

Divorce Contribution During the Covid-19 Pandemic in Banjarmasin City

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ABSTRACT

The Covid-19 epidemic has influenced numerous facets of human existence. There are a large number of layoffs which has a negative economic impact on the family. According to data made accessible by the Banjarmasin Religious Court, the divorce rate increased from 13729 cases in 2020 to 1652 cases in 2021. This study intended to identify the contribution to the cause of divorce in Banjarmasin during the Covid-19 pandemic. The method employed was empirical legal research, and the approaches were legal sociology and legal psychology. The results revealed that the covid-19 pandemic has contributed to the rising divorce rate. Economic issues, domestic abuse, and the presence of a third party are the leading causes of divorce. In addition, this study indicated that husbands were victims of domestic violence.

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1. INTRODUCTION

The COVID-19 pandemic has impacted various areas of life, not only with health and economic problems but also with family resilience in dealing with the pandemic. The pandemic period, which has not yet shown its end, has also resulted in many layoffs by companies in specific fields of work. This is done to reduce the burden on companies increasingly squeezed by this pandemic. Meanwhile, this change also had an impact on household life.

One of the exciting phenomena to observe is the increase in the divorce rate, especially in Banjarmasin (South Kalimantan). Data from the Banjarmasin Religious Court informs us that divorce has increased over the past year during this pandemic. Data for 2020 shows 303 divorces and 1076 lawsuits; while for 2021, 342 divorces and 1310 lawsuits. Many possibilities caused the divorce to occur. Incompatibility between husband and wife is frequently the cause of marital dissolution. This happens when several neglected rights and obligations are related to biological, psychological, moral, economic, and sociological factors (Novitasari, Latifiani, & Arifin, 2019).

Preliminary data indicates the number of lawsuits filed by women as wives (Abdullah, 2017). This is interesting to observe because a lawsuit for divorce from the wife is usually filed if there are unpleasant things or attitudes from the husband. However, it is possible that the divorce application came from the husband, due to the unpleasant things that the wife does to him (Fakhria, 2018).

The initial hypothesis of this study was that changes in life structure and habits impact social and mental conditions. According to some current studies, the age of the marriage, changes in communication patterns, and an imbalance in activities and quality time spent together contributed to this divorce (Tristanto, 2020). Iskandar Budiman assesses that the COVID-19 pandemic generally harms the family economy (Budiman, 2021).

When household problems must be brought to trial, they require appropriate treatment. The court is expected to give maximum effort to reconcile the two parties (Novitasari et al., 2019). Institutionally, religious courts can adjudicate and decide civil disputes concerning households. Therefore, the legality of divorce can only be obtained through this institution. Divorce under the law is certainly not recorded as a legal divorce. Today, public awareness regarding legality is increasing. The phenomenon of many applications for marriage certificates is caused by the desire of the community to obtain the legality of their marriage (Muzainah & Faridh, 2021).

Banjarmasin, the capital city of South Kalimantan Province, is an interesting object to study as it is a heterogeneous city and one of Indonesia's metropolitan cities. The data obtained from the Banjarmasin City Religious Court showed there was an increase in the divorce rate from 2020 to 2021.

The case above is still inversely proportional to the phenomenon of divorce. Divorce is an emergency in religion that should be avoided as much as possible. In the Marriage Law, Law No. 16 of 2019 (on The Amendment to Law No. 1 of 1974), a marriage aims to form a blessed and eternal family. It turns out that lawsuits increased during the

pandemic, based on the data for 2020 and 2021 at Banjarmasin Religious Court. The religious courts even limited the number of divorce applications per day.

From the explanation above, it is interesting to analyze this study by using legal sociology and legal psychology approaches. What was the contribution of divorce during the pandemic? Is there a correlation between changes due to the pandemic and the divorce rate? From the legal psychology perspective, does divorce influence the changes in behavior, from law-abiding to non-lawful behavior, so that the behavior change is correlated with the high divorce rate? Meanwhile, from the sociology of law perspective, we can see the ineffectiveness of the purpose of marriage, which should be eternal, but instead, divorce still occurs.

2. METHODS

The research method used in this study is a normative method by relying on and using library data, namely This research was field research that tried to observe actual events in society (Azwar, 1999) and aimed to describe the condition or status of a phenomenon. This study used an empirical legal research method, which was a legal research method that functions to see legal phenomena in their natural form in the city of Banjarmasin (Irwansyah, 2020). This study also used an interdisciplinary approach, employing legal sociology and legal psychology. Legal symptoms can be seen in human behavior (Kartikasari, Maghfiroh, & Yuanita, 2021). To be able to see the effectiveness of the law, it is necessary to pay attention to its existence at the normative level and the reality level (Yulianis, 2021). This effect can only be obtained by comparing the legal reality in society. The law can only be considered adequate if a gap exists between norms and implementation in the field (Aziz, 2012).

This study was conducted at the religious courts in Banjarmasin City, the Banjarmasin Religious Courts. This location was chosen due to the increase in the divorce rate during the COVID-19 pandemic and as the capital of Banjarmasin, the community is heterogeneous and dynamic. The data were obtained from secondary and primary sources directly related to the object of research including the informants, both those who filed for divorce and the judges. The data was collected through interviews and documentation techniques.

Banjarmasin grows as a multidimensional city with centers of trade, education, industry, and even tourism. Also, tutoring institutions, skills course centers, and mastery of foreign languages are relatively easy to find in Banjarmasin. Educational facilities are also quite complete, ranging from kindergartens to higher education, religious education, and general education are widely available in this city (Muzainah, 2016). One of the primary sources of income for Banjarmasin is trade, services, and tourism. One of the trade and tourism centers is Kampung Sasirangan, a place for making typical South Kalimantan batik. Apart from Kampung Sasirangan, another tourist spot is the floating market at Siring Menara Pandang. In this market, -before the pandemic hit-, sellers sold various kinds of goods on boats.

The majority of the population of Banjarmasin City, especially the Banjar people, are Muslims (Muzainah, 2016). Urang Banjar is known to be very obedient in carrying out the teachings of Islam. This can be seen from the rise of da'wah activities and religious studies, which seem never to be quiet. Implementing property worship such as zakat and the spirit of performing Hajj and Umrah looks very fertile. Few people have made the pilgrimage for the latter but are willing to go to Umrah repeatedly (Nadhiroh, 2019). In

such a religious culture, for the Muslim population, Ulama also occupies an important position in society. Tuan gurus are often a place of reference for various issues, which include the distribution of inheritance, marriage, debts, practical worship, domestic conflicts, and other problems in life (Makmur, 2012). Nonetheless, on the whole, the population of the city of Banjarmasin adheres to various religions. Based on the statistical data in 2019, there were 879,775 Muslims, 17,429 Protestants, 14,338 Catholics, 5,436 Hindus, 6,367 Buddhists, and 426 followers of other beliefs (BPS Kota Banjarmasin, 2019).

3. RESULTS AND DISCUSSION

3.1. Marriage and Divorce in Islam

Marriage, as a physical and spiritual bond between a husband and wife, aims to create a peaceful household life. The husband and wife must share the happiness; neither should be the sole beneficiary. In Islamic doctrine, *sakinah*, *mawaddah*, and *wa rahmah* are the pillars of household peaceful and happiness. Marriage in Islam occupies a very honorable and sacred position. The contract in marriage is seen as a sacred bond in the name of God.

Most scholars say that the law of marriage is different for each person. Sometimes applying to people who can marry, provide a living, and have other responsibilities is obligatory. At the same time, the person is apprehensive about committing immoral acts if unmarried. Principally, the law of marriage is *sunnah* for those who can and are not afraid of falling into immorality.

Marriage can also be *makruh* for someone who feels he is likely unjust to his wife. Marriage is unlawful if a person is confirmed to be physically and mentally incapacitated and even sure to be unjust to his wife. In addition, marriage is permissible for someone with no obstacles to getting married (Sabiq, 2008).

Islam regulates marriage as part of the *Shari'a*, contained in many verses and hadiths. If one pays attention, at least five general goals of marriage can be seen, namely: (1) aiming to build a *sakinah* family; (2) aiming at human regeneration and indirectly guaranteeing the existence of the Islamic religion; (3) aiming to fulfill biological needs; (4) aiming to maintain honor; and (5) aiming at worship, which is a form of devotion to God (Nasution, 2009).

Like marriage, divorce is regulated in detail by law. When referring to Article 1 of the Marriage Law No. 1 of 1974, the purpose of marriage is to form a peaceful and eternal family based on belief in the One and Only God (Junaedi, 2003). stated the statutory guidelines of this law outline that a valid marriage must depart from noble religious values. That is why all religions have special instruments related to this marriage. When the ark of the household begins to falter, and harmony cannot be maintained, it often ends in divorce. Regarding *fiqh*, the term "divorce" is often used, which in Arabic means breaking ties. In this context, it means the release or unraveling of the marriage. The husband and wife no longer have marital ties, and the two no longer have rights and obligations like husband and wife (Said, 1994).

In Islam, divorce is not a prohibition but is seen as the last emergency exit in the household when there is no other way out. Divorce is legal, but Allah detests it, according to the hadith that Abu Daud narrated (Sijistani, n.d.). The husband or the wife can cause the dissolution of marriage due to divorce. Therefore, the applicable regulations stipulate two technical terms for this divorce: divorce and lawsuit. Divorce is a husband's vow before a religious court, which is one of the reasons for breaking up a marriage. The wife,

or her attorney, files divorce lawsuits. Abror believes that the increase in the divorce rate is due to some factors that often occur. Among the factors that often trigger divorce are: unhealthy polygamy, moral crises, forced marriages, jealousy because a spouse is cheating, economic factors, and domestic violence. Long-lasting disputes or feuds frequently result in divorce. Both parties cannot accept each other's arguments. In fiqh terminology, it is known as *syiqaq*, namely prolonged disputes or quarrels between husband and wife so that the two cannot be reconciled (Abror, 2020). For this reason, one party can submit a request for divorce or a divorce suit to the religious courts. In Indonesia, civil law gives equal rights to husbands and wives to file for divorce (Nisa, 2021).

3.2. Legal Sociology and Legal Psychology

In this study, the authors also used an interdisciplinary approach using the study of legal sociology and legal psychology. According to Irwansyah, the object of the sociology of law includes the things behind the legal product, social change and stratification, and other legal phenomena due to contact with society. This is because legal symptoms can be seen in human behavior (Sidharta, 2009). As a branch of sociology, studying the sociology of law is interesting to discuss. Not only related to theory but empirically based data shows that there are dynamic patterns according to the reality of society. One that is often discussed is the issue of legal effectiveness (Irwansyah, 2020).

According to Satjipto Raharjo, one issue is how to describe legal practices. Through this study, it is hoped that it will be known how this legal phenomenon occurs. What are the determining factors and the background behind this fact? The indication is in the form of people's behavior towards the law. The sociological approach is not tied to normative things but to empirical facts. Thus, this approach focuses on how the object is being studied (Raharjo, 2006). A law is considered adequate when it is efficient and can be implemented in people's lives. The effectiveness is seen in how the law can regulate people's behavior toward the desired goals. In this case, the sociology of law is one of the most important instruments to analyze it (Irwansyah, 2020).

Soedjono Dirdjosisworo argues that legal psychology is a branch of knowledge that studies law as an embodiment of human psychological development (Dirdjosisworo, 2003). Psychology is the science of human behavior. Concerning the study of law, psychology will recognize the law as a reflection of human behavior. It is a fact that cannot be denied that one of the things that stands out in law—especially in modern law—is its use consciously as a tool to achieve the desired goals. Thus, according to Soedjono Dirdjosisworo, whether we realize it or not, the law has entered fields that intersect with human behavior.

Divorce as a social phenomenon in empirical legal studies includes psychology, which leads to legal psychology studies. The belief that psychological factors or human personality are involved in a divorce is based on the premise that marriage is a sacred institution expected to last forever to build a prosperous and happy home. Husbands and wives work as hard as they can to uphold the sanctity of marriage until the end of their lives. However, in one condition, there is a rift in the sacred bond of the marriage. This rift can be classified as a "deviant" act in the sense of an act that was not expected to occur by those who are united in a marriage bond (Syaifudin, 2001).

Domestic violence, significantly contributing to divorce, often begins with stress. Husbands who cannot control their emotions often divorce because of the pressure they feel inside. This has an impact on reducing productivity, the enthusiasm to work and earn a living, communication patterns, and relationships that are not harmonious and can even

give birth to inappropriate physical actions. In the context of the COVID-19 pandemic, which has changed many life structures, it can cause stress to a certain extent.

3.3. Research Results and Analysis

Tabel 1. Divorce Matrix at the Banjarmasin Religious Court

No	Couples	Education level	Occupation	Married Date	Child(s)	Reasons for Divorce
1	Applicant Husband (28th)	SMA	Private sector employee	24 June 2020	1	Talaq Divorce Category 1. Disputes and constant conflicting 2. Not being open about income 3. Uncontrollable emotions 4. Allegedly there is a third party
	Respondent Wife (28th)	SMA	Sales Promotion Girl			
2	Plaintiff Wife (37th)	S1	Civil Servant	28 February 2010	1	Judicial Divorce Category 1. Disputes and constant conflicting 2. Insufficient living 3. Disclosure about income 4. Rude attitude and emotion 5. Acts of Domestic Violence (KDRT) 6. Allegedly there is a third party
	Defendant Husband (59 th)	S3	Civil Servant			
3	Applicant Husband (42 th)	-	BUMN Employee	7 January 2007	-	Talaq Divorce Category 1. Disputes and constant conflicting 2. Family intervention 3. Rude attitude and emotion 4. Allegedly there is a third party
	Respondent Wife (41 th)	-	Private sector employee			
4	Applicant Husband (47th)	SMA	Cleaning service	22 Juli 2008	-	Talaq Divorce Category 1. Disputes and constant conflicting 2. The wife objected to the presence of 4 children brought by the husband
	Respondent Wife (47th)	SMA	Housewife			
5	Plaintiff Wife (32 th)	SD	Housewife	15 April 2016	2	Judicial Divorce Category 1. Disputes and constant conflicting 2. Insufficient living 3. Rude attitude and emotion 4. Husband is involved in drugs
	Defendant Husband (36th)	SMP	Docker			
6	Applicant Husband (44th)	-	Entrepreneur	9 November 2000	2	Talaq Divorce Category 1. Disputes and constant conflicting
	Respondent Wife (38th)	-	Housewife			

							2. The nature of a grumpy and demanding wife
							3. Disclosure about income
							4. Rude attitude and emotion
7	Plaintiff	Wife (41 th)	SMP	Merchant	23 Agustus 1999	2	Judicial Divorce Category
	Defendant	Husband (43 th)	SD	Freelance Photographer			1. Disputes and constant conflicting
							2. Insufficient living
							3. Rude attitude and emotion
							4. Allegedly there is a third party
8	Plaintiff	Wife (35th)	-	Entrepreneur	19 Agustus 2007	2	Judicial Divorce Category
	Defendant	Husband (37th)	-	Entrepreneur			1. Disputes and constant conflicting
							2. Husband is in enormous debt
							3. Rude attitude and emotion
							4. Acts of Domestic Violence (KDRT)
							5. Allegedly there is a third party
9	Plaintiff	Wife (32 th)	S1	Employee	21 September 2018	1	Judicial Divorce Category
	Defendant	Husband (35th)	SD	Merchant			1. Disputes and constant conflicting
							2. The husband is not responsible
							3. Income problems (economic problems)

Source: Divorce Data during the Pandemic Period at the Banjarmasin Religious Court (July 2020-March 2021)

3.3.1. Divorce During the Pandemic at the Religious Court in the City of Banjarmasin

Before going more profound, the researcher needs to emphasize that divorce during a pandemic is important to study. Several studies have tried to analyze this problem from various perspectives.

From a social science point of view, Aris Tristanto stated that divorce during a pandemic was generally caused by economic problems, an imbalance in activities and quality time spent together, changes in communication patterns, age of marriage, and indications of domestic violence (Tristanto, 2020). Yusnanik Bakhtiar, when examining divorce cases at the Siak Religious Court, found an increase in the divorce rate during the pandemic. The dominant factors are quarrels, household neglect, and economic downturn. He found that 78.5% of divorces were the result of constant fighting in arguments. It is that household neglect has received less investigation concerning the impact of the pandemic (Bakhtiar, 2020). In the case study, Urip Tri Wijayanti also found an increase in divorce in Banyumas during the early pandemic (March-June 2020). The common reasons for divorce are economic factors and disputes. Domestic violence only contributed to 6.1%. She also found that most of them were due to lawsuits from the wife (Wijayanti, 2021). An increase in divorce also occurred in several Religious Courts, especially in Java. As reported by I Gede Hartadi Kurniawan and friends, divorce is caused

by non-fulfillment of household needs so that there is less love and causes many lawsuits from the wife. Furthermore, the article mentions a new impact, namely commercial sex workers, due to an urgent economic need (Kurniawan et al., 2021).

In general, entering the pandemic era, there was an increase in the divorce rate in South Kalimantan compared to the pre-pandemic period. In Banjarmasin City, during the pandemic (2020), there were 1379 cases of divorce, and in 2021, there were 1672 cases. The researcher found some data in the field: of the nine divorce cases decided by the Banjarmasin Religious Court in 2021, there were 342 divorces and 1310 divorce cases. This fact demonstrates that more divorces start because of the wife's claim than the husband's. This shows dissatisfaction and disappointment in the household, many of which arise from the wife's side. Before deciding and imposing a decision, the judges considered and examined every case in depth. Lawsuits and divorce requests will only be granted if it is proven in court.

Of the 9 cases of data taken randomly at the Religious Court of the city of Banjarmasin, both from the case of "contested divorce" and divorce, the table shows that the factors of divorce that occurred during the pandemic in the city of Banjarmasin were dominated by three factors; economic factors, domestic violence factors, and the presence of a third party in the marriage. Five of the nine cases involved domestic violence, economic factors, or the presence of a third party in the marriage. At the same time, the remaining four cases were due to economic factors and domestic violence. In the compelling case of domestic violence is case 6, the husband divorced his wife because one of the factors was that the husband became a victim of domestic violence; in general, the victims of domestic violence were women, but in case 6, the victims of domestic violence were men.

3.3.2. Divorce as a Social Symptom and Legal Behavior

The number of divorces with various causes and reasons above shows that the households that have been built cannot achieve the goals of the marriage itself. When viewed from a legal perspective, this fact indicates the ineffectiveness of the purpose of marriage as stated in Article 1 of Law No. 16 of 2019 concerning marriage (Al-Sharmani & Mustasaari, 2020). Article 1 states that marriage is an inner and outer bond between a man and a woman as husband and wife to form a peaceful and eternal family based on belief in the One and Only God (Dedi Junaedi, 2003). However, in reality, their household ended in divorce. In this case, the law regulates and directs (Hafidzi & Amalia, 2018). The problem that often arises is how to comply with the law. Further, how the law affects human actions that are positive or negative. The success or failure of applying a law depends much on its effectiveness, which requires many supporting factors (Muzainah & Faridh, 2021). Referring to Soerjono Soekanto's (1989) views, legal effectiveness also depends on the will and legal awareness of the community. It can be seen from the data on divorced couples that the average age is 25–45 years, and only a few are under or above that age. Psychologically, age reflects the maturity of a person. At that age, a person can generally think and act logically and wisely without rushing into making decisions. The facts show that this maturity does not guarantee the integrity of their household. This means that the divorce is not simply due to incompatibility but to many other accompanying either direct or indirect factors. Indeed, not every dispute is *syiqaq* (Hafidzi, 2018). This is because disputes that are not harmful have yet to be called *syiqaq* (Manan, 2005). *Syiqaq* is interpreted as disputes or quarrels that continue to occur and are impossible to reconcile (Susylawati, 2008).

The education levels of the parties to the divorce varied; most had high school (SMA) and even university (Bachelor) education. The rest have junior high school (SMP) and elementary school (SD) education (Andisa, 2018) or instance, one of the couples in Banjarmasin is a scholar, and even the defendant has a doctoral degree (S3). The level of education is usually also directly proportional to the type of work. Ideally, the person who has a higher education is the person who has wider insight and understanding. Several couples work as state or civil servants. The salary received increased to cover household needs. Adequate income may be less due to an increasingly high lifestyle. This divorce phenomenon shows "legal ineffectiveness" against the marriage law in force in Indonesia and a need for more understanding of the mashed aspect of the marriage law (Putra, 2021).

On the other hand, this is a social phenomenon that leaves moral and intellectual responsibility for dealing with. The problem of legal awareness is closely related to the psychological side of society. No matter how much advice, information, and guidance is given, if the person concerned does not want to apply it, so long as it continues, inequality continues. The causes of divorce that have been explored indicate bad behavior and personality. This certainly describes the mental problems of the individual.

Divorce during the pandemic contributed to the increase in the divorce rate in Banjarmasin. The facts revealed that there were factors causing divorce such as economic problems, domestic violence, and the presence of a third party in the marriage became dominated various factors. During the pandemic, the disputes became sharper, especially regarding economic motives. From a psychological perspective, the Covid-19 pandemic is only one of the triggers that might cause the fuse to catch fire and then explode. At the same time, the importance of the sacredness of marriage is becoming increasingly apparent, so an explosion is inevitable. Evidently, before the pandemic, the factors that caused the divorce had been formed individually. At that time, each party was still strong and able to survive the problems in their household. However, entering the pandemic era, many life structures have changed, including the stress and depression experienced due to job loss and reduced income, thereby causing a psychological burden that results in one of the parties, the husband/wife, committing domestic violence. At that time, the family's resilience will become more fragile until they finally file for divorce in court.

4. CONCLUSION

First, during the pandemic, there was an increase in the divorce rate. Economic issues, domestic violence, and the presence of a third party in a marriage—for which both the husband and the wife are responsible—are the leading causes of divorce. *Second*, the rise of divorce is seen as a social phenomenon, indicating that the goal of marriage has not been achieved because of the community factor itself. The ineffectiveness of this law lies on the human side (the actor/legal subject). Also, during this pandemic, psychological changes occurred, from becoming irritable to domestic violence and the presence of a third party, resulting in uncomfortable feelings from one partner and finally filing a divorce lawsuit at the Religious Court.

Based on the results, it is expected that the Ministry of Religion, in particular, the Office of Religious Affairs (KUA), and the Office for Women's Empowerment and Child Protection (KPPA) in every city and region need to continue to socialize the importance of understanding the purpose of marriage, outreach about domestic violence, families, and mawadah, both for those who want to get married, both new and those who have been married for a long time, so that it can reduce the divorce rate. This study of the

divorce phenomenon is only one side of the complex empirical legal reality, thus further studies from a different perspective are researchable.

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