



LIVELIHOOD ISSUES AS A CAUSE OF DIVORCE IN THE PERSPECTIVE OF ISLAMIC FAMILY LAW

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Abstrak

This study aims to analyze the livelihood issues that cause divorce from the perspective of Islamic Family Law, and to analyze the legal consequences of divorce due to subsistence factors with the study of Mataram Religious Court Decision No: 0492 / Pdt.G / 2016 / PA.Mtr. The research method used is empirical normative legal research, with a case approach method, a statutory approach, and a sociological approach. The results of the research and discussion conclude that the issue of livelihood can be one of the causes of divorce in terms of Islamic family law due to 3 things, namely, Nyusyus 'husband, Nyusyus' wife, and syiqaq. Based on the facts in decision No: 0429 / Pdt.G / 2016 / PA.Mtr due to the legal consequences of divorce due to financial factors and other reasons, the court obliges the ex-husband to provide living expenses and / or determine an obligation for the ex-wife. Before the marriage between a husband and a wife candidate should be more solidified in terms of physical and spiritual preparation and to officials at the Religious Courts, so that they can decide cases related to this factor of living more carefully and quickly so as not to cause harm to either party.

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I. INTRODUCTION

As an Indonesian citizen, every community is given the right to continue life by having a partner to form a family through marriage. Marriage according to its original meaning is sexual relations but according to majazi (methaporic) or the legal meaning is a contract (agreement) which makes sexual relations lawful as a husband and wife partner.¹The meaning of a marriage is stated in Article 1 of Law no. 1 of 1974 in conjunction with Law no. 16 of 2019 concerning marriage (Marriage Law) which reads:

"Marriage is a physical and mental 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 Godhead".²

The compilation of Islamic Law also clearly defines the purpose of marriage, namely to foster a family that is *sakinah*, *mawaddah*, and *merciful*, based on the guidance of *shari'ah* from God

¹Sofyan Hasan, *Family Law in Islam*, Malang, Setara Press, 2018, p-24

²Indonesia, *Marriage Law No.1 of 1974*, Article 1

Almighty. Therefore, marriage is not only seen as a medium for realizing Allah's syari'at, but also for getting good in this world and in the hereafter.

In a marriage, there are rights and obligations of husband and wife, namely in this case, the husband's right is an obligation for the wife and vice versa, the husband's obligation is the right of the wife. In addition, there are joint rights of husband and wife and joint obligations of husband and wife. One of the rights and obligations of husband and wife is about living. In general, livelihood is the duty of a husband to meet all the needs of the family, physically and spiritually. A living is also the cost of living which includes food, clothing, facilities and infrastructure needed by the family.

Today there are many cases where the husband does not carry out his role in the family which should be able to protect and protect his wife and children. Part of it happened on the contrary, namely that the husband did not provide for his family. Whereas in establishing a household, preparation both physically and spiritually is required. Physically, someone who wants to get married must be mature in terms of age, mature in thinking, and have a work ethic. Meanwhile, spiritually someone who wants to get married must be ready to accept all the shortcomings and weaknesses of each.

Every human being certainly expects that his marriage will run well without any problems that adversely affect the marriage. However, in reality the marriage is not always good as many people dream of in a marriage. There are many problems that can certainly occur in the household so that these problems often lead to divorce.

The occurrence of a divorce is inseparable from a variety of causal factors that affect the integrity of the marriage bond. Among the factors that can be used as reasons for divorce is the factor of living. This problem is usually because the husband is not responsible for his wife's support. The husband's negligence because he does not provide a living so that the party he is obliged to support becomes neglected. It is a crime to neglect in providing support to the party that is obliged to support him if his negligence has caused harm to the person who is obliged to support him. As stated in Law No. 23 of 2004 concerning the Elimination of Domestic Violence Article 1 number 1 which reads:

"Domestic violence is any act against someone, especially women, which results in suffering or suffering physically, sexually, psychologically, and / or neglect of the household, including threats to commit acts, coercion, or illegal deprivation of liberty within the scope of the household. ".³

Such cases have occurred and were tried at the Mataram Religious Court. The Religious Court is one of the institutions that resolves certain cases in certain Muslim communities. One of the cases that occurred at the Mataram Religious Court was the problem of living the cause of divorce in case No: 0492 / Pdt.G / 2016 / PA.Mtr. This research therefore intends to analyze the issue of livelihood

³Indonesia, Law No.23 of 2004 concerning the Elimination of Domestic Violence, Article 1 Number 1

which causes a divorce and legal consequences of divorce due to the factor of living in the decision of a divorce case with No: 0492 / Pdt.G / 2016 / PA.Mtr. with a review of Islamic Family Law.

The problems that are studied are as follows: first, how is the issue of livelihood which is one of the causes of divorce in terms of Islamic family law? second, what is the legal consequence of divorce due to subsistence factors based on a study of the Mataram Religious Court Decision No: 0492 / Pdt.G / 2016 / PA.Mtr.?

II. RESEARCH METHODS

This research aims to analyzing the livelihood issues that cause divorce from the perspective of Islamic Family Law, and analyzing the legal consequences of divorce due to subsistence factors with the study of the Mataram Religious Court Decision No: 0492 / Pdt.G / 2016 / PA.Mtr. The type of legal research used is empirical normative legal research. Normative research is literature research that examines document studies (important articles containing information), whereas empirical is research that examines the application of laws and regulations based on legal concepts and theories to see firsthand the reality in the field.

III. RESEARCH AND DISCUSSION RESULTS

3.1. Analysis of the Issues of Livelihood which is One of the Causes of Divorce in the Perspective of Islamic Family Law

Providing physical and mental support is the husband's responsibility to fulfill his obligations to his wife and the wife's right to accept it. If given gracefully without any miserly elements, it will bring goodness and balance to the household. Allah says in Surah At-Thalaq (65): 7 and Surah An-Nisa (4): 34 which means:

*"Let someone who is able to provide a living according to his ability ..."*⁴

*"Men are leaders for women, because Allah has exaggerated some of them (men) over others (women) and because they (men) have spent part of their wealth...."*⁵

The provision of a living includes physical and mental income. This livelihood must be given to the wife of the husband, but in this case the husband's obligation to provide a living is not only given to the wife but also given to their children at home.

*"... And it is the father's duty to feed and clothe the mothers in a marufous manner. Someone not burdened but according to ability levels. Do not let a mother suffer misery because of her child and a father because of her child, and an inheritor has such an obligation ..."*⁶

⁴ Al-Qur'an Surah At-Thalaq (65): 7

⁵ Al-Qur'an Surat An-Nisa (4): 34

⁶ Al-Qur'an Surah Al-Baqarah (2): 233

Nafkah must be given and how to give it must be in the right way. When you have provided a living, do not ever bring it up again because it can hurt your wife. The wife should also accept the livelihood sincerely no matter what the husband gives, this sincerity will make the household harmonious and peaceful. However, between husbands and wives, there must be openness to discuss each other well if there are deficiencies in their household needs. In this case the income is divided into two, namely:

a. Nafkah Born

Birth orders are gifts from husbands to wives in a visible form. The birth status is divided into 3, namely, food and drink, clothing, and a place to live. "Place them (the wives) where you live according to your ability and do not trouble them to constrict their (hearts) ..." ⁷

Islam is indeed a perfect religion, everything in this world is arranged to maintain its balance. In addition to the word of Allah above the birth income according to Islam it is also explained in the hadith of the Prophet Muhammad which means:

"From Mu'awiyah bin Hidah ra said:

O Messenger of Allah, what is one of the rights of our wives?

Rasulullah said:

That is, you feed him when you eat, and clothes him when you are dressed. Do not beat him in the face, speak badly, and do not isolate him in the house. " (Narrated by Abu Daud and Ibn Majah) ⁸

Meanwhile, the amount of birth support is adjusted to the needs of the wife and the ability of the husband to provide it. Providing a living, namely providing spending sufficiently in the sense that it is appropriate and the wife's needs can be met.

b. Inner Livelihood

Inner life is the income that is given to the wife in the form of happiness and intercourse with the wife so that her sexual needs can be fulfilled. Intercourse with a wife in the right way and to her desires greatly affects the harmony of family relationships. Abundant assets are sometimes unable to buy this inner support, even if the handsome face of a husband is not able to provide spiritual sustenance, this biological need will make family relationships crack. The inner life in Islam is also arranged so that the relationship between the two is beautiful and always under the protection of Allah.

"And the people who keep their genitals. Except for their wives or slave servants they have, then in fact they are beyond reproach" ⁹

⁷ Al-Qur'an Surah At-Thalaq (65): 6

⁸ Kahar Famous, Translated Hadith Bulughul Maram, Rineka Cipta, Jakarta, 1992, p. 142

⁹ Al-Qur'an Surah Al-Mukminun (23): 5-6

In this case, the wife may refuse her husband's desire to have intercourse on the condition that there is a legal age (allowed), including:

1) Being in the Period of Menstruation or Postpartum

Islam prohibits husband and wife relations during menstruation and childbirth. However, it does not prohibit a man from sleeping in the same bed with his menstruating wife, as long as he does not have jima '(intimate relations). This is based on the word of Allah which means:

"And they ask you (Muhammad) about the menstrual period, say that it is a disease, then stay away from them (the wives) when they are menstruating, and do not approach them (intercourse) until they are pure (from menstruation), then if they have purified, come to them as Allah has commanded you, verily Allah loves those who repent and loves those who purify themselves "¹⁰

2) In Ihram

Among the things that are forbidden during ihram are marriage, marriage and intercourse with husband and wife as stated in the word of Allah which means:

*"The hajj season is a few months which is understandable, whoever determines his intention in that month to do Hajj, then it is not allowed to rafats (intercourse) ..."*¹¹

3) Being sick

People who are sick in Islam are given relief in carrying out their obligations, including serving their husbands. Likewise, sickness caused by the wife is too tired because of too much homework, which is more than usual, in this case it is hoped that the husband's understanding is expected.¹²It is obligatory for the wife, when refusing the husband's invitation because of his age, it must be done in a good manner. If there is no age at all, then it is haram for the wife to refuse. Rasulullah SAW said:

*"If a man invites his wife to fulfill his needs (jima ') then his wife is obliged to fulfill it, even though he is in the kitchen" (HR Muadz bin Jabal)*¹³

One of the obligations of the husband is to provide for his wife, but in some circumstances the right to support the wife can be lost. The causes of the loss of the right to support are as follows:

a. Nusyuz

The definition of nusyuz in general is disobeying someone by not being willing to show loyalty to the party he is obliged to obey. The word nusyuz is definitively defined as the wives' lawlessness towards their husbands in doing what Allah is obliged to do for them. The law of Nuziyus

¹⁰ Al-Qur'an Surah Al-Baqarah (2): 222

¹¹ Al-Qur'an Surah Al-Baqarah (1): 197

¹²Gus Arifin, Married To Be Happy, Quanta, Jakarta, 2013, p. 196

¹³ Muhammad Nashiruddin Al-albani, Op.cit, p. 893

is haram because he has violated what is prescribed by religion through the Koran and the Sunnah of the Prophet. For this reason, the wife received threats including the loss of her living rights as a wife during the Nusyuz period. However, Nuyuz did not break the marriage bond by itself.

According to the number of scholars, the husband is not obliged to provide a living during his nusyuz period. The reason for the jumhur ulama is that the income that the wife receives is a reward for obedience to her husband. The wife who lost her obedience during that period, therefore she is not entitled to support during the nusyuz period and the obligation is carried out again after the nusyuz ceases.

Zahiriyah scholars are of the opinion that a nusyuz wife does not lose her right to receive a living. The reason is that it is obligatory on the basis of a marriage contract and not on the basis of obedience. If at any time she is disobedient to her husband, she can only be given instruction, or separate beds or beatings that do not hurt.¹⁴ This is in accordance with the word of God in Surah An-Nisa 'verse 34:

*"The wives who you fear will do nusyuz teach him, and separate from the bed and beat him. If he has obeyed you do not look for a way (to divorce him) ... "*¹⁵

b. Death of One Husband or Wife

The wife's livelihood has died since the death of the husband, if the husband dies before providing a living, the wife cannot take a living from her husband's assets. Then if the wife dies first, then the heirs cannot take a living from her husband's assets.¹⁶

c. Apostate

If a wife is an apostate, her breadwinning rights will be nullified because the wife's departure from Islam results in the husband being obstructed from having intercourse with the wife. If the husband is an apostate, then the right to support the wife is not canceled because the legal obstacle to sexual intercourse arises on the part of the husband, even though if he wants to remove this legal barrier by re-converting to Islam, he can do it.¹⁷

d. Divorce

The jurisprudence experts agree that women who are corrected by a raj'i still have the right to receive a living and a place to live, it's just that they have different opinions about the income of a woman who is denied three. Imam Malik, Syafi'i, and Ahmad, argued that a woman who was bullied three did not get a living, but according to Malik and Syafi'i she still had the right to have a place to live. Meanwhile, according to Abu Hanifah, the wife who is denied three still has the right to get a living and a place to live. These opinions are based on the Hadith of the Prophet Muhammad

¹⁴ Sofyan Hasan, Op.cit, p. 52

¹⁵ Al-Qur'an Surat An-Nisa (4): 34

¹⁶ Wabbah Al-Zuhaili, Al-Fiqh Al-Islam wa Adillatuhu, Volume II, Cet II, Beirut, Dar Al-Fikr, 1989, p. 7363

¹⁷ Ibid, p. 7366

regarding a wife who is denied three rights to get a living and a place to live, the sahih hadith of Ibn Majah 2035-2036.¹⁸

Based on the recapitulation of the factors causing divorce from the 2016-2019 period, it turns out that the dominant one is due to continuous disputes totaling 1,571 cases, then followed by the factor of leaving one party as many as 421 cases, and in third place due to economic factors as many as 149 cases.

The relationship between the factors that cause divorce to the causes of divorce due to the factor of living, in which basically the income is divided into two parts, namely physical and mental income. The factor of constant dispute is the abandonment of their livelihoods inwardly due to the absence of harmony between husband and wife in the household. Then the factor of leaving one party is abandonment of livelihoods physically and mentally because the husband or wife is not responsible for their obligations and neglects the rights of those they are responsible for. The economic factor, which is the neglect of birth income, is because the husband and wife cannot meet the material needs of their household, causing problems.¹⁹

As for one of the cases that occurred in case No: 0429 / Pdt.G / 2016 / PA.Mtr, that the factors that influenced the cause of the divorce were the continuous disputes between the Plaintiff and Defendant. The dispute was caused because the Defendant remarried another woman without the knowledge of the Plaintiff, and the Defendant never provided support for the Plaintiff. The Defendant was unable to provide adequate support for the Plaintiff and his children, even though the Defendant had a job. In the end, the Plaintiff chose to bring this case to court in the hope that the legal status of the marriage would become clear. The Panel of Judges had advised the Plaintiff to make peace with the Defendant, but this was unsuccessful, so the judge continued the proceedings at the case examination which ended with a Judge's decision.

If we look at the factors that cause divorce, the causes of divorce from the perspective of Islamic family law are possible because of the following 3 (three) things:

1. *Nusyus* Wife

A wife who does *nusyus* to her husband means that the wife feels that she is superior to her husband, so that she feels no need to obey her and commit disobedience to her husband. The law is haram for *Nusyus* because he has violated what has been established by religion through the Qur'an and the Sunnah of the Prophet.²⁰ Divorce is due to the factor of livelihood that a wife commits *nusyus* because she cannot be grateful for the income that her husband has given her to act violently and

¹⁸ Muhammad Nashiruddin Al-Abani, Op.cit, p. 907

¹⁹ Results of an interview with Mr. Sudirman as the clerk of the Mataram Religious Court on June 19, 2020

²⁰ Sofyan Hasan, Op.cit, p. 51

violently to her husband. A wife who demands too much of her husband's ability, and is not entrusted with the maintenance of her husband, for example, the wife takes a large amount of money for herself or the wife is not trustworthy in keeping the secrets of her relationship with her husband.²¹

2. Nusyus Husband

Husbands who do nusyus are disobedience to Allah because they have left their obligations to their wives. Nusyus occurs when a husband leaves his obligations to his wife, either leaving behind his nafaqah (material) and non-material obligations, such as intercourse with his wife in a bad way, acting harshly, hurting mentally and physically and not engaging in bodily relations. As for the actions of the wife when she finds out in her husband the character of Nyusus, as explained in the letter An-Nisa '(4) verse 128 which means:²²

*"If the wife is worried that her husband will act nusyus and turn away, there is nothing wrong with the two of them making a resolving peace. Making peace is the best way. Human passions appear in a stingy form. If you do good and are cautious, then verily Allah knows what you are doing."*²³

3. Syiqaaq

Quarrels that arise because husband and wife do not carry out their obligations. In the word of Allah, Surat An-Nisa (4) verse 35 which means:²⁴

*"If you are worried that there will be a fight between husband and wife, then send a hakam from the husband's side and a hakam from a wife, if both want peace, then Allah will provide taufik between the two. Then verily Allah is All-Knowing, Most Concerning."*²⁵

Divorce due to the factor of living, Imam Malik, Syafi'I and Ahmad are of the opinion that husband and wife can be divorced by a judge's decision. For example, because the husband deliberately does not provide a living if the husband and wife do not have clear assets. The general view is that without a living it is impossible for a wife to take care of the household well, so a husband who is converted should be obliged to take good care of his wife or divorce her well.²⁶ In Surah Al-Baqarah verse 231 which means:

*"If you abuse your wives, then they are nearing the end of their iddah, then either refer to them in a wise way, or divorce them in a wise way too. Do not accuse them to give harm, because by doing so you persecute them ..."*²⁷

²¹Results of an interview with Mr. Sudirman as the clerk of the Mataram Religious Court on June 19, 2020

²² Sofyan Hasan, Op.cit, p. 53

²³Al-Qur'an Surat An-Nisa (4): 128

²⁴ Sofyan Hasan, Op.cit, p. 54

²⁵Al-Qur'an Surat An-Nisa (4): 35

²⁶ AlHamdani, Risalah Nikah, Pustaka Amani, Jakarta, 2011, p. 253

²⁷Al-Qur'an Surah Al-Baqarah (2): 231

If the judge has the right to decide on a divorce because the husband is physically disabled, then the husband's act of not providing for his wife is more painful and tortures the wife when compared to divorcing because of the husband's disability. So it is more appropriate to divorce because the husband does not provide a living. If the husband has no desire to change, is still lazy and does not want to support, then the wife may file for divorce. The husband should find the best solution for this, if he really wants to keep his wife, then he must be provided with a living. But if you can't afford it, don't bother your wife.

The wife is given the right to decide whether she wants to keep her household or divorce. If divorce is the best decision (because her husband is considered irresponsible) then that action is allowed. From Abu Hurairah RA he said Rasulullah SAW said:

"... Start (giving a living) to people who are your dependents, (if not) then your wife will say, take care of me or divorce me ... " (Narrated by Bukhori 4936)²⁸

Hanafiyah scholars argue that divorce because the husband does not provide a living is not justified, either because of an obstacle or because the husband is unable. If he is not capable, it is not included as dzalim, because Allah SWT does not burden someone except for the abilities given to him by Allah SWT. In accordance with the word of Allah SWT which means:²⁹

"People who are able to provide a living according to their abilities should be. People who have little sustenance must provide a living from the wealth given to him by Allah. Allah does not bear burdens on a person but only what Allah has given him. God will one day provide space after a shortage ".³⁰

The Hanafiyah scholar said:

"If the husband does not provide a living, even though he is capable, it means wrongdoing. The way to overcome this tyranny is to sell the wealth owned by the husband to pay for a living, or be imprisoned until he is willing to pay for a living. Not by breaking up with a divorce, while there is still a way to overcome injustice. Because of that, judges are not allowed to divorce the marriage because the husband deliberately does not pay a living. Because, divorce is a lawful act that is hated by Allah, because how can a judge decide that when there is no definite decision and divorce is not the only way to overcome injustice. "³¹

²⁸Abin Yazahid, E-book Hadist Sahih Bukhari. <https://ibnumajjah.wordpress.com/2017/10/11/shahih-bukhari-pdf/>, accessed on 1 June 2020, 7:24 p.m., p. 2390

²⁹Al Hamdani, Op.cit, p. 254

³⁰ Al-Qur'an Surah At-Thalaq (65): 7

³¹Al Hamdani, Op.cit. p. 255

If the husband's condition is rich or at least capable (sufficiently), but he is reluctant to share his assets with the wife, then the wife is allowed to take her husband's assets even without permission. This opinion refers to the hadith of the Prophet SAW which reads:

From Aisyah radhiyallahu 'anha, that Hindun bintu' Itbah said, `` O Messenger of Allah, actually Abu Sufyan is a miser, he does not provide sufficient income for me and my children, except I have to take it while he does not know, " (Rasulullah) said, "Take what is sufficient for you and your children in an appropriate manner." (Narrated by Bukhori 4945)³²

Rasulullah SAW allowed a wife to take her husband's assets without permission but in an appropriate manner. This means not to overdo it, but in moderation. Thus the husband is obliged to support his wife, if not done then he will sin. However, as a wife, you shouldn't be overly demanding. Islamic family life should continue to be studied in order to create happiness in the household.

3.2. Legal consequences of divorce due to livelihood factors based on a study of the Mataram Religious Court Decision No. : 0492 / Pdt.G / 2016 / PA.Mtr.

Religious courts as institutions that provide legal legalization must be more careful in deciding divorce cases submitted by applicants or plaintiffs. The divorce decision must be accompanied by a legal reason or consideration that a husband and wife cannot live together anymore. Article 50 Paragraph (1) of Law No. 48 of 2009 concerning Judicial Power states as follows:

A court decision must not only contain the reasons and basis for the decision, but also contain certain articles of the relevant laws and regulations or an unwritten source of law that is used as a basis for judging.³³

The absence or lack of proper consideration or reason may result in the cancellation of the court's decision concerned. The Panel of Judges in examining divorce cases on the grounds of subsistence issues at the Mataram Religious Court always begins by considering the aims and objectives of the plaintiff's petition, because the court's duties are to accept, examine and adjudicate the case submitted so that a fair decision will be created based on the Almighty God. Based on the decision of the Mataram Religious Court No: 0492 / Pdt.G / 2016 / PA.Mtr with the following description:

1. Position Case

Decision of the Mataram Religious Court with Case Number 0492 / Pdt.G / 2016 / PA.Mtr. on the divorce suit filed by the plaintiff on September 28, 2016 in Mataram. Whereas at first the household condition of the plaintiff and the defendant was in harmony and peace, however since

³² Abinyazahid, Ibid, p. 2396

³³Indonesia, Law No. 48 of 2009 concerning Judicial Powers, Article 50 Paragraph (1)

August 2015, the household of the Plaintiff and the Defendant was no longer in harmony with the existence of disputes that were continuous and difficult to reconcile, which was basically caused by:

- a. The Defendant remarried another woman without the Plaintiff's knowledge
- b. The Defendant never provided support for the Plaintiff and his children
- c. Since February 2016, the Defendant went to Malaysia and the Plaintiff had been looking for the Defendant since February 2016 consecutively by asking his relatives and friends, but the Defendant had no news and had no clear and definite address.
- d. That the Plaintiff's family has attempted to reconcile the Plaintiff's household with the Defendant by providing advice and suggestions to the Plaintiff and Defendant but to no avail.

2. Judges Consideration of Mataram Religious Court Decision No: 0492 / Pdt.G / 2016 / PA.Mtr

Considering, that as for the purposes and objectives of the Plaintiff's lawsuit, as described in the sit-down section of the case:

Considering whereas the panel of judges had advised the Plaintiff to maintain the integrity of their household and reunite as husband and wife, but this was unsuccessful;

Considering that the Defendant, although having been summoned officially and properly, through the broadcasting assistance of RRI Mataram (Article 27 of Government Regulation Number 9 of 1975) did not come to face and did not order other people as representatives / proxies to appear and the Defendant's absence was not caused by an obstacle. valid, then the Defendant must be declared absent and the case is examined and decided without the Defendant's presence (Verstek);

Considering that the Plaintiff filed for divorce against the Defendant with the arguments which in essence are that the Plaintiff and the Defendant are husband and wife who have lived in harmony and have been gifted with 1 (one) child, but since August 2015, the Plaintiff and the Defendant are not in harmony with There are continuous disputes in the household that are difficult to reconcile because the defendant remarried another woman without the Plaintiff's knowledge and the Defendant never provided support to the Plaintiff, so that the Plaintiff could not reconcile with the Defendant because the purpose of the marriage would not be realized ;

Considering that the Defendant's absence from the hearing by the panel considers that the Defendant is deemed to have justified the Plaintiff's claims;

Considering that since the a quo case is a divorce on the grounds of continuous disputes, it is still necessary to prove it, especially hearing testimony from witnesses from the family or people close to both parties to make it more convincing that there are disputes and disputes in the home the Plaintiff and Defendant's ladder;

Considering that the most urgent and significant issue to consider in the a quo case is whether the household between the Plaintiff and the Defendant can still be maintained or whether the marriage between the Plaintiff and the Defendant has truly broken and there is no hope for both parties to live in harmony and peace as husband and wife;

Considering whereas the Plaintiff in corroborating his argument of the lawsuit has submitted evidence P.1 and P.2 and 2 (two) witnesses who have given testimony under oath and the testimony of these witnesses is in agreement with one another, especially the dissonance between the Plaintiff and the Defendant as husband and wife, so that the said evidence has met the formal and material requirements of evidence and can be considered in the a quo case;

Considering whereas based on the Plaintiff's claim argument and the statements of the witnesses connected with evidence P.1 and P.2, it turns out that the Plaintiff and the Defendant are bound in a legal marriage, which currently the Defendant lives in Malaysia;

Considering that the Plaintiff's witnesses have also explained that the Plaintiff and Defendant are husband and wife who have lived in harmony and have been blessed with 1 (one) child and in the household life of the Plaintiff with the Defendant, disputes and disputes often occur which result in the separation of the two parties. residence;

Considering whereas based on the Plaintiff's argument and witness testimony, it turns out that one of the causes of the conflict in the Plaintiff's household with the Defendant was because the Defendant remarried another woman without the Plaintiff's knowledge;

Considering whereas the domestic conflict between the Plaintiff and the Defendant was also triggered by the Defendant's attitude of never providing support to the Plaintiff;

Considering whereas based on the Plaintiff's argument which is corroborated by the testimonies of witnesses, it turns out that the two parties have separated since August 2015, because the Defendant left the joint residence and its whereabouts are now unknown, so this proves that the dispute between the Plaintiff and Defendant has escalated although attempts have been made to reconcile, they are unsuccessful;

Considering that one of the goals of marriage is to create a happy and eternal household life based on the one and only Godhead, as intended in Article 1 of Law Number 1 of 1974 and the sakinah, mawaddah, and rahmah families as meant in Article 3 of the Compilation of Islamic Law, however this does not materialize in the household of the Plaintiff and the Defendant;

Considering whereas based on the aforementioned considerations, the panel of judges found legal facts in the trial which in essence the Plaintiff's household with the Defendant had completely broken up and there was no hope for the two parties to live in harmony because of frequent disputes and disputes which resulted in the two parties living apart;

Considering whereas based on these facts, the panel of judges is of the opinion that the arguments of the Plaintiff's claim have been proven and meet the reasons for divorce as referred to in Article 19 letter (f) of Government Regulation Number 9 of 1975 in conjunction with Article 116 letter (f) Compilation of Islamic Law, so that the lawsuit The plaintiff may be granted the version in accordance with Article 149 R.Bg. with the aim of dropping one bain sughraa of the Defendant against the Plaintiff;

Considering that based on Article 84 of Law Number 7 of 1989 which has been amended by Law Number 3 of 2006 and Law Number 50 of 2009, the Mataram Religious Court clerk ordered the clerk of the Mataram Religious Court to send a copy of this decision to the PPN of the District Office of Religious Affairs in charge of the place of residence and place of marriage of both parties not later than 30 days after this decision is legally binding;

Considering whereas based on Article 89 Paragraph (1) of Law Number 7 of 1989, which has been amended by Law Number 3 of 2006 and the second amendment to Law Number 50 of 2009 concerning Religious Courts, the court fees will be borne by the Plaintiff. whose amount is as in this decision dictum.

3. Legal Consequences of Divorce Due to Livelihood Factors

The legal consequence of neglect of income according to the Marriage Law in Chapter VI can be seen that from the act of neglecting the wife's income, the husband can be sued by the wife in court. This is based on Article 34 paragraph (3) of the Marriage Law which reads:

*"If the husband or wife neglects their respective obligations, they can file a lawsuit with the Court"*³⁴

As to what types of lawsuits a wife can submit to court in the Marriage Law, it has not been explained. But in reality, the lawsuit filed by the wife for the husband's negligence to provide a living is a divorce suit. If the wife files a divorce suit because of the factor of living or due to other reasons and the court grants the wife's claim, then this can terminate the marriage relationship between the husband and wife.

At the Mataram Religious Court, there was no lawsuit because of the issue of subsistence alone, it must also be due to other matters and this was a consideration for divorce.³⁵Article 41 of the Marriage Law regarding the consequences of breaking a marriage due to divorce, the court can oblige the ex-husband to provide living expenses and / or determine an obligation for the ex-wife. This means that the Marriage Law has regulated other legal consequences for the husband, if the husband and wife are divorced, the husband is given the obligation to provide living expenses for the ex-wife.³⁶

The Marriage Law does not yet regulate other alternative ways, apart from filing a lawsuit for the negligence of husband and wife. For example, if there is a problem of neglecting the husband's income against his wife, in this matter of neglecting his living if he only looks at the rules of the Marriage Law, the wife only has the right to file a lawsuit at the court without having any other alternative, because basically living is the right of the wife which is the obligation of the husband. So

³⁴ Indonesia, Marriage Law No. 1 of 1974, Article 34 Paragraph 3

³⁵ Results of an interview with Mr. Sudirman as the clerk of the Mataram Religious Court on June 19, 2020

³⁶ *Ibid*

that the Marriage Law should also regulate other alternatives in case of negligence of husband and wife apart from being able to file divorce suits with each other to the Court.

The legal consequences for husbands who still do not carry out the judge's decision to pay their livelihoods to their wives, in the Marriage Law the rules regarding the legal consequences of neglecting their wages are inadequate because they do not cover legal consequences for husbands who still do not pay their livelihoods based on religious court decisions. Based on the provisions of Article 196 HIR and Article 207 R.Bg, the wife can file a request for execution of her husband at the Religious Court. So it is necessary to add an article regarding the legal consequences of waiver in this Marriage Law.

IV. CONCLUSION

In terms of Islamic family law, the issue of livelihood can be one of the causes of divorce due to 3 things, namely, Husband Nusyus when he leaves his obligations to his wife, either leaving the obligations of nafaqah (material) or non-material such as messing with his wife in a bad way, being rude, hurting mentally. and physically and not doing bodily relations, then the wife of usyus makes fun of her husband by not being grateful for the income that has been given by her husband, a wife who demands too much of her husband's ability, and is not entrusted with the maintenance of her husband and because of the syiqaq (quarrel) that arises because husband and wife do not carry out their obligations, husband and wife do not like each other's attitudes. Based on the facts in the decision No: 0429 / Pdt.G / 2016 / PA. The panel of judges stated that the plaintiff's arguments had been proven and fulfilled the reasons for divorce, so the panel of judges granted the lawsuit in verstek and handed down one divorce from the defendant against the plaintiff. The legal consequences of divorce due to support factors and other matters, the court obliges the ex-husband to provide living expenses and / or determine an obligation for the ex-wife.

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