

Judge's Legal Interpretation In Padang City Religious Court (Study of Divorce Rulings In Koto Tangah District, 2020-2021)

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ABSTRACT This research entitled Judge's Legal Interpretation In Padang City Religious Court (Study Of Divorce Rulings In Koto Tangah District, 2020-2021) was conducted because this research aims to examine and find out how the legal considerations of judges in the Tangerang Religious Court and the Padang Religious Court in deciding divorce cases sue as a result of one party leaving the other party before 2 years. What is the juridical analysis regarding Decision Number 1234/pdt/G/2020/PA.pdg at the Padang Religious Court. This type of research is normative juridical research by studying positive law related to reasons for divorce. The research technique used is library research by reviewing laws and regulations, books related to the title of this thesis. The results of this research are that the judge's legal interpretation in the divorce decision is included in the authentic interpretation which looks at the meaning of the terms contained in the law. This interpretation is also known as the official interpretation.

KEYWORDS *Interpretation, Dicision, Koto Tangah*

INTRODUCTION

Marriage is a physical and spiritual bond between a man and a woman as husband and wife to create a harmonious, peaceful household, and can be a means of worshiping Allah subhanahu wa ta'ala..(Chadijah, 2018) Therefore, husband and wife must complement and help each other so that both can create a prosperous family and achieve happiness both spiritually and materially so that a sakinah, mawaddah and rahmah household can be created.(Olfah, 2019) Sakinah means being able to create a family condition that is calm, peaceful, harmonious, open-minded, humble accompanied by a sense of mutual respect, not diminishing each other's authority, prioritizing truth and togetherness rather than egocentricity, giving and loving each other, and building each other up without hurting any of the members. family.(Chadijah, 2018) Mawaddah means family life full of love, mutual respect and mutual need for each other. Rahmah means that family relationships must love each other, protect each other, and have a strong inner bond.(Rajafi, 2018)

On the other hand, it is not uncommon for the household journey to not always run smoothly, but there are conditions where the husband and wife experience various things that are difficult to resolve, causing the solution to no longer be found.(Shobihah & Fathoni, 2022) This can then open the door to divorce or dissolution of the marriage.(Fitrah, 2020) Breaking up a marriage or divorce is a way out for a husband and wife if a problem cannot be repaired or reconciled.(Fitrah, 2020) Juridically, national law regulates divorce, namely in Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage, specifically Article 19 which explains that divorce can occur if there are certain reasons that are considered emergency, such as the abandonment of one of the parties. parties, one of the parties is imprisoned, commits atrocities and there are continuous disputes.(Waluyo, 2020)

Article 19

Divorce may occur for a reason or reasons:

- a) One of the parties commits adultery or becomes a drunkard, addict, gambler, etc. which is difficult to cure.
- b) One party leaves the other party for 2 (two) consecutive years without the permission of the other party and without a valid reason or for other reasons beyond his or her ability.
- c) One of the parties receives a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place.
- d) One of the parties commits cruelty or serious abuse that endangers the other party.
- e) One of the parties has a physical disability or illness as a result of being unable to carry out their obligations as husband/wife.
- f) Between husband and wife there are constant disputes and quarrels and there is no hope of living in harmony in the household again (Suci Amalia et al., 2023)

Based on the reasons above, husband and wife should not be allowed to file for divorce in court if they do not have an urgent reason. (Kurniawan & Refiasari, 2022)

Divorce can occur because one party feels that their rights are not being fulfilled. (Sholeh, 2021) So quite a few divorces are filed in court as a divorce from the husband or a lawsuit from the wife. Divorce among society is something that is currently considered normal, and is even the last step if there is continuous dispute between husband and wife.

Divorce (Abror, 2019) is a divorce suit filed by the wife or her attorney to the Religious Court to claim her rights for certain reasons and the divorce occurs because of a court decision. Regarding divorce, it is regulated in Article 73 of Law Number 7 of 1989 jo. Law Number 50 of 2009 concerning Religious Courts, Article 132 paragraph (1) Compilation of Islamic Law (KHI), and Article 20 of Government Regulation Number 9 of 1975 concerning Implementation of Law Number 1 of 1974 concerning Marriage. (Bakhtiar, 2019)

Apart from that, in Article 19 letter (b) Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage and Article 116 letter (b) of the Compilation of Islamic Law (KHI) it is stated that one of the reasons for divorce is if one party leaves the other party for 2 (two) consecutive years without the permission of the other party and without a

valid reason or for other reasons beyond his or her ability. This means that if one of the parties files for divorce on the grounds that one of the parties has neglected the court but the divorce period has not yet reached 2 (two) years, then other things need to be taken into account. which supports the reasons for divorce. Like the case that occurred at the Padang Religious Court which decided on a contested divorce case with the main issue being that one party left the other party in less than 2 (two) consecutive years. (Imanda, 2018)

The divorce lawsuit filed by one of the parties has been accommodated in the Padang Religious Court Decision Number 1514/pdt/G/2020/PA.pdg regarding the divorce lawsuit. The verdict basically decided that there had been a marriage and conflict between the Plaintiff and the Defendant which could not be reconciled because the Plaintiff experienced domestic violence, did not receive physical and spiritual support, and was separated from his home. Therefore, the Panel of Judges at the Padang Religious Court decided on the divorce case with considerations in accordance with Article 19 letter (f) Government Regulation Number 9 of 1975 jo. Article 116 letter (f) Compilation of Islamic Law, namely for reasons of dispute and conflict. However, on the other hand, according to the author, this decision seems to ignore Article 116 letter (b) KHI and Article 19 letter (b) Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage. This article states that a divorce suit can be filed if one party leaves the other party for 2 (two) consecutive years. In other words, a new lawsuit can be filed in court after or when 2 (two) years of being abandoned or separated from home.

Reflecting on the problems above, it is deemed necessary to have legal certainty or clarity in the judge's interpretation and considerations in deciding divorce cases where one of the parties has left. Moreover, in this case there is disharmony in norms in the same article, especially between Article 19 letter (b) Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage jo. Article 116 letter (b) Compilation of Islamic Law (KHI) with Article 19 letter (f) Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage jo. Article 116 letter (f) Compilation of Islamic Law (KHI). Based on the

problems above regarding the divorce case where one of the parties was left in the Religious Court, the author is interested in researching the Legal Interpretation of Judges in the Padang City Religious Court.

The approach used in this research is a normative research approach, which involves a detailed library research method. (Fajar ND & Achmad, 2007) Secondary data sources used in this research come from various media, including books and laws. (Fadli, 2021) In this research, the analysis technique used is content analysis. (Sugiyono, 2018) Content analysis is an analytical method used to make conclusions by identifying the specific characteristics of a message objectively and systematically organized. (Berutu, 2017)

FINDINGS AND DISCUSSION

Judge's theory of legal discovery

Legal discovery is the process of forming law by judges or other legal officers who are given the task of implementing law on concrete legal events or the concretization and individualization of general legal regulations. According to Sudikno Mertokusumo, the hierarchy or level of sources of legal discovery, including : 1) Law, 2) Customary law, 3) Jurisprudence, 4) International Agreement (tractaat/treaty), 5) Doctrine, 6) Behavior, and 7) Human interests. (Ramadhani & Nahrowi, 2023)

Legal discovery by a judge regarding existing statutory regulations or written law is an analysis process carried out by a judge to determine which law is appropriate for the disputed legal event and must be applied to the event by referring to written legal sources. Meanwhile, the discovery of law by a judge outside of existing statutory regulations or unwritten law, is the analysis process undertaken by a judge after clearly understanding a concrete event that he is faced with, to determine which laws outside of written statutory regulations must be implemented. applied. (Iswantoro, 2018)

According to Achmad Ali, legal discovery is one of the skills that a good expert or judge should have, after knowing about the rules of law and the existing legal system. (Atmadja, I Dewa Gede, 2018)

Legal discoveries made by judges have the following characteristics:

1. **Conflictive legal discoveries** are legal discoveries carried out by judges as their duty to deal with concrete events or because there is a conflict to be resolved. The results of legal findings by judges which have been expressed in the form of court decisions can be used as a source of law.
2. **Perscriptive Legal Discovery** Is a legal discovery made by the maker or legislator. The result of legal discoveries by legislators is law because it has binding force which is expressed in the form of law and is also a source of law.
3. **Theoretical Legal Discoveries** Are legal discoveries made by legal researchers. The results of legal discoveries made by legal researchers are not binding law but rather doctrine that can be used as a source of law (Mertokusumo, 1996)

Based on the description above, it can be analyzed that legal discovery is a process of legal analysis carried out by judges or legal researchers on written legislation or unwritten laws that are adapted to the legal events that occur. In carrying out their duties, judges have the authority to examine, try and decide on cases submitted to the court. There are three stages of legal discovery by the judge, as follows : (Helmi, 2020)

1. **The Constater Stage** is seeing, admitting or confirming that the event that has been presented before the court has occurred. To reach the controller stage, certainty is required, that is, you must be certain of the truth of the event being controlled. In this section, the judge must carry out evidence at trial in order to obtain certainty about the events presented to him.
2. **Qualification Stage:** The judge assesses the event which is considered to have actually occurred, including what or which legal relationship. In other words, finding the law for events that have been controlled. To find this law, look for existing legal regulations, provisions that can be applied to the event in question.

Example: in domestic disputes and quarrels. The judge must qualify, including what legal relationship can be synergized with the defendant's actions towards the plaintiff. In this case, it is qualified as a fractured household where there are continuous arguments and disputes that cannot be reconciled.

3. Constitutional Stage: The judge will determine the law for the plaintiff and defendant using a syllogism, namely drawing a conclusion from the major premise in the form of a legal rule. Example: Article 39 paragraph (2) letter (f) Law Number 1 of 1974 jo. Article 19 letter (f) Government Regulation Number 9 of 1975 and Article 116 letter (f) Compilation of Islamic Law, and minor premises in the form of continuous disputes and quarrels. In handling divorce cases, judges must be very careful in controlling the disputes and arguments that occur.

The events put forward by the plaintiff in his lawsuit may contain the causes of the dispute. The reasons stated by the plaintiff are for example the defendant often utters harsh words in the form of curses, the defendant often hits the plaintiff, the defendant has an affair with another woman or the defendant often gets drunk. Several reasons have resulted in the plaintiff and defendant having separate beds and even separate residences. This is the judge's first task to consolidate the events disclosed by the plaintiff in his lawsuit letter.(Putri, 2020)

Judge's Legal Discovery Method

Judges in discovering the law certainly have certain methods that can be used as a reference in their application so that they can make decisions appropriately and appropriately. According to Sudikno Mertokusumo, the legal discovery method is divided into three parts, including the interpretation method, argumentation method, and exposition method (legal construction). Meanwhile, according to Philipus M. Hadjon, legal discovery includes two methods, namely the interpretation method (interpretatiemethoden) and the reasoning method (redeneerwijzen) or legal construction(Tektona, 2019)

1. Interpretation Method

Interpretation or interpreting law is a method of legal discovery that explains the text of a law so that the law can be applied to certain legal events. According to Bambang Sutiyoso, the interpretation method is a method for interpreting unclear legislative texts so that the legislation can be applied to certain concrete events.(Mawar, 2016) There are several types of legal interpretation, as follows:(Ibrahim & Penelitian, 2007)

a. Grammatical Interpretation

Is a method of legal discovery by interpreting words or phrases in the law according to language rules and grammatical legal rules. To understand the meaning of unclear statutory provisions, it is necessary to interpret them by explaining them in common everyday language.(Putra & Sudiarawan, 2021)

b. Historical or Historical Interpretation

Is a method of legal discovery by interpreting the meaning in the law (Dedihasriadi, 2023) according to the occurrence by researching the history of both the law and the occurrence of legislation or in other words is the philosophical background to the birth of a law.(Hamdi, 2022) Historical interpretation (Ahmad, 2022) consists of two types, namely interpretation according to the history of law making (wetshistorische interpretative) and interpretation according to legal history (rechtshistorische interpretative).(Hidayatulah, 2020)

Judge's Legal Interpretation at the Padang City Religious Court

Judges in granting interfaith marriages in the District Court also carry out legal interpretations in considering the law, among the interpretations are:

1. Decision Number 1234/ pdt/G/ 2020/ PA.pdg

The legal interpretation used in decision Number 1234/pdt/G/2020/PA.pdg is an authentic interpretation because it looks at the legal considerations in this decision which reads "Considering that as intended in Article 39 paragraph (2) of Law Number 1 of 1974 in conjunction with Article 19 letter (1) Government Regulation Number 9 of 1975 in conjunction with Article 116 of the Compilation of Islamic Law states that in order to divorce there must be sufficient reasons, husband and wife will not be able to live in harmony as husband and wife and there will continue to be disputes and quarrels in the house ladder.

Considering, that based on the above facts, it can be concluded that since 2018, one week after their marriage took place, disputes and quarrels began to occur, until the house separated after the Defendant left their shared residence, until now it has been more than 2 years since the Plaintiff and

Defendant have been separated. house, communication between the two parties no longer exists, the rights and obligations as husband and wife are no longer fulfilled, until now the two of them have not reconciled or reconciled (Decision Number 1234/pdt/G/2020/PA.pdg).

2. Decision Number 694/pdt/G/2021/PA.pdg

The legal interpretation used in decision Number 694/pdt/G/2021/PA.pdg is an authentic interpretation because it looks at the legal considerations in this decision which reads "Considering, that indications of the breakdown of the Plaintiff's marital relationship with the Defendant can be seen from the dispute that occurred Since the beginning of the marriage, which culminated in the separation between the Plaintiff and the Defendant from last July 2020 until now, each party no longer carries out their obligations to each other as husband and wife, in addition to the Plaintiff's attitude at the trial which stated that they no longer wanted to be on terms with each other.

"Defendant, it is a sign that the Plaintiff is no longer happy and really hates the Defendant and in such circumstances the Tribunal is permitted to talaq one Defendant as a husband against the Plaintiff as his wife, in accordance with the opinion of fiqh experts in the Book of Ghayatul Maram which was taken over as the opinion of the council" (Decision Number 694/pdt/G/2021/PA.pdg).

3. Decision Number 327/pdt/G/2021/PA.pdg

The legal interpretation used in decision Number 327/pdt/G/2021/PA.pdg is an authentic interpretation because it looks at the legal considerations in this decision which reads "considering that the two witnesses have provided statements under oath which in essence explain that the Plaintiff and Defendant's household is no longer harmonious and harmonious because there are frequent disputes and quarrels between the Plaintiff and the Defendant which has resulted in the Plaintiff and Defendant having been separated for approximately 8 (eight) years, the Plaintiff left the house they lived together after being treated harshly by committing physical violence against the plaintiff" (Decision Number 327/pdt/G/2021/PA.pdg).

4. Decision Number 1514/pdt/G/2020/PA.pdg

The legal interpretation used in Decision Number 1514/pdt/G/2020/PA.pdg is an

authentic interpretation because looking at the legal considerations in this decision which reads Legal considerations, Considering, that based on the testimony of witnesses submitted by the Petitioner if connected with the arguments of the petition and the Petitioner's replica as well as the Respondent's answer and replica, facts can be found which have been consolidated as follows:

- A. Whereas the Petitioner and Respondent are legal husband and wife, married on October 6 1995 and have never been divorced.
- B. Whereas after marriage the Petitioner and Respondent have lived in harmony and have been blessed with 5 (five) children.
- C. Whereas since the end of 2013, the Petitioner left their shared residence due to disputes and quarrels until they separated from their residence and no longer live in the same house as the Respondent until now.
- D. That the family made no attempt to reconcile the Petitioner and the Respondent because the Petitioner no longer wanted to build a household with the Respondent.

Considering that, with the objective conditions of household life as described above, the Panel of Judges considers that such a household no longer reflects a harmonious and happy household because each of them lives separately, which ultimately results in no longer feeling mutual affection and love. as husband and wife. (Decision Number 1514/pdt/G/2020/PA.pdg).

5. Decision Number 867/pdt/G/2021/PA.pdg

The legal interpretation used in Decision Number Decision Number 867/pdt/G/2021/PA.pdg is an authentic interpretation because looking at the legal considerations in this decision which reads, Legal Considerations, considering that the arguments of the Plaintiff's lawsuit are as follows:

- A. Whereas initially the Plaintiff and Defendant's household ran in harmony and harmony. However, since mid-2005, the Plaintiff and Defendant's household began to falter. Between the Plaintiff and the Defendant there are often disputes and quarrels because the Defendant is irresponsible for his livelihood and the

Defendant is always angry with the Plaintiff for no apparent reason.

- B. That the dispute continues continuously until finally, since 2015 until now, for approximately 7 (seven) years, the Plaintiff and Defendant have separated from their residence/shared beds because the Defendant has left their shared residence.
- C. Since then, the Plaintiff and Defendant have separated and have never lived together again until now.

Considering, that the aim and purpose of the Plaintiff's lawsuit is as described above, considering that this case is a divorce case between Indonesian citizens who are Muslim, then based on Article 49 paragraph (1) letter (a) of Law Number 7 of 1989 Regarding the Religious Courts, which has been amended by Law Number 3 of 2006 and amended again by Law Number 50 of 2009, this case has the absolute authority of the Religious Courts, considering that as stated in the lawsuit, summons and confessions as well as identity checks at the Plaintiff's trial postulates that the address is Jl Batang Kabung No.30 RT 001 RW. 002 (near Mushalla Annur) Batang Kabung Village, Koto Tengah District, Padang City, West Sumatra Province, Considering, that the Plaintiff's address falls within the relative jurisdiction of the Padang Religious Court, therefore in accordance with Article 73 paragraph (1) of Law Number 7 of 1989 Regarding the Religious Courts which have been amended by Law Number 3 of 2006 and amended again by Law Number 50 of 2009, the Padang Religious Court has the authority to receive, examine and try this case;

Considering, that on the appointed trial day, the Plaintiff appeared at the trial, while the Defendant did not appear nor did he send another person as his legal representative or proxy and it was not proven that the Defendant's absence was caused by a valid reason, even though he had been officially summoned and appropriate in accordance with the summons Number 867/Pdt.G/2021/PA.Pdg, dated 16 June 2021 and therefore in accordance with Article 149 paragraph (1) and Article 150 R.Bg, this case can be examined and decided without the presence of the Defendant (Verstek) (Decision Number 867/pdt/G/2021/PA.pdg).

- 6. Decision Number Decision Number 1197/pdt/G/2021/PA.pdg

The legal interpretation used in Decision Number Decision Number 1197/pdt/G/2021/ PA.pdg is an authentic interpretation because it looks at the legal considerations in this decision which reads "Considering, that the argument for the Plaintiff's lawsuit is that the Defendant was sentenced to prison for more than "approximately 9 (nine) years because he was caught in an obscenity case, since then the Plaintiff and Defendant have separated and have never lived in the same house again until now" (Decision Number 1197/pdt/G/2021/PA.pdg).

- 7. Decision Number Decision Number 715/pdt/G/2021/PA.pdg

The legal interpretation used in Decision Number Decision Number 715/pdt/G/2021/PA.pdg is an authentic interpretation because it looks at the legal considerations in this decision which reads, Legal considerations, considering that the defendant does not want to provide support and scolds the plaintiff until the plaintiff "strangled" by the defendant and there was a commotion after the defendant left the shared residence. Considering that every time a dispute and quarrel occurs, the Defendant likes to say rude, dirty and insulting words to the Plaintiff and the Defendant even likes to commit Domestic Violence, such as: The Defendant slaps the Plaintiff's cheek with the Defendant's hand causing it to bruise, the Defendant punches the Plaintiff's face so that it hits the Plaintiff's nose and ear causing it to bleed. blood and the Plaintiff was in pain and traumatized by the Defendant's attitude. (Decision Number 715/pdt/G/2021/PA.pdg)

CONCLUSION

The results of this research are that the judge's legal interpretation in the divorce decision is included in the authentic interpretation which looks at the meaning of the terms contained in the law. This interpretation is also called the official interpretation.

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