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EMPIRICAL JURIDICAL ANALYSIS OF THE DOMINANT FACTORS REFERRING TO HUSBAND-SPOUSE'S WIFE IN ANNULMENT OF DIVORCE LAWSUIT (IN THE CITY RELIGIOUS COURT CIREBON)

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Abstract

Background. Divorce is one of the most often filed cases in the Religious Court, but not all divorce lawsuit cases end in a divorce decision, because the procedural law of the religious court provides space for the parties to reconcile and refer before the decision has permanent legal force, so that the case is revoked or canceled. This phenomenon was found during the implementation of the Field Experience Practice at the Cirebon City Religious Court, where a number of divorce lawsuit cases ended in cancellation due to referral, both at the mediation stage and during the case examination.

Aims. This study aims to analyze the dominant factors that encourage married couples to make a referral so that the divorce lawsuit case is canceled, as well as analyze its juridical implications on the status and continuation of the case process.

Methods. This study uses an empirical juridical method with a descriptive qualitative approach, through document studies of case archives, interviews with judges, mediators, clerks, and litigants, and

direct observation at the Cirebon City Religious Court. Data were analyzed using the Miles and Huberman interactive model of qualitative analysis.

Result. The results of the study showed that the dominant factors causing referrals included consideration of children's interests, family intervention, economic factors, and legal and religious awareness to maintain the integrity of the household. Juridically, the referrals that occurred during the trial caused the loss of the plaintiff's legal interests, so the judge determined the revocation or cancellation of the case.

Conclusion. This study concluded that strengthening the mediation function in the Religious Court is important as a preventive effort to encourage reconciliation between married couples before the case is decided.

Keywords: referral; annulment of divorce lawsuit; mediation; religious courts; empirical juridical

INTRODUCTION

Marriage in Islamic law and positive Indonesian law is a sacred bond (*mitsaqan ghalizhan*) and aims to form a family that is *sakinah, mawaddah, wa rahmah*, as mandated by Article 1 of Law Number 1 of 1974 concerning Marriage. However, in social reality, not a few marriages end in divorce due to various domestic problems, including economic factors, disharmony, and third parties. One form of divorce submitted to the Religious Court is a divorce lawsuit, which is a divorce lawsuit filed by the wife against the husband.

Although the Religious Court has registered and examined the divorce lawsuit case, not all cases end in a divorce decision. The law provides space for the parties to reconcile and return to harmony (referral) before the decision has permanent legal force, in the spirit of mediation as set out in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. When a referral occurs in the middle of the trial process, the divorce lawsuit can be revoked or canceled by the plaintiff himself or at the discretion of the panel of judges, because the legal interest underlying the lawsuit has been lost.

The phenomenon of annulment of divorce due to this referral is interesting to be studied juridically empirically, because on the one hand it reflects the success of the mediation function and peaceful efforts in the religious justice system, but on the other hand it shows the existence of complex legal and social dynamics behind the decision of a married couple to reunite after filing a divorce lawsuit.

During the implementation of Field Experience Practice (PPL) at the Cirebon City Religious Court, the author found the phenomenon that there were a number of divorce lawsuit cases that did not continue until the final verdict because the parties chose to refer to the



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mediation stage, at the time of case examination, even after the evidentiary process was running. This phenomenon shows that the divorce lawsuit trial process, especially the mediation stage, plays a strategic role in creating space for reconciliation for married couples.

Theoretically, a divorce lawsuit submitted to the court should ideally be examined and decided based on the evidence and legal facts revealed at trial. Procedural law in religious courts also makes mediation a mandatory stage aimed at reconciling the parties before the case is further examined. However, in practice, the success of the referral does not always occur solely because of the formal mediation process in court; it is often influenced by factors outside the trial process, such as family intervention, economic considerations, and the interests of the child. This gap raises questions about the extent to which juridical factors (mediation, procedural legal procedures) and non-juridical factors (social, economic, psychological) contribute to the referral decision that leads to the cancellation of the divorce case.

Several previous studies have examined divorce and mediation in Religious Courts. For example, previous studies have generally focused on:

1. the effectiveness of mediation in reducing the divorce rate in general;
2. sociological factors causing divorce; and
3. the procedure for revoking the lawsuit in the civil procedure law/religious court. However, these studies have not specifically examined the dominant factors that encourage the occurrence of referrals to divorce lawsuit cases that have been running in court, especially in the local context of the Cirebon City Religious Court.

The novelty of this research lies in its focus: it not only discusses referrals as a socio-religious phenomenon but also analyzes them in an empirical juridical manner by exploring direct data from divorce cases canceled at the Cirebon City Religious Court. This study identifies the dominant factors that cause referrals based on empirical field data (PPL results), as well as analyzes its juridical implications on the status and process of cases according to the procedural law of religious courts—an approach that has not been widely carried out in similar studies that tend to be normative or on a national/general scale.

Problem Formulation :

1. What are the dominant factors that encourage married couples to make a referral so that there is a cancellation of the divorce lawsuit at the Cirebon City Religious Court?
2. What are the juridical implications of referring to the status and process of a divorce case according to the procedural law of the religious court?

This research aims to:

1. Analyze and identify the dominant factors that cause married couples to choose to refer so that the divorce lawsuit case is canceled at the Cirebon City Religious Court.
2. Analyze the juridical implications of the reference on the position and continuation of the divorce lawsuit process based on the provisions of the applicable religious court procedural law.

Previous studies on divorce disputes in Religious Courts have predominantly focused on the effectiveness of mediation in reducing divorce, sociological factors contributing to marital dissolution, and procedural mechanisms for withdrawing divorce lawsuits. However, limited research has examined the factors that motivate married couples to reconcile after divorce litigation has begun and how such reconciliation affects the legal status and continuation of the case. This limitation creates an important research gap because reconciliation during ongoing litigation is influenced not only by formal mediation procedures but also by interconnected social, psychological, economic, familial, and religious considerations. Therefore, this study offers novelty through an empirical-juridical analysis based on direct evidence from the Cirebon City Religious Court, integrating the identification of dominant reconciliation factors with an examination of their procedural and juridical implications for the annulment or withdrawal of divorce lawsuits. The study thus extends existing mediation scholarship by positioning reconciliation as both a socio-legal process and a procedural event with consequences for legal certainty and post-reconciliation case administration.

The novelty of this study lies in its integrated empirical-juridical analysis of reconciliation during ongoing divorce litigation. Unlike previous studies that predominantly focus on mediation effectiveness, causes of divorce, or procedural withdrawal of lawsuits, this research simultaneously identifies the dominant socio-psychological, familial, economic, legal, and religious factors that motivate reconciliation and examines their juridical implications for terminating divorce proceedings. Using direct empirical evidence from the Cirebon City Religious Court, the study further demonstrates that children's interests constitute the most prominent factor influencing reconciliation, followed by extended-family intervention, economic dependence, and legal-religious awareness.

METHODS

This type of research is an empirical juridical research (*socio-legal research*), which examines the conformity between the legal norms of religious court proceedings and the real practice of referring to divorce cases in the Cirebon City Religious Court. The research uses a descriptive qualitative approach, combining a statutory approach to examine legal provisions related to divorce and mediation with a sociological approach to explore legal facts in the field. The data sources consist of primary data, namely the results of interviews with judges, mediators, clerks, and litigants, as well as data on divorce cases that were canceled due to referrals; and secondary data, in the form of laws and regulations (Law No. 1 of 1974, Compilation of Islamic Law, Perma No. 1 of 2016), books, journals, and official court documents. Data collection was carried out through document studies of case archives, semi-structured interviews with related parties, and direct observation during the implementation of Field Experience Practice (PPL) at the Cirebon City Religious Court.

The data analysis technique uses Miles and Huberman's qualitative analysis model, including data reduction, data presentation, and conclusion drawing, combined with normative studies to analyze the dominant factors and their juridical implications for the annulment of the divorce case.

DISCUSSION

Current scholarship on divorce disputes in Religious Courts is dominated by studies on the effectiveness of court-annexed mediation, sociological determinants of divorce, mediator performance, and procedural mechanisms for withdrawing divorce claims. While this literature demonstrates that mediation constitutes an important instrument for promoting reconciliation, it has generally examined mediation effectiveness or divorce causation separately. Consequently, relatively little attention has been directed toward couples who reconcile after a divorce lawsuit has already entered judicial proceedings, particularly regarding the interaction between legal procedures and the social, psychological, economic, familial, and religious considerations that influence such reconciliation. The article itself positions this distinction explicitly against earlier studies that focused mainly on mediation effectiveness, divorce causes, and lawsuit withdrawal procedures

The Cirebon City Religious Court is a court of first instance within the Religious Court that is authorized to examine, adjudicate, and settle cases of marriage, inheritance, will, grants, waqf, and sharia economics, as stipulated in Law Number 7 of 1989 concerning Religious Courts and its amendments. Divorce cases, especially lawsuit divorces, are among the most

frequently handled. To encourage peace, each of these cases must first go through a mediation process in accordance with Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court before the court examines the subject matter. This institution partners in implementing Field Experience Practice (PPL), allowing students to directly observe the practice of Islamic family law and religious court procedural law.

Overview of the Implementation of Mediation and Handling of Divorce Cases

During the implementation of PPL, students are involved in several main activities, namely: (1) institutional orientation and case service flow; (2) observation of case administration at the Lawsuit Clerk, starting from registration to trial scheduling; (3) participation in the lawsuit divorce trial at various stages, including mediation sessions, evidence, and reading of the judgment; (4) direct observation of the mediation process led by the mediator judge, including the approach and response of the parties; (5) interviews with judges, mediator judges, and substitute clerks to explore the factors that drive and inhibit the occurrence of referrals; and (6) review of decision documents and reports on the results of mediation. The results show that mediation has been carried out according to procedures, but the success rate varies: most cases proceed to the divorce decision, while a small number end with the withdrawal of the lawsuit, indicating the achievement of a referral.

From the results of these observations and interviews, a number of obstacles were also identified that affect the effectiveness of mediation as a means of reconciliation, namely: the effectiveness of mediation has not been optimal because some plaintiffs have strong intentions to divorce before the trial so that mediation tends to run formally; the limited number of certified mediator judges compared to the high volume of cases, so that the mediation process is less in-depth; and the lack of public understanding of the function of mediation as a means of reconciliation, not just a formal procedural procedure. These obstacles are an important context to understand why the success of referencing in practice is largely determined by factors outside the formal mediation mechanism, as described in the following section. 1

These field findings suggest that mediation in divorce lawsuits functions not only as a procedural stage but also as a space to identify interests that can still be raised. Research on the implementation of mediation at the Pekanbaru Religious Court shows that mediation has

1 Mardalena Hanifah, Rahma Sari, and Jennie Qothrunnada Kurnia, "The Implementation of Mediation in the Handling of Divorce Lawsuits at the Pekanbaru Religious Court," *Lex Generalis Law Journal*, Vol. 7 No. 6 (2026).

been carried out according to procedures, but its effectiveness is still influenced by the complexity of the conflict, the psychological condition of the parties, the limited facilities, and the legal culture of the community. Thus, the success of mediation is not enough to measure the fulfillment of the procedure, but also the ability of the mediator to build communication and explore the common interests of the parties.²

Dominant Factors That Encourage Married Couples to Refer (Answering the First Problem Formulation)

Regarding the formulation of the first problem regarding the dominant factors that encourage married couples to make referrals so that there is a cancellation of the divorce case, the results of the study show that these dominant factors include the psychological interests of the child, economic dependence, intervention of the extended family, and legal and religious awareness to maintain the integrity of the household. These factors have not been optimally integrated into the formal mediation approach, so the success of the referral in practice is more influenced by the dynamics outside the courtroom. Among these factors, the child's interest is the most common consideration in the mediation process and in interviews with the parties, followed by intervention by the extended family, economic dependence, and legal and religious awareness of household integrity.³

The findings emphasized that the success of mediation in encouraging referral does not only depend on procedural aspects, but also on the sociological, psychological, economic, and religious factors of the parties, so it is necessary to strengthen the role of mediators and educate the public so that mediation truly functions as a means of reconciliation, not just a formal stage of events.⁴

In the context of this study, the child factor is important because the decision to return to maintaining the household is often based not only on the marital relationship, but also on considerations of continuity of parenting, psychological stability, and the child's future. Family law literature treats the best interests of the child as an important consideration in post-divorce

²Mardalena Hanifah, Rahma Sari, and Jennie Qothrunnada Kurnia, "The Implementation of Mediation in the Handling of Divorce Lawsuits at the Pekanbaru Religious Court," *Lex Generalis Law Journal*, Vol. 7 No. 6 (2026), DOI 10.56370/jhlg.v7i6.3647.

³Muhammad Feri Hariyanto and Imanuddin Abil Fida, "The Implementation of Mediation in the Probolinggo Religious Court Class I B Divorce Lawsuit Case in 2022," *USRAH: Journal of Islamic Family Law*, Vol. 4 No. 2 (2023), pp. 140–155, DOI 10.46773/usrah.v4i2.823.

⁴Azkie Rahmanita Fitri, M. Kholil Nawawi, and Ikhwan Hamdani, "The Success of Mediators in Reconciling Disputes in Divorce Lawsuits at the Bogor Religious Court," *QIYAS: Journal of Islamic Law and Justice*, Vol. 11 No. 1 (2026), pp. 120–130, DOI 10.29300/qys.v11i1.8738.

family issues. Therefore, when children are among the reasons couples consider referral, the mediator needs to direct the conversation to the child's interests without ignoring each partner's rights and wishes.⁵

Regarding the formulation of the second problem regarding the juridical implications of referral to the status and process of the divorce lawsuit case, the results of the study show that the referrals that occur during the trial process—both at the mediation stage, case examination, and after the evidentiary process is running—cause the loss of the plaintiff's legal interest in the case that has been filed. As a juridical consequence, the judge determines the revocation or cancellation of the divorce lawsuit, so the trial process does not continue until a decision on the subject matter is made. ⁶

However, this study also found that there is no detailed legal certainty regarding post-referral administrative follow-up, especially related to the procedure for revoking lawsuits and recording of peace deeds (*acte van dading*). The absence of these technical arrangements may cause inconsistency in practices between religious courts in following up on cases canceled due to referrals; therefore, clearer technical guidelines are needed to guarantee legal certainty for the parties, as well as a form of post-reconciliation legal protection.

These administrative issues must be distinguished from the substance of the referral. Referral has consequences for the status of the marital relationship, and therefore the recording and proof of the referral event has an important meaning for legal certainty. The study of referral shows that the aspect of proof and recording can cause problems if the reference event is not adequately documented. In the ongoing divorce case, the revocation of the case because the parties are reconciled also needs to be outlined in an orderly manner in the administration of the case so as not to cause uncertainty about the status of the case and the legal position of the parties.⁷

State of Art, Novelty and Research Gap

⁵Muh Ihsanudin, "Reform of Child Guardianship Law in Divorce Cases: Between Children's Interests and Parental Rights," *At-Ta'aruf: Islamic Family Law Journal*, Vol. 3 No. 2 (2024), pp. 49–58, DOI 10.59579/ath.v3i2.8675.

⁶Wira Purwadi, "Analysis of the Effectiveness of Mediation in Divorce and Divorce in the Manado Religious Court," *Al-Mujtahid: Journal of Islamic Family Law*.

⁷Reza Ayu Wulan Sari and Indri Fogar Susilowati, "Analysis of the Decision of the Supreme Court of the Republic of Indonesia No. 75 K/Ag/2018 on the Annulment of Polygamous Marriage Without Permission," *Novum: Legal Journal*, Vol. 5 No. 1 (2018).

State of the Art	Existing studies on divorce litigation in Indonesian Religious Courts have mainly examined the effectiveness of mediation in reducing divorce, sociological factors causing divorce, and procedural mechanisms for withdrawing divorce lawsuits. Studies cited in the article also address mediation practices in Religious Courts and factors influencing mediator success. The current literature therefore recognizes mediation as an important procedural mechanism for reconciliation but tends to treat mediation effectiveness, causes of divorce, and procedural withdrawal separately.
Research Gap	Previous research has not sufficiently investigated why parties who have already filed and proceeded with a divorce lawsuit subsequently decide to reconcile, particularly by integrating juridical and non-juridical factors. The article specifically notes the lack of studies identifying the dominant factors behind reconciliation in ongoing divorce cases, especially within the local institutional context of the Cirebon City Religious Court. In addition, limited attention has been given to the post-reconciliation juridical and administrative consequences, including withdrawal of lawsuits and documentation of reconciliation. The study identifies uncertainty concerning post-referral administrative procedures and the recording of peace agreements.
Novelty	The novelty lies in combining an empirical juridical/socio-legal perspective with direct field evidence from divorce cases that were discontinued because the parties reconciled. Instead of examining mediation merely as a procedural requirement, the study identifies the interaction of children's interests, extended-family intervention, economic dependence, and legal-religious awareness as determinants of reconciliation. It simultaneously analyzes how reconciliation eliminates the plaintiff's legal interest and leads to withdrawal or cancellation of the lawsuit, thereby linking social determinants of reconciliation with their procedural legal consequences.

Despite extensive research on mediation and divorce in Religious Courts, an important gap remains concerning the empirical determinants of reconciliation during ongoing divorce litigation. Previous studies have not adequately identified which factors most strongly encourage litigating spouses to reconcile once judicial proceedings have begun, nor have they comprehensively connected these factors with the juridical consequences for the status and continuation of the case. This gap is particularly evident at the local court level, including the Cirebon City Religious Court. Furthermore, existing legal arrangements provide insufficient technical clarity concerning post-reconciliation case administration, particularly the withdrawal of lawsuits and formal recording of reconciliation, creating potential inconsistencies between Religious Courts.

CONCLUSION

Based on the formulation of the first problem, it can be concluded that the dominant factor that encourages married couples to make a referral so that the cancellation of the divorce lawsuit case at the Cirebon City Religious Court is the interests and psychological condition of the child. In addition, the decision to refer is also influenced by intervention or support from extended family, economic dependence, and legal and religious awareness to maintain household integrity. The results show that consideration of children is the most frequent factor in the mediation process and in communication between the parties. This shows that the decision to refer is not only based on legal considerations, but is also influenced by social, psychological, economic, and religious factors inherent in domestic life. Based on the formulation of the second problem, the referrals that occur during the litigation divorce process, both at the mediation stage, case examination, and after proof, have juridical implications for the continuation of the case. When the parties have reconciled, and the plaintiff no longer has a legal interest in continuing the lawsuit, the case can be stopped through the revocation or cancellation of the lawsuit so that it does not continue until a decision on the subject matter. However, the research also shows a need for technical clarity regarding case administration after referral, especially the procedure for revoking the lawsuit and recording the peace. Therefore, clearer and uniform guidelines are needed so that the post-referral process provides legal certainty and protection for the parties.

Suggestions

Agencies (Cirebon City Religious Court): to continue to optimize the role of mediation and the Marriage Advisory, Development, and Preservation Agency (BP4) in encouraging referral efforts before the divorce case is decided, as well as increasing socialization about the procedures and legal consequences of annulment of divorce lawsuits to the justice-seeking community. Faculty: to enrich the study of Religious Procedural Law and Islamic Family Law courses with empirical case studies on the annulment of divorce lawsuits and referrals, in order to equip students with a more comprehensive understanding of judicial practice. The next researcher: to conduct follow-up research with a broader data scope and/or quantitative approach to measure the significance of each factor on the tendency of married couples to refer to a married couple. Policymakers (if necessary): to consider strengthening regulations on mandatory mediation and post-referral assistance to reduce the number of divorces and cancellations of cases in the Religious Courts.

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