

## Analysis of Judges' Considerations Regarding Divorce Lawsuits Caused by Domestic Disputes

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**Abstract.** *Analyzing the Legal Considerations of the Panel of Judges in deciding a divorce lawsuit caused by domestic disputes, by examining the legal reasons used as the basis for decision making. Identifying factors that influence the judge's decision, both objective and subjective, such as evidence presented, reconciliation efforts, and social or psychological impacts on married couples and children. This research uses a normative research method, which is a research method that focuses on the analysis of applicable legal norms, both in statutory regulations and court practice. This research aims to analyze the legal considerations of the panel of judges in deciding divorce lawsuits caused by domestic disputes, by referring to relevant legal regulations and court decisions. Based on the research results, it can be concluded that the panel of judges' legal considerations regarding divorce lawsuits caused by domestic disputes are very complex and involve various legal, social and psychological factors. Limitations in Analyzing Psychological and Social Factors: Judges' considerations often involve deep psychological factors related to family dynamics, but these factors are difficult to analyze objectively by relying solely on legal documents and court decisions. This research has the potential to make a significant contribution to improving family law practice in Indonesia, improving existing legal processes, and having a positive impact on individuals and communities involved in divorce*

**Keywords:** *legal considerations, panel of judges, divorce , domestic disputes, family law*

### 1. INTRODUCTION

Divorce is one of the legal issues that is often debated in the judicial system. In the context of Indonesian law, divorce not only involves personal aspects, but also has legal, social, and religious dimensions. Based on Article 39 of Law Number 1 of 1974 concerning Marriage, divorce can only be carried out in court after the court has attempted to reconcile both parties. One of the reasons often submitted in divorce lawsuits is the existence of disputes in the household. Prolonged disputes can cause disharmony, and even become the legal basis for deciding on divorce if they are considered to have met the criteria set by law.

The legal considerations of the panel of judges in deciding on a divorce case are very important, because they are not only oriented towards the evidence presented, but must also consider the impact of the divorce on the parties, including children, if any. The judge has a responsibility to ensure that the decision taken is in accordance with the principles of justice and benefit and considers the principle of protection for the family. In cases of divorce caused by domestic disputes, the panel of judges must assess the extent to which the dispute has affected the relationship between husband and wife and the opportunities to improve the relationship.

Analysis of the legal considerations of the panel of judges in this case is important to understand the extent to which justice is upheld and the law is applied consistently. This study aims to examine how judges consider divorce lawsuits due to domestic disputes, including assessments of evidence, principles of justice, and protection of the rights of the parties involved.

## **2. LITERATURE REVIEW AND HYPOTHESIS DEVELOPMENT**

### **Overview of Divorce**

Divorce is a legal event that terminates the marriage bond between husband and wife, which can be filed by either party for certain reasons. In the context of Indonesian law, divorce can be filed through a lawsuit filed in court, for reasons that have been regulated in Law Number 1 of 1974 concerning Marriage. One of the main reasons often submitted in divorce lawsuits is the existence of disputes in the household that cause the loss of harmony and the destruction of the husband and wife relationship. One of the main reasons often submitted in divorce lawsuits is the existence of disputes in the household, which often include various forms of conflict, be it verbal, physical, or emotional quarrels. Continuous disputes in the household can damage family harmony, leading to a decision to divorce.

### **Causes of Disputes in the Household**

Domestic disputes are often the main cause of divorce lawsuits. These disputes can be in the form of verbal conflicts, physical violence, infidelity, or other problems that damage the emotional and social relationship between husband and wife. As regulated by law, divorce due to domestic disputes is not only a matter of incompatibility or differences of opinion, but more on the condition where the marriage relationship can no longer be maintained due to frequent conflicts and tensions that occur in the household. Domestic disputes are one of the main reasons submitted by parties suing for divorce. Domestic conflicts can be caused by various factors, both internal (within the family) and external. Some factors that can trigger domestic disputes include:

- a. **Personality and Value Differences:** Incompatibility of character or differences in outlook on life between husband and wife often trigger protracted disputes.
- b. **Domestic Violence (KDRT):** Physical, verbal, or emotional violence committed by one party against a partner can lead to the inability to maintain a relationship.
- c. **Loss of Trust (Infidelity):** Infidelity that occurs in a household can destroy trust, which is the main foundation of a marriage relationship.

- d. Financial Problems: Tensions arising from economic problems or the inability to meet life's needs are often a source of conflict in the family.
- e. Social and Cultural Roles: Differences in understanding of gender roles or certain social norms can be a source of tension in the household.
- f. If these disputes occur continuously and cannot be resolved in any way, couples often feel that divorce is the only way.

### **Role and Considerations of Judges**

**Role and Considerations of Judges** In the divorce process, the judge has a very important role in deciding whether the divorce suit filed by one of the parties is acceptable or not. The judge will examine the reasons submitted in the suit, including the household dispute that is the main cause. This process does not only rely on formal reasons, but also considers various other aspects, such as the impact of divorce on children, the welfare of the weaker party, and the possibility of reconciliation or mediation efforts between the husband and wife concerned.

**Legal Considerations in Divorce Cases** In deciding a divorce suit caused by a household dispute, the judge will examine various factors that affect the harmony of the household. The judge will also assess whether peace and mediation efforts have been made before the divorce is filed. Indonesian law stipulates that before issuing a divorce decision, the judge must ensure that both parties have been given the opportunity to reconcile and seek alternative solutions, such as through family counseling or mediation. In every divorce suit filed due to a household dispute, the judge will consider a number of relevant legal factors. Some aspects that are of concern to the judge include:

- a. Reasons for Domestic Dispute: The judge will analyze the evidence presented by both parties, such as witnesses, documents, or recordings that show a dispute that damages the harmony of the household. Disputes that have occurred for a long time without any attempt at resolution or reconciliation are often considered valid grounds for divorce.
- b. Reconciliation Efforts: Before deciding on a divorce, the judge will usually consider whether efforts have been made to reconcile the two parties. In Indonesia, the family law system requires mediation efforts before a divorce decision is made. If mediation or counseling does not produce results and the dispute continues, then a divorce can be decided.
- c. Best Interests of the Children: One of the main considerations in every divorce lawsuit is the existence of children. The judge must ensure that the divorce that occurs will not harm the children, either physically, emotionally, or psychologically. The judge will

consider who will get custody of the children, and how the divorce will affect their lives in the future.

- d. **Division of Joint Property:** Divorce also often involves the division of joint property between husband and wife. The judge will decide how the assets acquired during the marriage will be divided, based on the principle of justice. In addition, the judge will also consider other rights such as maintenance for the wife or children who may need economic support after the divorce.
- e. **Domestic Abuse or Violence:** If one party experiences domestic violence (DV), whether physical, psychological, or emotional, this will be an important consideration for the judge. In many cases, DV can be a legitimate reason for divorce and be the basis for a decision that supports protection for the injured party.

### **3. RESEARCH METHODS**

This type of research is normative juridical. This research aims to examine and analyze how legal considerations are made by judges in divorce cases caused by domestic disputes. This research uses a normative approach, which focuses on the study of applicable legal norms, as well as their application in practice by judges in deciding divorce cases. This normative research is very relevant to understanding how the law in Indonesia handles divorce caused by internal problems in the household.

The approaches used in this research are the statute approach and the conceptual approach. The statute approach will be used to examine relevant legal norms, such as Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law (KHI), and other legal regulations governing divorce. Meanwhile, the conceptual approach will be used to analyze the understanding and interpretation of existing legal norms, as well as how these norms are applied by judges in the context of domestic disputes as the basis for divorce.

### **4. RESULTS AND DISCUSSION**

#### **Understanding the judge's considerations**

The judge's consideration is the process of thinking and assessment carried out by the judge in making a decision on a case based on facts, evidence, and applicable law. In the context of the trial, the judge's consideration includes an assessment of the legal, social, and moral aspects that are relevant to the case being tried. This consideration is stated in the judge's decision as the basis or legal reason that supports the decision.

The judge's consideration is the most important aspect in determining the realization of the value of the judge's decision, namely justice (*ex aequo et bono*) and includes legal certainty, besides also bringing benefits to all parties involved, therefore the judge's consideration must be carried out correctly and carefully. If a judge is not wise, good, and careful, then the judge's decision will be overturned by the High Court or Supreme Court. In considering the judge's ratio or judgment is an argument or reason used which is carried out freely by the judge to first decide what legal considerations should decide the case.

### **Judge's considerations in divorce lawsuits due to disputes**

Judge's considerations in divorce lawsuits due to disputes are the process of analysis and assessment carried out by the judge to determine whether the reasons submitted by the plaintiff meet the legal requirements to decide on divorce. This process includes an evaluation of the evidence, witnesses, and facts presented during the trial, while still complying with applicable legal regulations and considering justice for all parties.

In the context of divorce lawsuits due to domestic disputes, the judge's considerations not only focus on the legality of the reasons for divorce, but also include social, psychological aspects, and the impact of divorce on other family members, especially children. The judge is tasked with ensuring that the decisions taken reflect the principles of justice, protection of the more vulnerable, and the best interests of the child.

In the context of the judge's considerations, the judge needs to base his assessment on the theory and results of related research to achieve maximum and balanced research results in deciding a case, namely by meeting theoretical and practical levels. An effort to achieve legal certainty in the trial because the judge is a law enforcement officer whose obligation is to make decisions fairly and correctly. Through its decisions it can be a benchmark for achieving legal certainty. The judge's consideration in a divorce lawsuit due to disputes is usually based on facts and evidence submitted by the parties, as well as applicable legal provisions. Here are some aspects that are considered by the judge:

#### **a. Reason for Dispute**

The judge will assess the reason for the dispute that is the basis for the lawsuit. It is not possible to create a harmonious relationship in the household that causes physical, psychological, or emotional harm to one of the parties.

#### **b. Duration and Frequency of Dispute**

The judge will consider whether the dispute has been going on for a long time or often occurs so that it is difficult to resolve.

**c. Peace Efforts**

The judge usually asks the parties to mediate before deciding on a divorce. If mediation is unsuccessful, this will be considered that peace is difficult to achieve.

**d. Child Welfare (If Any)**

The judge will consider the impact of the dispute on the children, including custody and maintenance of the children after the divorce.

**e. Evidence Submitted**

The judge will examine evidence that supports the claim of a dispute, such as third party testimony (family, friends, or neighbors), related documents or reports (for example, domestic violence reports if relevant) and written statements or acknowledgments from the related parties.

**f. Applicable Legal Provisions**

The judge referred to Article 39 of Law No. 1 of 1974 concerning Marriage, which states that divorce can only be carried out if there are sufficient reasons that the husband and wife will not be able to live in harmony as husband and wife. The Compilation of Islamic Law (KHI) for Muslims, especially Article 116, which states the reasons for divorce including continuous disputes and quarrels. The balance of rights and obligations of the judge will assess whether the parties have carried out their rights and obligations as husband and wife. If one party is proven to be negligent or guilty, this will be an important consideration.

**Definition of divorce lawsuit**

A divorce lawsuit is a divorce process filed by a wife against her husband through the court for certain reasons regulated by law. In the context of Indonesian law, a divorce lawsuit is carried out based on Law Number 1 of 1974 concerning Marriage and Government Regulation Number 9 of 1975, which stipulates that divorce must be carried out through a court hearing. Based on Legitimate Reasons. A divorce lawsuit must be based on certain legitimate reasons according to Article 39 of the Marriage Law, such as ongoing disputes, domestic violence (KDRT), or disharmony that cannot be repaired.

A divorce lawsuit is a form of legal protection for wives who feel that their marriage relationship can no longer be maintained. This process is designed to ensure justice, protect the rights of both parties, and provide legal certainty for the parties involved. A divorce suit is filed by a wife when she feels that the marriage relationship can no longer be maintained, for example due to ongoing disputes, domestic violence (KDRT), infidelity, or other reasons. The

lawsuit is filed in the Religious Court (for Muslim couples) or the District Court (for non-Muslim couples) according to their respective jurisdictions.

### **Dispute as a reason for a divorce suit**

Divorce is the last legal effort to end an untenable marriage relationship. One of the main reasons often submitted in a divorce suit is ongoing disputes or disagreements between husband and wife. In Indonesian law, this reason is regulated in Article 39 paragraph (2) of Law No. 1 of 1974 concerning Marriage, which states that divorce can be carried out if the husband and wife can no longer live in harmony as husband and wife and Article 19 letter (f) of PP No. 9 of 1975, which stipulates that "continuous disputes and no hope of living in harmony again" can be grounds for divorce.

In the context of family law, a dispute is defined as a prolonged conflict between a husband and wife that eliminates household harmony. This dispute can be in the form of verbal, emotional, physical, or social conflict. Disputes in a household that are ongoing and cannot be reconciled are valid grounds for filing a divorce suit. In the legal process, the court has the responsibility to ensure that these reasons are in accordance with the provisions of the law, supported by adequate evidence, and that all peace efforts have been made before the lawsuit is granted.

### **Factors that cause disputes in the household**

#### **a. Internal Factors**

- Lack of Communication: The inability of couples to communicate effectively often leads to ongoing conflict.
- Character Incompatibility: Differences in personality or life values that are difficult to reconcile
- Domestic Violence (DV): Repeated physical, verbal, or emotional abuse.

#### **b. External Factors**

- Economic Problems: Financial inability is often a source of stress in a household.
- Third Party Interference: Influence from extended family, friends, or others that damages a couple's relationship

## **5. CONCLUSION**

The judge's consideration of a divorce suit due to domestic disputes includes legal, moral, social, and psychological aspects. The judge ensures that the decision taken is fair and provides the best solution for the parties, including the children involved. Divorce is decided only if it

is proven that the dispute cannot be reconciled, and continuing the marriage will cause greater losses for both parties, taking into account the legal, moral, and interests of all parties. The judge's consideration of a divorce suit caused by domestic disputes is based on a strong legal basis, in-depth evaluation of evidence, and efforts to provide a fair decision for both parties as well as paying attention to the social and psychological impacts of divorce, especially on the children involved, and ensuring a balance of rights and obligations in the decision. Divorce is decided only if the dispute is proven to be unresolvable, and continuing the marriage is considered to bring greater losses to the parties. Thus, the judge aims to provide a legal solution that reflects justice and protection for all parties affected.

### **Limitations and Further Studies**

It is recommended that judges consider their decisions regarding divorce lawsuits due to domestic disputes to create a fairer, more transparent, and responsive justice system to the needs of the parties. With an interdisciplinary approach, this study can identify weaknesses in current practices and provide recommendations for improvement, both in terms of law, psychology, and social aspects. The results of the study are expected to strengthen the quality of judges' decisions and reduce the negative impacts of divorce on couples, children, and the wider community and examine the extent to which the court-mandated mediation process can help couples resolve conflicts and avoid divorce.

### **ACKNOWLEDGEMENTS**

Thank you to all parties who participated, especially to the supervising lecturer, both parents and all beloved families and friends in the struggle

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