

## THE PHENOMENON OF DIVORCE LAWSUITS DURING THE COVID-19 PANDEMIC AT THE TEGAL SLAWI RELIGIOUS COURT

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### ABSTRAK

Pandemi covid-19 yang melanda Indonesia termasuk Kabupaten Tegal membawa dampak besar kehidupan keluarga. Pemberlakuan pembatasan kegiatan masyarakat yang berlangsung terus menerus menimbulkan permasalahan serius kehidupan keluarga hingga terjadinya perceraian. Secara umum faktor penyebab perceraian pada masa pandemi COVID-19 karena faktor konflik keluarga, ekonomi, kekerasan dalam rumah tangga, suami meninggalkan istri, kurang dewasanya pasangan menghadapi problem rumah tangga. Kebijakan pemerintah mengenai PSBB pada masa pandemi covid-19 bertujuan untuk memelihara kesehatan keluarga ternyata disisi lain menimbulkan masalah baru meningkatnya jumlah perceraian. Penelitian ini menggunakan jenis penelitian Normatif dengan menggunakan metode kualitatif melalui pendekatan fenomenologis, sosiologis dan hukum Islam. Tujuan penelitian ini untuk mendeskripsikan dan menganalisis alasan yang melatarbelakangi terjadinya peningkatan cerai gugat dan implikasinya pada masa pandemic covid 19 di Pengadilan Agama Slawi Tegal.

**Kata Kunci:** Pandemi, cerai gugat, implikasi, hukum Islam.

### ABSTRACT

*Covid-19 pandemic that hit Indonesia including Regency Tegal have a major impact on family life. Restrictions activity public which in progress Keep going continuously cause serious problems in family life to the occurrence of divorce. In general, the factors that cause divorce during the COVID-19 pandemic are family conflicts , economics , domestic violence, husbands . leave wife , less mature couple dealing with home problems stairs . The government's policy regarding PSBB during the COVID-19 pandemic aimed at maintaining family health, on the other hand, has created a new problem with the increasing number of divorces. This research uses the type of normative research by using qualitative methods through a qualitative approach phenomenology , sociology and Islamic law. The purpose of this research is to describe and analyze the reasons behind happening enhancement divorced sue and implication on the COVID- 19 pandemic at the Slawi Religious Court Tegal.*

**Keywords:** *Pandemic, divorced lawsuit , implication, Islamic law.*

### INTRODUCTION

Covid-19 donate number divorce in amount tall one in Tegal Regency. PSBB Implementation as rule protocol health Covid-19 in Indonesia has lower activity

economy, As a result the family's economic income also decreases . The divorce rate in Tegal Regency in the last 11 months has reached 3,593 cases. Of that number, it turns out that more wives have proposed divorce

initiatives than husbands. According to the Public Relations of the Religious Courts (PA) of Slawi, Sobirin, the number of divorces in Tegal Regency is relatively high, and divorced divorces dominate divorces.<sup>1</sup>

Despite the COVID-19 pandemic, the number of applicants for divorce cases at the Slawi Religious Court is still crowded. Every day there is always someone who registers a divorce case. The trial is still face-to-face. However, the trial process refers to the health protocol provisions. Sobirin added that the divorce factor that occurred in 2020 was dominated by economic factors and husband and wife conflicts. As for the age of the perpetrators of divorce, the average age is 30 to 50 years.<sup>2</sup>

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<sup>1</sup>Shobirin, *Public Relations and judge of the Slawi Religious Court of Tegal Regency*

<sup>2</sup>Interview with Sobirin, *Public Relations and Judge of the Slawi Religious Court*.

Divorce DATA IN SLAWI RELIGIOUS COURT

1. Covid-19 Pandemic Period (March – December 2020)

NO	MONTH	Divorce TALAK	Divorce	Amount
1	March	67	172	<b>239</b>
2	April	40	136	<b>176</b>
3	May	30	82	<b>112</b>
4	June	88	392	<b>480</b>
5	July	76	276	<b>352</b>
6	August	96	293	<b>389</b>
7	September	98	323	<b>421</b>
8	October	60	267	<b>327</b>
8	November	68	222	<b>290</b>
10	December	19	60	<b>79</b>
	<b>AMOUNT</b>	<b>642</b>	<b>2.223</b>	<b>2.865</b>

2. Covid-19 Pandemic Period (January – December 2021)<sup>3</sup>

NO	MONTH	Divorce TALAK	Divorce	Amount
1	January	102	446	<b>548</b>
2	February	81	243	<b>324</b>
3	March	81	278	<b>359</b>
4	April	51	152	<b>203</b>
5	May	54	282	<b>336</b>
6	June	91	336	<b>427</b>
7	July	40	158	<b>198</b>
8	August	79	293	<b>372</b>
8	September	96	280	<b>376</b>
10	October	81	247	<b>328</b>
11	November	78	240	<b>318</b>
12	December	64	299	<b>363</b>
	<b>FRIDAY</b>	<b>898</b>	<b>3.184</b>	<b>4.082</b>

<sup>3</sup> First Level Case Reports Received by the Slawi Religious Court.

The number of divorces during the COVID-19 pandemic has increased. During the period from January to August, 2,555 cases were handled, with details of 559 divorce cases and 1,966 lawsuits. According to Sobirin, the decline in this figure occurred due to restrictions on case registration at the Slawi Religious Court. The restrictions are to avoid the accumulation of people present at the Court and also the trial schedule, and so that the chain of spreading COVID-19 is broken. Besides, because of the policy of regulating the employee work system with WFH (work from home), so that divorce registration is limited to 15 registrants a day. There are still many waiting lists for trial. The divorce trial process during the pandemic continues on weekdays, Monday-Thursday can carry out 20-25 cases.

According to Sobirin (Humas PA Slawi), the reason a person files for divorce at the Slawi Religious Court is generally dominated by economic factors, followed by reasons for leaving home and not returning, quarrels and domestic violence. There are two economic factors, namely because the husband cannot meet the needs of his wife because of the impact of Covid-19, or the husband who applies for divorce because the wife does not receive a living from her husband.<sup>4</sup>

Previous studies Studies on

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<sup>4</sup> Interview with Sobirin, *Public Relations and Judge of the Slawi Religious Court* (27 December 2021).

divorce have been conducted, including; Theresia Vania Radhitya, et al (2020), stated that there were various problems affected by the COVID-19 pandemic, in general, in the economic sector which made it difficult for people to find work and generate income for their daily needs. In particular, social problems that occur in family life are domestic violence , as a result of the application of Social Distancing and staying at home.<sup>5</sup>

Covid-19 is phenomenon plague which hit whole world until bring impact which large to various segment life, especially field economy.<sup>6</sup> Divorce is a problem in family life and at the same time divorce have a far-reaching impact. Islam allows divorce if the relationship husband and wife can no longer be maintained unless divorce is the best way. Divorce in Islamic law or *fiqh munakahat* is known as *divorce* and *khuluk* . *Thalak* is a divorce whose initiative comes from the husband, while *khuluk* is a divorce with the initiative or the will to divorce comes from the wife. Islam regulates the conceptual construction of divorce and the legal consequences it causes in the texts of the Qur'an and hadith texts with the

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<sup>5</sup>Theresia Vania Radhitya, et al, *Impact of the Covid-19 Pandemic on Domestic Violence*, p. 111

<sup>6</sup> Chamdani, M., Mahmudah, U., & Fatimah, S. (2021). Analyzing the Mental Health of Students in Dealing with the Coronavirus Disease Pandemic (Covid-19). *JPI (Jurnal Pendidikan Indonesia)*, 10(4).

principles of justice and full love.<sup>7</sup>

## DISCUSSION

Divorce is considered as a failure in raising a family. Ideally for couples who have problems in the family should be resolved through deliberation between families. However, the current phenomenon of many couples who resolve family problems through divorce, seems to be a trend. Moreover, the phenomenon of increasing divorce cases during the COVID-19 pandemic is interesting to study more deeply.

### 1. Meaning Marriage

Islam views marriage as something sacred and sacred. aim worship to God and follow Sunnah.<sup>8</sup>

Marriage according to Constitution Number 1 Year 1974 is the inner and outer bond between a man and a woman as husband and wife with destination shape family or house ladder which happy and eternal based on Deity Which great One. According to Chapter 2 The Compilation of Islamic Law states that marriage huh ? contract which very strong or *miltsaaqon gholiidza* to obey Allah's commands and carry them

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<sup>7</sup>Ali Imron, "Understand Draft Divorce in Law Family", World Gender Volume 1 Number 1, 2016, p. 16

<sup>8</sup>Fatur Rahman Alfa, "Early Marriage and Divorce in Indonesia", Ahwal's Scientific Journal Shakhshiyah Volume 1 Number 1, 2019, p. 51

out is a worship.<sup>9</sup>

To realize an ideal marriage full of wisdom and blessings, both the bride and groom need physical and spiritual readiness to accept each other in starting a new life. For men after marriage will Becomes husband, leader house ladder and responsible answer on living wife and her children. So also with a woman after marry, he will be a wife who is ready to accompany her husband in a state of liking or grief, be a mother for children.<sup>10</sup>

### 2. Divorce

Divorce is an act that is lawful, but is hated by Allah. According to article 38 of the Law Number 1 Year 1974 that divorce is dissolution of a marriage. Dissolution of marriage due to divorce can occur because *divorce* or *khulu'* ( divorce lawsuit). Islam allows divorce as a last resort and as a last resort which best.<sup>11</sup>

The phenomenon of the occurrence of a divorce cannot be separated from various kinds the

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<sup>9</sup>Indira Hastuti, "Protection Law For Husband wife In Implementation Agreement Marriage According to Law Islam", Journal Law and Dynamics Public Volume 18 Number 1, 2020,p. 65

<sup>10</sup>Shofiatul Jannah, "Delay Marriage In Middle Plague Covid-19", Journal Scientific Ahwal Shakhshiyah Volume 2 Number 1, 2020, p. 42

<sup>11</sup>Soemiyati, Islamic Marriage Law and Marriage Law (law)Number 1 year 1974 concerning Marriage), liberty, Yogyakarta, 2007, p. 105

causal factors that influence the dissolution of a marriage, so that Becomes reason for husband or wife for submit divorce to Religious courts. Change values social in middle Public make level divorce the more tall. Enhancement in case sue divorced also influenced by ability women's economy continues to improve., development of gender equality. In the case of divorce, it has the potential to cause problem and is considered a violation norm social there is in society.<sup>12</sup>

There is a difference of opinion among scholars regarding the law of imposing divorce. According to Ibn Hammam which was strengthened by Ibn Abidin from the madhhab Hanafi that law origin drop divorce is forbidden (unlawful) except there is necessity which urge. because of divorce it can decide flavor love Dear. <sup>16</sup> Laws drop divorce related with condition and situationcertain, in situation certain then law divorce that there are four <sup>17</sup> :

- a. *Haram* : if someone who drops the divorce, it is feared that it will fall on adultery, or he is unable to marry another woman after happening divorce.
- b. *Makruh* : if the husband still wants continue marriage with wife, or still expect descendants from his wife.

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<sup>12</sup>Harsono atik, Paper psychology Social , <http://mutiamusfirah>.

- c. *Mandatory* : if staying with husband and wife results in an act forbidden good about living or other.

Divorce because of khul' is a divorce application at the will of the wife, there are several opinion. According to Jumhur scholars, that Khulu' including divorce. Meanwhile, according to Imam Shafi'i in the book Ahkam al-Qur'an that khulu' is a Faskh isn't it? divorce.

### 3. Law Divorce

#### a. *According to Fiqh Conventional*

In Conventional Fiqh, divorce belongs to the husband, namely that divorce tends to position women as a powerless party (does not have the right to impose divorce). But whenever the husband can drop the divorce, divorce them even though they really are do not want to break the marriage ties. Under any circumstances, if your husband already say sentence "divorce", so will occur divorce. There are some who argue that this conventional fiqh opinion feel discriminatory .<sup>13</sup>

#### b. *According to Legislation Contemporary in Indonesia*

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<sup>13</sup> Muchammad Hammad, Women's Rights After Divorce: Iddah Talak's Livelihood in Law Family Muslim Indonesia, Malaysia, and Jordan, Journal Al-Ahwal, Vol.7 Number 1, 2014, p. 194

Divorce in Indonesia is regulated in Law no. 1 of 1974 concerning marriage (UUP), and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law which was confirmed by the Decree of the Minister of Religion No. 154 of 1991 concerning implementation of the Presidential Instruction No. RI. 1 year 1991.<sup>21</sup> In KHI it is stated that marriage can be broken due to: (1) Death, (2) Divorce, and (3) on the decision Court. The damage to a marital relationship caused by divorce can occur because of talak or because of a divorce lawsuit. Divorce can only be conducted in front of the Court of Religion after the judge has attempted and failed to reconcile the two parties. Divorce is counted since the divorce is stated in front of the court.

Law on divorce in Indonesia positions the judge as the only one agency which is entitled to grant a divorce. With that said, either the husband or the wife can be an applicant for a divorce decision to be implemented. Therefore, even though the right of divorce is the right of the husband, the decision is only pronounced if the judge

gives permission from court.

#### 4. Implication Divorce

The presence of covid-19 has a great impact on household resilience. One of the impacts is the economy, because workers can't work as usual or experience a reduction in working hours that affect earnings. Complications due to covid 19 are the emergence of family problems due to the increase in divorce. The high divorce rate causes a rise in the number of abandoned children. So this is the same as damage to the nation because actually a child is the biggest treasure for the next generation.

Family is a place where children get to know love, meaning, life, and socialization. Then if there is a problem in the family and causes divorce, it will cause a big impact, even more so if the couple already has a child, so the child will lose love from parents and also the loss of a father or mother figure who can cause psychological problems in children.<sup>14</sup>

Impact of divorce on children, which we often see if a child already enters adolescence as a victim of their parents' divorce, the child's psyche will have problems. Like feelings of shame, sensitivity, and low self-esteem that cause

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<sup>14</sup> Uswatun Hasanah, The Effect of Parental Divorce on Child Psychology: An Analysis Journal Gender and Religion, vol.2 no. 1, July-December 2019, page 21-22

child the no like blend in with environment around and interesting self from environment. Children will feel no comfortable, feel not wanted by his parents, lonely, like angry, and even can blame self alone because feel guilty.<sup>15</sup> And what we often meet are children will bullied by her friends because no have family which intact Thing this impact very large to psychological condition of the child.

On an emotional level, children also have a big impact, after people her parents are divorced they tend Becomes child shy and inferior, from This emotional change, if the child reaches the age of adolescence, it can be misleading on mischief teenager.<sup>16</sup> Then If the child feels happiness in his previous family life then will cause trauma which heavy. Also on the contrary if of course no there was happiness in the previous family then the child considers divorce is way out from problem the.

Divorce also has an impact on family assets (property Together). In fiqh actually no know treasure together, but the scholars do *qiyas* like the law of *tirkah* in an effort that does not must shared

same flat but in accordance with contribution. However in Indonesia in Article 126 of the Criminal Code states that "if there is a divorce, where the joint property is dissolved". by law by dividing the common property, their joint wealth is divided in two between husband and wife. And this is what is often used in Indonesia which is also called as a treasure.<sup>17</sup> Because there is a division of wealth gono-gini, this is often times make a divorced couple do not get along because they are fighting for property and again will have an impact on the child. Sometimes the right child foster care falls on the mother so often the mother forbids her child to meet with his biological father and vice versa. Because of the selfishness of parents that will damage the child's mentality and the child's own future, in fact the child is still need affection from second side even though parents divorced.

## B. CONCLUSION

The phenomenon of the COVID-19 pandemic has had a considerable impact on the health and resilience of families. Not a few families who was shaken by various problems and was unable to resolve the problem properly, until it ended in divorce. Divorce

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<sup>15</sup> Ida Untari et al, The Impact of Parental Divorce on Adolescent Psychological Health: Jurnal Professional Islam, vol.15 no.2, 2018, Thing 105

<sup>16</sup> Rina Nur Azizah, Impact Divorce Parent to Development Psychological Child: Journal Al-Ibrah, vol.2 no.2, December 2017, pp 169-170

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<sup>17</sup> Wahyuni Retnowulandari, Knowledge treasure Object Marriage consequence Divorce: Journal Abdimas and Wisdom Local, vol.1 number 1, August 2020, p. 43-44



itself has implications for wives, husbands, and especially for their children. In general, the factors causing divorce during the COVID-19 pandemic occurred due to family conflicts, economic problems, unpreparedness Couples facing household problems. All of these factors are interrelated during the COVID-19 pandemic. The number of husbands who do not work during the COVID-19 pandemic is a potential for weak family economy and a cause of family conflict. Even the development of gender equality is also one of the factors supporting the wife's courage to file for divorce. As gender equality develops, it causes equal rights between men and women, including the right to want a divorce.

The COVID-19 pandemic is a test of family resilience, especially families whose economies are less strong. The couple's unpreparedness in facing the exam is also a potential for divorce. With this, the author recommends to all married couples who are often in conflict in the midst of the Covid-19 pandemic, it is better if the married couple needs to learn to think more maturely, try to choose a gentle and polite way in solving family problems. The importance of implementing 3M behavior, namely, *to understand* , *to give in*, and *to forgive* .

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