



Divorce factors during the Covid-19 pandemic at *Pangkalan Bun* religious court class 1B

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ABSTRACT

The definition of marriage in the provisions of Article 1 of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and happy family or household. eternal life based on God Almighty. Marriage is expected to last forever and be done once in a lifetime without any divorce. However, in reality, divorce is inevitable. Divorce that occurs can be caused by many factors. The research method used by the author in this study is empirical legal research. This study aims to find out what factors can lead to divorce during the Covid-19 pandemic, which occurred at the *Pangkalan Bun* Religious Court Class 1B. According to the study's findings, the factors that affect divorce include economic issues by 45.5%, adultery by 28.5%, marital dispensation by 18.5%, parents are excessively intrusive by 5%, and another factor of 2.5%, such as one partner having an aberration in his sexual orientation.

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1. INTRODUCTION

The social process is an interaction between individuals and groups in a meeting that determines the relationship's system and form (Manna et al., 2021). One of them is called marriage. Marriage aims to create a family based on the bond between man and woman as a husband and a wife to get descendants and have a family life (Jarbi, 2019; Marsidah, 2020; Rana & Saepullah, 2021; Waluyo, 2020). Few people also consider marriage as a culture that must be done. Therefore, marriage has become a culture of society along with the times. There are two differences of opinion regarding the culture of marriage, that is, the opinion of traditional and the modern societies. Traditional people think that the culture of marriage is simple, closed, and narrowwhile, modern societies assume that the marriage culture is advanced, open, and broad. Religious leaders and community members have maintained simple marriage etiquette rules that continue to develop in society until present.

Marriage, according to the explanation of the Civil Code, is only a personal matter promised with no divine tendencies as a standard in marriage (Anam, 2019; Novitasari et al., 2019). Whereas in the view of the Islamic religion, marriage is a sacred agreement, meaning worship to Allah, following the Sunnah of the Prophet and carried out based on sincerity, responsibility, and following legal provisions that must be carried out (Amri, 2020; Musyafah, 2020; Widiyanto, 2020).

According to the marriage law, a marriage aims for a household or family to love one another and live peacefully. Meanwhile, according to the provisions of the Compilation of Islamic Law, the purpose of marriage is to create a family of peace, love, and grace.

The Covid-19 pandemic that spread worldwide, even in Indonesia at the beginning of 2020, has dramatically affected the social and economic life of the community, including the increasing cases of divorce. The high divorce rate indicates that ongoing social problems are causing married couples to terminate their marriage or divorce (Nurhalisa, 2021).

Article 38 of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage contains a non-obligation: "the termination of a marriage can be caused by death, the breakup of a husband and wife or divorce based on a Court decision." The breakup of the marriage is due to the failure to achieve associative communication, so the couple will experience dissociative communication, which causes divorce (Manna et al., 2021). Divorce is a social problem in a society as an inconsistent way of communication or behavior in marriage life (Harjianto & Jannah, 2019).

Based on the provisions of Article 208 of the Civil Code, the end of a relationship will not occur if it relies on the consent of the husband and wife because the separation of a family must be based on the reasons why the divorce occurred. Divorce in Islam can be resolved through a Religious Court trial after the Religious Court has tried and failed to reconcile the two parties (Dahwadin et al., 2020).

According to Dalvi & Hermaleni (2020), Putra (2021), and Wahyudi (2019), some basic problems that cause a marital divorce are adultery, having lousy faith, leaving the house without permission, , being punished with imprisonment for five years or more after the marriage, and being tortured or bullied between husband and wife or vice versa, which can endanger the safety of the soul and can hurt each other.

In the provisions of article 116 Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law, due to: a husband or wife who commits adultery is a drunkard, a connoisseur, or a gambler and cannot change for the better, if the husband or wife leaves without the permission of the other party and valid reasons for 2 (two) consecutive years, if the husband or wife gets a prison sentence of 5 (five) years after the marriage takes place, the oppression that poses a danger to the husband or wife, if a husband or wife gets a disease that makes him unable to carry out his obligations as a husband or wife, disputes and fights often occur in the family, which raises no hope of family harmony, if the husband violates the agreement stated in the marriage certificate, and the religious displacement can lead to disharmony in the family.

Many factors led to divorce in Indonesia during the pandemic. Data from the Supreme Court explains that in 2020 it jumped to 57,000 cases in the first six months due to Covid-19. Economic factors caused divorce during the pandemic, domestic violence due to social distancing, their lifestyle during a pandemic, mental health which resulted in depression, etc (Nurhalisa, 2021; Pieh et al., 2020; Prime et al., 2020; Radhitya et al., 2020; Wijayanti, 2021).

The Marriage Law, the Civil Code and the Compilation of Islamic Law have regulated the grounds that can be used as reasons for divorce. This research aims to analyze the factors that can lead to factual marriages in *Pangkalan Bun* Religious Court Class IB.

2. RESEARCH METHOD

Empirical law is the method used in this research. The purpose of empirical legal research is to establish the truth of a claim using empirical facts taken from human behavior, both verbal behavior obtained from interviews and actual behavior carried out through direct observation (Benuf & Azhar, 2020; Dr. Muhaimin, SH., 2020). It is also used to examine primary and secondary data. The primary legal sources are obtained from laws, policies, regulations, etc. Meanwhile, the secondary legal sources are in the form of articles, books, or previous research articles.

This research reviews the factors causing divorce during the Covid-19 pandemic, where research was conducted on divorce cases from January to August 2021 at the *Pangkalan Bun* Religious Court Class IB.

3. RESULTS AND DISCUSSIONS

Every couple wants to build a family that is harmonious and blessed by God. However, if the couple cannot fulfill their duties as a husband or wife in the household, then the desired harmonious family will never materialize. If the process towards a harmonious marriage does not create feelings of happiness, it will end in divorce (Manna et al., 2021).

A marriage broken by divorce is commonly called a *talaq* divorce in Islamic religion (Fatmawati, 2021; Muhsin, 2021; Sudjana, 2021). *Talaq* divorce is intended for Islamic marriages, in the case of a husband who wants to divorce his wife. The wife can report to the religious court if the husband violates the specified agreement or a *talaq* divorce. According to Article 39 of the Law on Marriage, divorce can occur while the trial progresses, and the court cannot unite the two conflicting parties. The separation of husband and wife or divorce requires reasons agreed upon by both parties. The divorce process must occur in front of the court with correct evidence without any manipulation.

Based on the provisions of Article 65 of Law no. 7 of 1989 and Law no. 3 of 2006 concerning the Religious Courts and Article 115 of the Compilation of Islamic Law is a necessity and obligation that must be carried out by families who have family matters that are not harmonious. The special place of court for people who are Muslim (Article 1 (1), Article 2, and Article 49 (1)) is the Religious Courts Institution. If there is a clash between attracting benefits and rejecting dangerous things, the more meritorious value must be prioritized (Dahwadin et al., 2020).

The provisions of Article 39 of the Marriage Law it states that: (1) Divorce or the end of a husband and wife relationship must be carried out during a trial by a judge, even if the court cannot reconcile the couple; (2) A relationship breakup between husband and wife must have adequate reasons; (3) Procedures for divorce before a court hearing are regulated in the statutory regulations.

According to the provisions of Article 49 Law Number 3 of 2006 concerning the Religious Courts, which have the authority to review, decide, and settle cases at the first level of people who are Muslim in the fields of waqf, zakat, marriage, *infaq*, charity, inheritance, wills, grants, and Islamic economics. Based on article 49 of Law Number 3 of 2006, resolving a dispute is limited to the field of sharia banking and sharia economics or others. The definition of "a person who is Muslim" is a legal entity or a group of people who voluntarily obey and understand Islamic law by article 49.

Explanation of Article 49 letter A regarding "marriage", along with the law regarding marriage based on *shari'ah*: (1) Permit to have more than one wife or husband; (2) Permission to continue the marriage for people who are not yet 21 (twenty-one) years old if the guardian parents or family in a straight line have differences of opinion; (3) Marriage dispensation; (4) Supervision a marriage; (5) Rejection of marriage by Marriage Registrar; (6) the cancellation of a marriage; (7) Claims for negligence or obligations of husband and wife; (8) Dissolution of a husband and wife relationship due to divorce; (9) Divorce suit; (10) Complete the division of joint assets; (11) Determination of child custody; (12) A mother can be responsible for living expenses and children's education if the father does not comply with his responsibilities; (13) Determine the obligatory gift of property or living expenses for husbands to ex-wives; (14) Decisions about whether or not a child is legal; (15) Decisions regarding the revocation of parental authority; (16) Revocation of power of a guardian; (17) Selection of a new guardian by the court; (18) Selection of caregivers to care for children under the age of eighteen and abandoned by both parents; (19) Giving compensation obligations for the assets of the child under his care; (20) Determining the origin of a child and adopting a child according to Islamic law; (21) Decisions regarding the refusal to provide information for mixed marriages; and (22) A legal marriage statement before Law Number 1 of 1974 concerning marriages carried out according to other regulations.

In its duties, the Religious Court, as the First Level authority, has to consider a marriage or divorce case. In Law Number 7 of 1989, in conjunction with Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning the Religious Courts which relate to cases, zakat, *infaq*, charity, marriage, waqf inheritance, wills, sharia economics, and grants. On the other hand, Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning the Religious Courts which have the authority to adopt a child by Islamic law.

The *Pangkalan Bun* Religious Court Class IB is a court at the first level within the Central Kalimantan Religious High Court's jurisdiction, culminating in the Republic of Indonesia's Supreme Court. The *Pangkalan Bun* Religious Court Class IB is domiciled in the capital city of West Kotawaringin Regency, namely the city of *Pangkalan Bun* on *Jalan Pasir Panjang - Kumpai Batu Atas Km. 5,5*. *Pangkalan Bun* has jurisdiction over Kotawaringin Barat Regency, Lamandau Regency and Sukamara Regency.

Based on an interview with Mr Imam Faizal Baihaqi as the person authorized to judge at the *Pangkalan Bun* Religious Court Class IB, the following are the primary duties of the Religious Courts: (1) The function of adjudicating, in terms of examining and adjudicating a case based on concrete evidence, the authority in this matter is the Religious Courts (vide Article 49 Law Number 7 of 1989 jo. Law Number 3 of 2006); (2) The oversight function, carrying out the implementation or supervision of the duties and behavior of Judges, Registrars or Secretaries, is to supervise and create a sense of security for those who are in charge of adjudicating and plaintiffs or victims (vide: Article 53 paragraph (1) of Law Number 7 the Year 1989 in conjunction with Law Number 3 of 2006); as well as the implementation of general administration. (vide: Law Number 4 of 2004 concerning Judicial Powers). The Field Supervisory Judge conducts regular supervision; (3) Guidance functions to provide direction and guidance to staff both in terms of technical justice and administration of justice as well as general administration. (vide: Article 53 paragraph (3) Law Number 7 of 1989 jo. Law Number 3 of 2006); (4) Administrative function, to serve administrative clerkship for first-level cases. These services include confiscation and execution, appeals, classification and administrative review. Providing general administrative services within the Religious Courts (Personnel, Finance and General Affairs); (5) The function of Advice, namely providing words of both criticism and suggestions that can be considered regarding Islamic law to government agencies in their jurisdiction if requested as in Article 52 paragraph (1) of Law Number 7 of 1989 concerning Religious Courts; (6) Another function serving as a whole for research, legal counseling and research, as stipulated in the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia. Number: KMA/004/SK/II/1991.

Based on the research results, the researcher obtained case data that entered the *Pangkalan Bun* Religious Court Class IB from January to August 2021, consisting of the remaining cases from the previous month, incoming and sporadic cases, and remaining cases for the current month. The cases submitted are still dominated by divorce and talaq divorce issues, as well as requests for marriage dispensation, which the researchers present in the form of a diagram as follows:

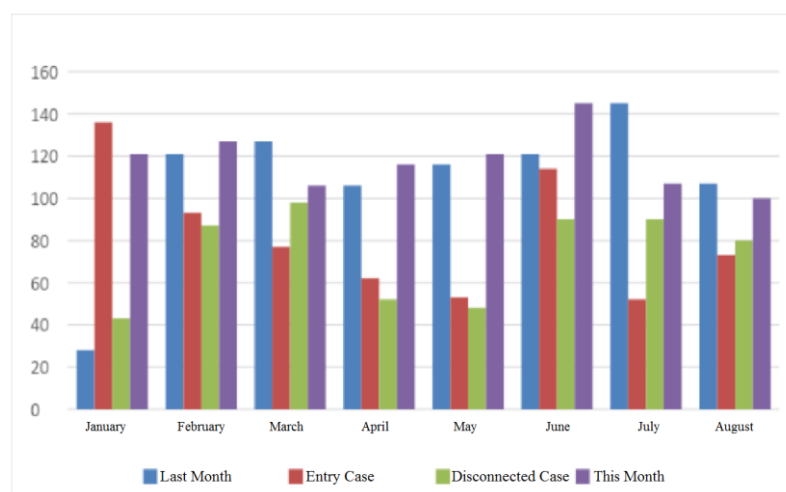


Figure 1. Monthly case statistics at the *Pangkalan Bun* Religious Court Class IB, West Kotawaringin Regency

Source: *Pangkalan Bun* Religious Court Class IB in January-August 2021.

Based on the data obtained by the researcher, the *Pangkalan Bun* Religious Court Class IB classifies cases into five classifications, namely the classification of civil lawsuits (divorce claims), the classification of civil claims (*isbat* marriage, divorce, a dispensation of marriage, and determination of heirs), classification of straightforward claims, classification jinayat, and jinayat pretrial classification.

Table 1. Overall case data in January - August 2021 *Pangkalan Bun* Religious Court Class IB, West Kotawaringin Regency

NO	DESCRIPTION	MONTH							
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
1	Civil Lawsuit	25	71	78	39	37	61	80	65
2	Civil Application	18	16	20	13	11	10	10	15
	TOTAL	43	87	98	52	48	71	90	80
GRAND TOTAL		569							

Source: *Pangkalan Bun* Religious Court Class IB, 2021

Based on the overall case data that entered the *Pangkalan Bun* Religious Court Class IB from January to August 2021, the author can analyze the increase in cases every month, offset by cases dropping out. According to the data above, it can be seen that from January to August 2021, a total of 569 cases came in, which was 51%. This year's minus cases were 522 cases, which was 47%, and the remaining cases in 2020 were 20 cases, which was 2%.

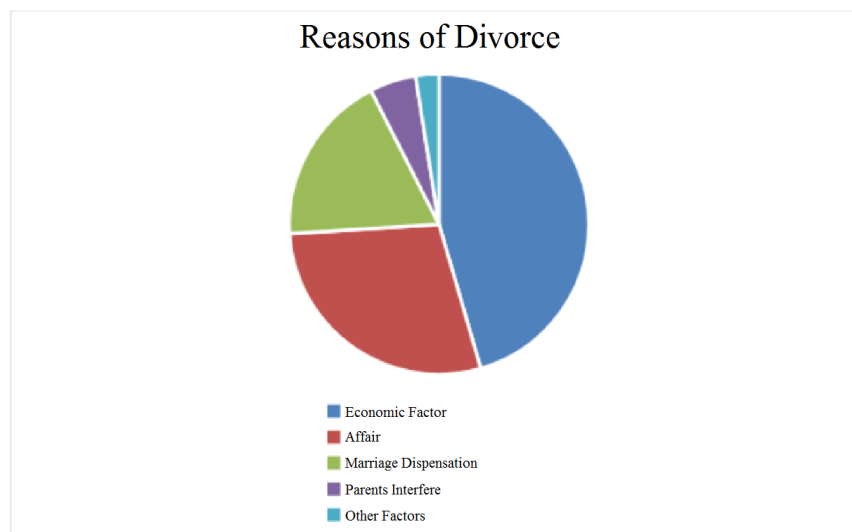


Figure 2. Reasons for divorce as of August 2021 *Pangkalan Bun* Religious Court Class IB
Source: *Pangkalan Bun* Religious Court Class IB, 2021

Based on the diagram above, the following are the factors that form the basis for divorce in the Class IB *Pangkalan Bun* Religious Court:

- Economic factor, one of the husband's obligations to his wife is to provide for clothing, food, or housing and the right of a wife to get this. Nevertheless, the condition of the husband who works to support the family can lead to divorce because 45,5% of divorces occur due to below-average economic conditions. If this economic problem is ignored, it will impact life. The husband needs to work to earn and support his family. The husband's income is to fulfill the life of his wife and children, this income will significantly affect the sustainability of the family if the income is more than sufficient, but if the income is less than sufficient, then this situation will lead to divorce.
- Affair, infidelity is always a problem at the beginning of a divorce. This affair is not just doing text messages online but also committing adultery. The act of adultery, namely sexual intercourse carried out by a partner who is not their legal partner, around 28,5% of divorces occur due to

infidelity. One case of infidelity is the wife or husband, who often changes partners. Legal couples who like to change partners are motivated by the lack of economic conditions or a lack of understanding of the rights and obligations of a husband or wife. It impacts infidelity due to strife and disharmony in the household.

- c) Marriage Dispensation, marriage at an early age is a severe problem in society, especially in West Kotawaringin Regency, including the *Pangkalan Bun* Religious Court Class IB. A marriage that has not reached the age limit set by the government is not allowed because it can trigger divorce. Divorce caused by marriage dispensation is around 18,5%. However, not a few people also agree with early marriage for specific reasons. Several factors can be submitted as a request for marriage dispensation, namely if the applicant's parents are seriously ill, so they want to get their children married immediately before the parents die, if the child does not want to continue their education and choose to date so that the applicant's parents would prefer to marry her off to avoid adultery and slander in society.

During the Covid-19 pandemic, the data was obtained from the *Pangkalan Bun* Religious Court Class IB regarding the application for marriage dispensation from January to August 2021. An average of 100 requests for marriage dispensation were registered at the *Pangkalan Bun* Religious Court Class IB. However, most divorces in West Kotawaringin Regency are due to couples applying for marriage dispensation. Prospective partners propose marriage attempts before they are 19 years old, dramatically affecting the couple's physical, mental, and financial readiness. *Pangkalan Bun* and relevant government agencies are trying to restrain or stop the issuance of the marriage dispensation.

Marriage dispensation is indeed the authority of the *Pangkalan Bun* Religious Court Class IB because the Marriage Law has mandated it. The issuance of a marriage dispensation becomes a confusion and dilemma for them because marriage requires preparation or maturity both physically, mentally, and financially. If the prospective husband and wife have yet to reach 19 physically, mentally, and financially, they are not ready to get married. If this is done, the household will cause conflict, both triggered by economic problems, disputes, and quarrels. As a result, when their marriage is not even one year old, they are expected to return to the *Pangkalan Bun* Religious Court Class IB to file for divorce.

Table 2. Data for the number of dispensations for marriage and divorce in January-August 2021

<i>Pangkalan Bun</i> Religious Court Class IB			
NO	MONTH	TOTAL MARRIAGE DISPENSATION	TOTAL DIVORCE
1	January	24	3
2	February	10	3
3	March	11	2
4	April	8	1
5	May	7	2
6	June	14	3
7	July	10	1
8	August	16	3
TOTAL		100	18

Source: *Pangkalan Bun* Religious Court Class IB, 2021

Based on data from the *Pangkalan Bun* Religious Court Class IB, in January-August 2021, 100 parties submitted requests for marriage dispensation, of which 18% filed for divorce, namely 18 people. Divorce is the climax of ending a problem in a husband and wife relationship. If the husband and wife cannot find a solution to solve the problem, then they have the right to come to the Religious Courts to find a solution. The Religious Courts will be tasked with trying them if the husband or wife is proven guilty and helping them to maintain a husband and wife relationship.

- d) Parents' involvement 5% of the causes of divorce are because parents interfere too much; parents are responsible for educating, guiding, and caring for children so that expectations can be achieved that can lead the child to be ready for social life. Parents intervene in their child's family only in the context of guiding and providing advice. It does not mean interfering in the

child's household affairs. There are not many family and household problems due to the involvement of parents in making decisions in the household, which in turn triggers fights and divorce occurs. In Islamic law, parents should provide positive things as mediators if there is a dispute in their child's household so that relations between children and in-laws are maintained, and their marriages are maintained.

- e) Other factors 2,5% of the causes of divorce are due to other factors. This factor is experienced by both a husband and wife, which triggers rifts in the household because both have abnormalities in relationships, sexual orientation disorders and the like. One partner becomes uncomfortable with this abnormal situation because it drags on and continues. The household is maintained, and it is feared that unwanted things such as domestic violence will occur. For the benefit of both parties, the judge, in deciding the case, approves rather than rejects.

4. CONCLUSIONS

The fundamental causes of divorce have been regulated in the Marriage Law, a Compilation of Islamic Law, and the Civil Code. Based on the results it was found that the dispensation of marriage is not the leading cause of divorce, it is one of the factors causing divorce when the age, physical, financial, and mental immaturity of the husband and wife are in maintaining the marriage, and there are still several other factors causing divorce including: (1) economic factors, such as economic conditions that cannot fulfill the rights and obligations of one another, (2) the factor of infidelity where there is disharmony in the household because both are in a relationship with another person who is not their legal partner, (3) dispensation for marriage or efforts to reduce the age limit for marriage are given to prospective partners before the age of 19, so they are not mature physically, mentally, and financially, which often leads to conflicts/arguments that result in divorce, (4) parents interfere in the household affairs of their children such as influencing the decisions making in the household, thus eventually triggering quarrels and divorce, and (5) an abnormality in sexual orientation thus one partner becomes uncomfortable and decides to apply for divorce to the Religious Court.

Future studies on this study should include a more in-depth examination of the reasons contributing to divorce in Indonesia during the epidemic. It might include the economic issues, the influence of spousal abuse and social alienation on divorce rates, and the correlation between mental health and divorce during the pandemic. Furthermore, future studies should investigate the efficacy of preventative strategies and treatments to lower divorce rates during times of crisis.

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