

Analysis of Judge's Considerations about Not Transparency in Managing Family Finances as a Reason for Divorce (Decision Analysis No.1905/Pdt.G/2018/PA.Smg)



Tusiran¹, Yunanto²

^{1,2} Diponegoro University Jl. Imam Bardjo, S.H. No 1-3 Pleburan, Semarang City, Indonesia

ABSTRACT: Every household has conflicts, such as non-transparency between husband and wife regarding household income and expenses, which can cause disputes and even divorce. It happened in Divorce Case No.1905/Pdt.G/2018/PA.Smg, where the applicant used the excuse that his wife was not open to managing finances, then the request was granted by the Semarang City Religious Court. Therefore the author is interested in researching the Analysis of Judge Considerations in terms of Not Transparency in Managing Family Finances as the Reason for Divorce in Decisions (No.1905/Pdt.G/2018/PA.Smg).

This research uses normative research or library research with decision analysis. The data source was obtained using the Library Method technique by collecting data in the form of written data sources. This research includes qualitative research. Data analysis using analytical descriptive data analysis techniques.

The results of the research showed that the authors found that the attitude of a wife who is not transparent in managing finances is irresponsible in maintaining household harmony and not carrying out her obligations as a wife as stated in Article 34 of Law no. 1 of 1974 concerning the obligations of husband and wife, and is also an attitude that is contrary to the principles of marriage. The results of the study regarding the judge's considerations in granting a divorce, because the wife's attitude is not transparent in managing finances, is that the judge focuses more on attracting benefits and eliminating harm in the family where disputes constantly occur, triggered by the wife's non-transparency in managing family finances.

KEYWORDS: Divorce, Financial Management, Family.

I. INTRODUCTION

Marriage in Islam is called the word marriage; according to language, marriage means gathering as one, as the Arabs say describe; The trees marry each other if one tree to another lean or gathers together.¹ The definition (ta'rif) of marriage according to article 1 of the Compilation of Islamic Law is a substantial contract or *Miitsaqan ghalizhan* to obey God's commands and carry it out is worship.² Understanding marriage Article 1 of Law Number 1 of 1974 concerning Marriage is a physical and spiritual bond between a man and a woman as husband and wife to form a family (a happy household) and eternal based on the belief in the One Supreme God.³

From the two definitions of marriage above, both in Islamic law and positive law, we can see that marriage is not only a means of halal intercourse but more than that. There is a holy bond that is strong and sacred (*Miitsaqan ghaliidzan*) relating to faith and belief in Allah. For this reason, marriage must be maintained appropriately so that it can create a *sakinah, mawadah wa rahmah* family. as a logical consequence of the existence of marriage is the birth of rights and obligations that each partner must fulfill to create a happy family.⁴

In Indonesia alone, the rights and obligations of the husband and wife are in balance as stated in Marriage Law No. 1 of 1974 in articles 30 to 34. According to Article 30 of Law Number 1 of 1974, husband and wife bears a noble obligation to uphold the household, which is the basis of the structure of society.⁵ From this article, it can be understood that the husband and the wife are obliged to try so that the household remains intact and does not dissolve due to divorce. It is further emphasized in article 31 of Law Number 1 of 1974 paragraph 1, which states that; "The rights and position of the wife are in balance with the rights and position of the husband in domestic life and association live together in society."⁶ This means that the law gives husbands and

¹ M. Fikri Hakim, Abu Salahuddin. Popular Fiqh Translated by Fathul Mu'in, (Kediri: Lirboyo Press, 2014), p. 1

² Citra Umbara Team, Republic of Indonesia Law number 1 of 1974 Concerning Marriage and Compilation of Islamic Law, (Bandung; Citra Umbara, 2018), h. 324.

³ Rosnidar Sembiring, Family law of property in marriage, Jakarta: Raja Grafindo Persada, 2016, p. 42.

⁴ Lex Privatum, '150522-ID-Rights-And-Obligations-Husband-Wife-Consequences-Pe', 1, 2013.

⁵ R. Subekti, R.Tjitrosudibio, Civil Code, (East Jakarta: PT Balai Pustaka, 2014), h. 547.

⁶ R. Subekti, R.Tjitrosudibio, op. cit., p. 537.

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wives certain powers that allow them to jointly or individually carry out the task of building a happy and prosperous family based on shared responsibility.⁷

From, explanation on As can be seen, the rights and obligations between husband and wife can be carried out properly if both of them hold firm family commitments and principles to create family harmony, such as being loyal to each other, keeping family secrets, helping each other, and being open to deliberating any problems that arise.

However, not all households can achieve harmony in the family; sometimes, many problems are not successfully resolved, and a solution is sought that triggers the breakup of divorce; therefore, both Islamic law and positive law have provided rules on how in case of divorce.

In article 114 KHI, the Dissolution of marriage caused by a divorce can occur due to divorce or based on a divorce lawsuit. In Article 115 KHI, divorce can only be carried out before the Religious Court hearing after the Religious Court has tried and failed to reconcile the two parties.⁸

The reasons that can be used as a basis for divorce are regulated in article 116 of the Compilation of Islamic Law: Divorce can occur for reasons or reasons:

- a. one of the parties commits adultery or becomes a drunkard, addict, gambler, and so on, which is difficult to cure;
- b. one party leaves the other party for 2 (two) consecutive years without the other party's permission and valid reasons or for other reasons beyond his control;
- c. one of the parties receives a prison sentence of 5 (five) years or a more severe sentence after the marriage takes place;
- d. one of the parties commits atrocities or severe abuse that endangers the other party;
- e. one of the parties has a physical disability or illness as a result of which he is unable to carry out his obligations as a husband or wife;
- f. between husband and wife, there are constant disputes and fights, and there is no hope of living in harmony in the household;
- g. Husband violates the Talak divorce;
- h. Conversion of religion or apostasy, which causes disharmony in the household.⁹

Every household has conflicts; there are lots of them factors that can trigger conflict in the household, including communication problems between husband and wife that are not well established or close to each other.¹⁰, Such as the lack of transparency between husband and wife in terms of household income and expenses, this can lead to disputes that can even lead to divorce. It happened in the divorce case at the Semarang City Religious Court in 2018. In the Semarang religious court's decision. *Talak* Divorce Case No.1905/Pdt.G/2018/PA.Smg, which was used as the reason for the applicant to file a divorce application for divorce is that the wife is less open inside manage household finances and always being suspicious of her husband, reasons applicant in the lawsuit shows that in the household, there is no transparency between husband and wife in management household finances, giving rise to various problems, up to divorce.

Although the reasons for divorce are not transparent in managing family finances, they are not listed as the reasons required for filing for divorce under Islamic or positive law. Divorce case at the Religious Court of Semarang City in 2018. In the Semarang Religious Court Decision of *Talak* Divorce Case No. 1905/Pdt.G/2018/PA.Smg. The petitioner used the excuse that the wife is always suspicious of her husband, and the wife is not open to managing family finances, or in other words, there is no transparency on the part of the wife in managing family finances. And then, the request was granted by the Semarang City Religious Court judge.

Therefore, based on the explanation above, the writer is interested in conducting research with the title "Analysis of Judge Considerations about Not Transparency in Managing Family Finances as a Reason for Divorce (Analysis of Decision No.1905/Pdt.G/2018/PA.Smg)".

II. FORMULATION OF THE PROBLEM

From the research title above and the description that has been explained, the problems compiled by the author are as follows:

1. What is the legal standing without transparency in managing family finances as a reason for divorce in decision No.1905/PDT.g/2018/Pa.Smg?
2. How to analyze the judge's considerations in granting Case No.1905/Pdt.G/2018/PA. Smg, against transparency in family financial management as a reason for divorce?

⁷ Adinda Permatasari, *Balanced Position of Husband and Wife in Marriage According to Islamic Law and National Marriage Law in Vasectomy Cases*, University of Indonesia Thesis, Jakarta, 2006, p.28

⁸ Articles 114-115 Compilation of Islamic Law

⁹ Article 116 Compilation of Islamic Law

¹⁰ Dyah Kusumawati, *Family Financial Management from an Islamic Perspective*, Article Faculty of Economics and Social Sciences, Sultan Fatah University, Demak.

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III. RESEARCH PURPOSES

This article aims to:

1. Knowing how legal standing is not transparent in managing family finances in decision No.1905/pdt.g/2018/Pa.smg. Became the cause of divorce in the religious court of Semarang.
2. Knowing how to analyze the judge's considerations in Decision No.1905/Pdt.G/2018/PA. Smg, regarding the transparency of family financial management as a reason for divorce

IV. RESEARCH METHODS

Research is a careful and regular, continuous investigation to solve a problem, and reflective thinking is a process of solving a problem.¹¹ This research uses normative or library research with decision analysis. The approach used is the case approach. In using the case approach, the researcher needs to understand the ratio decidendi, namely the legal reasons used by judges to reach their decision.¹² The data source was obtained using the Library Method technique by collecting written data sources. This research includes qualitative research for data analysis using analytical descriptive data analysis techniques.

DISCUSSION

1. Analysis of Legal Standing Lack of Transparency in Management of Family Finances as a Cause of Divorce in Decision No. 1905/Pdt.G/2018/Pa.Smg. According to Positive Law and Islamic Law

Divorce breaks the marital bond between husband and wife, either at the will of the husband and wife or the desire of one of them for specific reasons justified after previously seeking peace but not finding a peace agreement to maintain household relations.

In Islamic Law, four possibilities can be the reasons for divorce between husband and wife, namely:¹³

1. There is *nusyuz* from the wife's side
Nusyuz, from the wife's side, means disobedience a wife against her husband in the form of violation of orders, abuse, and other things that make the household disharmonious
2. There is *Nusyuz* from the husband's side
Nusyuz, from the husband's side, means the disobedience committed by the husband against his wife, such as: leaving his obligation to provide for his wife both materially and non-materially
3. *Shiqaq* happened
Shiqaq is a continuous dispute that occurs in the marriage relationship, which is recommended for resolve by two judges.
4. One of the parties committed adultery

Adultery is a sexual relationship that is carried out outside the marriage relationship; this act of adultery causes mutual accusations that must be proven how to swear *li'an*

In the decision of the Semarang Religious Court no. 1905/Pdt.G/2018/Pa.Smg. The applicant filed for divorce because the Respondent always felt inadequate with the maintenance provided by the applicant, and the respondent needed to be more open and transparent in managing the income provided by the applicant and was always suspicious of the applicant, according to the author's analysis of the reasons for divorce in Islamic law. The reason for the divorce is due to the attitude of the wife, who is not transparent in managing family finances and always feels inadequate towards the living provided by the husband, causing constant bickering and disputes, which is a form of *syiqaq* in the relationship between husband and wife which is triggered by the attitude of the wife who is *nusyuz* towards her husband. *Nusyuz's* attitude is in the form of not being open in managing finances, causing a loss of trust in the husband who provides a living, and the attitude of constantly feeling that he is not enough with the living that the husband provides, causing the husband to feel unhappy towards his wife. It is the basis for the permissibility of divorce in the decision of the Semarang Religious Court no. 1905/Pdt.G/2018/Pa.Smg.

As husband and wife, of course, they are responsible for maintaining household relations to remain harmonious. In the decision of the Semarang Religious Court no. 1905/Pdt.G/2018/Pa.Smg. The attitude of a wife who is not transparent or open to her husband in managing finances and always feels that she is not enough with the living that her husband gives is a form of irresponsibility in maintaining harmonious household relations. The wife should be open and communicate with her husband when she wants to spend the living provided by her husband.

Managing family finances transparently between husband and wife is part of *maqashid sharia* or the basic need to maintain family harmony.¹⁴ Properly protecting family and property from disputes is appropriately managing them. Perhaps the aspect of *maqashid syariah Hifdh* (protecting) in family financial transparency here is not protecting the family and assets from theft and

¹¹ Faisar Ananda Arfa, *Islamic Law Research Methodology*, (Bandung: CitaPustaka, 2010), p. 12.

¹² Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana, 2008), p.119.

¹³ Ahmad Rofiq, *Islamic Civil Law in Indonesia*, (Jakarta: Rajawali Press, 2015), p. 217.

¹⁴ Luqyan Tamanni and Murtianti Mukhlisin, *Sakinah finance (Solo: Tinta medina, 2013)*, p. 25

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robbery but protecting assets and families from loss of value, abuse, and disputes in the household, which can lead to divorce. In managing family finances, husband and wife must also pay attention to which needs are *dharuriyyat* (primary). These primary needs include paying debts, zakat and basic family needs, *hajiyyat* (secondary), children's education expenses, and *tahsiniyyat* (tertiary) dream needs such as vacations and investments.

In a marital relationship, husband and wife are required to realize the goals of the Qur'an in terms of marriage, namely to create *mitsaq ghoulish* (steadfast promise) in a husband and wife relationship.¹⁵ This firm promise the author interprets as a bond that cannot be easily separated no matter what happens. To realize this, the husband and wife must pay attention to the principles of the marriage relationship. The principles in marriage and family, especially those extracted from the Qur'an, are as follows:¹⁶

1. Based on the limits set by God. The point is that every interest in the family must be based on the common good; any action that can damage the family is seen as a harmful act, go beyond God's limits.
2. Mutual willing and pleased. Between husband and wife must be mutually willing and pleased against all actions taken in the marriage bond
3. Decent (*ma'ruf*) means that in carrying out a husband and wife relationship, it must be under human values
4. *Ihsan*, Be kind to your partner
5. Sincere (*Ni lah*), all actions must be based on insincerity, not material.
6. Discussion is every decision regarding problems in the family must be discussed together; all parties may not impose their own will.
7. Peace, in all matters of peace, is something that must be created.

According to the author's analysis, the actions of a wife who are not transparent in managing family finances and always feel that she is not enough with the maintenance provided by her husband are actions that are not under the principles of marital relations. This action can cause harm in the husband and wife relationship. The attitude of non-transparency in managing finances is prone to causing strife and disputes, as has occurred in the decision of the Semarang Religious Court no. 1905/Pdt.G/2018/Pa.Smg. Therefore, an open attitude in managing family finances must be prioritized to eliminate harm in the form of misunderstandings, mutual suspicion, and disputes in the household. The Fiqh rule states that "*loss must serve*".¹⁷

According to the author's analysis, the wife's attitude is not transparent in managing finances, and she always feels inadequate with the living provided by her husband in decision No. 1905/Pdt.G/2018/Pa.Smg creates hatred for husbands towards wives and uncomfortable situations in husband and wife relationships, also not under the hadith, which means "The best woman is if you look pleasing to you".¹⁸

A wife should have a good attitude toward her husband, not do things that her husband does not like. So that is why the attitude is not transparent in managing finances and always feels inadequate towards the living provided by the husband in decision no. 1905/Pdt.G/Pa.Smg. It is what causes disharmony in the household to lead to divorce. According to the author, divorce for reasons like this is, of course, permissible, as it is permissible by the Syafi'iyah scholars that divorce is ordered because the wife has bad morals and he cannot stand living with her.¹⁹

Furthermore, in the view of positive law, the justified reasons for filing for divorce are as follows:

Article 19 PP No. 9 of 1975 and in KHI No. 1 of 1974 states that eight reasons allow a husband and wife to file for divorce, the first of which is that one party commits adultery or is a drunkard, the other is a hard-to-recovery addict, both parties leave the other party and for no valid reason or other reasons beyond their will. One party gets a sentence of 5 years or more after the marriage. Fourth, one party commits serious atrocities or abuses another party. Fifth, one of the parties has a physical disability or illness that causes him to be unable to carry out his obligations as a husband and wife. Sixth, there are continuous disputes and fights between husband and wife, and there is no hope of getting along in the household. Then in KHI, there are two additional reasons, namely, the husband violated talk of divorce and the transition of religion or apostasy, which resulted in the occurrence of disharmony in the household.

From these eight reasons, it is not seen that the attitude of the wife, who is not transparent or open in managing family finances and always feels inadequate with the support provided by her husband, is a permissible reason for filing for divorce. According to the author, this is because in managing the family, there is an article in the Marriage Law No. 1 of 1974 that regulates the rights and obligations of husband and wife in managing the household. Article 34 of the Marriage Law No. 1 of 1974 stipulates: (1) The husband must protect his wife and provide all household necessities according to his ability. (2) The wife is obliged to manage the household as well as possible. (3) If a husband or wife neglects their obligations, they can file a lawsuit with the court.

¹⁵ Abdul Rahman Ghozali, Fiqhmunakahat, Jakarta Kencana p. 211-212

¹⁶ Director of KUA and Sakinah Family Development, Sakinah Family Foundation (self-reading for the bride and groom) Jakarta: Sakinah Family Development Sub-Directorate, 2017 pp. 7-9.

¹⁷ Muhammad Mas'ud Zein. Systematics Islamic Law Theory (Qawa'id-Fiqhiyyah), East Java: Al-Syarifah Al-Khodijah, 2006, p. 60

¹⁸ Sayyid Sabiq, Fiqh Sunnah. (Bandung.:Al Ma'arif, 1997), p. 118.

¹⁹ Abdul Aziz Muhammad Azzam and Abdul Wahhab Sayyed Hawwas, Fiqh Munakahat: Khitbah, Marriage, and Divorce, p. 258

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As for the intent of Article 34, paragraph 1, in the author's view, the husband finances household life and is obliged to provide maintenance for the wife. However, to provide necessities for the household, the husband must be in accordance with his ability. As for the meaning of the word ability, it means that according to the husband's condition, the amount of maintenance that will be given depends on the husband's wealth. Then the meaning of Article 34, paragraph 2, namely that the wife is obliged to organize and manage the household as well as possible, meaning that the wife is obliged to plan and carry out everything needed in the household.

In decision No. 1905/Pdt.G/PA.Smg, the authors found that the husband had surrendered all of his income to his wife, but the wife always felt inadequate and needed to be open to managing the living the husband gave. The wife also admitted it in court. According to the author's analysis, such an attitude of the wife is contrary to the law on the rights and obligations of husband and wife. The wife behaves untrustworthy in maintaining household harmony.

Then in Article 34, paragraph 1 of the Marriage Law No. 1 of 1974, it is stated that if a husband or wife neglects their respective obligations, both have the right to file a lawsuit in court. Moreover, this is the reason for the permissibility of divorce because the attitude of the wife, who always feels that she is not enough with the maintenance provided by her husband and is not open or transparent in managing her finances, causing continuous strife and bickering. Such a wife's attitude is a form of irresponsibility in maintaining household harmony and not carrying out her obligations as a wife, as stated in Article 34 of Law No. 1 of 1974.

2. Analysis of Judges' Considerations in Granting Case No.1905/Pdt.G/2018/PA.Smg.

The judge who tried case No. 1905/Pdt/G/2018/PA.Smg at the Semarang Religious Court Granted the divorce application filed by the husband in a divorce case for reasons the wife was not transparent in managing finances and always felt inadequate with the living provided by the husband. Indeed reason for divorce because a wife who is not transparent in managing finances and always feels inadequate with the living provided by her husband is not found in Islamic law or positive law; however, due to the attitude of the respondent who is not open to managing finances and always feels inadequate with the living provided by the applicant, it causes a very culminating quarrel in the household, even in the trial found the fact that the respondent had also left the applicant since early 2017. With this, the applicant felt that he could no longer stand the respondent's attitude because the applicant felt that he was not valued and respected as the head of the household. This continuous bickering was the primary reason which was then used as the basis for the judge at the Semarang Religious Court granting the husband's divorce request in decision No. 1905/Pdt.G/PA.Smg. The wife's attitude, who is not transparent in managing finances and always feels she is not enough with the living provided by her husband, is a secondary reason for the judge to decide this case.

The reason for this constant bickering in the Qur'an is called *shiqaq*. By definition, *syiqaq* is a divorce that occurs for reasons of continuous quarrels between husband and wife, so it requires the intervention of two hakam (peacemakers) from the husband and wife.²⁰

In article 76, paragraph (1) of Law no. 7 of 1989, it says: 'syiqaq is a sharp and continuous dispute between husband and wife.'²¹

To get a divorce for reasons *shiqaq* must exist witness-witness of relatives close to both husband and wife, whom the court will later appoint as a judge.²² In the elucidation of Article 76 paragraph (2) of Law No. 7 of 1989, it is said that a hakam is a person who is determined by the court from the husband's family or the wife's family or other parties to reach efforts to resolve disputes against *syiqaq*.

In case No. 1905/Pdt.G/Smg The Petitioner and the Respondent have tried to seek peace by appointing Drs.H. Asyari, MH, on 29 August 2018, but were unsuccessful because the attitude of the applicant was still determined to divorce the respondent as well as the respondent, who had no objection to divorcing the applicant. Thus the panel of judges thought that the households of the applicant and the respondent could no longer be reconciled. During the trial, it was found that the families of the petitioner and the respondent had also expressly stated that they could no longer reconcile the applicant and the respondent. This statement is the basis for the judge to decide to accept the divorce suit of the applicant and the respondent on the grounds of continuing disputes and bickering. As stated in Article 22 of Government Regulation No9 years1975 paragraph (1), a lawsuit for divorce for the reason mentioned in Article 19 letter f was filed with the court at the place of residence of the defendant. (2) The claim referred to in subsection (1) can be accepted if it is clear enough for the court to know the causes of the dispute and argument and after hearing the family and people close to the husband and wife.²³

In general, disputes and disputes that occur in the life of a husband and wife are caused by the following factors:

1. Disputes involving financial matters
2. sexual relationship factor

²⁰ A. Zuhdi Muhdor, Understanding Marriage Law (marriage, divorce, divorce, reconciliation) (Bandung; al bayan 1995), cet. 2 p. 97

²¹ UUPA (Law No. 7 of 1989), p.31

²² Ibid.

²³ Article 22 PP No. 9 of 1975

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3. Factors of different religions or disobedience in carrying out religious teachings and worship

4. Factors how to educate children.²⁴

In Case No. 1905/Pdt.G/Pa.Smg at the Semarang City Court, according to the author, the things that cause disputes and quarrels are still within the scope of financial problems, as said by the applicant, namely the attitude of the wife or the respondent who is not open or transparent in managing finances and always feels inadequate with the living provided by the applicant even though all of the applicant's income has been submitted to the respondent.

In addition to the attitude of the wife or the respondent, who was not open or transparent in managing finances and always felt that the maintenance provided by the applicant was insufficient, during the trial, it was found that the wife or the respondent had left the joint residence after a dispute occurred without the applicant's permission. From this presentation, it is clear that the wife or the respondent is the leading cause of disputes and strife. However, in this case, the panel of judges looked more at whether the marriage could be maintained. Based on Jurisprudence No. 534/Pdt/1996, the jurisprudence said that "in the case of divorce, it is not necessary to look at who caused the dispute or one party has left the other party, but what needs to be seen is the marriage itself whether it can still be maintained or not".²⁵

The panel of judges thought that divorce should be avoided as much as possible, but if there has been a very high dispute and quarrel, then defending it is futile and can even bring *mafsadat* to both parties. In this opinion, the panel of judges used the Fiqihyah Rule, which reads, "*Rejecting harm (harm) takes precedence over benefiting.*"

So from some of the considerations of the panel of judges, the author can conclude that the divorce that occurred between the applicant and the respondent was not due to the attitude of the wife, who was not transparent about financial matters and always felt that she was not enough with the living provided by her husband, but because of the *shiqaq* that occurred in the household. As for the attitude of the wife, who is not transparent about financial matters and always feels inadequate with the living provided by her husband, this is a catalyst or trigger for the occurrence of *syiqaq* in the households of the applicant and the respondent. Thus, the panel of judges saw that in the households of the applicant and the respondent, a dispute escalated so much that if it were forced to be maintained, it would bring *mafsadat* to both parties.

The evidence that was used as the basis for the judge in deciding this case was the defendant's acknowledgment which justified his attitude of not being open in managing finances, constantly feeling inadequate with the living provided by the applicant, and often speaking harshly to the applicant caused disputes and constant bickering in the household.

After going through a series of trials by carrying out peaceful efforts, examination, and evidence, the judge decided on case No/1905/Pdt.G/Pa.Smg on the basis, article 19 letter (f) Government Regulation No. 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law, which explains that one of the reasons for the permissibility of filing for divorce is continuous quarrels that are difficult to reconcile. In the opinion of the authors, what is meant by these two articles are not merely active fights, namely loud, harsh fights between the petitioner and the respondent, but also passive fights in the form of mutual silence, not reprimanding the husband and wife or long bed separation between the two?

Judging from the positive law, the judge's decision, in this case, does not go outside the corridor of applicable law in Indonesia, especially that which is the reference for judges in the Religious Courts in Indonesia. In this case, the panel of judges, before passing their decision, had made mediation efforts between the two couples with the aim that the husband and wife could live in harmony by the goals of marriage. The reason for the husband's inability to see his wife's non-transparent behavior in managing family finances and constant feeling inadequate with the money given by her husband is that the applicant feels that all of his income has been entirely handed over to the respondent or his wife. However, the wife is not responsible for managing the household. She always feels inadequate. Women feel the harmony and comfort of a household, and men also have the right to enjoy it. It shows that women and men have the same responsibility and degree to build a harmonious family.

Based on the decision of the Semarang Religious Court with case number 1905, the author can conclude that this divorce was caused by the respondent's non-transparency in managing finances and constantly feeling inadequate with the support provided by the husband, causing continuous disputes between the applicant and the respondent which led to divorce. The author believes that judges in divorce prioritize the benefit side and minimize harm due to disputes and fights that occur continuously due to a lack of financial transparency and constantly feeling inadequate with the maintenance provided by the husband. It shows that in deciding divorce cases, the judge is not only "law in the book" but also "out of the book," which requires the judge to think outside the provisions of the applicable law. Religious judges do not only act as law enforcement and justice officials but can also become agents of legal change to address issues that lead to divorce.

V. CONCLUSION

Based on the description that the author has put forward in the previous chapters, in answering the problem formulation regarding the subject matter studied, the following conclusions can be drawn:

²⁴ M. Yahya Harahap, National marriage law, Medan: (Zahir trading, 1975), p. 145-146.

²⁵ Decision Re.No.534/Pdt/1996

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1. The wife's non-transparency in managing finances and constantly feeling inadequate with the living provided by her husband, resulting in Disputes and fights constantly in Houseladder. In Islamic law and positive law, the authors did not find such an attitude of the wife as a reason for the permissibility of filing for divorce harm between husband/wife; therefore, divorce is the best way. So this is what causes the wife's non-transparency in managing finances and constantly feeling inadequate with the maintenance provided by her husband to be the cause of divorce.
2. The judge's consideration in granting the divorce application filed by the husband in cases where the wife is not transparent in managing finances and always feels inadequate with the maintenance provided by the husband is because there is no longer any harmony in the household between the applicant and the respondent with the cause of the wife's attitude, and this was also acknowledged by the wife/respondent in court. Then both parties, the applicant and the respondent, agreed to divorce. So, based on these considerations, the panel of judges granted the request for divorce because there was no financial transparency and the attitude of the wife, who always felt that she was not enough with the living provided by her husband.

REFERENCES

A. Book

- 1) Ananda Arfa, Faisar, Islamic Law Research Methodology, Bandung: CitaPustaka, 2010.
- 2) Aziz, Abdul, et al., Fiqh Munakahat: Khitbah, Marriage, and Divorce, 2009.
- 3) Director of KUA and Sakinah Family Development, Sakinah Family Foundation (self-reading for the bride and groom) Jakarta: Sub-Directorate for Sakinah Family Development, 2017.
- 4) Ghozali, Abdul Rahman, *Fiqhmunakahat*, Jakarta Kencana, 2016.
- 5) Hakim, M. Fikri, and Salahuddin, Abu. Popular Fiqh Translated by Fathul Mu'in, Kediri: Lirboyo Press, 2014
- 6) Harahap, M. Yahya, National marriage law, Medan: Zahir trading, 1975.
- 7) Harahap, M. Yahya, National marriage law, Medan: Zahir trading, 1975.
- 8) Marzuki, Peter Mahmud Legal Research, Jakarta: Kencana, 2008
- 9) Muhdor, A. Zuhdi, Understanding Marriage Law (marriage, divorce, divorce, reconciliation), Bandung; al-bayan 1995.
- 10) Permatasari, Adinda, Balanced Position of Husband and Wife in Marriage According to Islamic Law and National Marriage Law in Vasectomy Cases, University of Indonesia Thesis, Jakarta, 2006.
- 11) Rofik, Ahmad, Islamic Civil Law in Indonesia, Jakarta: Rajawali Press, 2015.
- 12) Sabiq, Sayyid, Fiqh Sunnah, Bandung.:Al Ma'arif, 1997.
- 13) Sembiring, Rosnidar, Family property law in marriage, Jakarta: Raja Grafindo Persada, 2016.
- 14) Soekanto, Soerjono, Introduction to Legal Research, Jakarta: University of Indonesia Publisher, 1986.
- 15) Subekti, R. andTjitrosudibio, R. Civil Code, East Jakarta: PT Balai Pustaka, 2014.
- 16) Tamanni, Luqyan and Mukhlisin, Murtianti Sakinah Finance Solo: Ink medina, 2013.
- 17) Umbara, Citra Team, Republic of Indonesia Law number 1 of 1974 Concerning Marriage and Compilation of Islamic Law, Bandung; Citra Umbara, 2018.
- 18) Zein, Muhammad Mas'ud,*Systematics Islamic Law Theory (Qawa'id-Fiqhiyyah)*, East Java: Al-Syarifah Al-Khodijah, 2006.
- 19) Law No. 3 of 2006 concerning Religious Courts
- 20) Law No. 7 of 1989 Concerning Religious Courts.
- 21) Marriage Law No. 1 of 1974
- 22) Supreme Court Jurisprudence Re.No.534/Pdt/1996

B. Journals

- 1) Atmaja,Khilmiah, Dr. Akiv, A Comparison of the Concept of Muasyarah*Bil Ma'rufIn Husband and Wife Relations*,Yogyakarta Muhammadiyah University Research Journal, 2007.
- 2) Hazmi, Faiqul, Basic Islamic Values in Family Financial Planning, ISTI'DAL Journal Vol. 5, 2018.

C. Articles

- 1) Kusumawati, Dyah, Family Financial Management in an Islamic Perspective, Article Faculty of Economics and Social Sciences, Sultan Fatah University Demak, 2017.



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