

Reasons for Divorce in the Jantho Sharia Court and Their Correlation with Ibn Qudamah's Book Al-Kāfi

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Abstract

Divorce is a last resort permitted by Islamic law and religion in emergencies, and can be resorted to by a husband and wife if the marital bond (household) cannot be maintained. This emergency refers to a situation where the husband and wife have attempted various means and methods to seek reconciliation, whether through mediation from both parties or other similar means. Divorce is the initial step in the emergence of problems and a rift in the relationship between a husband and wife. Divorce is regulated in Article 39 No. 1 of 1974 concerning Marriage, Article 19 of Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 concerning Marriage and Article 116 of the Compilation of Islamic Law (KHI). This discussion focuses on the causes of divorce in the Jantho Sharia Court in 2019-2021 because during that period there was an increase in divorce cases. The purpose of this study is to determine the causes of divorce in the Jantho Islamic Court in 2019-2021 with its correlation with the causes of divorce in the Al-kāfi book. The research method used is a Qualitative Method with an empirical juridical method approach sourced from primary and secondary data. The results of the study indicate that there are 7 classifications of causes of divorce in the Jantho Sharia Court from 2019 to 2021, namely: continuous disputes and quarrels, leaving one of the parties, economic reasons, domestic violence, imprisonment, polygamy, and physical disability. The correlation between the causes of divorce in the Jantho Sharia Court from 2019 to 2021 with the Al-Kāfi book shows two similarities in the causes of divorce: physical disability and economic factors.

Keywords: *Correlation, Causes of Divorce, Sharia Court*

Introduction

Divorce is one of several things that need to be careful about, as the Prophet Muhammad said:

عَنْ أَبِي هُرَيْرَةَ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : ثَلَاثٌ جِدُّهُنَّ جِدٌّ، وَهَزْلُهُنَّ جِدٌّ،
النِّكَاحُ، وَالطَّلَاقُ، وَالرَّجْعَةُ (رواه ابوداود)

Abu Hurairah, he said, "The Messenger of Allah sallallaahu 'alaihi wasallan said; "There are three things that are really true and jokes are really serious, namely marriage, divorce and reconciliation." (HR. At-Tirmidhi).¹

The pillars of divorce include the husband who divorces (requirements: puberty, sanity, and his own free will), the wife who is divorced, and the words

¹ Muhammad Nasiruddin, "Shahahih Sunan Tirmidzi I, Alih Bahasa Ahmad Yuswaji, Ed Edi Fr Dkk" (Jakarta: Pustaka Azzam, 2007), hlm. 911.

used to pronounce the divorce. The words of divorce are divided into two types: the *Ṣarīh* (clearly meaning divorce) and the *kināyah* (unclear meaning, this word requires intention).²

Fasakh is the cancellation of a marriage bond by a religious court based on the demands of the wife or husband which can be confirmed by the religious court or because the marriage occurred violates marriage law. Fasakh occurs because one of the pillars and conditions is not fulfilled and because there is something in the husband or wife that causes harm to one or even both parties at once, so that in this case it is impossible for the marriage to continue. Fasakh like this is called *khiyar fasakh*.³

Divorce is also common in Aceh, and overall divorce cases in Aceh have seen both increases and decreases. Researchers found that divorce decisions remain the highest number of cases in several Sharia Courts in Aceh each year. This article focuses on divorce cases that occurred at the Jantho Sharia Court in 2019-2021, considering that in that year there was an increase and decrease in divorce cases in Aceh as well as the occurrence of the Covid-19 pandemic in the Aceh region.

Jantho Sharia Court Divorce Decision Data for 2019-2021

Data on Divorce Decisions of the Jantho Islamic Court				
No	Year	Solved		Amount
		Cerai Talak	Cerai Gugat	
1.	2019	86	285	371
2.	2020	80	235	315
3.	2021	101	316	417

Source: Jantho Sharia Court, May 2023

Table 1, it can be understood that the highest number of divorce decisions at the Jantho Sharia Court occurred in 2021, with a total of 417 divorce decisions. Decisions. And the lowest number of divorce decisions at the Jantho Sharia Court occurred in 2020, with a total of 316 divorce decisions.

Based on the above description, it can be understood that there are more divorces filed by lawsuit than by divorce. Therefore, this research is interesting to discuss further, entitled "Causes of Divorce in the Jantho Sharia Court and Their Correlation with the Al-Kāfi Book."

Method

The approach used in this study is a comparative qualitative research method. Comparative qualitative research is a study that compares the cause and effect of a problem by analyzing the underlying causes. Because the data sources used are non-human objects, such as books, the method used is textual, using

² Moh. Rifa'i, *Ilmu Fiqih Islam Lengkap* (Semarang: Karya Toha Putra, 1978), hlm. 483.

³ Hamid Sarong, *Hukum Perkawinan Islam Di Indonesia* (Banda Aceh: Yayasan Pena Divisi Penerbitan, 2005), hlm. 165`.

content analysis and library data collection.⁴

In this context, the object of study is the causes of divorce based on the decisions of the Jantho Sharia Court for 2019-2021. The research method used is descriptive and comparative analysis with a qualitative approach. Qualitative research analyzes the facts obtained from the decisions, supported by theory as a research guide based on qualitative paradigms, strategies, and implementation.⁵ Library research is a type of qualitative research where the location and place of research is in libraries, documents, archives.⁶

Discussion

Divorce in the Book of Al-Kafiy

Legal Basis for Divorce

Allah says in the Qur'an surah Ath-Thalaq verse 1:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ . . .

"O prophet, when you divorce your wives, you should divorce them at a time when they can (face) their (reasonable) iddah, and count the time of that 'iddah and put your trust in Allah, your Lord." (QS. Ath-Thalaq [65]: 1)

Divorce is something that is prescribed by Allah and is a halal matter but is hated by Allah, as the Prophet said:

عَنْ بِنِ عُمَرَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: أْبْعَضُ الْحَلَالِ إِلَى اللَّهِ الطَّلَاقُ (رواه ابوداود)

Dari Ibnu Umar bahwa Rasulullah *'alaihi* berkata: "perbuatan halal yang paling dibenci oleh Allah adalah Thalaq". (HR. Abu Daud)⁷

The Prophet sallallahu'alaihi wassalam also said in the following hadith;

عَنِ ابْنِ شِهَابٍ قَالَ: أَخْبَرَنِي سَالِمٌ: أَنَّ عَبْدَ اللَّهِ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَخْبَرَهُ أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهِيَ حَائِضٌ، فَذَكَرَ عُمَرُ لِرَسُولِ اللَّهِ فَتَعَيَّنَ فِيهِ رَسُولُ اللَّهِ ثُمَّ قَالَ: الْيَرَا جُعْهَا ثُمَّ يَمْسِكُهَا حَتَّى تَطْهَرُ، ثُمَّ تَحِيضُ فَتَطْهَرُ، فَإِنْ بَدَأَ لَهُ أَنْ يُطَلِّقَهَا فَلْيُطَلِّقْهَا طَاهِرًا قَبْلَ أَنْ يَمْسَهَا، فَتِلْكَ الْعِدَّةُ كَمَا أَمَرَهُ اللَّهُ (رواه البخاري)

From Ibn Shihab, he said; Salim told me; that Abdullah Ibn 'Umar told that he once divorced his wife while she was menstruating, then Umar asked the Messenger of Allah about this and then he said; "Refer to his wife then let him leave her alone until she is pure, then menstruates (again) then becomes pure

⁴ Endang & Fitria Hidayati Julianto, *Buku Metode Penelitian Praktis* (Sidoarjo: Zifatama Jawara, 2018) hlm.132.

⁵ Sugiyono, *Metode Penelitian Kombinasi* (Bandung: ALFABETA, 2012), hlm.12.

⁶ Prastowo Andi, *Metode Penelitian Kualitatif Dalam Prespektif Rancangan Penelitian*, (Yogyakarta: Ar-Ruzz Media, 2016), hlm.190.

⁷ Abu Daud Sulaiman Bin Ash'ath, *Sunan Abu Daud, Terj; Nasiruddin Al-Khattab* (Riyadh: Maktabah Darrusalam, 2008), hlm. 20.

(again). After that, if he decides to divorce her, then he must divorce her in a pure state before he touches her, because this waiting period is as Allah has commanded him." (HR. Al-Bukhari)⁸

From Ibn Shihab, he said; Salim told me; that Abdullah Ibn 'Umar told that he once divorced his wife while she was menstruating, then Umar asked the Messenger of Allah about this and then he said; "Refer to his wife then let him leave her alone until she is pure, then menstruates (again) then becomes pure (again). After that, if he decides to divorce her, then he must divorce her in a pure state before he touches her, because this waiting period is as Allah has commanded him." (HR. Al-Bukhari).⁹

Types of Divorce

Various forms of marriage dissolution are summarized based on the book *Al-kāfi* by ibn Qudamah, including:

a. *Khulu'*

Khulu' is separation (divorce) between husband and wife with 'iwad (replacement/compensation for losses). If the *khulu'* is done without 'iwad (compensation/compensation for losses) then it is invalid, but if it is with the word *talak* or with the intention of *talak* (with that word), then it will fall into *talak raj'i*, if it is not intended then nothing will happen (*khulu'* or *talak*).¹⁰

Al-khiraqi is of the opinion that *khulu'* is valid without 'iwad. If a wife asks her husband to *khulu'* herself and the husband says; "I *khulu'* you" then the marriage between the two is void (*fasakh* or broken) and there is no further marriage relationship between them because they have separated, in this case it is permissible to *khulu'* without 'iwad like *talak*. Meanwhile, if the husband says "I *khulu'* you" without the wife's request for this then there is no *khulu'* against them, but it is classified as *talak kināyah*. Based on the main opinion, this is the *fasakh* of marriage without any 'iwad and defects (*'aib*).¹¹

Based on the description above, we can understand that the author of the book *Al-kāfi* classifies *khulu'* as part of the phases in a marriage, so that if *khulu'* occurs between husband and wife, the relationship between the two is broken, even without the word *talaq*, because in reality in the case of divorce, there are many things that can break a marriage, whether it is decided through the husband or through the wife.

b. *Talak*

Divorce does not happen with intention alone, because it is a loss of ownership so it does not happen with intention alone. Just as someone intends (intention) to divorce and points (his wife) with his finger, then this does not count as *talak* because it is not *talak ṣarīh* and *kināyah*. Divorce occurs with *lafadz*, both the *lafadz* are *ṣarīh* (clear) and *kināyah* (figuratively). *Talak ṣarīh* is a clear *talak* (*lafadz*),

⁸ Al-Bukhari, *Shahih Al-Bukhari, Terj: Muhammad Muhsin Khan* (Riyadh: Publishers and Distributors, n.d.), hlm. 358-359.

⁹ Az-Zuhaili Wahbah, *Fiqh Islam Wa Adillatuhu Terj. Abdul Hayyie Al-Kattani, Dkk* (Jakarta: Gema Insane, 2011), hlm. 319.

¹⁰ Qudamah, *Al-Kāfi*, hlm. 405.

¹¹ Ibid.

which means lafadz whose meaning is specifically understood according to his habits and the use of the language is fixed for him. As he said; I'm divorcing you, I'm divorcing you and so on, the sentence is talak *ṣarīh* (clear).¹²

A *kināyah* divorce is a wording of divorce that indicates its meaning, if he intends divorce then the divorce falls, because he intended (divorce) with that wording. If he does not intend anything and there are no indicators that point to it (divorce) then the divorce does not fall (not a divorce). For example, if he says; get up, you are not a good person, you are bad and the like, then it is not classified as a talak word if he does not intend divorce. Scholars classify talak in terms of *ṣiḡat* and its wording into two other categories, namely *ṣarīh* (clear) and *kināyah* (figurative).¹³ Scholars classify divorce based on the ideal time for a husband to pronounce it. These two categories are Sunni divorce and Bid'i divorce. Scholars agree that a Sunni divorce is pronounced when the wife is pure and has not yet been consummated. Scholars also agree that a Bid'i divorce is pronounced when the wife is impure and has already been consummated.¹⁴

From the various literature above, we can understand that divorce occurs through a statement from the husband, not just through intention or a mere thought. Unless the words have a double meaning, the perpetrator's intention is required.

c. *Īlā'*

Īlā' is a husband's oath not to have sex with his wife for more than four months, Allah says in the Qur'an:

لِّلَّذِينَ يُؤَلُّونَ مِنْ نِسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِنْ فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

"Those who cheat on their wives must wait four months, then if they return (to their wives) then indeed Allah is Forgiving, Most Merciful."
(QS. Al-Baqarah [2] : 226)

It is valid for every husband who is mature and sane and capable of performing sexual intercourse (*watha'*), and is not valid for anyone other than the husband (such as a master performing sexual intercourse with his slave). It is also not valid for children and the insane, because their oaths are not taken into account (not legally valid). If the husband has an impotent disease (there is hope of recovery) or is detained (captive) during sexual intercourse, then his sexual intercourse is valid, because he restrained himself from sexual intercourse with his oath. If he has an illness that has no hope of recovery (paralysis or covered genitals), then his sexual intercourse is not valid, such as a person who says, "By Allah, I will not fly" (indeed, he is unable to fly).¹⁵

Conditions for valid *īlā'*, including; First, swear, the *īlā'* is an oath. If someone swears by the words of Allah Ta'ala or by one of Allah's attributes then that person has sworn an oath *īlā'* (falling *īlā'*) without making any mistake

¹² *Ibid.*

¹³ Al-Jaziri Abdurrahman, *Fikih Empat Mazhab, Jilid.5* (Jakarta: Kautsar, n.d.), hlm. 609.

¹⁴ Rusyd Ibnu (Averroes), *Syarah Bidayatul Mujtahid Wa Nihayatul Muqtashid, Terj: Abdul Rasyad Shiddiq* (Jakarta Timur: Akbar Media Eka Sarana, 2015), hlm. 156.

¹⁵ Qudamah, *Al-Kafy*, hlm. 529.

about this. If he made *ilā'* by mentioning the divorce vow in this case there are two reports, first, his *ilā'* did not fall, as mentioned by Imam Ahmad. Second, he swore without the name of Allah and without one of Allah's attributes but with the Kaaba, for the sake of the Qur'an or for the sake of my charity to the weak, his *ilā'* fell. It is not valid for *ilā'* to rely on the intention of something, such as "if I have a relationship with you then I have to fast yesterday or for a month".¹⁶

Second, swearing to abandon marital relations in the vagina, because there is harm in it. In terms of wording, there are three divisions, including; the word *ṣarīh* (clear in sentence and meaning), such as he says; "By Allah I will not sleep with you", "By Allah I will not have intercourse with you (watha)" then these words are not considered anything else, because they have no chance of being interpreted other than *ilā'*. The word *ṣarīh* (clear) is legal and has the chance of being interpreted other than *ilā'*, such as he says; "I will not touch you" or "I will not touch you" I will not approach you", "I will not take a bath because of you". The word *kināyah* (sarcasm) is a word that has many meanings, such as saying; "I will not reveal your private parts", "I will not enter you", "I will not join my head and your head", in this wording it does not include swearing *ilā'* unless he intends to swear *ilā'*.¹⁷

Third, the husband who swears must be *mukallaf* (mature and sane) and capable of having normal marital relations.¹⁸

Fourth, if the oath is for a period of more than four months, then it is considered valid and if it is less than four months, then it is not considered valid. This applies to both husband and wife, whether they are free or slaves. As Allah says in the Qur'an, Surah al-Baqarah, verse 226 at the beginning, which means "for the one who promises his wife, he must wait four months." From this verse, we know that in the Hanbali school of thought, the validity of the validity does not apply if it is less than four months because the request to divorce the wife occurs after four months, so it is not valid to ask the husband for a divorce if it is less than four months. If no time is specified, then the validity of the validity applies to his wife, likewise if he says he will not marry until I die or you die (his validity applies to him). If he says until the crow turns gray (although this is impossible), then his validity applies to him.¹⁹

Based on the explanation above, we understand that if someone swears less than four months, then his *ilā'* does not fall, whereas if he swears more than four months then his *ilā'* falls.

d. *Li'ān*

Li'ān is a husband who accuses his wife of adultery (of the qubul or anus), by telling her; "You have committed adultery", "O adulterer" or "I have seen you commit adultery", then there is *ḥad* (the punishment is 80 lashes) for the husband unless he presents evidence or he commits *li'ān* on his wife. Allah SWT says in surah an-Nur verses 4-6.

¹⁶ *Ibid*, hlm. 530-531.

¹⁷ *Ibid*, hlm. 531-532.

¹⁸ *Ibid*, hlm. 533.

¹⁹ *Ibid*.

وَالَّذِينَ يَزْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا
وَأُولَئِكَ هُمُ الْفَاسِقُونَ إِلَّا الَّذِينَ تَابُوا مِنْ بَعْدِ ذَلِكَ وَأَصْلَحُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ وَالَّذِينَ يَزْمُونَ
أَزْوَاجَهُمْ وَلَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ
الصَّادِقِينَ

"Those who accuse good women (of adultery) and they do not produce four witnesses, then whip them eighty times and do not accept their testimony forever, they are the wicked. Except for those who repent after that and reform (themselves), then indeed Allah is Forgiving, Most Merciful. And those who accuse their wives (of adultery), even though they have no witnesses other than themselves, then the testimony of each that person is to swear four times with (the name of) Allah, that indeed he is one of those who speak the truth." (QS. An-Nur [24] :4-6)

This verse requires the husband to perform the had (religious act) unless he has four witnesses (qazaf), and the second verse indicates that the husband's li'an replaces the four witnesses. A husband who is protecting his lineage from being damaged by the lineage of his descendants may perform the li'an of his wife even if he is able to incur sanctions because his goal is to protect his lineage. If the wife forgives her husband's accusations or does not demand hadd against him, and does not have the authority to demand ta'zir from him for his guardian (wife) or parents, because the one who has the authority (right) to sue the husband is the wife, not anyone else. If the wife is pregnant and wants to deny the lineage in the womb, then she may perform the li'an of her wife, because the husband has the right to perform the li'an and also has the opportunity to not perform the li'an if the wife agrees that he has committed adultery (then there is no need for li'an).²⁰

*Li'an can result in the dissolution of marriage, in this case there are two narrations, including; first, li'an will not result in separation until separated by a judge based on the argument of Ibn Abbas, then the Prophet SAW separated the husband and wife. Separation does not occur for a wife only with li'an, if the husband and wife defend themselves. If a divorce is made, the divorce follows li'an (the dissolution of the marriage). The second opinion, there is a dissolution of marriage by doing li'an (perfect) absolutely, because the dissolution of marriage through li'an is permanent and the husband and wife cannot return.*²¹

Based on this description, we know that separation because of li'an is classified as fasakh, thus meaning that the two of them cannot reconcile again (the divorce is eternal).

²⁰Ibid.

²¹Ibid., hlm. 596.

Reasons for Divorce

Khiyar (the choice between continuing or ending it) in marriage has four reasons, including:

- a. a. The presence of defects (illnesses) that prevent marital relations. There are seven types of diseases that can prevent marital relations, three of which occur in men and women: insanity (congenital or not continuous), leprosy (severe), and albinism (a type of albinism). Two diseases occur in men: the defect of jubb (cutting of the genitals) and 'unnah (impotence). And two diseases occur in women: rataq (female genitals covered by flesh) and qaran (female genitals covered by bone). Whoever finds these defects (illnesses) among them is allowed to choose to fasakh (cancel the marriage).²²
- b. A woman is freed, while her husband is a slave.
- c. *Gurur* is a fraud, in the context of marriage it means uncertainty, such as fraud regarding the fulfillment of the conditions proposed by husband and wife, so that the marriage contract can be annulled, if a woman marries a divorced man, or a free person who becomes a slave.²³
- d. Unable to provide for a living, such as housing and the like.²⁴

Based on the explanation mentioned above, it can be understood that the causes of divorce according to the book *Al-kafi* are four, of which two are something that cannot be avoided, namely because of disability (illness) and a wife who is freed (while her husband is a slave). While the other two can still be attempted (fought for so that the marriage remains intact) including because of *gurur* (failure to fulfill the conditions submitted before marriage) and because of maintenance, namely a man who is unable to provide for his wife. Of the four reasons, currently there is about one reason that causes many divorces around us, namely because of maintenance.

Reasons for Divorce at the Jantho Sharia Court in 2019-2021

In all cases, there is a cause or reason that serves as the initial basis for the emergence of a problem (conflict). This is also true in divorce cases, where the cause is the underlying cause of problems in a household. When problems or conflicts arise in a household, husbands and wives naturally have a choice in resolving their issues. Some resolve these issues amicably (through heart-to-heart talks), while others resolve them in court. Divorce can occur when love or respect between partners is lost, accompanied by incompatibility between the husband and wife in various areas, impacting the fulfillment of their obligations and rights.

The Jantho Sharia Court acts as a law enforcer and mediator in various civil disputes among Muslims within its respective jurisdictions. More specifically, this institution is authorized to resolve cases in the areas of marriage (including divorce), inheritance, wills, gifts, waqf, and charity.

²²*Ibid.*, hlm. 295.

²³Ibnu Qudamah, *Al-Kafy...*, hlm. 306.

²⁴*Ibid.*, hlm. 311.

In general, the Jantho Sharia Court has classified 13 causes (reasons) for divorce in today's society. Based on data found by researchers at the Jantho Sharia Court, the classification of these causes of divorce can be described in a structured manner, including:

1. Constant Disputes and Arguments

Constant disputes and arguments usually arise from numerous misunderstandings between partners, differing opinions, and other negative behavior. Communication is essential in families, but these constant disputes often arise from a lack of open communication between partners, often leading to other problems such as infidelity, violence, indifference, and other recurring conflicts. Due to the wide range of causes that serve as indicators of these persistent disputes, constant disputes and arguments are the dominant reason for divorce in all Sharia Courts in Aceh, as was the case at the Jantho Sharia Court from 2019 to 2021.

2. Abandoning One of the Partners

Abandoning one of the partners is the act of one party (in this case, the husband or wife) leaving their partner without a clear reason. This act will have a significant impact on the husband-wife relationship, meaning that the fulfillment of their rights and obligations is neglected. Because of this effect, abandonment can be used as a reason for divorce, as it can cause emotional torture for one of the partners.

Economy

2. Economic

This factor is a fundamental pillar in running a household, particularly in meeting various basic and supporting needs, as well as the obligatory sustenance that a husband must provide to his family. Insufficient or unmet sustenance can be grounds for divorce, according to Ibn Qudamah. Researchers have found that many families experience this problem because they feel they are not being able to meet their living needs.

3. Imprisonment

Being sentenced to imprisonment or other severe punishment will limit or even eliminate the freedom of a husband and wife to live their married life, including exercising their rights and obligations. Therefore, imprisonment can be grounds for divorce, ensuring the goal of marital happiness can be fully realized.

4. Polygamy

Polygamy is a marriage between a man and two or more women, with a maximum of four. Islam permits polygamy, but this refers to unhealthy polygamy, meaning there is disparity in many aspects, including financial support, between the wives. This disparity can lead to conflict within the family. Polygamy can also be used as grounds for divorce, as it is intended to protect the emotional and spiritual well-being of the couple.

5. Domestic Violence

Violence is an act that threatens a person's life and body. This also applies to domestic violence, which harms the defenseless party. To protect the welfare and health of the community, divorce cases involving domestic violence are registered with the court. Based on field data, wives are more likely to report the incident to the Sharia Court for this reason.

6. Physical Disability

A physical disability is an illness that disrupts a person's bodily functions (impairing their ability to perform normal activities). This disability is defined as a disability that prevents the husband and wife from fulfilling their rights and obligations, such as impotence and similar illnesses. According to Ibn Qudamah, this physical disability can be a cause or reason for divorce because it impacts the fulfillment of the rights and obligations between husband and wife. The Sharia Court also considers this a ground for divorce due to its significant impact on happiness and harmony within the household.

Based on the data found in the field, it can be understood that not all of the reasons for divorce are frequently submitted by the public, so for further explanation regarding the reasons for divorce at the Jantho Sharia Court, please see the table below:

Reasons for Divorce in the Jantho Sharia Court					
No	Reasons for Divorce	Year			Amount
		2019	2020	2021	
1.	Constant Disputes and Quarrels	298	264	334	896
2.	Leaving One Party	96	68	38	202
3.	Ekonomi	18	19	9	46
4.	Domestic violence	2	10	-	12
5.	Sentenced to Prison	2	5	-	7
6.	Polygamy	-	5	-	5
7.	Disability	-	-	1	1
Total number		416	371	382	1.169

Source: Jantho Sharia Court, May 2023.

The dominant reason for divorce at the Jantho Sharia Court in 2019 was continuous disputes with 298 divorce decisions, the second most common case was leaving one of the parties with 96 divorce decisions. Economic reasons with 18 divorce decisions were the third most common case. Prison sentences were the reason for 2 divorce decisions and domestic violence was the reason for 2 divorce decisions, which were the fourth most common cases at the Jantho Sharia Court in 2019. The total number of divorce decisions at the Jantho Sharia Court in 2019 was recorded at 416 divorce decisions.

In 2020, there were 6 reasons for divorce that occurred at the Jantho Sharia Court, including leaving one of the parties, being sentenced to prison, polygamy, domestic violence, ongoing disputes and economic reasons, while the other 7 reasons were not included in the data found at the Jantho Sharia Court in 2020.

In 2020, the reason for continuous disputes is still the most common cause of divorce at the Jantho Sharia Court every month, with the number of decisions

being (264) divorce decisions, this number has decreased compared to 2019. The second most common case is the reason for leaving one of the parties with (68) divorce decisions, the reason for leaving one of the parties has also decreased compared to 2019. The third most common case is for economic reasons with (19) divorce decisions, this reason has increased slightly compared to 2019. The fourth most common cause is domestic violence with (10) divorce decisions, this case has increased compared to 2019. And the fifth most common cause is imprisonment and polygamy with the number of each decision being (5) divorce decisions, the reason for imprisonment has increased compared to 2019 and the reason for polygamy did not occur in 2019. The total number of divorce data at the Jantho Sharia Court in 2020 is (371) divorce decisions. Based on various descriptions, it can be concluded that divorce cases in 2020 decreased compared to 2019.

In 2021, there were 4 reasons for divorce at the Jantho Sharia Court, including leaving one of the parties, domestic violence, ongoing disputes, and economic reasons. Meanwhile, the other 9 reasons for divorce did not occur at the Jantho Sharia Court in 2021.

Based on the data obtained from the field, it can be seen that the cause of continuous disputes is still the highest cause of divorce cases every month in 2021 with the number of decisions as many as (334) divorce decisions, meaning that in 2021 the cause of continuous disputes was the first most cases compared to 2019 and 2020. The reason for leaving one of the parties was (38) divorce decisions, this case was the second most common cause and experienced a decrease from previous years. The third most common case was with economic reasons as many as (9) divorce decisions, in this case also experienced a decrease compared to 2019 and 2020. Cases with economic reasons were the third highest cases at the Jantho Sharia Court in 2021, this case experienced a decrease compared to 2019 and 2020. The cause of physical disability was (1) divorce decision, and became an additional case in 2021 at the Jantho Sharia Court because in 2019 and 2020 no data was found regarding this cause. In 2021, divorce cases at the Jantho Sharia Court increased compared to 2020, namely (382) divorce decisions.

Based on the divorce decision data and the description, it can be concluded that the divorce rate in Jantho decreased in 2020 by (371) divorce decisions, with the number of decisions in 2019 being (416) divorce decisions, and increased again in 2021 by (382) divorce decisions, although the level did not far exceed the number of decisions in 2020 (around 11 more divorce decisions in 2021). In Aceh itself, the covid-19 virus began to increase in 2020 so we can understand together that the number of divorce decisions decreased during the covid-19 pandemic in Aceh. So the highest divorce cases at the Jantho Sharia Court occurred in 2019, more precisely before the covid-19 virus was present in Indonesia, especially in Aceh.

Correlation of the Causes of Divorce in the Jantho Sharia Court with the Al-Kāfi Book

The Jantho Sharia Court has classified 13 reasons for divorce in divorce cases, although it is known that not all of these reasons occurred in the Jantho Sharia Court in 2019-2021. Based on previously obtained data, it is known that there are 7

classifications of reasons for divorce that occurred in the Jantho Sharia Court in 2019-2021, including reasons for continuous disputes and arguments, leaving one of the parties, economic, domestic violence, imprisonment, polygamy, and physical disability. Meanwhile, 6 other classifications of reasons did not occur in the Jantho Sharia Court in 2019-2021, including reasons for adultery, drunkenness, drugs, gambling, forced marriage, and apostasy.

Based on the explanation in the previous chapter, in the book *al-kāfi* by Ibn Qudamah there are 4 classifications of causes of divorce, including physical disability (disease), liberated women, *ghurur* (cheating) and livelihood.

In the explanation of the description, it is known that there are several classifications of reasons for divorce that are legally recorded and are included in the classification of reasons for divorce in the Jantho Sharia Court, including based on the book *al-kāfi* there are 2 similarities in the classification of reasons for divorce, namely physical disability and economic (living). From these various descriptions, we can see that the uniformity of reasons for divorce in modern times, the reasons for divorce described by the Sharia Court are certainly more diverse due to the many cases that result in divorce in this modern era, so it is natural that the reasons for divorce in modern times are more numerous than the reasons for divorce in the past (in the books of scholars).

Based on the previous description, we can see that the Jantho Sharia Court classified seven causes of divorce between 2019 and 2021. Furthermore, it can be concluded that the correlation between the causes of divorce in the Jantho Sharia Court between 2019 and 2021 and the *Al-Kāfi* book reveals two similarities: physical disability and economic reasons.

Conclusion

The Jantho Sharia Court classified seven causes of divorce between 2019 and 2021: persistent disputes and quarrels, abandonment, financial reasons, domestic violence, imprisonment, polygamy, and physical disability. Six causes of divorce were not identified in the Jantho Sharia Court between 2019 and 2021: adultery, drunkenness, drug abuse, gambling, forced marriage, and apostasy. Correlating the causes of divorce between the Jantho Sharia Court between 2019 and 2021 with the *Al-Kāfi* book, there are two similarities: physical disability and economic factors.

Daftar Pustaka

(Averroes), Rusyd Ibnu. *Syarah Bidayatul Mujtahid Wa Nihayatul Muqtashid*, Terj: Abdul Rasyad Shiddiq. Jakarta Timur: Akbar Media Eka Sarana, 2015.

Al-Bukhari. *Shahih Al-Bukhari*, Terj; Muhammad Muhsin Khan. Riyadh: Publishers and Distributors, n.d.

Al-Jaziri Abdurrahman. *Fikih Empat Mazhab, Jilid.5*. Jakarta: Kautsar, n.d.

Amir Syarifuddin. *Hukum Perkawinan Islam Di Indonesia, Antara Fiqh Munakat, Dan Undang-Undang Perkawinan*. Jakarta: Prenada Media, 2006.

- Ash'ath, Abu Daud Sulaiman Bin. *Sunan Abu Daud, Terj; Nasiruddin Al-Khattab*. Riyadh: Maktabah Darrusalam, 2008.
- Julianto, Endang & Fitria Hidayati. *Buku Metode Penelitian Praktis*. Sidoarjo: Zifatama Jawara, 2018.
- Moh. Rifa'i. *Ilmu Fiqih Islam Lengkap*. Semarang: Karya Toha Putra, 1978.
- Djawas, M., Amrullah, A., & Adenan, F. B. (2019). Fasakh Nikah dalam Teori Maṣlaḥah Imām Al-Ghazālī. *El-USRAH: Jurnal Hukum Keluarga*, 2(1), 97-122.
- Nasiruddin, Muhammad. "Shahahih Sunan Tirmidzi I, Alih Bahasa Ahmad Yuswaji, Ed Edi Fr Dkk." 911. Jakarta: Pustaka Azzam, 2007.
- Prastowo Andi. *Metode Penelitian Kualitatif Dalam Prespektif Rancangan Penelitian*. Yogyakarta: Ar-Ruzz Media, 2016.
- Qudamah, Ibnu. *Al-Kafy*. Tnp: Giza, 1997.
- Sarong, Hamid. *Hukum Perkawinan Islam Di Indonesia*. Banda Aceh: Yayasan Pena Divisi Penerbitan, 2005.
- Sugiyono. *Metode Penelitian Kombinasi*. Bandung: ALFABETA, 2012.
- Wahbah, Az-Zuhaili. *Fiqih Islam Wa Adillatuhu Terj.Abdul Hayyie Al-Kattani, Dkk*. Jakarta: Gema Insane, 2011.