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LEGAL INTERPRETATION AND JUSTICE: ANALYZING COURT DECISIONS IN DRUG-RELATED DIVORCE CASES IN BANDA ACEH

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ABSTRACT

This article analyses the decision-making processes of Banda Aceh Syariah Court judges in divorce cases related to drug abuse. By examining the elements of judicial deliberation and the types of legal interpretation employed, the study highlights how different interpretative approaches influence court rulings. The normative research methodology, utilizing statutory, conceptual, and case approaches, ensures a thorough understanding of legal principles and their application in specific cases. Data collection through documentation and interviews with judges, clerks, and legal experts provides valuable insights into judicial reasoning and practical considerations. The findings indicate that discrepancies in court decisions primarily stem from varying interpretations of key evidentiary elements, such as witness testimony, the petition (petitum), pragmatic considerations, and laboratory evidence of narcotics. The use of authentic interpretation, especially grammatical interpretation, demonstrates the judges' effort to adhere to the original text and intent of Islamic law. The employment of analogical interpretation reflects an adaptive approach to address complex issues like drug abuse, ensuring that decisions are both legally sound and contextually relevant.The study affirms that these interpretative methods align with Islamic legal principles, particularly the concepts of maslahat (public interest) and mafsadat (harm), which serve as guiding criteria in legal reasoning. By integrating juridical, philosophical, and sociological perspectives, the judges' decisions exemplify a holistic approach to justice that balances legal consistency with societal needs. This nuanced understanding underscores the importance of interpretative flexibility within Islamic jurisprudence to effectively address contemporary issues.

Keywords: Legal considerations, Divorce lawsuits, Narcotics, Syariah Court, Banda Aceh

INTRODUCTION

The Religious Court functions as a legal forum for Muslims seeking justice in accordance with Islamic law. Judges in this court are required to perform their duties by thoroughly accepting, examining, and deciding cases based on solid legal principles, as outlined in Article 62, paragraph (1) of Law Number 7 of 1989 concerning Religious Courts. In divorce cases brought before the Religious Court, the plaintiff must submit a request letter along with the reasons or arguments for the lawsuit and supporting evidence, in accordance with applicable laws such as Article 25, paragraph (3) of Law Number 48 of 2009 concerning Judicial Power and Article 178, paragraph (1) of the Indonesian Civil Procedure Code (HIR). According to Government Regulation No. 9 of 1975, Article 19, there are six legally recognized grounds for divorce when a spouse files a petition with the Religious Court: one party commits adultery, becomes a drunkard, gambler, or engages in other behaviors that are difficult to rehabilitate; or one party leaves the other for two consecutive years without permission or valid reason. [1]

Preliminary data from 2021 to 2023 indicates that there were six divorce decisions related to narcotics at the Banda Aceh Syar'iyah Court. Of these, five decisions accepted the wife's divorce claim against her husband due to proven drug use, citing ongoing disputes and quarrels as reasons, in accordance with Article 116(f) of Presidential Instruction Number 1 of 1991 concerning the Compilation of Indonesian Islamic Law and Article 19(f) of Government Regulation Number 9 of 1975. The remaining case, decision number 103 of 2021, involved the judge granting the wife's lawsuit because her husband was a drug addict, based on reasons outlined in Article 116(a) and Article 19(a), as well as ongoing disputes under Article 116(f) and Article 19(f). [2]

This article investigates the reasons and considerations of the judges of the Banda Aceh Syar'iyah Court in deciding cases of wives suing their husbands on grounds of narcotics use, examining whether these decisions align with applicable formal and material laws for religious courts, Indonesian legal principles, and the principles of an independent judiciary. [3]

[1] L.J. Van Apeldoorn, *Pengantar Ilmu Hukum* (Jakaarta: Pradnya Paramita, 2004).
[2] Sidharta, *Moralitas Profesi Hukum, Suatu Tawaran Kerangka Berpikir* (Bandung: Refika Aditama, 2006).
[3] The Banda Aceh syar'iyah Court is the first level judicial body at the district/city level authorized to receive, examine, hear and decide cases relating to civil disputes among Muslims in accordance with Article 26 paragraph (3) of Law

RESEARCH METHOD

This research employed the normative juridical method by analyzing seven decisions issued by judges of the Banda Aceh Syar'iyah Court in divorce cases due to narcotics abuse. The analysis utilized several approaches, including the statute approach, conceptual approach, case approach, and analytical approach. The study was conducted at the Syar'iyah Court of Banda Aceh City. The data sample comprised six divorce decisions from the Banda Aceh Syar'iyah Court spanning 2021 to 2023. However, this article focuses solely on Decision Number 103 of 2021, as its considerations differ from the other five decisions, which primarily mention disputes (syiqaq) as the reason for divorce, despite the plaintiff also citing narcotics abuse in the lawsuit. [4]

RESEARCH OUTCOME AND DISCUSSION

1. Judges' Considerations in the Indonesian Legal System

Legal considerations are the thoughts and opinions of judges in deciding a case by looking at the facts revealed at trial. Legal considerations are defined as a stage where the panel of judges considers the facts revealed during the trial, starting from the lawsuit, answer, and exception from the defendant which is linked to evidence that meets the formal requirements and material requirements, which reaches the minimum limit of proof. If in his consideration the judge is not thorough, good, and careful, the judge's decision derived from the judge's consideration will be canceled by the high court at the appellate level and by the Supreme Court at the cassation level. [5] Legal considerations are the most important aspect of achieving a quality decision, where a quality decision must definitely contain elements of justice, elements of certainty and elements of legal benefits.[6] Legal considerations can be interpreted as a stage where the judge considers the facts revealed during the trial, starting from the indictment, charges, exceptions from the

Number 48 of 2009 concerning Judicial Power. One of its authorities is to resolve cases of contested divorce based on Article 86 of Law No. 7 of 1989 on Religious Courts. In Aceh, the Syar'iyah Court is an Islamic shari'a judicial institution in Nanggroe Aceh Darussalam as a development of the religious courts which was inaugurated on 1 Muharram 1424 H/ 4 March 2003 M in accordance with Law No. 18 of 2001, Presidential Decree No. 11 of 2003 and Qanun of Nanggroe Aceh Darussalam Province No. 10 of 2002.

[4] Jan Hoesada, *Istilah Pertimbangan Dalam Khasanah Hukum NKRI*, n.d., https://kpap.go.id/wp-content/uploads/2022/04/Istilah-Pertimbangan-dalam-Khasanah-Hukum-RI.pdf.

[5] Sidharta, *Moralitas Profesi Hukum, Suatu Tawaran Kerangka Berpikir*.

[6] Mukti Arto, Praktik-Praktik Perdata Pada Pengadilan Agama (Yogyakarta: Pustaka Pelajar, 2003); According to the Great Dictionary of the Indonesian Language, consideration is an opinion of good and bad, see Pusat Bahasa Departemen Pendidikan Nasional, Kamus Bahasa Indonesia (Jakarta: Departemen Pendidikan Nasional , 2008).

defendant which are linked to evidence that meets the formal requirements and material requirements, which are conveyed in the proof and pledoi. The legal considerations also include articles of legal regulations that are used as the basis for the decision.[7]

Judges in giving consideration to a decision must be thorough, careful and analytical in accordance with the law and the facts revealed at trial. Judges are required to be careful and meticulous in applying articles or sanctions in order to fulfill a sense of justice. In essence, the judge's consideration should also contain facts including: a. the subject matter and matters that are acknowledged or arguments that are not denied; b. there is a juridical analysis of the decision in all aspects regarding all facts / matters proven at trial; and c. there are all parts of the plaintiff's petition that must be considered / tried one by one so that the judge can draw conclusions about whether or not it is proven and whether or not the claim can be granted in the ruling.[8] The purpose of Islamic law is in principle how to realize benefits in the life of the world and the hereafter. The goal of realizing this benefit is in accordance with the principles of the Qur'an, namely: 1) Al asl fi al-manafi al-hall wa fi al-mudar al-man'u (everything that is beneficial is permitted, and everything that is harmful is prohibited); 2) La darar wa la dirar (do not cause harm and do not become a victim of harm); and 3) Al- darar yuzal (harm must be eliminated).[9]Therefore, the considerations of the judge will be contained in the decision must fulfill 3 (three) aspects in a balanced and proportional manner, namely justice, legal certainty and benefits.

Justice is fundamental to the operation of a legal system whose structure or completeness aims to achieve the concept of justice that has been agreed upon.[10] The validity of positive law is not solely measured by the product of the legitimate authority for those who make it, but also no less important whether its content contains the values of justice, because an unjust law does not deserve to be called a law. According to the adherents of the natural law school, the purpose of law is to realize justice, which is the main purpose of law because the law exists or is held to regulate and create a balance or harmonization of human interests.[11]

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[7] Damang, "Definisi Pertimbangan Hukum," *Www.Damang.Web.Id*, 2011, http://www.damang.web.id/2011/12/defenisi-pertimbangan-hukum_17.html.
[8] Arto, *Praktik-Praktik Perdata Pada Pengadilan Agama*.
[9] Margono, *Asas Keadilan,Kemanfaatan, Dan Kepastian Hukum Dalam Putusan Hakim* (Jakarta: Sinar Grafika, 2020).
[10] Sajipto Rahardjo, Membedah Hukum Progresif (Jakarta: kompas, 2006).
[11] Lili Rasyidi, *Hukum Sebagai Suatu Sistem* (Bandung: Mandar Maju, 2003).

Judges are given a mandate to be able to apply laws and regulations correctly and fairly, and if the application of laws and regulations will cause injustice, then judges are obliged to side with justice (moral justice) and override the law or legislation (legal justice). A good law is a law that is in accordance with the living law in society (the living law) which is certainly also in accordance with or is a reflection of the values prevailing in society (social justice). The justice intended here is not procedural (formal) justice, but substantive (material) justice, which is in accordance with the judge's conscience. Procedural justice is justice that refers to the letter of the law. As long as the sound of the law is realized, formal justice is achieved. Whether materially, justice is really felt to be morally fair and virtuous for many parties, the enforcers of procedural justice do not care. Those upholders of procedural justice are usually classified as positivists.[12]

2. Judges' Consideration and Interpretation

The law of evidence is needed by presenting and presenting evidence that is valid according to the law to the judge examining a case in order to provide certainty about the truth presented. Proving is convincing the judge of the truth of the arguments put forward in a dispute. Thus, it appears that proof is only needed in disputes or cases before a judge or court. Proof means logically considering the truth of a fact/event based on valid evidence and according to the applicable evidentiary law.[13] The judge in his decision must also consider non-juridical considerations, which include 3 aspects, namely philosophical, sociological and psychological aspects, all of which are summarized in the judge's decision and revealed in the trial process. [14]

The freedom of judicial power, which is administered by judicial bodies, is one of the hallmarks of the rule of law. In essence, this freedom is an inherent characteristic of every judiciary. The limits and content of this freedom are often influenced by the system

[12] Prija Djatmika, "Problem Menegakkan Keadilan Substantif," *Jawa Pos* 10 (2008), https://scholar.google.com/citations?view_op=view_citation&hl=en&user=3Bhgm74AAAAJ&cstart=100&pagesize=100&sortby=pubdate&citation_for_view=3Bhgm74AAAAJ:u-x6o8ySG0sC.
[13] R Subekti, *Hukum Pembuktian* (Jakarta: Pradnya Paramita, 2007).
[14] M Fauzan, *Pokok-Pokok Hukum Acara Perdata Peradilan Agama Dan Mahkamah Syar'iyah Di Indonesia*, 3rd ed. (Jakarta: Kencana Media, 2007).

of government, politics, economics and so on.[15] The principle of free and independent judicial power is the most central principle in judicial life[16].

Judicial freedom here is not absolute but limited to several things, namely (1) explaining the law derived from the correct and appropriate legislation in resolving the case being examined and (2) interpreting the correct law through justified methods of interpretation.[17] Freedom in exercising judicial authority according to Law No. 14 of 1970 as amended by Law No. 4 of 2004 is not absolute, because the duty of judges is to uphold law and justice based on Pancasila by interpreting the law and looking for the basis of the law and the principles on which it is based through the cases presented to them, so that their decisions reflect the feelings of justice of the nation and the people of Indonesia. Judges, as executors of the judiciary, have a central role in upholding law and justice. In the implementation of their duties and functions, the duties of judges in detail are divided into two types, namely judicial duties and non-judicial duties.[18]

Interpretation is a method to understand the meaning contained in legal texts to be used in resolving cases or making decisions on matters faced concretely. In legal science, legal interpretation is considered important because the formulation of legislation is not always complete, ambiguous, and the words are not necessarily clear. By law, judges are required to conduct legal discovery (rechtsvinding) when facing real cases. In applying the law, judges usually use interpretation (interpretatie) and constructionComparative interpretation.[19]

Apart from all kinds of methods or types of interpretation above, one thing that needs serious attention is that legal norms often contain several or even many meanings, so the law in this context needs to be interpreted. Interpretation is carried out in the context of legal discovery, but if the legal norm does not exist, it can be done with legal construction patterns, including; 1) analogy; 2) argumentum a contrario; 3) legal concreteness; and 4) legal friction

[15] Bagir Manan, *Sistem Peradilan Berwibawa, Suatu Pencarian* (Yogyakarta: FH-UII Press, 2005).
[16] Zulkarnaen and Dewi Mayaningsih, *Hukum Acara Pengadilan Agama Di Indonesia* (Bandung: Pustaka Setia, 2017).
[17] Ibid.
[18] Arto, *Praktik-Praktik Perdata Pada Pengadilan Agama*.
[19] Bambang Sutiyoso and Sri Hastuti, Aspek-Aspek Perkembangan Kekuasaan Kehakiman Di Indonesia (Yogyakarta: UII Press , 2005).

3. Contested Divorce for Reasons of Drug Abuse

A contested divorce is a divorce granted by the wife to the husband, by filing a divorce petition with the Religious Court.[20] The mazhab scholars did not use the term al-furqah but used talak and fasakh while al-furqah was raised by contemporary scholars.[21] A lawsuit can be defined as a complaint that can be accepted by a judge, intended to claim rights from another party.[22] In the lawsuit there are plaintiffs and defendants. The plaintiff is the party whose rights are violated in a civil case. He filed a lawsuit in court and addressed the violating party (defendant) by stating the situating of the case (posita) and and accompanied by what the plaintiff demands. [23] while the defendant is the person who has committed an offense or not performed an obligation. Contested divorce in Islamic Law is called fasakh.

Narcotics are substances or drugs that are very useful, especially in the medical world and are needed for the treatment of certain diseases. However, if it is misused or used not in accordance with treatment standards, it can have very detrimental effects on individuals or society, especially the younger generation. This will be more detrimental if accompanied by the abuse and illicit trafficking of narcotics which can cause greater harm to the life and cultural values of the nation which will ultimately weaken national resilience.[24]

The classical fiqh scholars conveyed the reasons for the permissibility of filing for divorce, according to the madhhabs of Maliki, Shafi'i and Ahmad bin Hanbal, a woman is allowed to sue for divorce or divorce to the judge for the following reasons:

a) If a husband is proven to be unable to provide basic maintenance to his wife, then the wife can file for divorce. However, if this cannot be proven then according to Imam Shafi'i the husband and wife cannot be divorced. Imam Malik and Imam Ahmad bin Hanbal are of the opinion that the husband and wife should not be

[20] Agustin Hanapi, Edi Darmawijaya, and Husni A Djalil, *Hukum Keluarga* (Banda Aceh: UIN Ar-Raniry, 2014).
[21] Agustin Hanapi, *KonsepPerceraian Dalam Islam* (Aceh Besar: Sahifah, 2018).
[22] T.M. Hasbi Ash-Shiddieqy, *Peradilan Dan Hukum Acara Islam* (Jakarta: PT. Alma'arif, 1984).
[23] Gatot Supramono, *Hukum Pembuktian Di Pengadilan Agama* (Bandung: Alumni, 1993).
[24] According to Article 1 number (1) of Law Number 35 of 2009 concerning Narcotics, what is meant by narcotics is a substance or drug derived from plants or non-plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain, and can cause dependency which is divided into groups as attached to this law. Meanwhile, what is meant by drug abuse is using narcotics a) continuously/continuously; b) occasionally (sometimes); c) excessively; and d) used not according to a doctor's instructions (non-medical).

divorced, because the absence of maintenance for the wife is the same as the husband's inability to provide maintenance.

b) The wife feels threatened (domestic violence). In this case, the wife feels threatened either in the form of words or actions of the husband that cause both parties to be unable to maintain a joint household life.
c) The threat to the wife's life because the husband is not in place. According to Maliki and Ahmad bin Hanbal, this is related to the time of abandonment of the wife by the husband. According to Imam Ahmad ibn Hambal, the minimum interval for the wife to file for divorce is six months from the time of her husband's departure. Meanwhile, according to Maliki, it is three years.
d) The wife's life is threatened because the husband is in prison. According to Ibn Taymiyyah who is of the Hambali school of thought, the wife may file for divorce if her husband is sentenced to three years or more.[25]

4. Consideration of the Syar'iyah Court Judges in Decision Number 103/Pdt.G/2021/MS.Bna

The trial judge had tried to advise the plaintiff to abandon her intention to divorce, but to no avail. Based on the testimony of 2 witnesses, the panel of judges considered that the household of the plaintiff and the defendant had broken up and there was no hope that it could be reunited, thus the plaintiff's claim had fulfilled the grounds for divorce as stipulated in the explanation of Article 39 paragraph (2) letters a and f of Law Number 1 of 1974 concerning marriage, Jo. Article 19 letters a and f of Government Regulation Number 9 of 1975 jo. Article 116 letters a and f of the Compilation of Islamic Law in Indonesia.

The evidence was based only on the testimony of two witnesses. Evidence without the use of drug tests from relevant agencies or in krach court decisions. In their decision, the judges gave juridical considerations, namely that the lawsuit has fulfilled the legal provisions of Article 73 paragraph (1) of Law Number 7 of 1989 concerning Religious

[25] Dahwadin et al., "Hakikat Perceraian Berdasarkan Ketentuan Hukum Islam Di Indonesia," *YUDISIA : JURNAL PEMIKIRAN HUKUM DAN HUKUM ISLAM* 11, no. 1 (2020): 87–104, https://download.garuda.kemdikbud.go.id/article.php?article=1800120&val=6790&title=Hakikat%20Perceraian%20Berdasarkan%20Ketentuan%20Hukum%20Islam%20Di%20Indonesia.

Courts which has been amended by Law Number 3 of 2006 and amended for the second time by Law Number 50 of 2009, Article 145 paragraphs (1) and (2) and Article 146 R.Bg jo. Article 26 of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage, Article 82 of Law Number 7 of 1989 concerning Religious Courts as amended by Law Number 3 of 2006 and second amended by Law Number 50 of 2009, Jo Article 154 R.Bg. Jo PERMA Number 1 of 2016, Article 39 paragraph (2) letter a and letter f of Law Number 1 of 1974 concerning marriage, Jo. Article 19 letter a and letter f of Government Regulation Number 9 of 1975 jo. Article 116 letter a and letter f of the Compilation of Islamic Law in Indonesia as well as the hadhanah provisions contained in the provisions of Article 105 letter c and Article 156 letter d of the Compilation of Islamic Law and the provisions of Article 45 of Law Number 1 Year 1974.

The judge in his decision quoted the doctrine of Islamic law in Fiqh al- Sunnah Juz II, page 248, which was taken over as the opinion of the judge which means: "If the claim has been proven, either by evidence submitted by the wife or by the husband's confession, and the husband's behavior makes the wife unable to bear it anymore and the judge is unable to reconcile, then the judge can divorce her by divorce." The judge to strengthen his argument also cited the doctrine in Ahkam Al-Qur'an juz II page 405 which reads: "Whoever is summoned to appear before the judge by a Muslim judge in court, then he does not appear, then he is one of the wrongdoers and his rights are waived."[26]

In carrying out its duty to realize justice and legal certainty, in this case, the court institution was not intervened or influenced by certain parties. Therefore, the Syar'iyah Court as an institution of judicial power that examines, hears and decides cases in court has considered matters that can prove the occurrence of a mistake / violation of the law based on existing legal regulations.[27] In this case, the principles of the rule of law have been implemented properly, and the independence of the judge has been maintained where the judge's position is not related to family relations with one of the parties and the legal basis used is also appropriate so that the judge's decision reflects a good and quality decision. The judge has also carried out the function and judicial process properly as

[26] Baihaqy, *Ahkam Al-Qur'an Li al- Syafi'i* (Cairo: Maktabah Hanijy, 1994).
[27] Explanation of Article 22 paragraph 2 of PP Number 9 of 1975.

stated in PP Number 9 of 1975 which states that a divorce suit can be granted after passing several requirements and examination by the judge, including: 1) The judge examining the divorce suit tries to reconcile the two parties (Article 31); 2) the court only decides to hold a court hearing to witness the divorce if there are indeed reasons as referred to in this Government Regulation, and the Court is of the opinion that it is no longer possible for the husband and wife concerned to be reconciled to live in harmony in the household (Article 16); 3) if it is clear enough to the court regarding the causes of the dispute and quarrel and after hearing the family and people close to the husband and wife (Article 22 paragraph (2)); and the causes of the dispute and quarrel should be considered by the judge whether it really has an impact and is principal for the integrity of the husband and wife's life.[28]

The plaintiff has filed a lawsuit accompanied by reasons and demands/petitions to the judge to grant the lawsuit. The first stage carried out by the judge is to make peace efforts (mediation) so that the defendant will cancel his intention to divorce. This is in accordance with the mandate of Article 31 paragraph (1) and (2) of PP Number 9 of 1975, namely "1) the judge who examines the divorce lawsuit tries to reconcile the two parties. 2) as long as the case has not been decided, reconciliation efforts can be made at each examination hearing. According to PERMA Number 1 of 2016, mediation must be carried out by the judge, if the judge does not carry out the mediation process before the examination of the case, then the judge's decision is null and void by law.[29]

The judge as hakam (mediator) has tried to reconcile and determine the law in accordance with the common good. The mediation expected by the judge did not work because the wife as the plaintiff was adamant that she wanted a divorce because the plaintiff believed that since the beginning of their marriage they had experienced continuous disagreements and quarrels due to the husband as the defendant consuming methamphetamine drugs. Likewise, based on the testimony of the plaintiff, in February 2021, the couple had separated from home, which was preceded by the defendant leaving the plaintiff.

[28] Explanation of Article 22 paragraph 2 of PP Number 9 of 1975.
[29] (Muhammad 2024)

based on the evidence and facts of the trial, the judge decided to grant the divorce because the defendant had been proven and in accordance with the intent of Article 19 letter a and letter f of Government Regulation Number 9 of 1975, namely the two main reasons, namely due to continuous disputes and quarrels and due to drug consumption.

The panel of judges mentioned the legal basis for the judge's decision in this case was in accordance with the absolute competence and relative competence of the religious court that the Syar'iyah Court was authorized to hear, examine and decide on cases of contested divorce. In the verdict read out on April 8, 2021 by presiding judge Abdul Hafiz with members Rochmadi and Irfan Nawi Hasibuan read out the verdict that based on the arguments of the lawsuit, the facts of the trial and witness testimony, the divorce suit can be accepted and the divorce is decided with the status of divorce one bain syughra in accordance with Article 119 paragraph (2) letter c of the Compilation of Islamic Law 1991. Furthermore, the argument of the plaintiff's lawsuit Government Regulation Number 9 of 1975 jo. Article 116 letter a and letter f of the Compilation of Islamic Law in Indonesia.

In deciding this case the judge used two sources of law, namely state legislation and shara' law. The legal basis and reasons for deciding cases by referring to legislation or other sources of law (including shar'i arguments for Religious Courts) are indeed mandated by Article 23 paragraph (1) of Law Number 14 of 1970. The panel of judges also mentioned non-juridical legal considerations, namely sociological and psychological considerations. The diction used such as “broken marriage” is a term that describes the state of a household that has been damaged and fragile because there have been many disputes and quarrels. According to SEMA Number 4 of 2014, a divorce suit can be granted if the facts of the trial show that the household has broken down (broken marriage) with indicators that peaceful efforts have been made, there is no longer good communication between husband and wife, one of the parties leaves his/her obligations as husband and wife, there has been a separation of bed / place of residence together and other things found in the trial such as Men Idaman Lain (PIL), Women Idaman Lain (WIL), Domestic Violence (KDRT), gambling and others). On the other hand, the judge in his consideration stated that continuous disputes and quarrels had actually occurred /

were proven or the two of them had been separated for at least 6 months (SEMA Number 1 of 2022) which was proven by the testimony of 2 witnesses.[30]

The panel of judges decided based on evidence in the form of the respondent's ID card (P.1), marriage certificate (P.2), family card (KK) an. Mukhsan (respondent/P.3), as well as a certificate of poverty from the village head (P.4). The plaintiff also presented 2 witnesses who, according to the judge's consideration, met the requirements of witnesses, both formal and material. In relation to the letters used as written evidence used by the syar'iyah court in the form of KTP, KK, copies of marriage certificates, birth certificates and other official documents, all of which have been legalized and stamped that the document is a copy of the original and in the view of Islamic fiqh, written evidence can be used as a basis for judicial consideration by the judge in handing down a decision on the condition that the letter is remembered to have been made, believed to be written, and the archive is found.[31]

To assess whether a household is harmonious or not, the judge formulates the question; whether the two still want to live together under the bond of husband and wife. If the answer is no, then this condition in Islamic law is called syiqaq ("psychological divorce") which is characterized by the attitude of nusyuz (unwillingness to carry out their obligations).[32] Household disputes are not synonymous with oral arguments, a household can be declared to have a dispute if the relationship between the spouses is no longer harmonious, does not trust each other and does not protect each other, with the discovery of the fact that the defendant left the plaintiff, and then proceeded to a fact as a legal fact, where the plaintiff and the defendant had separated, and did not carry out their rights and obligations as husband and wife anymore, indicating that between the plaintiff and the defendant there was no longer mutual trust and understanding and there was no

[30] (Hafiz 2024)
[31] This is the opinion of Ahmad bin Hambal. read Ibn Qayyim al-Jauziah, Procedural Law ..., p. 350. According to Abu Hanifah, if the judge finds something like an acknowledgment of rights in writing that is not archived and the person who wrote it does not remember it, then it cannot be used as evidence in making a decision. The writing is invalid evidence and does not have binding proof. In the Shafi'i school, written evidence cannot be used as a basis for making a decision or in testimony because of the potential for forgery. Meanwhile, Abu Yusuf is of the opinion that writing in the form of testimony or acknowledgment of rights but there is no archive and the person who wrote it does not remember it, then the written evidence is considered valid as long as it is known that the signature of the person who wrote it is written below it
[32] Nur Taufiq Sanusi, *Fikih Rumah Tangga, Perspektif Al-Qur'an Dalam Mengelola Konflik Menjadi Harmoni* (Depok: Elsas, 2010).

longer harmonious husband and wife communication which is part of the symptoms of domestic disputes.

The judge's consideration in this decision was appropriate because the judge in his legal argumentation included juridical considerations in the form of provisions related to letters and witnesses that were in accordance with formal and material law (pp. 10-11), sociological considerations that the household relationship had broken down (p. 11) and psychological aspects (p. 13) where the custody of 1 child out of 2 children under the age of 13 was given to the biological mother while the defendant as the father was obliged to provide child maintenance for the plaintiff in the amount of Rp.5,000,000.- (five million rupiah) every month.

The judge also decided that the care of the child should be given to the plaintiff. To fulfill the rights, interests and interests of the child, namely the right to receive affection and protection from both parents in full, it is required that the plaintiff provide access to the defendant as the father to visit and devote affection to his children. This is in line with the provisions of Law No. 23 of 2002 on Child Protection as amended by Law No. 35 of 2014 and amended again by Law No. 17 of 2016, in conjunction with Supreme Court Circular Letter No. 1 of 2017. The judge's decision to grant the plaintiff's claim as requested is based on the principle of ultra petitum partium. This principle prohibits judges from deciding more than what is demanded. Judges who decide beyond what is demanded by the plaintiff are considered to have exceeded their authority (ultra vires, beyond the power of their authority).

5. Judges' Reasoning and Interpretation

The judge in interpreting the meaning of "consuming" drugs, the judge used grammatical interpretation.[33] Grammatical interpretation is an appropriate attempt to try to understand the text of statutory rules based on the language and arrangement of the words used[34]. In his decision regarding Article 116 letter a, the judge tended to use grammatical interpretation. The word "drugs" is not found in Law No. 7 of 1989, nor is

[33] Legal interpretation is the process of understanding and explaining the meaning of legal rules contained in laws, regulations, or other legal sources. This process is very important in the justice system, because legal texts often do not explicitly cover all situations that may arise in practice. Legal interpretation helps judges, lawyers, and other parties involved in the legal system to apply legal rules to concrete cases and ensure that justice can be achieved. The main purpose of legal interpretation is to ensure that the law or regulation is applied in accordance with the intent of its creator and in accordance with the social context and the larger purpose of the law.
[34] Jhonny Ibrahim, Teori Dan Metodologi Penelitian Hukum Normatif (Malang : Bayumedia, 2006).

it found in Government Regulation No. 9 of 1975 and its legal explanations. The word "drugs" can also be analogized to "madat" based on its similar nature and substance content which is harmful to human nerves and souls. This is reinforced by Johnny Ibrahim's opinion that usually grammatical interpretation is carried out by judges together with logical interpretation, namely interpreting various legal rules to be applied to vague or unclear texts (applaying the obscure text the multiple resources of judicial reasoning).[35]

The provisions contained in the laws and regulations are interpreted by referring to the meaning of words according to grammar or according to custom.[36] The purpose of grammatical interpretation is to understand the legal text, but still adhere to the legal text and avoid interpretations that go too far from the written meaning. The judge's reasoning for using the equivalent of the word "drug" with the word "junkie" is appropriate in divorce cases and has the same substance and meaning as intended by the law, due to, among others: 1) according to the interpretation of language, the word "pemadat" according to the Big Indonesian Dictionary is a noun which means a person who likes or usually smokes madat. "Madat" is a noun which means 'to smoke opium'.[37] A junkie is a term for a person who likes to consume (smoke/eat) substances or even has the effect of addiction to addictive substances such as drugs that have intoxicating properties. A junkie can lose his stability in carrying out daily activities and will definitely be very detrimental to his household life. Moreover, if the addict is really at a very severe level of addiction. This will really complicate the family's economic condition.

Legal interpretation has a hermeneutic character, which is the process of turning something or a situation of ignorance into understanding. Every law has two aspects, namely the express (the sound of the law) and the implied (the spirit or spirit of the law). Legal interpretation including grammatical interpretation is included in the hermeneutic method.[38] In this case, for example, the word "drug" is interpreted with the word "drunkard" is not appropriate because "drunkard" is a negative term given to someone who likes to drink or eat and even experience dependence on intoxicating food and

[35] Ibid.
[36] Sudikno Mertokusumo and A Pitlo, *Bab-Bab Tentang Penemuan Hukum* (Bandung: Citra Aditya Bakti, 1993).
[37] WJS Purwadarminta, *Kamus Umum Bahasa Indonesia* (Jakarta: Balai Pustaka, 2003).
[38] Asikin Zainal and Amiruddin, *Pengantar Metode Penelitian Hukum* (PT Raja Grafindo Persada, 2018).

beverage substances that generally contain alcohol over tolerable levels (over dose) according to health indicators, such as liquor, gadung, and others.

In the procedural law of the civil court at the sharia court in family civil cases, the plaintiff must prove the existence of the reason / claim in accordance with the burden of proof formula. Proof is intended to obtain certainty that an event or fact submitted actually occurred so as to obtain a correct and fair judge's decision. The judge cannot make a decision before it is clear to him that the event or fact submitted really happened, namely proven the truth so that the legal relationship between the parties appears.[39] Because the purpose of proof in Islamic law is to obtain clarity and certainty of an event in any court including Islamic courts.[40]

The tendency of judges to use witness evidence in resolving divorce cases is based on Government Regulation Number 9 of 1975, which stipulates that judges in deciding divorce cases must look for the causes of problems that arise between husband and wife, not as in a criminal case looking for who is at fault from the married couple. Therefore, to be able to find out the real problem, of course, it can only be known from the testimony of witnesses who saw or heard the problem themselves. In the doctrine of civil procedure law in the general court environment, the doctrine of "unus testus nullus testus" (one witness is the same as not testimony) is found. This means that if only 1 witness is used as evidence, the judge cannot decide the case. This provision is in line with the principle of testimony in Islam that the law of witnesses is 2 people, which if less than 2 people must be added with other evidence to replace it.[41]

The judge has applied the principle of formal truth where the judge in his consideration has reached a very convincing level of belief and tries to avoid shubhat (doubt).In civil law, the truth sought by the judge is formal truth, namely based on external evidence, namely written letters and witness testimony.The burden of proof is carried out according to the fiqh rule, namely "Evidence is charged to the plaintiff and the oath is charged to those who reject the lawsuit" Thus the judge is passive only investigates whether or not there is a legal relationship that is the basis of the lawsuit

[39] Arto, *Praktik-Praktik Perdata Pada Pengadilan Agama*.
[40] Asadulloh Al-faruq, *Hukum Acara Peradilan Islam*, 1st ed. (Yogyakarta: Pustaka Yustisia, 2009).
[41] Roihan A Rasyid, *Hukum Acara Peradilan Agama* (Jakarta: Raja Grafindo Persada, 2019).

while the litigants are obliged to prove before the court by submitting evidence in accordance with applicable law.

The judge's belief in the evidentiary process has a very big influence on a case. The judge's belief is the recognition of truth by the judge on case research, arguments and other valid evidence.[42] This is in line with Islamic law, where the provision that the plaintiff must prove his claim is in line with the fiqh qaidah "Proof is imposed on the plaintiff and the oath is imposed on the person who denies. "

6. Juridical Considerations as The Judge's Main Consideration

Proper legal considerations are an indicator of the performance of judges in their profession as professional judges and become material for the leadership to be used as material for study and input for the promotion of the judge's career and position in the future.[43] For law enforcement circles, juridical provisions are the main parameter because the law is identical to the rules that have been positivized and the leadership of the court has the duty to monitor and evaluate whether the decision is correct or not[44].

The majority of judges in their legal considerations always include juridical considerations. Juridical considerations are a necessity because court decisions as judicial legal products always rely on the rules of law and the legal principles that accompany them, moreover court decisions are legal decisions whose clear arrangements have been regulated in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Principles, Article 184 HIR paragraphs 1 and 2, Supreme Court Circular Letter Number 3 of 1974 concerning the obligation to provide legal considerations in court decisions.

The decision of the Banda Aceh Syar'iyah Court above has also followed the format of court decisions based on the Instruction of the Chief Justice of the Republic of Indonesia Number KMA/015/INSTR/VI/1998 dated June 1, 1998 concerning instructions for all judges in all judicial circles, including district courts, military courts, state administrative courts and religious courts in realizing executable decisions containing ethos (integrity), pathos (first and foremost juridical considerations),

[42] Mardani, *Hukum Acara Perdata Peradilan Agama Dan Mahkamah Agung* (Jakarta: Sinar Grafika, 2009).
[43] (Juwaini 2024)
[44] (Fauziati 2024)

philosophical (containing justice and truth) and sociological (in accordance with the cultural values prevailing in the local community). This also makes the legal products above fulfill the elements of procedural law so that they have objective value and authority.[45]

The judges in presenting non-juridical considerations (sociological and psychological) are more in the interests of the plaintiff and the interests of the child. There were no sociological and psychological considerations for the interests of the defendant as the husband of the respondent and father of her children whose future life is also increasingly destroyed as a result of being separated from the children and having to live life alone and the accompanying impacts as a drug user and user for both the plaintiff and the defendant. Thus, many of the judges' decisions were normative juridical (legal certainty) which emphasizes the aspects of order and regularity in society (law and order).[46]

According to Al Yasa Abubakar, the Prophet Muhammad in deciding cases was always with consideration of reason, ratio and clear thinking quality. Likewise, the Prophet in deciding the law often uses maqasid considerations, maslahah mursalah and uruf. Considerations to realize the benefits that must be made by judges, especially religious court judges in making decisions must also pay attention to two things; maslahat and mudarat. The judge's decision must bring maslahat and prevent mudarat as the rule in Islamic legal philosophy (ushul fiqh) "Dar' al mafasid muqaddam 'ala jalb al mashalih". (However, in a practical level, to find out which is maslahat and which is mudarat depends on the knowledge, skills and intelligence of the judge through careful, objective and empirical analysis capabilities including his insight into 'urf or tradition, even though the results of his study are limited to worldly benefits.[47]

7. Decision of the Judge in the View of Islamic Law

The reality of life in the modern world is so complex that often wives are faced with difficult circumstances, some wives are not supported physically and mentally, hurt both

[45] Article 184 HIR/Article 195 RBG states that the lawsuit and the response to the judge's decision are contained in a summary, see Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Yogyakarta: Liberty Yogyakarta, 2009).
[46] Margono, *Asas Keadilan,Kemanfaatan, Dan Kepastian Hukum Dalam Putusan Hakim*.
[47] (Abubakar 2024)

physically and mentally, even their husbands allow this situation without guilt, so Islam gives wives the right to sue their husbands to the court to be able to break the bond of marriage and free themselves from their husband's injustice. [48] In positive Islamic law in Indonesia, this is called a complaint for divorce. Judges in criminal and civil cases always give equal rights to both parties to present reasons or refute based on valid evidence, but in this case the defendant was not present so it was considered that he admitted or accepted the plaintiff's claim. This makes the rights of the defendant unbalanced, but legally it is valid because legal certainty is more important than justice which is often very individualized.[49]

Considerations about the condition of damaged households are also in accordance with local wisdom / religion-based customs (al-adah al-muhakkamah), where khamar, including narcotics, includes goods that are forbidden to be consumed among the community continuously because these substances can intoxicate. The custom can be used as a law of the Acehnese people who hate, prohibit their family members from drinking alcohol can be a law ('urf) as long as the habit is ingrained in the soul, accepted by common sense and straight character and does not contradict the explicit text of the Qur'an, hadith or ijma' which rejects it.[50]

The judge of the shari'yah court in carrying out legal ijtihad to obtain new laws, must not deviate at all from the principle of maqashid al-syariah, namely realizing human welfare in this world and the hereafter. According to the author, so that the judge's ijtihad does not deviate from the principle of maqasid al-syariah which is the spirit of sharia, the judge should be an honest person, have firm principles, be free from any influence and have professional abilities. Judges are also required to be able to apply the concept of maqasid al-syariah in a comprehensive and holistic manner so that Islamic law does not lose its spirit of goodness for humans.

According to Mustafa al-Syalabi, in the verse above there are three elements related to alcohol, namely: 1) al-sabab, namely the act of drinking alcohol which causes mafsadat (badness); 2) al-'illat, namely the mafsadat arising from the legal act of drinking alcohol,

[48] Abdul Manan, *Reformasi Hukum Islam Di Indonesia* (Jakarta: Raja Gravindo Persada, 2007).
[49] (Safriady 2024)
[50] Artiyanto, *Kaidah-Kaidah Fikih, Sebuah Aplikasi Dalam Bidang Muamalat Dan Ekonomi Islam* (Banda Aceh : Bandar Publishing , 2017).

also called al-ma'na al-munasib or wisdom, namely experiencing drunkenness; 3) maqasid, namely the purpose of the norm giver (maqasid al-syari'), namely realizing maslahat through the prohibition of drinking alcohol.[51] Al-sabab is included in the study of wad'i law.[52] Sabab means something that can convey to what is intended. In Indonesian, sabab is called cause. In terminology, sabab is "something that is clear, measurable, which is used by the lawmaker as a sign of the existence of the law; usually with the existence of the sign there is a law and with the absence of the sign, there is no law." It is called sabab because the intoxicating properties of a drink or other intoxicating substance indicate that it is haraam. If there is no intoxicant in a drink or substance, then the prohibition does not apply to it. Thus, the intoxicant is called the clue to the existence of the law (sabab) while the haram law is what is given a clue (musabbab).[53] If the relationship between the cause and the reason is interconnected / harmonious and can be known by the mind, it is called 'illat, whereas if the relationship between the two is not known to be harmonious /unasabah between the clue and the law, we do not know exactly, we leave it entirely to the will of Allah as the creator and regulator of the universe, then it is called sabab. If drug use does not reach the stage of disrupting the rights of the wife and children both physically and mentally, the judge may not conclude to grant the divorce. Narcotics is a cause of divorce, while the wife's right to file for divorce is musabbab. Drunkenness is a case that can eliminate the ability to act (ahliah al-ada'), which is a matter of responsibility and ability to act always mukallaf (mahkum alaih). Drunkenness is an act of human endeavor that eliminates or reduces the ability to act because of its own efforts. In the study of usul fiqh called "awaridh al-Muktasabah".[54]

CONCLUSION

The differences in judicial considerations when deciding cases of divorce due to the husband's narcotics use stem from varying interpretations of witness testimony and the basis of the lawsuit (petitum). Proving divorce on grounds of narcotics typically requires a lengthy process, as it depends on laboratory results from government agencies.

[51] Mustafa Syalabi, *Ta'lil al- Ahkam* (Beirut: Dar al-Nahdah al- Arabiyyah, 1981).
[52] The law of wadh'i is divided into five parts, namely sabab, syarat, mani', valid and void, and rukhsah and 'azimah.
[53] Amir Syarifuddin, *Ushul Fiqh Jilid 1* (Jakarta: Logos Wacana Ilmu , 1997).
[54] Mukhtar Yahya, Dasar-Dasar Pembinaan Hukum Islam (Bandung : Al Maarif, 1993).

Conversely, cases based on continuous disputes and quarrels (syiqaq) involve simpler proof, namely the testimony of two witnesses and the judge's belief that the household is irreparably broken. In executing their functions receiving, hearing, and deciding cases, judges employ different interpretative methods. For divorce cases due to narcotics, judges use grammatical interpretation, focusing on the literal text of the law. Meanwhile, in cases of syiqaq, judges apply authentic interpretation, considering the broader context and intent of the law. The panel's rulings were deemed appropriate and aligned with applicable legal provisions. The judges incorporated three main aspects into their decisions: philosophical, juridical, and sociological. However, their legal reasoning predominantly reflects a normative juridical style, characteristic of Indonesian law's emphasis on written statutes and formal evidence. Judges tend to act as enforcers of the law rather than as interpreters or creators of legal principles. Their considerations are largely normative and juridical, with limited incorporation of ethical, philosophical, or utilitarian perspectives.

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