is strong and sturdy to live together happily, safely, peacefully, and to love one another. Marriage is a human nature that must occur in life as a means to bestow a sense of love and compassion that has been bestowed by God Almighty on His servants (Muhammad, 2008). The issue of marriage in Indonesia has now been regulated by Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 which is hereinafter referred to as the Marriage Law in writing the law. In addition to this Law, marriage is regulated in Government Regulation Number 9 of 1975 concerning Implementation of Law Number 1 of 1974 concerning Marriage and Presidential Instruction Number 1 of 1991 concerning Compilation of Islamic Law (KHI).

Article 1 of the Marriage Law states that 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 Belief in the One Almighty God". The formulation of the marriage stated that the purpose of marriage is to form a happy and eternal family (household). This means that marriage is held not temporarily or for a certain period of time planned, but for life or forever, and may not be

terminated just like that, Dissolution of marriage by divorce is only permissible in extreme circumstances (Pramana, 2021).

Ideally, the purpose of the marriage can be realized by all people who are married. But in the reality of life it turns out that marriages break up in the middle of the journey from time to time with various reasons or factors behind them. Divorce is part of marriage, because there is no divorce without starting marriage first (Ratnawaty, 2017), divorce which should be the last alternative in religious rules, if the situation is indeed very difficult and there is no other way to protect the interests of the husband and wife.

If a marriage can no longer be maintained, then divorce is the last resort. However, to end a marriage by divorce, it must be based on certain reasons and prescribed procedures, It is also strengthened by the existence of a law which regulates that it is permissible for a wife to attend the Religious Courts for Khulu' or sue for divorce (Anam, 2018).

Where Khulu is a divorce agreement between husband and wife at the request of the wife in exchange for a sum of money or property handed over to the husband, with justification reasons because the husband cannot fulfill obligations, the husband behaves badly, has physical disabilities which can cause disruption of harmony and so on. As in cases that occurred in several Religious Courts in Banten Province, an average of 60% of Divorce Cases that were filed at the Religious Courts of Cilegon City, Pandeglang Regency and Tigaraksa.

Under Article 39 of the Marriage Law, divorce is legally permissible as one of the ways to terminate a marriage. The specific grounds for divorce are detailed in the elucidation of Article 39 paragraph (2) of the Marriage Law, in conjunction with Article 19 of Government Regulation Number 9 of 1975. These grounds include cases where one party engages in actions such as adultery, addiction, gambling, or behaviors that are difficult to remedy. Another basis for divorce is when one party abandons the other for two consecutive years without consent and without valid reasons or due to circumstances beyond their control. Additionally, divorce can occur if one of the parties is sentenced to five or more years in prison after the marriage, if one party inflicts serious harm or cruelty on the other, if one party is afflicted with a disability or illness that impedes their marital obligations, or if there are constant, irreparable disputes and conflicts between the spouses, rendering harmonious cohabitation impossible.

Divorce is the dissolution of marriage between husband and wife, with the pressure of breaking the bond between husband and wife (Anam, 2018), Divorce is divided into talak divorce and contested divorce, talak divorce is the breakup of a marriage because a husband declared divorce against his wife whose marriage was carried out according to Islam (Syahrani, 2006). Meanwhile, divorce is a divorce by a court decision due to a wife's lawsuit against her husband who is married according to the Islamic religion (Syahrani, 2006), according to Article 39 of the Marriage Law that divorce can only be carried out before a court hearing after the court concerned has tried and failed to reconcile the two parties. Then according to Article 18 of Government Regulation Number 9 of 1975 that the divorce occurs when the divorce is declared before the court.

Divorce in the past was something that can be done and was avoided by women. Because of that many of them suffer more, are willing to be polygamous, not financed and so on than divorce, but at the present time, it shows that not a few wives sue their husbands for divorce in the Religious Courts for certain reasons. The life of a household will not be separated from the various problems of life, two pairs of husband and wife who of course come from families with different backgrounds, both their traditions, character, behavior and so on, are not easily combined in a happy household, unless an attitude of mutual understanding, tolerance and tolerance is created (Rais, 2014).

Divorce cases have increased significantly in Banten Province, namely from 2016 to 2019 researchers see that Khulu' cases or divorce lawsuits in each court have a very high graph compared to other cases, even with divorce cases. In this case the researcher looks at three courts, namely: the

Cilegon City Religious Court, the Pandeglang Regency Religious Court, and the Tigaraksa Religious Court. This is the highest of the other courts..

Of the several cases mentioned above, the author wants to examine how many divorce cases are contested compared to talak divorces. What causes more divorces to occur in the Banten provincial court and what are the judges' considerations in deciding on a contested divorce (the wife who filed for divorce against her husband) application of the Law -Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage and Compilation of Islamic Law against Wives who are suing their husbands for divorce (Divorce Law).

Based on the research background above and the absence of other research, the author is hereby interested in compiling a research with the title: "*Settlement of Khulu Talak Cases or Divorce Lawsuits According to Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage and Compilation of Islamic Law (Study in the Religious Courts of Banten Province)*" This research, to the best of the author's knowledge, has not been studied yet, so this research is the result of the author's original research.

In this study, the research objectives encompass three key inquiries: firstly, to assess and compare the incidence of contested divorce cases in contrast to uncontested divorces across the religious courts in Tigaraksa, Cilegon City, and Pandeglang Regency; secondly, to scrutinize and identify the multifaceted factors contributing to the escalating prevalence of divorce cases within the aforementioned regions; and finally, to conduct an in-depth analysis of how the Marriage Law and Compilation of Islamic Law are applied in contemporary times, particularly in cases involving wives who initiate divorce proceedings. These research pursuits collectively aim to shed light on the dynamics, trends, and legal ramifications of divorce within the modern societal context.

In alignment with the research background and the identified problem areas, the objectives of this study are as follows: firstly, to investigate and analyze the disparity between contested divorce cases and talak divorces within the religious courts of Tigaraksa, Cilegon City, and Pandeglang Regency; secondly, to explore and delineate the underlying factors that are contributing to the growing prevalence of divorce cases in these specific regions; and thirdly, to comprehensively examine the practical application of the Marriage Law and Compilation of Islamic Law concerning women who initiate divorce proceedings in the contemporary modern era. These research aims collectively aim to provide valuable insights into divorce trends, causes, and legal implications within the context of these regions in the present day.

RESEARCH METHOD

This type of research uses qualitative research (case study), this research generally aims to study in depth an individual, group, institution, or certain community, about background, circumstances/conditions, factors, or interactions (social) that happened therein, and conducted interviews with informants at the research location. In this case the locations we examined included the Religious Courts of Pandeglang Regency, Cilegon City and Tigaraksa, Tangerang.

The Approach This research uses a statutory approach (statute approach) and a concept approach (conceptual approach). The statutory approach is an approach used to review and analyze legal regulations that are relevant to the legal issues discussed. Then the concept approach is an approach that departs from the views and doctrines that have developed in the science of law. By studying the views and doctrines in the science of law, researchers will find ideas that give birth to legal notions, legal concepts and legal principles that are relevant to the legal issues at hand (Marzuki, 2010).

THEORY

A. Khulu Terms

Khulu will become valid if it fulfills several conditions, among others, namely:

1. Willingness And Consent

Jurists agree that Khulu can be done based on the willingness and consent of the husband and wife, provided that the willingness and agreement does not result in harm on the part of others. If the sumi does not grant Khulu's request from his wife, while the wife still feels aggrieved by her rights as a wife, then she can file a lawsuit for divorce to the court. The judge should give a divorce decree between the two husband and wife, if there are evidence that is used as the basis for the lawsuit by the wife.

2. Istri yang Dapat Di Khulu'

It is agreed by the fiqh experts that a wife who can be Khulu' is a wife who is mulatto and has been bound by a valid marriage contract with her husband. If the wife is not old enough, then the person who has the right to propose Khulu' is the guardian. The jurists agree that a wife who is seriously ill submits Khulu' to her husband. In this case the jurists have different opinions in determining the iwadl that the wife must give to the husband. The reasons for the difference are: if the wife who is seriously ill has a lot of wealth, it is suspected that Khulu''s request to her husband is intended so that the husband does not get a share of his wife's inheritance that should have been obtained, when if they were still bound by marital ties.

According to Imam Malik, the amount of iwadl received by the husband from his wife who is seriously ill, is the same amount as the amount of inheritance that he will get, if his wife dies and they are still bound by marital ties. According to Imam Hanafi: the amount of iwadl is equal to the amount of one-third of the assets of the wife who is seriously ill. Meanwhile, Imam Syafi'I is of the opinion that the amount of iwadl may be equal to the amount of dowry mitsil, as long as it is not more than a third of the total assets of the wife.

3. There is Iwadl

Iwadl (substitute) is a characteristic of Khulu', as long as iwadl has not been given by the wife to the husband, then as long as it is also dependent on divorce. After iwadl is handed over by the wife to the husband, then a divorce occurs, while the iwadl form is the same as the dowry form, it can also be used as iwadl. Regarding the amount of iwadl, what is important is the agreement of the husband and wife, whether the agreed amount is less, or the same or more than the amount of dowry that was given by the husband to the wife at the time the marriage ceremony took place

4. Time to Drop Khulu

The jurists agree that Khulu' may be dropped at the time of menstruation, during the postpartum period, during the holy period which has not been interfered with or has been interfered with. This opinion is based on the general understanding of verse 229 al-Baqarah and the hadith of Ibn Abbas which does not mention when the Khulu fell. And based on the iddah, it is determined in such a way as to safeguard the rights of the husband and the rights of the wife after a divorce occurs. Allah swt orders that the husband if his wife's mentality should do it at a time or condition that can shorten the wife's iddah period, if the wife asks her husband to punish her at a time that causes her iddah period to be longer, it means that the wife is ready to have a long iddah, even if things so detrimental to him (Pramana, 2021).

In Article 1 letter (i) Khulu' is a divorce that occurs at the request of the wife by giving redemption funds or iwadl to and with the consent of her husband. Khulu' can take place with the consent of the husband and wife, if no agreement is reached between the two of them then the court can impose Khulu' on the husband. Whereas in article 124, Khulu' must be based on

the reasons for the divorce according to the provisions of article 116 which states: Divorce can occur because of reasons or reasons:

- a. *One of the parties commits adultery or becomes a drunkard, addict, gambler, and so on which are difficult to cure.*
- b. *One party leaves the other party for 2 (two) consecutive years without the other party's permission and without valid reasons or for other reasons beyond his control.*
- c. *One of the parties gets a prison sentence of 5 (five) years or a more severe punishment after the marriage takes place.*
- d. *One of the parties commits cruelty or severe abuse that endangers the other party.*
- e. *One of the parties gets a disability or illness as a result of not being able to carry out his obligations as husband/wife.*
- f. *Between husband and wife there are constant disputes and fights and there is no hope of living in harmony in the household again.*
- g. *Husband violates ta'lik thalaq.*
- h. *Conversion of religion or apostasy which causes disharmony in the household.*

In Chapter V Article 14: a husband who has entered into a marriage according to Islam, who is about to divorce his wife, submits a letter to the court where he lives, containing a notification that he intends to divorce his wife along with the reasons and asks the court to hold a hearing for the purposes of That.

In Article 65 of Law Number 7 of 1989 concerning the Religious Courts which states that: Divorce can only be carried out before a Court Session, after the court concerned has tried and failed to reconcile the two parties.

Thus, a divorce or Khulu' (claim for divorce) is legal if it is decided in front of a court judge, one of the characteristics of this Khulu' divorce is iwadl which is a substitute or ransom from the wife, which is given to her husband, and with the consent of her husband. Because or compensation is an absolute element in Khulu' legal actions 'so that when compensation is not there, Khulu' and all the following laws are also invalid. And it is this compensation that distinguishes Khulu' from other forms of divorce, such as talak divorce.

5. Khulu Women's Iddah

Iddah for women in Khulu' is one Menstruation. In the kish of Thabit bin Qais that the Messenger of God, may God bless him and grant him peace, said to him, "Take something that is for the woman on you and let her go, he replied "yes" Then the Messenger of God ordered the woman to perform Iddah once for her period and return to her husband (HR An-Nasai with authentic Isnad).

According to the opinion of Uthman and Ibn Abbas, the most authentic narration from Ahmad, which is the school of Ishak bin Rahawaih and which was chosen by Shaykh Al-Islam Ibnu Taimiyah said: "Whoever sees this opinion finds the demands of the Sharia rules, that the iddah is made three times menstruation so that the consultation time is relaxed and the husband can think about considering the possibility of consultation at the time of the iddah. If there is no opportunity to consult, then it means freeing the womb from pregnancy. That's enough menstruation for liberation.

Ibn Taymiyyah stated, this is the madhhab of Amir Al-Mukminin Uthman bin Afwan, Abdullah bin Umar Ar-Rabi' bint Mu'wwadz and his uncle, as narrated by Al-Laits bin Saad and Nafi, that he heard Ar-rabi' bint Muawwadz bin Afra, she told Abdullah bin Umar that she was in Khulu' her husband at the time of Usman bin Affan, then his uncle came to Uthman and said: "That the daughter of Muawwadz is in Khulu' her husband today, should she move? Utsman replied "let her move, there is no right of inheritance between the two of them, and there is no iddah except that she cannot be married until one menstrual period because there is a fear of

pregnancy". Meanwhile, according to the majority of scholars, a woman who is superior has three periods of her Iddah period if she is still menstruating (Azzam, 2009).

6. Khulu's Of Law

Khulu' is permissible if certain conditions are met, according to Jumhur scholars, Khulu' law is permissible, according to the word of Allah SWT in Q.S. Al-Baqarah (2): 229 as the author has previously described.

The scholars regarding this Khulu' requirement, except for Bakar bin Abdullah bin Muzni At-Tabi'i, it is not permissible for a husband to take his wife's property as ransom for the divorce made against him. This is in accordance with God's word "do not take anything back from it" (Muhammad, 2008).

Some scholars say (Ibn Qudamah) quoted by Amir Syarifuddin in his book Marriage law in Indonesia, including the opinion of Abu Bakar bin Abdullah al-Muzanny, he argues that Khulu' does not exist, if Khulu' is carried out then what happens is thalaq not Khulu' , with the real reason being Khulu', in essence the husband takes back the dowry that has been given to his wife in the form of iwadh (Ma'rufah et al., 2022).

"If you want to change your wife while you have given something to her, don't take it. Will you take it in the form of obvious lies and sins".

In this verse it is forbidden for a husband to take things that have been given to a divorced wife, then Ibn Sirin and Abi Qalabah say that there is no Khulu' unless it is clear that the wife has a fetus in her stomach, in the sense that she has made an act the vile (Ma'rufah et al., 2022).

From some of the opinions above that actually Khulu' is permissible in Islam, with sufficient reasons. Such as: the husband is physically disabled, the husband is morally depraved, the husband does not fulfill his obligations, as explained in the Compilation article 124 that the Khulu must be based on the reasons for divorce according to the provisions of Article 116.

From some of the opinions above that actually Khulu' is permissible in Islam, with sufficient reasons. Such as: the husband is physically disabled, the husband is morally depraved, the husband does not fulfill his obligations, as explained in the Compilation article 124 that the Khulu must be based on the reasons for divorce according to the provisions of Article 116 (Ma'rufah et al., 2022).

In article 148 (1) of the KHI: a wife who files a lawsuit for divorce with the Khulu road' submits her application to the religious court in the region where she lives along with the reasons, in (4), after both parties agree on the amount of iwadh or ransom, then the court religion provides a stipulation about the permission for the husband to pledge his divorce in front of the Religious Court Session. Appeals and cassation cannot be made against the determination.

According to most of the scholars including Usman, Ibnu Umar, Ibnu Abbas, Ikrimah Mujahid, al-Nakha'iy and developed among the Hanafiyah, Malikiyah, Shafi'iyah and Hanabilah madhhabs, including Zahiriyah scholars, explained that the iwadh has no limits. It once happened during the time of the Messenger of Allah, peace and blessings be upon him, the addition of a ransom to her husband, "my sister, my daughter was married by an Ansar friend, then they both complained about the matter to the Messenger of God, peace be upon him, and he asked: do you (wife) want to return her (husband's) garden?" The answer: even my people added their gardens and the additions as well"

In the book Bidayatul Mujtahid it is said that; whoever equates Khulu' with other damages in muamalah law, then he thinks that the amount of Khulu' depends on the willingness to pay. And whoever adheres to the literal text of the above hadith then it cannot be more than the dowry, because this group thinks that Khulu' which is more than the dowry is considered the same as taking other people's property illegally.

According to syafi'ayah, it is stated that every item that qualifies as a dowry, that is, items that are truly valuable or have economic benefits, is juridically allowed as compensation in the case of Khulu's action, it is also allowed as an iwadh to return the mitsil dowry, both repayment in cash or debt and through compensation between the two.

Compensation is conditional on the existence of a consensus between the husband and the wife both regarding the form and amount. Spare goods in Khulu' should generally be valued with goods or money, in addition to other conditions of damages, such as being able to be handed over, being legally owned and so on, because Khulu' is a compensation agreement, if it resembles a sale agreement buy and grant. If a wife cheats her husband with something illegal, such as alcohol or known stolen goods, then her husband is not allowed to accept it.

On the other hand, Khulu' is considered void and can be canceled if the damages used are not clear, such as the husband in Khulu' is handed something that is not clearly mentioned, for example with a shirt which is not mentioned or with a child in the womb of an animal, or Khulu' with an item that is against religion, such as alcohol, stolen goods known to the husband, or Khulu by paying a sum of money but the payment tempo is not clear.

According to the majority of scholars, when a husband divorces his wife, then the wife owns herself and the affairs of the divorce are in her own hands, but the right to pronounce the absolute divorce rests with the husband, so the husband has no right to refer to him again, because the wife has surrendered her property, so that he free from family ties. Assuming that he still has the right to consult, then there is no benefit for the wife by having paid it, even if the husband returns to his wife what he has received and she receives it at that time, then the husband does not have the right to consult during the iddah period, because his wife has been divorced bain with the occurrence of Khulu' (Muhamad, 2015).

If later in a negotiation and bargaining before the trial court, it turns out that no agreement has been reached regarding the amount of compensation between husband and wife, then the religious court will examine the divorce lawsuit as an ordinary lawsuit (Hikmatullah, 2021).

7. The Wisdom of Khulu

The wisdom of Khulu' is to avoid the wife's difficulties in dealing with household problems during the marriage journey. Apart from releasing from catastrophes that never end, this is a gift from Allah SWT, which is given to women to free the shackles of power of husbands who are not responsible for their family, with Khulu "the husband is no longer dependent on his wife as long as the husband does not want it.

With the existence of Law Number 1 of 1974 concerning marriage, this is a help for wives to get legal protection, and at the same time they can submit their case to the local religious court. Article 116 (1) KHI explains: If the husband commits adultery, drunkenness, concoctions, gambling and other things that are difficult to cure, and paragraph (2): if he leaves for two (2) consecutive years without the permission of the other party, and without valid reasons, paragraph (4): committing atrocities or severe abuse that endangers the other party, paragraph (6): between husband and wife there are constant disputes and fights and there is no hope of living in harmony again in the household. Paragraph (7): the husband violates the taklik divorce.

RESULTS

Marriage is a noble and spiritual bond between a man as a husband and a woman as a wife with the aim of forming a happy and eternal family. Therefore, tolerance that complements one another must always be created, maintained and fostered so that feelings of comfort and happiness are always

created in a household that is united by reading the aqad when the marriage takes place, so that nothing can damage it.

Everything that leads to the destruction of the household is something that is hated by Allah. Divorce in Islam is not a prohibition, but this is done as the last door for households, when there is no way out anymore, even legally divorce has been regulated in the Marriage Law, Compilation of Islamic Law and other regulations which are the basis of judge's law. In deciding the divorce carefully so that hatred does not exist because of the emergence of this divorce.

A. Divorce Case Data and Facts Compared to Talak Divorce

The data that the researchers summarized from cases in court from 2016, 2017, 2018 and 2019 to July above, there are 9 (nine) criteria described above, the most common cause of divorce as a reason for divorce every year on average in the three courts, whether in the Cilegon City, Pandeglang Regency, or Tigaraksa Courts. The reasons for leaving one of the parties reach approximately 16% per year followed by economic factors which reach approximately 11% while the factor of drunkenness, gambling madness, imprisonment, domestic violence, forced marriage we include in the table above are included in other elements because of the cause of the case that comes in a little.

The three courts that were conducted by the author of the cause of divorce for reasons of adultery and disability in both the Pandeglang Regency, Cilegon City and Tiga Raksa Courts were not found. The cases that went to the Tiga Raksa Religious Courts, Cilegon City and Pandeglang Regency are the three locations that we are researching. The results of interviews with Imas and Sopian staff at the Pandeglang Regency Religious Court, reinforced by the opinion of Mr. Hakim Djajuli and Mukhrom found other reasons out of the 9 (nine) reasons for divorce criteria in Pandeglang Regency found many cases of couples who actually the husband and wife were divorced according to custom, they take care of their divorce cases by filing a divorce case to the Religious Courts, just a formality to get a divorce certificate, even many of those who already have a new divorce partner are processed so that a divorce certificate is issued to legalize their marriage to their new partner. The following are case reports at the Pandeglang Regency Religious Court for 2016, 2017, 2018, 2019, namely as follows:

1. Tigaraksa Religious Court

**Table 1
Tigaraksa Religious Court**

Year	sue	Divorce	Itsbat Marriage Property	Joint	Etc	Amount
2016	67,41%	20,54%	5,49%	2,43%	4,13%	100%
2017	66,96%	20,35%	5,79%	2,14%	2,76%	100%
2018	66,10%	20,53%	6,60%	1,11%	5,66%	100%
2019	68,27%	20,88%	6,72%	0,95%	5,18%	100%

2. Cilegon City Religious Court

**Table 2
Cilegon City Religious Court**

Year	sue	Divorce	Itsbat Marriage Property	Joint	Etc	Amount
2016	57,95%	17,75%	1,25%	0,72%	22,33%	100%
2017	54,51%	16,88%	24,30%	0,18%	4,13%	100%
2018	60,87%	24,84%	10,46%	0,21%	3,00%	100%
2019	57,95%	17,75%	18,03%	0,72%	5,55%	100%

At the Cilegon City Court, we were received by their public relations officer, also a judge who had just moved from Makasar, Muhdys Syam, who revealed that the number of divorce lawsuits filed by a wife was due to the lack of income transparency between the

husband and wife and the need for social media which intensified the number of disputes due to jealousy triggered by sharing share sent between friends via social media (Istagram and FB).

To speed up the divorce process, which often takes a long time, even though it is permissible for joint assets to be processed simultaneously, but to shorten the trial time, it is often the case that the divorce is processed first, and then the joint property is submitted back to the court.

3. Pandeglang Regency Religious Court

Table 3
Cilegon City Religious Court

Year	sue	Divorce	Itsbat Marriage Property	Joint	Etc	Amount
2016	61,23%	6,17%	4,49%	0,38%	27,73%	100%
2017	67,14%	14,89%	15,79%	0,14%	3,04%	100%
2018	65,58%	11,47%	14,60%	0,11%	8,00%%	100%
2019	44,51%	16,88%	0,18%	34,30%	4,13%	100%

Whereas in case reports received and decided by type of case out of 30 types of divorce cases filed, we only present the 4 largest columns. the fifth column is other matters including reasons regarding polygamy permits, prevention of marriage, marriage refusal by VAT, marriage annulment, deviation from husband and wife obligations, adoption of children, revocation of power to appoint another person as guardian, compensation for guardians, origin of children / adoption, refusal of mixed marriages, marriage license, marriage dispensation, legal guardian, economy, inheritance, testament, grants, endowments, zakat, infaq/sodaqoh, P3HP/ Determination of heirs in this study included in guardians, other cases.

Of the cases that were submitted to the Religious Courts of Cilegon City, Pandeglang Regency and Tigaraksa, more than 60% of the cases were filed for divorce, and more than half of them filed for divorce. According to an interview with Mr. Hakim Ahmadi SH, MH from the Tigaraksa Court, the lifestyle of the people has now changed, among others:

- a. Social media dominates the reason couples are in disputes which result in continuous fights, either because of friendship, lifestyle, online games and others.
- b. One of the parties left his partner to file for divorce due to differences in principle, the presence of WIL or PIL
- c. Economic factors because the number of wives who work more established than their husbands. Meanwhile, husbands still consider themselves priests and want to be served all the time, so that if the wife refuses because of physical fatigue, it is not uncommon for husbands to commit domestic violence because they feel that their wives are no longer arrows. So that the wife is not strong and then filed for divorce
- d. The polygamy factor also complements divorce proceedings because in Banten culture there is pride for Bantenese men to have more than one wife as a symbol of prosperity (still felt in some places).
- e. Joint property is usually tried separately from the trial for divorce, because if they are put together, it will have an impact on the length of the divorce sentence handed down by the panel of judges, if the divorce is over. New joint assets are tried in the Religious Court according to their domicile, or the last domicile is proven by an ID card or domicile letter from the sub-district.

B. Factors Influencing Divorce Cases in Tigaraksa, Cilegon City and Pandeglang Regency Courts are Increasingly Exploding

Marriage in the Islamic view is something that is very sacred and if the relationship cannot be continued then it must be resolved properly. Divorce is not prohibited in Islam, but Allah hates divorce, Divorce is the best way when there are problems and when all methods have been tried to maintain the household, but nothing changes. The following factors have influenced the increase in the divorce rate in the last 4 (four) years, namely:

1. Religious Courts Tigaraksa

Table 4

Factors causing cases at the Tigaraksa Religious Court in 2016, 2017, 2018, 2019

Leaving One Party	Disputes And Fighting Constantly	apostate	Economy	Etc	Amount
17,54%	69,31%	0,15%	11,12%	1,88%	100%
16,81%	70,25%	0,17%	11,34%	1,43%	100%
16,36%	70,87%	0,12%	11,01%	1,64%	100%
16,37%	70,94%	0,20%	11,31%	1,18%	100%

2. Religious Courts Cilegon City

Table 2

Factors causing cases at the Cilegon City Religious Court in 2016, 2017, 2018, 2019

Leaving One Party	Disputes And Fighting Constantly	apostate	Economy	Etc	Amount
15,95%	70,5%	0,25%	12,72%	0,58%	100%
16,51%	72,8%	0,30%	10,00%	0,40%	100%
17,7%	70,4%	1,14%	10,01%	0,75%	100%
16,01	71,5%	0,43	11,23	0,83	100%

3. Pandeglang Regency Religious Court

Table 3

Factors causing cases at the Pandeglang Regency Religious Court in 2016, 2017, 2018, 2019

Leaving One Party	Disputes And Fighting Constantly	apostate	Economy	Etc	Amount
15,95%	71,25%	0,25%	11,72%	0,83%	100%
16,71%	70,85%	0,29%	11,04%	1,31%	100%
16,17%	71,42%	0,15%	10,91%	1,35%	100%
16,31%	71,25%	0,38%	11,23%	0,83%	100%

Judging from the data that the researchers summarized from the cases in court from 2016, 2017, 2018 and 2019 to July above, there are 9 (nine) criteria described above, the factors causing the most divorces as reasons for divorce lawsuits submitted to courts Most are cases of disputes and continual quarrels which reach approximately 70% every year on average in the three courts, both in the Cilegon City Court, Pandeglang Regency and the Tigaraksa Court.

The second place is because the reason for leaving one of the parties reaches approximately 16% per year, followed by economic factors, which reaches approximately 11%, while the factors of drunkenness, gambling addiction, imprisonment, domestic violence, forced marriage are included in the table above, included in other elements. Because the causes of the case are few. Three Courts Conducted by the Author Causes of Divorce Due to Adultery and Disabilities Both in the District Courts of Pandeglang, Cilegon City and Tigaraksa were not

found. Cases going to the Tiga Raksa Religious Court, Cilegon City and Pandeglang Regency are the three locations that we examined.

Results of interviews with Imas and Sopian staff at the Religious Court of Pandeglang Regency, strengthened by the opinion of Mr. Hakim Djajuli SH. Dan Mukhrom, SH Found Other Reasons Out of the 9 (nine) Reasons for Divorce Criteria in Pandeglang Regency Found Many Cases of Couples Who Actually The Husband and Wife Are Divorced Traditionally, They Manage Divorce Cases by Submitting Divorces to the Religious Courts Just a Formality to Get Divorce Certificate, Even Many of Those Who Already Have a New Divorce Partner Are Processed In Order To Get A Divorce Certificate To Legalize Their Marriage With Their New Partner.

C. Implementation of Marriage Laws and Compilation of Islamic Law Against Wives who Sue for Divorce in Today's Modern Era

Men and women are two complementary parts because both are separate things, therefore marriage is a way for humans to unite these differences. Indonesia as a rule of law country has regulated marriage issues with Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, which in writing the law is called the Marriage Law. Then the Marriage Law was supplemented by Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI) and other regulations regarding marriage.

With the existence of these marriage laws and regulations, it is hoped that marriage problems that occur in Indonesia can be resolved properly based on positive law and religious law (especially Islam) as the majority adherents in Indonesia. Based on Article 1 of the Marriage Law, marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal household based on Belief in the One Almighty God. Marriage is an important event in the life of every human being that will have both physical and spiritual consequences between them. Guidance on marriage is a logical consequence and at the same time as the ideals of the Indonesian nation, in order to have a national marriage law regulation that applies to all regions of Indonesia.

The definition of marriage according to Article 1 of the Marriage Law contains a purpose of marriage, namely to form a happy and eternal family (household). From the purpose of this marriage that marriage is carried out by a man and a woman not temporarily or within the planned period, but lasts a lifetime or forever. Dissolution of marriage by divorce is only permissible in extreme circumstances.

In order to achieve the goal of the marriage, the Marriage Law contains principles or principles, one of which is to make divorce difficult. Because the purpose of marriage is to form a happy, eternal and prosperous family. The Marriage Law adheres to the principle of making it difficult for a divorce to occur, in which there must be certain reasons and it must be carried out before a court of law (Hidayati, 2022). The fact shows that marriages that are masked by the principle of complicating divorce often end in the middle of the road which results in the breakup of marriages between husband and wife for various reasons. From a normative juridical perspective, the reasons for divorce have been determined in Article 19 of Government Regulation Number 9 of 1975 namely:

1. One of the parties commits adultery or becomes a drunkard, cobbler, gambler, and so on which is difficult to cure.
2. 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 control.
3. One of the parties gets a prison sentence of 5 (five) years or a more severe punishment after the marriage takes place.

4. One of the parties commits cruelty or serious abuse that harms the other party.
5. One of the parties has a disability or illness as a result of which he is unable to carry out his obligations as a husband/wife.
6. Between husband and wife there are constant disputes and fights and there is no hope of living in harmony in the household again.
7. Divorce is basically something that no one wants, at any time, anywhere. Actually, breaking up a marriage is a natural thing, because the basic meaning of a marriage contract is a bond. Divorce or divorce is the last alternative as an emergency exit that may be taken when the ark of household life can no longer be maintained in its integrity and continuity (Hidayati, 2022).

Divorce occurs apart from normative reasons as stipulated in Article 19 of the Marriage Law, it is also caused by several factors. There are several main causes of divorce according to research, namely:

1. No Commitment in running life

Based on the results of research, lack of commitment as a factor causing divorce. Commitment in a husband and wife relationship gradually erodes until there is not enough commitment to sustain the relationship.

2. Cheating or Unfaithful

In general, infidelity is often cited as a critical turning point in a deteriorating marital relationship. For some, infidelity is the main reason a marriage ends.

3. Bad Conflicts and Fights

The number of conflicts and quarrels in the relationship is the cause of divorce. Basically, fights are sparked by conflicts that are generally not handled calmly or effectively.

4. Marry Too Young

Marrying too young is the cause of divorce, because the husband and wife are not mature enough to build a household.

5. There are Financial Problems

Financial problems faced by husband and wife are generally a trigger for divorce.

Based on the provisions mentioned above, the occurrence of divorce is not only the will of the husband (divorce talak), but also at the wish of the wife (divorce sued). In this regard, what needs attention is regarding contested divorce, namely a divorce occurs due to a wife's lawsuit against her husband through a religious court.

If the reasons for the wife suing her husband for divorce are examined, it is in accordance with the provisions of Article 19 of Government Regulation Number 9 of 1975. Economic factors and this can be linked to Article 19 letter f of Government Regulation Number 9 of 1975, namely between husband and wife continuously there were disputes and fights and there was no hope of living in harmony in the household. Then the persecution factor and this is in accordance with Article 19 letter d of Government Regulation Number 9 of 1975, namely one party (husband) commits cruelty or severe abuse that endangers the other party. Furthermore, the husband factor is sentenced to imprisonment for five years or more, and this is in accordance with Article 19 letter c of Government Regulation Number 9 of 1975, namely one of the parties (the husband) gets a prison sentence of five years or a more severe sentence after the marriage takes place. The factor of infidelity and this can be interpreted in Article 19 letter a of Government Regulation Number 9 of 1975, namely one party (husband) commits adultery.

Based on the reasons a wife sues her husband for divorce mentioned above legally normatively it is a valid reason, because it has been stipulated in Article 19 of Government Regulation Number 9 of 1975. Even though divorce may be carried out based on valid reasons,

however, married life should the ladder doesn't end in divorce. Because divorce has a psychological impact on children, if the marriage takes place gives birth to children.

Based on the description above, divorce is permissible and as a last resort in overcoming household problems. According to the Marriage Law, divorce can occur at the will of the husband (divorce talak) or there is a wife's claim against her husband (claim for divorce). A divorce gives birth to certain legal consequences, especially the rights of the wife. In this regard, what are the consequences of divorce law against the rights of the wife?

If a wife sues her husband (divorce) in a religious court, then the legal consequence for the husband and wife is that the husband is not obliged to pay mutah and iddah maintenance. Regarding the issue of the consequences of divorce law on the right to maintenance and mut'ah money for the wife, the Marriage Law does not provide clear arrangements. Article 41 letter c of the Marriage Law only stipulates that the court may oblige the ex-husband to provide living expenses and/or determine an obligation for the ex-wife. This provision does not clearly provide arrangements regarding the ex-husband's obligations to his ex-wife regarding living expenses. Does this apply to talak divorce only or also to contested divorce? Therefore this provision needs improvement for the sake of legal certainty.

Based on the provisions of Article 149 KHI mentioned above that if the marriage is broken up due to divorce, the ex-husband is obliged to give mut'ah (giving something in the form of money) to his ex-wife properly, unless the wife is in a state of qobla al-dukhul (a wife who has not been in a relationship body with her husband after marriage). Then the ex-husband is obliged to support his wife during the iddah period, and this does not apply if the wife is divorced bain (talak that is not reconciled) or nusyuz (disobedient towards her husband), and is not pregnant. Another obligation of the ex-husband is to pay off the dowry owed if qobla al-dukhul.

Article 158 KHI stipulates that mutah must be given by the ex-husband on condition that no dowry has been set for the wife ba'da al-dukhul (a wife who has had intercourse with her husband after marriage), and that the divorce is at the will of the husband. From these provisions it can be interpreted that if the divorce is at the will of the wife (divorce), then the wife is not entitled to get mut'ah from her ex-husband.

Given the provisions that do not oblige the ex-husband to provide mut'ah and maintenance because the wife sues her husband (claim for divorce) is seen as not providing protection for the wife who is divorced on the basis of certain reasons, new regulations appear in the form of Book II Guidelines for Implementation of Duties and Administration Religious Courts, Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Trying Women Against the Law and Supreme Court Circular Letter Number 2 of 2019 concerning Enforcement of the Formulation of the Results of the 2019 Supreme Court Chamber Plenary Meeting as Guidelines for the Implementation of Duties for the court which basically contains requiring husbands to paying the wife's maintenance rights in divorce cases even though the divorce initiative came from the wife's side (Najichah, 2020).

CONCLUSION

The application of law number 16 of 2019 concerning amendments to law number 1 of 1974 concerning marriage and the compilation of Islamic law against khulu cases in the Tigaraksa religious court, Cilegon City and Pandeglang Regency are applied in all khulu cases that are entered where the legal basis is in Chapter VIII, articles 38 and 39 of the Marriage Law, while in the Compilation of Islamic Law, namely articles 119, 124, and the reasons for the divorce are regulated in Article 116. These two laws are still being carried out in court, consistently carried out by the Religious Courts, and are mutually exclusive in the judge's judgment. Acceptance or rejection of Divorce cases.

Of the cases that came to the Religious Courts, Tigaraksa ranks the most, approximately 70% compared to Divorce Divorce, which only reached 20%, while the rest were other cases. Such as polygamy permits, cancellation of marriages, joint assets, dispensation of marriage, control over children/hadlanah, grants, endowments, etc. Pandeglang Regency 60% Divorce, 20% Divorce Divorce, 15% isbath marriage while in PA Cilegon City Divorce 70% Divorce Divorce 20%.

The cause of Divorce with Divorce Divorce is due to continuous disputes and quarrels reaching 70%, 10% leaving one of the parties and the economic factor 20%. In addition, there is a husband's reluctance to take care of divorce due to reasons of time which hinder him from earning a living and reluctance to pay cases, mur'ah and iddah which are charged to the husband if divorce is filed.

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