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Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia

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Abstract: The elevated divorce rate in Purwokerto has become a focal point for the local government due to its adverse repercussions. This research has identified five primary factors contributing to divorce, encompassing education, economic status, religion, access to healthcare, and environmental factors. This study employs empirical legal methods analyzed in accordance with Islamic family law theory. In-depth interviews were conducted with informants, as well as literature studies and data collection techniques. The results showed two critical findings. First, Islamic family law makes it clear that although divorce is legal, God views it negatively. Divorce is considered a final option when mediation becomes unfeasible. For a divorce to be valid, it must meet various criteria, such as guidelines for property division and child custody. Additionally, the Qur'an and Hadith discuss the five legitimate reasons for divorce. Secondly, the issue of divorce is regulated by normative positive law. However, no legal regulations are specifically available at the local government level to support efforts to reduce divorce rates based on the five leading causes. In particular, the five causes of divorce are also discussed based on relevant normative regulations and support from previous studies. The two sources of family law and Islamic law have different views regarding the legal requirements of divorce and its scope. However, in terms of similarities, both sources of family law and Islamic law support efforts to protect children and empower women victims of divorce. With national legal regulations, the government is responsible for providing effective rules to resolve the causes of high divorce rates legally.

Keywords: Divorce, family law, normative law, Islamic family law

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Abstrak: Penelitian ini bertujuan untuk menganalisis secara komparatif dalam perspektif hukum keluarga dan hukum Islam tentang penyebab perceraian di Purwokerto yang berdampak negatif. Kajian tersebut mengidentifikasi lima faktor utama penyebab perceraian yang meliputi pendidikan, ekonomi, agama, akses kesehatan, dan lingkungan. Penelitian ini menggunakan metode hukum empiris dianalisis dengan teori hukum keluarga Islam. Wawancara mendalam dilakukan dengan informan serta studi literatur sebagai teknik pengumpulan data. Hasil penelitian menunjukkan dua temuan penting yaitu pertama, hukum keluarga Islam menjelaskan bahwa perceraian tidak dilarang, tetapi Allah membenci perceraian. Perceraian adalah pilihan terakhir ketika mediasi tidak lagi memungkinkan. Ada beberapa syarat sahnya perceraian, aturan pembagian harta, dan hak asuh anak. Secara khusus, lima penyebab perceraian juga dibahas dalam Al-Qur'an dan Hadits. Kedua, bahwa hukum normatif mengatur masalah perceraian. Namun, belum ada regulasi hukum yang secara khusus tersedia di tingkat pemerintah daerah untuk mendukung upaya penurunan angka perceraian berdasarkan lima penyebab utama perceraian tersebut. Secara khusus, lima penyebab perceraian juga dibahas tentang peraturan normatif yang relevan dan dukungan dari studi sebelumnya. Dapat disimpulkan bahwa kedua sumber hukum keluarga dan hukum Islam memiliki pandangan yang berbeda dalam hal persyaratan hukum yperceraian dan ruang lingkupnya. Namun dari segi kesamaan, kedua sumber hukum keluarga dan hukum Islam ini mendukung upaya perlindungan anak dan pemberdayaan perempuan korban perceraian. Dengan peraturan hukum nasional, pemerintah bertanggung jawab untuk menyediakan peraturan yang efektif dalam menyelesaikan secara hukum penyebab tingginya perceraian.

Kata Kunci: Perceraian, Hukum Normatif, Hukum Keluarga Islam

Introduction

The contemporary prominence of divorce stems from its pervasive occurrence globally. Within the United States, the period spanning from 2008 to 2017 witnessed a notable surge in divorces, particularly among individuals hailing from the Baby Boom generation. Analysts contend that the elevated divorce rates underscore multifaceted reasons contributing to marital dissolution. Consequently, such instances frequently correlate with heightened susceptibility to health complications, socioeconomic disruptions,

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and the onset of psychological disorders post-divorce.¹ Per Parker's analysis, over recent decades, divorce has amplified the likelihood of women assuming a heightened burden of caregiving responsibilities, particularly concerning children affected by marital dissolution.² Nevertheless, the majority of women opt for divorce for a variety of reasons, including significant societal expectations, the pursuit of career advancement opportunities, and dissatisfaction within the household.³

From an Islamic law perspective, divorce is considered a final recourse when marital issues become insurmountable, rendering the continuation of the union untenable. The examination of divorce within the context of Islamic feminism in India emerged due to the breakdown of traditional gender roles, where men are expected to be primary breadwinners and women are relegated to secondary roles in the family structure.⁴ Within the United Kingdom, considerable discourse has arisen regarding Islamic divorce procedures and the involvement of Sharia councils. Advocates have proposed the integration of certain facets of Islamic law into the legal framework to safeguard the rights of women, acknowledging the necessity for legal protections. However, this proposition encounters challenges, given the predominant Christian religious framework within the English legal system.⁵ Nations harboring Muslim minority populations acknowledge the significance of Islamic jurisprudence in furnishing guidelines for divorce proceedings.⁶ Similarly, legislation aimed at safeguarding individuals affected by divorce is imperative. In developing nations, the inadequacies of divorce laws have been implicated in the escalation of partner violence.⁷ The absence of effective legal protection has

¹ David A. Sbarra and Mark A. Whisman, "Divorce, Health, and Socioeconomic Status: An Agenda for Psychological Science." *Current Opinion in Psychology* 43 (2022), p. 75–78.

² Gillian Parker, et. al., "Why Women Choose Divorce: An Evolutionary Perspective," *Current Opinion in Psychology* 43, no. 1 (2022), p. 300–306.

³ Soraya Devy, et. al., "The Role of Witness as Evidence in Divorce Cases at the Banda Aceh Syar'iyah Court," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021), p. 579–97.

⁴ Philip N. Cohen, "The Coming Divorce Decline," *Socius* 5 (2019), p. 1–6.

⁵ Dinda Difia Madina, et.al., "The Dynamics of Polygamy and Divorce in Muslim Countries," *El-Aqwal: Journal of Sharia and Comparative Law*, (2023), p. 135–48.

⁶ Amra Bone, "Islamic Marriage and Divorce in the United Kingdom: The Case for a New Paradigm," *Journal of Muslim Minority Affairs* 40, no. 1 (2020), p. 163–78.

⁷ Andika Mubarak and Tri Wahyu Hidayati, "Pencatatan Pernikahan Di Indonesia Ditinjau Dari Maqashid Syariah Jasser Auda," *ADHKI: Journal Of Islamic Family Law* 4, no. 2 (2023), p. 157–70.

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hindered women from exiting abusive marriages, exacerbating the prevalence of divorce disputes in developing nations.⁸

In Indonesia, the tradition of divorce is entrenched within the ethnography of Islamic family law, wherein Islamic rulings are not inherently normatively binding.⁹ In Purwokerto, Central Java, Indonesia, there exists a notable incidence of divorce, as evidenced by data obtained from the Religious Courts. Since 2015, Purwokerto has witnessed a significant surge in divorce proceedings, with the trend continuing through 2021. During this period, the total number of divorce cases has escalated to 2,750 couples, comprising 2,077 cases initiated by women, and 718 cases initiated by men, all of which were granted by the court. Economic difficulties within households emerged as the primary catalyst for divorce, accounting for 1,377 cases, followed by 853 cases attributed to irreconcilable differences, according to Religious Court records.¹⁰

Previous research has identified five primary categories as the main causes of divorce. Firstly, lower levels of education are more correlated with divorce compared to couples with higher educational backgrounds.¹¹ Secondly, conflicts stemming from economic hardships within households are frequently cited as a leading cause.¹² Thirdly, discrepancies in understanding religious teachings pertaining to marriage contribute to marital discord.¹³ Fourthly, limited access to healthcare resources, including clean water, sanitation, and medical professionals, plays a significant role.¹⁴ Lastly, an unsupportive social environment exacerbates the challenges faced by married couples.¹⁵ While these factors constitute the primary drivers of divorce,

⁸ Aixa García-Ramos, "Hukum Perceraian dan Kekerasan Pasangan Intim: Bukti dari Meksiko," *Journal of Development Economics* 150, (2021).

⁹ K. Lemons, *Traditions Divorcing: Islamic Marriage Law and the Making of Indian Secularism* (Ithaca, New York: Cornell University Press, 2019).

¹⁰ Purwokerto Religious Court Report 2015-2021.

¹¹ Gert Martin Hald, et.al., "The Divorce Conflict Scale." *Journal of Divorce and Remarriage* 61, no. 2 (2020).

¹² Bram Hogendoorn, et.al., "Divorce and Diverging Poverty Rates: A Risk-and-Vulnerability Approach." *Journal of Marriage and Family* 82, no. 3 (2020).

¹³ Octaviani, Facia and Nunung Urwati, "Dampak Pernikahan Usia Dini Terhadap Perceraian Di Indonesia." *Jurnal Ilmu Kesejahteraan Sosial Humanitas* 2, no. 2 (2020).

¹⁴ Amritpal Kaur Khakh, et.al., "Spatial Accessibility to Primary Healthcare Services by Multimodal Means of Travel: Synthesis and Case Study in the City of Calgary." *International Journal of Environmental Research and Public Health* 16, no. 2 (2019).

¹⁵ Azizah Nuraini, et.al., "Strategi Peran Istri Dalam Mempertahankan Keluarga Dari Perceraian Di Kota Surakarta." *Jurnal Pendidikan Sosiologi Dan Humaniora* 13, no. 2 (2022).

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additional research indicates that other underlying factors contribute to the trend, such as poor communication between spouses, as well as demographic variables like age and income.¹⁶

It is widely acknowledged that divorce matters carry a unique emotional weight, particularly within the legal profession. When factors such as societal stigma, familial honor, lingering resentment toward a partner, and an adversarial legal environment converge, the ostensibly straightforward process of divorce can swiftly become complex and challenging to navigate.¹⁷ Therefore, there is a pressing need to delve deeper into the underlying causes of divorce in Purwokerto, examining them through the lenses of Islamic law and normative or positive family law.¹⁸ Conducting research to compare the intertwined legal frameworks is imperative to discern their distinctions or parallels. Divorce matters represent a highly intricate facet of family law, characterized by a fusion of legal statutes, religious observances, societal expectations, and socio-cultural norms. Furthermore, the etiology of divorce is perceived as a precipitant for diverse governmental challenges, encompassing issues in health, socioeconomics, and notably, poverty.¹⁹

The findings of the research elucidate eight primary factors underlying divorces recorded during the period spanning from 2016 to 2020, namely: persistent conflicts and disagreements (3,014 cases), economic considerations (2,828 cases), unilateral departure of one partner (2,180 cases), disharmony within the marital relationship (105 cases), spousal irresponsibility (95 cases), external interference by third parties (70 cases), coerced marriages (27 cases), and instances of domestic violence (24 cases). The predominant factors contributing to the notable increase in divorce cases in the Purwokerto Religious Court from 2016 to 2020 are as follows: Persistent conflicts and disputes (3,014 cases, accounting for 36%), economic considerations (2,828 cases, representing 33%), and instances of unilateral departure by one partner (2,180 cases, constituting 26%).

¹⁶ UT Wijayanti, “Analisis Faktor Penyebab Perceraian Pada Masa Pandemi Covid-19 Di Kabupaten Banyumas,” *Jurnal Ilmu Keluarga Dan Konsumen* 14, no. 1 (2021), p. 14–26.

¹⁷ Kamaruddin Kamaruddin, “Widows’ Rights and Customary Law: Addressing Responsive Law to Divorce Cases of Tolaki Community in Indonesia”, *Mazahib: Jurnal Pemikiran Hukum Islam* 22, No. 2 (2023).

¹⁸ Siti Nurjanah, “Divorce and Its Impact on Custody of Minors Using Islamic Law Perspectives,” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022), p. 119–40.

¹⁹ Muhazir Muhazir, “Dualisme Peraturan Perceraian Di Aceh: Kontestasi Fatwa Dan Hukum Negara,” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 13, no. 2 (2020), p. 198–208.

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Islamic family law research delves into the causal factors of divorce, aiming to contribute to governmental initiatives aimed at mitigating the divorce rate in Purwokerto. This study presents two problem formulations to be addressed, with the responses offering insights into the phenomenon of elevated divorce rates in Purwokerto, Central Java, examined through the lenses of Islamic family law and normative law. These inquiries seek to elucidate the factors driving the heightened divorce rate in Purwokerto from the perspectives of normative or positive law and Islamic family law, respectively.

This research uses empirical legal methods analyzed with Islamic family law theory. In-depth interviews were conducted with informants as well as literature studies as data collection techniques.²⁰ The object of study is Purwokerto which is located as the capital of Banyumas Regency in Central Java Province, covering several sub-districts including West Purwokerto, East Purwokerto, South Purwokerto and North Purwokerto. This research attempts to analyze data to see the basic problems in divorce cases, which ultimately attempts to reach a resolution of the problem. The efficacy of national legislation will further support this investigation.

Divorce Regulations in Indonesia

The legal system plays a vital role in establishing and maintaining order within a nation. It serves as a fundamental framework governing the functioning of a country, encompassing its governance structures and societal interactions. Individuals adhere to the law as they perceive it to provide a sense of certainty and justice, while also recognizing the authority vested in law enforcement entities to regulate social conduct.²¹ Hence, the primary objective of law is to govern the interactions between the state and its populace, ensuring the provision of legal certainty and justice, thereby fostering an environment characterized by orderliness and safety.²² Family law constitutes a branch of jurisprudence that pertains to the legal relationships arising from blood kinship

²⁰ Faizal Ananda Arfa and Watni Marpaung, *Metode Penelitian Hukum Islam*, Jakarta: Kencana, 2018. Theresia Anita Christiani, "Metode Penelitian Normatif dan Empiris: Kegunaan dan Relevansinya dalam Studi Hukum sebagai Objek," *Procedia - Ilmu Sosial dan Perilaku* 219 (2016), p. 201–7.

²¹ Fathonah K Daud and Nurrohman Syarif, "Hak Cerai Perempuan Dalam Hukum Keluarga Islam Maroko," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 14, no. 2 (2021), p. 159–72.

²² Tom R. Tyler, *Mengapa Orang Mematuhi Hukum*, *Mengapa Orang Mematuhi Hukum* (Princeton, New Jersey: Princeton University Press, 2006).

and marital unions.²³ It predominantly governs matters such as marriage, parental authority, guardianship, custody, and the handling of absent individuals.²⁴ In Indonesia, family law is delineated within various legislative frameworks, including Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, Law Number 7 of 1989 pertaining to Religious Courts, and the Compilation of Islamic Law in Indonesia. These statutes stipulate that divorce is legally recognized only if adjudicated by a judge in the Religious Court. However, divorces frequently occur due to inadequate comprehension of legal procedures and the associated financial burdens. Some instances have arisen wherein couples undergo separation without formal divorce proceedings in the Religious Court, leading to a situation where, according to formal legal standards, their marital status remains intact despite being effectively divorced or separated in practice.²⁵

Divorce and Religious Teachings

Divorce, as governed by religious law, signifies the termination of marriage in accordance with the religious tenets adhered to by the individuals involved, distinct from divorce proceedings conducted under secular legal frameworks established by the state. Religious doctrines offer unique regulations and perspectives concerning divorce.²⁶ While certain religions perceive divorce as a societal reality stemming from marital disharmony, others may endorse varying stances on the permissibility of divorce and subsequent remarriage. While some religions permit remarriage following divorce, others consider it morally objectionable.²⁷ Past research indicates that marriages ending in divorce or separation are often perceived as fractured relationships by adherents of religious faiths, given the significance of religious teachings in their lives. Hence, it is undeniable that religion plays a

²³ Wardah Nuroniyah and Bani Syarif Maula, "Muslim Women Adhering to Minangkabau's Bajapuik Tradition in Cirebon, West Java: Compromizing a Gendered Culture in Islamic Law," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 2 (2022), p. 135–53.

²⁴ AT Kharlie, *Hukum Keluarga Indonesia* (Jakarta Selatan: Sinar Grafika, 2022).

²⁵ Qurrotul Ainiyah dan Imam Muslih, "Dilema Hukum Keluarga Di Indonesia (Studi Analisis Kasus Perceraian Di Indonesia)," *Jurnal Istiqro* 6, no. 1 (2020), p. 73.

²⁶ Asman Asman, "Parents' Obligations on Hadhanah before Mumayyiz after Divorce: Review of Normative Legal Studies," *ADHKI: Journal of Islamic Family Law* 4, no. 1 (2023), p. 1–12.

²⁷ Kathleen A Murray, "Agama dan Perceraian: Implikasi dan Strategi Konseling," *Jurnal Keluarga* 10, no. 2 (2002), p. 190–94.

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pivotal role in shaping various decisions surrounding divorce. Similarly, the religious upbringing of children and the spiritual orientation of their parents significantly impact their religious attitudes and behaviors in adulthood.²⁸ While religion can serve as a potent source of support in alleviating the stress associated with divorce, it does not necessarily mitigate the emotional challenges inherent in the process.²⁹ It is imperative to recognize that divorce carries significant sensitivity from a religious standpoint, primarily due to the potential stigma associated with it, which may lead individuals to experience feelings of shame in the eyes of others or apprehension regarding potential ostracization within their religious community.³⁰ Certain scholarly works elucidate that divorce can pose significant challenges for individuals adhering to stringent religious observances, primarily due to its implication in familial discord. Oftentimes, individuals grappling with the decision to pursue divorce refrain from seeking counsel from therapists, legal professionals, child protective services, and legal authorities. Consequently, stress levels escalate, impeding the effective resolution of issues.³¹

Divorce Phenomena in Purwokerto Viewed from Normative Laws

The primary finding entails an examination of normative or positive laws concerning the elevated divorce rate in Purwokerto, Central Java. Through informant interviews regarding legal provisions relevant to the divorce proceedings in court, three key legal statutes were identified: (1) Law Number 7 of 1989 regarding Religious Courts; (2) Civil Code Article 118, paragraph 1 HIR (Article 142, paragraph 1 Rbg); and (3) Law Number 1 of 1974 concerning marriage and Governmental Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law. Moreover, it was discerned that there is a lack of local government regulations specifically

²⁸ Jeremy E. Uecker and Christopher G. Ellison, "Parental Divorce, Parental Religious Characteristics, and Religious Outcomes in Adulthood," *Journal for the Scientific Study of Religion* 51, no. 4 (2012), p. 777–94.

²⁹ Rohmawati and Ahmad Rofiq, "Legal Reasonings of Religious Court Judges in Deciding the Origin of Children: A Study on the Protection of Biological Children's Civil Rights," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21, no. 1 (2021), p. 1–19.

³⁰ Barbara Simonič and Nataša Rijavec Klobučar, "Experiencing Positive Religious Coping in the Process of Divorce: A Qualitative Study," *Journal of Religion and Health* 56, no. 5 (2017).

³¹ Christopher G. Ellison et al., "The Effects of Parental Marital Discord and Divorce on the Religious and Spiritual Lives of Young Adults," *Social Science Research* 40, no. 2 (2011), p. 538–51.

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addressing the issue of the heightened divorce rate in Purwokerto. In light of expert opinions from prior research regarding the factors contributing to divorce, it is presumed that local government legislation should be advocated to mitigate the causes of divorce. This study categorizes the causes of divorce in Purwokerto into five main focal points: education, economy, religion, access to healthcare, and environmental factors.³²

The initial factor concerns education. The foundation of the importance of education is enshrined in Article 31, Paragraph (1) of the Constitution of the Republic of Indonesia. Through adequate educational opportunities, individuals not only acquire creativity and skills suitable for employment but also gain comprehensive understanding about fostering a marital union and the adverse ramifications of divorce. Previous research elucidates that inadequate education heightens the likelihood of divorce.³³ Through proper education, it is anticipated that individuals will grasp that divorce should be considered a final recourse if reconciliation through mediation, as stipulated in Article 39, Paragraph (2) of Law Number 1 of 1974 concerning Marriage, cannot be achieved.³⁴

In accordance with these regulations, an individual seeking divorce must demonstrate sufficient grounds indicating the inability of both spouses to cohabit harmoniously. Article 19 of the Governmental Regulation Number 9 of 1975 further delineates several permissible reasons for divorce, including: (a) acts such as adultery, drunkenness, or gambling, which are deemed incurable; (b) one party's absence from the other for two consecutive years without the latter's consent or valid reasons, or due to circumstances beyond their control; (c) one party receiving a prison sentence of five years or more or facing severe punishment subsequent to marriage; (d) instances of cruelty or severe mistreatment; (e) the presence of a disability or illness that impedes the fulfillment of marital duties; and (f) recurring disputes and conflicts.³⁵

³² Muhammad Aulia Rahman, et.al., “Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in the Perspective of Maslahah Mursalah Ramadhan Al-Buthi,” *El-Mashlahah* 13, no. 1 (2023), p. 57–75.

³³ Gert Martin Hald, et.al., “The Divorce Conflict Scale.” *Journal of Divorce and Remarriage* 61, no. 2 (2020).

³⁴ Mufrod Teguh Mulyo et al., “The Power of Husband-Wife Communication in Building Family Resilience and Preventing Divorce: A Study of Maṣlahah Mursalah,” *Al-Manahij: Jurnal Kajian Hukum Islam*, 2023, p. 125–36.

³⁵ Mulida Hayati and Nuraliah Ali, “Ex-Officio Rights in Talak Divorce: Study on Judges' Considerations in the Compliance of Ex-Wife’s Rights”, *Mazahib: Jurnal Pemikiran Hukum Islam* 21, no. 1 (2022), p. 93-116.

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According to these stipulations, it becomes evident that spouses seeking divorce before a court must satisfy the criteria outlined in Governmental Regulation Number 9 of 1975. This underscores the significance of education in fostering a mindset where divorce is not hastily contemplated by spouses.³⁶ In the event of divorce, it must be adjudicated before a court to ensure the validity and legality of the marital dissolution. This facilitates the clear and definitive determination of all legal ramifications associated with divorce by the judiciary. Scholarly research elucidates that low levels of education, educational disparities between spouses, and socioeconomic hardship heighten the risk of economic instability, thus contributing to divorce.³⁷

The concept of higher education has been empirically demonstrated to cultivate a more expansive and adaptable personality in individuals.³⁸ Educated individuals exhibit greater financial independence and autonomy across various facets of life.³⁹ Through quality education, individuals are afforded opportunities to lead more prosperous lives, refine their character traits, adopt positive life perspectives, bolster self-assurance and self-efficacy, as articulated in Law Number 20 of 2003 concerning the National Education System. This law underscores the objective of nurturing individuals to embody a dignified national character and contribute to the advancement of a more enlightened societal milieu, fostering attributes such as faithfulness and devotion to God, moral integrity, physical wellness, knowledgeability, creativity, self-reliance, and the cultivation of democratic and conscientious citizenship.

In accordance with these regulations, individuals are expected to possess the capacity to discern their rights and responsibilities towards themselves, their nation, their state, and particularly towards their families. Prior research underscores the significance of higher education in mitigating divorce rates attributed to low educational attainment. Interview findings revealed that the average duration of schooling remains modest, school

³⁶ Nurhidayati Nurhidayati, et. al., “Effectiveness of Ultra Petitum Partium in Divorce Claims in Religious Courts,” *ADHKI: Journal of Islamic Family Law* 4, no. 2 SE-Articles (2023), p. 91–113.

³⁷ Hogendoorn, et.al., “Divorce and Diverging Poverty Rates: A Risk-and-Vulnerability Approach.”

³⁸ Ismail Marzuki, “Menelusuri Konsep Pendidikan Karakter Dan Implementasinya Di Indonesia,” *Jurnal Didaktika* 1, no. 1 (2017), p. 1–17.

³⁹ Anthony D. Cortese. “The Critical Role of Higher Education in Creating a Sustainable Future.” *Planning for Higher Education*, (2003).

infrastructure is insufficient, the student-to-teacher ratio is inadequate, and the enrollment rate is not yet at full capacity. This observation contrasts with the presence of reputable schools and universities in Purwokerto, such as Muhammadiyah University Purwokerto, Wiworotomo College of Technology Purwokerto, Jenderal Sudirman University, and Purwokerto State Islamic University. This underscores the necessity for further examination of education development in Purwokerto and its correlation with educational factors impacting divorce rates in the region.

The second factor pertains to economics, particularly in relation to low economic conditions often associated with poverty. Interview findings indicate a notable rise in the unemployment rate in 2021, escalating by 6.05% primarily attributable to the repercussions of the Covid-19 pandemic. Numerous studies corroborate that divorce issues in impoverished and developing nations stem from economic factors precipitated by poverty.⁴⁰ Nevertheless, several research findings indicate that the likelihood of divorce escalates in cases where the couple's financial status is affluent.⁴¹ Addressing poverty is outlined in Article 34, Paragraphs 1-4 of the Constitution and Law Number 13 of 2011 concerning the Handling of the Poor. At the regional level, governance initiatives include the Central Java Province Regional Poverty Reduction Strategy for 2019-2023, Banyumas Regency Regional Regulation Number 13 for 2018-2038 regarding the Industrial Development Plan, and the latest addition, Banyumas Regent Regulation Number 32 of 2022 outlining the Banyumas Regency Government Work Plan for 2023.⁴²

Citing the Banyumas Regent's Regulations, geographical conditions are delineated to encompass natural attributes conducive to: (1) fostering trade and service endeavors; (2) advancing the agricultural sector, encompassing both food and plantation crops, to ensure food security and enhance community welfare; (3) promoting natural tourism as a catalyst for diverse economic activities. Furthermore, it was emphasized that the development of natural resources must prioritize sustainability to yield economic benefits conducive to societal welfare. With a focus on prosperity and economic parity, efforts are directed towards accelerating development in areas with potential

⁴⁰ Hogendoorn, et.al., "Divorce and Diverging Poverty Rates: A Risk-and-Vulnerability Approach."

⁴¹ Caroline Ugglå and Gunnar Andersson, "Higher Divorce Risk When Mates Are Plentiful? Evidence from Denmark," *Biology Letters* 14, no. 9 (2018).

⁴² Banyumas Regent Regulation Number 32 of 2022 outlining the Banyumas Regency Government Work Plan for 2023.

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impacts on both regional and national economies. However, it is noteworthy that while economic growth is often associated with poverty reduction, this correlation is not always definitive. Notably, during the 2017-2021 period, economic growth witnessed an upturn solely in 2018, coinciding with a decline in poverty rates, whereas the prevalence of poverty escalated in 2020 and 2021.

The normative laws delineated above underscore the governmental obligation to establish a comprehensive social security system and uplift marginalized communities with dignity and respect. Regional authorities are mandated to actively engage and sustain collaboration with the private sector and local communities in addressing poverty, which is anticipated to mitigate the high divorce rates stemming from economic challenges. The livelihoods of Purwokerto's populace predominantly comprise farmers, factory workers, traders, corporate employees, and civil servants. According to the 2021 community welfare statistics derived from the National Socio-Economic Survey, there has been an improvement in welfare levels, evidenced by 92.28% of households owning residences. Nonetheless, there persist inadequate housing conditions, with 7.15% residing in urban slums within Purwokerto. The government's efforts in empowering women and safeguarding children have shown enhancement, aimed at aiding those affected by divorce in terms of economic well-being. Despite the commendable economic status characterized by stable employment and housing among the populace, regrettably, this has not translated into a reduction in the region's divorce rates.⁴³

The third factor pertains to religious comprehension. Islamic religious precepts hold significant sway in the lives of the Muslim populace in Purwokerto. Scholarly literature underscores the role of religion in shaping familial ties. A deficient understanding of religious principles can serve as a catalyst for conflict, divorce, and instances of domestic violence.⁴⁴ To address instances of violence, the regional government has established a Women's Empowerment and Child Protection Service. In such cases, the fatwa issued by the Indonesian Ulema Council (MUI) can serve as a foundational reference for the implementation of religious law, aiding investigators, prosecutors, and

⁴³ Ramdani Wahyu Sururie, et.al., "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023), p. 734–59.

⁴⁴ Annette Mahoney, "Religion in Families, 1999-2009: A Relational Spirituality Framework," *Journal of Marriage and Family* 72, no. 4 (2010), p. 805–27.

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evidence presentation in various divorce cases. Although the MUI's directives are not legally binding, they serve as invaluable sources of inspiration and guidance for the formulation of laws and governmental policies pertaining to divorce issues. Unfortunately, the MUI in the Purwokerto or Central Java region has not issued fatwas similar to those in other regions, such as North Sumatra Province and Aceh Province, which have addressed divorce-related matters.⁴⁵

The fourth factor concerns access to healthcare. One of the pertinent government regulations regarding healthcare access is Law Number 36 of 2009 on Health. This legislation stipulates that the government is tasked with ensuring the availability of diverse healthcare services that meet standards of quality, safety, efficiency, and affordability. Additionally, the government is responsible for administering public health insurance through the national social security system to support individual health endeavors. At the local level, health development efforts are spearheaded through Integrated Health Service Posts (*Pos Pelayanan Terpadu* or Posyandu). Posyandu serves as a vital platform facilitating community access to healthcare services such as family planning, maternal and child health, nutrition, immunization, as well as the management of ailments including diarrhea and upper respiratory infections.

The interview findings indicated a reduction in the development of Indonesian Healthcare Corporation (IHC) facilities in 2021 owing to mergers. Consequently, family planning initiatives and healthcare standards have not kept pace with the proliferation of IHCs. Many participants in family planning programs still refrain from utilizing contraceptives, while limited facilities and healthcare personnel impede the delivery of health programs to the populace. Up until 2021, several healthcare services have failed to attain optimal conditions due to various factors, including insufficient infrastructure and healthcare personnel ratios, persistently high maternal mortality rates, elevated disease morbidity rates, and prevalent stunting issues. Consequently, the resolution of various health challenges becomes arduous, fostering domestic conflicts that, in some cases, culminate in divorce.

The interview findings unveiled that health-related issues pose a formidable challenge for local governments in their endeavors to alleviate poverty rates and are anticipated to play a role in diminishing divorce rates. Prior studies have illuminated various deficiencies in healthcare accessibility,

⁴⁵ Sururie, et.al., "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia."

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including inadequate access to clean water, sanitation facilities, and healthcare professionals. These findings underscore the existence of health program disparities in Purwokerto, representing a significant health-related challenge.⁴⁶

The fifth factor encompasses social and environmental considerations. Legal frameworks such as Law Number 32 of 2009 regarding Environmental Protection and Management, and Government Regulation Number 22 of 2021 pertaining to Environmental Management, delineate normative guidelines governing environmental concerns. Despite these regulations, urban slum areas persist in Purwokerto. The management of security and order disruptions, inclusive of addressing criminal activities, has not been fully optimized. Unfavorable living conditions and a deteriorated social milieu can precipitate marital discord and divorce. Prior research elucidates that the surrounding environment, particularly the social and familial milieu, plays a pivotal role in shaping behavioral norms and values within family dynamics.⁴⁷

The elucidation of normative or positive legal aspects concerning the five determinants contributing to the elevated divorce rates is envisioned to serve as a foundational framework for the formulation of specialized legal statutes addressing divorce-related issues. Through the enactment of legislative regulations at the regional level, it is anticipated that governmental initiatives will be instigated to mitigate the divorce prevalence in Purwokerto while concurrently enhancing the populace's living standards. Divorce can precipitate detrimental effects on children's psychological development, fracture familial bonds, instigate custody battles, incur financial crises, and evoke emotional turmoil. Hence, the imperative to curtail the divorce incidence in the Purwokerto locale underscores the necessity for the enactment of efficacious local governmental regulations.⁴⁸

Divorce Phenomena in Purwokerto Viewed from Islamic Family Law

The second finding delves into the divorce phenomenon in Purwokerto through the lens of Islamic family law, underscoring its pivotal role in endeavors to mitigate the divorce rate. By comprehending the perspective of Islamic family law concerning divorce, individuals are equipped with

⁴⁶ Amritpal Kaur Khakh, et.al., "Spatial Accessibility to Primary Healthcare Services.

⁴⁷ Azizah Nuraini, et.al., "Strategi Peran Istri Dalam Mempertahankan Keluarga".

⁴⁸ Ahmad Rezy Meidina, "Meninjau Ulang Iwadh Khuluk Perspektif Keadilan Gender," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 1 (2022), p. 77–90.

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guidance for navigating and averting divorces while adhering to Islamic principles. Islamic family law in Indonesia derives its basis from the Quran, Hadith, and Ijtihad, or legal interpretation. Within Islamic jurisprudence, divorce is delineated as *talak* and *khuluk*, denoting divorces initiated by the husband and wife, respectively. While divorcing under Islamic law results in religious dissolution of the marital union, it confers limited legal protection for the rights of the wife and children. This is owing to the fact that divorces conducted solely according to Islamic law, without state legalization, lack the binding and written legal efficacy requisite for a recognized legal divorce. Consequently, while Islamic family law furnishes guidance, it does not ensure comprehensive protection against potential detriment to either party resulting from divorce. These findings elucidate the role of Islamic family law, as delineated in antecedent research, in analyzing the surge in divorce rates amidst the Covid-19 pandemic.⁴⁹

In the event of divorce, the rights and responsibilities of both spouses are annulled. Islamic family law governs the customs and regulations surrounding marriage, offering guidance for navigating unresolved marital issues, including divorce proceedings.⁵⁰ As per the interview findings, Islamic family law permits divorce among married couples, albeit it is deemed unfavorable in the eyes of God. This underscores Islam's provision of an avenue for couples facing insurmountable challenges in their marital relationship. Divorce is regarded as the final recourse in such circumstances.⁵¹ The Qur'an outlines divorce provisions in Surah al-Baqarah verses 227 to 232 and Surah al-Talaq verses 1 to 7. These regulations prioritize the welfare of both spouses and aim to prevent harm to either party.

Through an examination of Islamic family law, it becomes apparent that Islam prescribes numerous regulations to be adhered to by married couples. Nevertheless, it is imperative to recognize that the Quran and Hadith, serving as the foundation for Islamic family law, do not explicitly delineate the specific reasons for divorce. However, it is evident from this study that divorce

⁴⁹ Qurrotul Ainiyah dan Imam Muslih, "Dilema Hukum Keluarga Di Indonesia, p. 74.

⁵⁰ Ulin Na'mah, et.al., "The Concept of Mubādalāh (Mutuality) and the Public Role of Wife to Prevent Domestic Violence," *Al-'Adalah* 19, no. 2 (2022), p. 291–314.

⁵¹ Martina Purna Nisa, "Critical Review of Domestic Violence as Reason for Divorce (Comparison of Divorce Laws in Indonesia, Malaysia and the Maldives)," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (2021), p. 1–23.

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cases involve the rights of women and child custody.⁵² The sources of Islamic law applicable in Indonesia acknowledge the presence of joint property upon divorce, considering marriage as a form of collaboration (*shirkah*), wherein spouses unite to form a household and family.⁵³ The matter concerning joint marital property is grounded in the stipulations outlined in Article 35 of the Marriage Law and Articles 85 to 97 of the Compilation of Islamic Law in Indonesia.

The divorce phenomenon in Purwokerto engenders numerous challenges regarding child custody. Child custody in divorce, referred to as *hadanah*, encompasses the care, nurturing, and upbringing of the child. *Hadanah* pertains to the responsibility for the care and well-being of minors under the age of 12. According to Islamic teachings, the mother holds the foremost right to child custody. This is attributed to the mother's close bond with the child, beginning from pregnancy, through childbirth, and during breastfeeding.⁵⁴ The mother, typically the wife, is granted sole custody of the child if the child remains a minor, typically under the age of 12 years.⁵⁵ Nevertheless, the father, typically the husband, may obtain custody of the child if it is determined that the mother, or wife, exhibits detrimental behavior posing a threat to the child's well-being.⁵⁶ In contrast, once a child reaches puberty or adulthood, typically at the age of 21 or upon maturity, they hold the prerogative to decide their living arrangements, whether to reside with their father, mother, or independently.⁵⁷

According to the analysis of divorce causes within Islamic law, religious teachings play a fundamental role in shaping familial dynamics, nurturing

⁵² Imani Mohammad and Charlie Lehmann, "Women's Rights in Islam Regarding Marriage and Divorce," *Journal of Law and Practice* 4, no. 1 (2011): 3.

⁵³ Ulin Namah, "Meaning of Proposing Divorce in Tuban Regency of East Java (Matrilocal Residence in Proposing Divorce)," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 10, no. 2 (2015), p. 205–27.

⁵⁴ Jayusman and Zuhri Imansyah, "The Decision on Joint Properties in Bengkulu High Religious Court Jurisdiction," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21, no. 1 (2021), p. 99–134.

⁵⁵ Mega Puspita and Nindya Octariza, "The Rule Minimum Age of Marriage in Islamic Family Law in the Muslim World," *International Journal of Social Science and Religion (IJSSR)* 3, no. 3 SE- (2022), p. 185–98.

⁵⁶ Muh Hanif, "Parenting Patterns of Children and Family Functions in Social Capital Perspective," *International Journal of Social Science and Religion (IJSSR)* 4, no. 2 SE- (2023), p. 209–34.

⁵⁷ Warren D. Camp, "Child Custody Disputes in Families of Muslim Tradition," *Family Court Review* 49, no. 3 (2011), p. 582–90.

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children's characters, fostering devout individuals, and instilling moral values.⁵⁸ Consequently, scholarly literature underscores the significance of religious literacy in influencing the stability of marriages.⁵⁹ While Islamic family law delineates regulations, there is a need for institutional support to refine guidelines governing Islamic marital practices, thereby fostering prospective partners' understanding of their roles and obligations within the household. In Purwokerto, collaborative efforts between Islamic religious authorities and relevant agencies have initiated outreach initiatives as an initial measure to raise awareness regarding the heightened divorce rates.

Findings from the interviews elucidated that Islamic Religious Counselors (*Penyuluh Agama*), operating under the auspices of the Ministry of Religion, actively engage in community development endeavors aimed at mitigating divorce rates. These counselors play a pivotal role in fostering family resilience, particularly those specializing in the Islamic family sector. Their initiatives encompass informative and educational functions, chiefly through the provision of religious guidance and counseling sessions targeting community groups.⁶⁰ These sessions are designed to impart knowledge on nurturing harmonious familial relationships.

The interview findings underscore that pertinent institutions are not solely engaged in resolving divorce disputes but also in proactively averting divorces, as elucidated by the regional government's establishment of supportive entities and empowerment of non-governmental organizations (NGOs) to assume an active role.⁶¹ The involvement of religious institutions in mitigating and addressing instances of domestic violence remains primarily focused on preventive measures conducted through spiritual counseling sessions and interfaith dialogues. In principle, the educational function plays a pivotal role in fostering household harmony. Individuals require comprehensive education to attain familial contentment.⁶² A Muslim who comprehends the essence of Islamic households undoubtedly recognizes the objectives of marriage, thus endeavoring to safeguard their marital union from dissolution. The purpose of marriage, as delineated in Islam, is elucidated in

⁵⁸ Qazi Nusrat Sultana, "Philosophy of Education: An Islamic Perspective," *Philosophy and Progress* 2278 (2014), p. 9–36.

⁵⁹ J. E. Maciver and D. I. Dimkpa, "Factors Influencing Marital Stability," *Mediterranean Journal of Social Sciences* 3, no. 1 (2012), p. 437–42.

⁶⁰ Interview with SMH, Islamic Religious Counselors in Purwokerto, 2017.

⁶¹ Interview with Muzayana, NGO activist in Purwokerto, 2016.

⁶² Syed Muhammad Naquib, *The Concept of Education in Islam* (Kuala Lumpur: Muslim Youth Movement of Malaysia, 1980).

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the Qur'an, specifically in QS. Al-Rum, verse 21: "And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect."⁶³

Apart from that, various factors contribute to fostering harmony within Muslim households, among which ensuring the well-being of the family holds paramount significance. The concept of health is not isolated but rather an integral component in cultivating tranquility; individual well-being, family welfare, and societal health are intricately interconnected and necessitate equitable and sustainable treatment.⁶⁴ The economic contribution of Muslim families plays a pivotal role in fostering tranquil households imbued with love and compassion (*sakinah mawaddah wa rahmah*), thereby supporting access to health resources.⁶⁵ In life, the family holds paramount significance as it serves as the primary environment where children acquire their initial life experiences.⁶⁶ This implies that the five factors contributing to divorce, as delineated in the study of Islamic law, significantly impact the construction of a marriage when managed effectively and appropriately. Similarly, the social milieu, particularly the familial environment of the partner, can profoundly influence Muslim marriages when it is conducive and supportive.⁶⁷

The elucidation provided above corroborates the influence of socio-economic factors on the divorce rate. Hence, fostering social integration becomes imperative, encompassing children's education, family safeguarding, and moral reinforcement. However, a different reality also presents alternative findings which show that a stable family economy can contribute to household harmony.⁶⁸ Attaining sufficient economic stability necessitates households to procure income through endeavors to accrue prosperity.⁶⁹ This acquisition of

⁶³ Abdullah Yusuf Ali, *The Holy Qur'an* (Hertfordshire: Wordsworth Editions, 2000).

⁶⁴ Abdul Hadi, "Konsep Dan Praktek Kesehatan Berbasis Ajaran Islam," *Al-Risalah* 11, no. 2 (2020), p. 53–70.

⁶⁵ Basir Sofyan, "Membangun Keluarga Sakinah," *Al-Irsyad Al-Nafs, Jurnal Bimbingan Penyuluhan* 7, no. 2 (2018), p. 100.

⁶⁶ Sangkot Nasution, "Pendidikan Lingkungan Keluarga," *Tazkiya* 8, no. 1 (2019): 115–24.

⁶⁷ Faki Ali Malengo and Abdalla Ussi Hamad, "The Role of Islamic Religious Teachings in Social Integration in Zanzibar: A Case of Marriage Institution." *Journal of Education and Social Sciences* 7, no. 1 (2017).

⁶⁸ Interview with Julianti, Female figure in Puwokerto, 2020.

⁶⁹ Gandi Liyorba Indra, et.al., "The Ideal Age For Marriage in The Compilation of Islamic Law (KHI) and Psychology," *Al-'Adalah* 20, no. 1 (2023), p. 1.

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prosperity involves activities conducted either directly or indirectly to garner income in the form of currency, commodities, and services. The equilibrium of this balance is reflected in the financial status, encompassing both income and expenditure. To manage their finances adeptly, it is advisable for each family to maintain financial records, commonly referred to as a balance sheet, serving as a blueprint and a benchmark to navigate their financial inflows and outflows.⁷⁰

Ultimately, divorce may ensue when individuals find themselves unable to surmount myriad domestic conflicts. The quintessential causes of divorce should serve as a pivotal element in priming oneself to confront any hurdles that may arise in the journey of marriage.⁷¹ Islamic doctrines delineate marriage as a sacred act of worship, promising manifold benefits to couples who grasp its essence with precision and understanding.⁷² Nonetheless, individuals adopt diverse strategies to tackle the challenges encountered in their marital journey. Divorce, being a complex subject, lacks a one-size-fits-all solution. Beliefs concerning divorce may vary even within the same societal and religious milieu, reflecting the nuanced perspectives held by individuals.⁷³

Conclusion

This study explores how Islamic family law and normative legal frameworks elucidate the factors contributing to the divorce phenomenon, drawing support from empirical research and existing literature. While normative law, or positive law, governs divorce matters through statutes and regulations concerning marriage and the Civil Code, the absence of specific regional regulations addressing divorce issues within the Purwokerto Regional Government is noted. These findings illuminate the legal perspective on

⁷⁰ Jumni Nelli, et. al., “The Immorality of a Husband as the Cause of a Working Wife to File for Divorce Lawsuit in Indonesia,” *Juris: Jurnal Ilmiah Syariah* 22, no. 1 (2023), p. 119–32.

⁷¹ Dodon Alfiander, “Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts,” *Juris: Jurnal Ilmiah Syariah* 21, no. 1 (2022), p. 109–19.

⁷² Ali Trigiyatno and Sutrisno Sutrisno, “Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco,” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022), p. 203–22.

⁷³ Muhammad Salahuddin, et. al., “Practice of Interfaith Marriages in Indonesia on Islamic Jurisprudence,” *International Journal of Social Science and Religion (IJSSR)* 4, no. 3 (2023), p. 477–90.

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divorce causes and their underpinnings, particularly examining the five main causes within the context of relevant normative regulations and prior scholarly investigations. Islamic family law underscores the importance of transparency and financial equilibrium within Muslim households to mitigate the likelihood of divorce. Rooted in the Quran and Sunnah, Muslim households are imbued with values emphasizing each member's dedication to serving God and the transient nature of worldly existence. Therefore, fostering an understanding of religious teachings among household members is paramount to cultivating an environment characterized by tranquility, affection, and love. Through such measures, Muslim households can evolve into sanctuaries of serenity, replete with patience and mutual support. Therefore, it can be inferred that Islamic family law delineates the rights and responsibilities within marriage, suggesting that with mutual commitment, divorce can be averted. Nonetheless, should divorce become inevitable, Islamic family law outlines provisions concerning spousal rights and child custody. Similarly, positive normative law addresses these issues, holding legal sway in Indonesia to safeguard these rights. Consequently, parallels exist between the two legal frameworks, both supporting endeavors to empower women and shield children affected by divorce. The anticipated outcome is for the government to ensure legal clarity in addressing the root causes of the escalating divorce rates. This study, focusing on the normative-empirical law spectrum, is confined to divorce cases in Purwokerto, Central Java, which presents certain limitations. Subsequent research could delve deeper into the underlying causes of the heightened divorce rates through more refined data analysis methods.

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