

ECONOMIC DETERMINANTS OF DIVORCE IN KUDUS REGENCY: A SOCIO-JURIDICAL ANALYSIS OF ISLAMIC FAMILY LAW

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Abstract

Divorce cases in Kudus Regency show a worrying upward trend, primarily driven by economic factors. Economic hardship contributes significantly to the annual increase in divorce cases. This study examines the high divorce rate in Kudus Regency with a specific focus on analyzing economic factors as the main determinant. This research employs a qualitative field study method with a socio-juridical approach, collecting data through interviews, observations, and analysis of case documents at the Kudus Religious Court. The findings delineate two categories of economic causes: internal factors (husband's failure to provide support, debt burden, and wife's excessive demands) and external factors (slowdown in the raw material processing industry leading to unemployment and unstable income). The study concludes that economic factors are a critical determinant of divorce in Kudus. The findings contribute significantly to the discourse of Islamic family law by proposing that strengthening household economic resilience is a crucial policy recommendation for divorce prevention.

Keywords: *Islamic law; Economics; Divorce.*

Abstrak

Permasalahan perceraian di Kabupaten Kudus menunjukkan tren peningkatan yang mengkhawatirkan, dengan faktor ekonomi menjadi pendorong utamanya. Kesulitan ekonomi berkontribusi signifikan terhadap peningkatan jumlah perkara setiap tahun. Penelitian ini bertujuan mengkaji tingginya angka perceraian di Kabupaten Kudus dengan fokus pada analisis faktor ekonomi sebagai determinan utama. Penelitian ini merupakan studi lapangan kualitatif dengan pendekatan sosio-yuridis. Data dikumpulkan melalui wawancara, observasi, dan telaah dokumen perkara di Pengadilan Agama Kudus. Temuan penelitian membagi faktor ekonomi penyebab perceraian menjadi dua kategori: faktor internal (meliputi kelalaian suami dalam memberikan nafkah, ketidakcukupan nafkah, ketidakmampuan karena utang, dan tuntutan berlebihan istri) dan faktor eksternal (terkait dengan melemahnya aktivitas industri pengolahan bahan baku yang memicu pengangguran dan instabilitas pendapatan). Hasil penelitian menegaskan bahwa faktor ekonomi merupakan determinan penting dalam perceraian di Kudus. Temuan ini memberikan kontribusi ilmiah yang signifikan pada kajian hukum keluarga Islam dengan menekankan penguatan ketahanan ekonomi keluarga sebagai rekomendasi kebijakan krusial untuk pencegahan perceraian.

Kata kunci: Hukum Islam, Ekonomi, Cerai gugat.

INTRODUCTION

Divorce cases in Kudus Regency reveal a worrying trend. Based on official data from the Religious Court of Kudus, published in its annual reports and corroborated by the Central Statistics Agency (BPS) of Kudus, the number of divorce cases has steadily increased over the past three years (Nirvana Rosangela Wibowo 2024).

Table 1 Number of Divorce Cases in Kudus Regency (2022–2024)

Year	Divorce by Petition (Cerai Gugat)	Divorce by Repudiation (Cerai Talak)	Total Divorce Cases
2022	1315	515	1830
2023	1438	577	2015
2024	1398	505	1903
Total	4151	1597	5748

According to the data above, lawsuits are more prominent or dominant than talak divorces. In Islam, especially in Islamic marriage law, a wife is also given the same right in terms of breaking the marital relationship with her husband. In Islam, this right is referred to as *Khulu'* or *Fasakh*, while in positive law it is called Divorce.

The application for divorce filed by a wife against her husband can be motivated by many factors. One of these factors is the economic factor. Economic needs related to family finances are one of the most important things to maintain the sustainability and sustainability of family life.

Family finance aims to provide or organize basic needs for all its members, such as basic needs for clothing, housing, and food as well as other basic needs such as health, education, and vehicles and others. In connection with the implementation of these basic needs, both parents are required to work hard to make it happen according to the level of ability and needs.

According to data from the Kudus Religious Court, economic factors as a cause of divorce, especially divorce, occupy the highest position in the last three years.

Table 2 Divorce Cases Caused by Economic Factors in Kudus Regency (2022–2024)

Year	Number of Cases
2022	589
2023	1057
2024	1095
Total	2741

Previous research related to the theme of divorce that the author adopted are:

1. Fatkhul Bari, with the Jurnal title “Analisis Tingginya Tingkat Perceraian Pasangan Suami Istri Yang Menikah Di Usia Dini (Studi Kasus di Pengadilan Agama

Kudus Tahun 2019)”. At this writing, the author's sister focuses on divorce research in the context of divorce or khuluk with the factors causing divorce are the insight of gender or women's emancipation in Kudus as the driving force for the emergence and high rate of divorce in Kudus district (Fatkhul Bari, Haris, and Im 2022).

2. Ahmad Fauzi, with the thesis title “Eskalasi Perceraian Di Lingkungan Tenaga Kerja Indonesia (TKI) Masyarakat Pulau Kangean, Kabupaten Sumenep (Studi Kasus di Pengadilan Agama Kangean). Both talak and khuluk with the causative factor is becoming a migrant worker abroad (Ahmad Fauzi 2014).

3. Simuhammad, with the title Thesis “Permohonan Cerai Gugat Karena Alasan Kdrd Di Pa Klaten (Studi Kasus Putusan No. 918/pdt, G/2006/ P.A Klaten). At this writing, the author brings up the theme of khulu' divorce on the grounds of domestic violence related to the judge's decision that there are differences in witness testimony and with the judge's basis in giving a decision (Simuhammad 2009).

4. Choirunnisa Nur Novitasari, Analisis Hukum Islam terhadap Faktor Putusnya Tali Perkawinan. The conclusion is recommended for Muslims to be able to maintain integrity, harmony in the household, and be able to solve existing problems in a peaceful manner, so that there is no divorce. The factors that cause divorce are biological factors, psychological factors, moral factors, economic factors, sociological factors (Novitasari, Latifiani, and Arifin 2019).

5. Iskandar Budiman, The Islamic Perspective On The Improvement Of Family Economy In The New Normal. The findings of this study indicate that men and women have equal rights. The concept of nature show that there is normative justification between husband and wife, stating that the domestic responsibilities are closely related to the shared rights and obligations that are balanced within the family and society, and that both husband and wife have the same rights in taking legal actions. In this new normal era, to strengthen the economically weak family in the community requires joint cooperation between the husband and wife so that they can meet the needs of the family and create a harmonious family (Budiman 2021).

6. Sri Hariati, Livelihood Issues As A Cause Of Divorce In The Perspective Of Islamic Family Law. The issue of livelihood can be one of the causes of divorce due to 3 things, namely, Husband Nusyus when he leaves his obligations to his wife, either leaving the obligations of nafaqah (material) or non-material such as messing with his wife in a bad way, being rude, hurting mentally. and physically and not doing bodily relations, then the wife of usyus makes fun of her husband by not being grateful for the income that has been given by her husband, a wife who demands too much of her husband's ability, and is not entrusted with the maintenance of her husband and because of the syiqaq (quarrel)

that arises because husband and wife do not carry out their obligations, husband and wife do not like each other's attitudes (Hariati 2021).

7. Raihanah Abdullah, Financial support for women under Islamic family law in Bangladesh and Malaysia. Based on journal analysis, it is clear that court activities and the involvement of sensitive judges in both communities would help institutions like the Family Courts to become the right platforms to protect women from economic deprivation. A more sensitized judiciary can empower and protect women by providing effective support mechanisms through enlightened judicial pronouncements (Abdullah et al. 2015).

Prior studies on divorce in Indonesia, such as those analyzed by Novitasari et al. (2019) and various case studies across Religious Courts, have consistently identified inadequate financial provision, debt, and economic disputes as major triggering factors. These studies typically focus on a normative analysis of Islamic Family Law (KHI) and its general impact. However, the existing literature still exhibits a research gap in providing a socio-juridical analysis specific to unique local economic structural factors. Kudus Regency possesses a distinct economic dynamic, particularly concerning the raw material processing industry, which is highly vulnerable to market fluctuations and layoffs. This gap implies that an analysis solely based on general categories of divorce causes is insufficient. Therefore, this study aims to delve deeply into how the dynamics of both internal and external economic factors specific to Kudus—including the impact of local industry—are interpreted and categorized within the context of Islamic Law and the Religious Court procedure, thereby generating more contextual and applicable field findings.

Based on the background and the identified research gap, this study has the main objective of analyzing and examining the economic factors (internal and external) contributing to the high divorce rate in Kudus Regency, as well as reviewing the Islamic Law analysis of these cause categories. To achieve this objective, the research questions posed are: 1) What are the categories of economic factors that cause the high divorce rate in the Kudus Religious Court? 2) How does Islamic Law analysis (from fiqh and positive law perspectives) address these categories of economic factors? In terms of scientific contribution, this research is expected to enrich the scholarly discourse on Islamic Family Law, especially in the socio-juridical aspect, by presenting specific empirical data from the Kudus context. For practical benefit, the results of this study can serve as a basis for the Religious Court, local government, and related institutions in formulating preventive policies focused on strengthening family economic resilience to curb the divorce rate.

RESEARCH METHOD

This study is a field research employing a qualitative method with a socio-juridical approach, conducted in Kudus Regency with a specific focus on divorce cases at the Kudus Religious Court. The study involved 12 informants consisting of judges of the Kudus Religious Court, court clerks, and married couples who had filed for divorce due to economic reasons. Informants were selected using purposive sampling, namely deliberate selection based on their direct involvement and relevance to the research problem. The social background of the informants varied, ranging from families with lower to middle educational levels to workers in the raw material processing industry who were affected by regional economic instability (Muhammad Nurul Huda et al. 2025).

Data were collected through in-depth interviews, observations, and documentation studies, including divorce decisions, case archives, and relevant legal literature. Data analysis employed Miles and Huberman's interactive model, which consists of three stages: data reduction, data display, and conclusion drawing. The results of interviews, observations, and documentation were categorized into internal and external economic factors causing divorce (Safira Ila Mardhatillah, M. Nurul Huda, and Rido Idham 2024). To ensure the validity of the findings, this study used source and method triangulation as well as member checking by confirming interview results with the respective informants. Ethical considerations were also carefully observed, in which all participants provided informed consent prior to interviews, their personal identities were kept confidential, and all data were used solely for academic purposes (Naifah et al. 2024). The researcher's position was that of a participatory observer, directly engaging in interviews and observations while maintaining analytical objectivity.

RESULT AND DISCUSSION

The analysis of Islamic law on the economic factors that cause the high rate of divorce in the Kudus Regency Religious Court can be studied as follows:

Analysis of internal factors

- 1) The husband is not responsible in terms of providing a living even though he can afford it.**

Subsistence is the obligation of a husband to a wife which is legally borne by a husband. Islam has raised the degree of a husband or man against a woman or wife and Islam commands wives to obey their husbands because a husband has given them a dowry and maintenance. As the word of Allah SWT.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ

Men (husbands) are protectors for women (wives), because Allah has favored some of them (men) over others (women), and because they (men) have provided a living from their wealth (An Nisa' : 34, n.d.) .

The legal basis of a husband's obligation to meet family needs has been regulated in Islamic Law and Positive Law. In Islamic law there are several letters and verses of the Qur'an and Al-Hadith.

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولِي حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَارْتُدُّوهُنَّ أَرْضَهُنَّ وَأَتَمِرُوا بِرَبِّكُنَّ بِالْمَعْرُوفِ وَإِنْ تَعَاسَرْتُمْ فَسَتْرٌ لَكُمْ أُخْرَىٰ

Place them (wives) where you live according to your ability and do not trouble them to constrict (hearts) them. And if they (the divorced wives) are pregnant, then give them their livelihood until they give birth, then if they breastfeed your (children) then give them their reward; and consult among yourselves (all things) well; and if you have difficulty, then another woman may breastfeed (the child) for him.

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا

And it is the duty of the father to bear their living and clothing in a proper manner. A person is not burdened more than he can bear.

أَنْ تُطْعَمَهَا إِذَا طَعِمْتَ، وَتَكْسُوَهَا إِذَا اكْتَسَيْتَ، وَلَا تَضْرِبِ الْوَجْهَ، وَلَا تُفْتِحِ، وَلَا تَهْجُرْ إِلَّا فِي الْبَيْتِ

"You should feed him as you eat, clothe him as you dress, do not hit him in the face, do not speak ill of him and do not beat him (separated from the bed) except in the house."

فَاتَّقُوا اللَّهَ فِي النِّسَاءِ فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانِ اللَّهِ وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ وَلَكُمْ عَلَيْهِنَّ أَنْ لَا يُوطِئَنَّ فُرُشَكُمْ أَحَدًا تَخْرَهُونَهُ. فَإِنْ فَعَلْنَ ذَلِكَ فَاصْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبْرِحٍ وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ

"Fear Allah in the (fulfillment of) women, for you have actually taken them in the trust of Allah and you have justified their private parts with the word of Allah. The wife's obligation to you is not to let your rug be occupied by anyone you don't like. If they do, hit them with a non-harming blow. Your duty to your wives is to provide them with a living and clothing in an acceptable way." (Imam Al- Mundziri 2003)

The delegation of responsibilities or obligations in providing a living from a husband to a wife is caused by the marriage factor. As in the letter At-Talaq verse 6.

The scholars of the four schools of law agree on the obligation to provide for the husband for his wife and family or children.

In positive law, the husband's obligations in terms of providing a living to his wife have been regulated in the civil law, Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law on the chapter of marriage. In the civil law, the husband's

obligation in terms of providing a living is contained in Article 107 BW (Burgerlijk Wetboek) which reads "*every husband must receive his wife in the house where he lives and is obliged to protect and provide all the necessities of life according to his ability*". In Law Number 1 of 1974 concerning Marriage, the husband's obligation in terms of providing a living is contained in Article 33 which reads "*The husband is obliged to protect his wife and provide all the necessities of married life according to his ability*". In the Compilation of Islamic Law, the husband's obligation to provide a living, is contained in Article 80 paragraph (4) which reads "*In accordance with his income, the husband bears: a living and a place of residence for his wife, household expenses, care and medical expenses for his wife and children, expenses education for children*".

From the two juridical sources mentioned above, it can be concluded that a husband has an obligation to provide for or finance household needs, both physical and material needs, especially material needs in accordance with local abilities and propriety.

The husband's obligation to provide maintenance is absolute even though the wife has a job and income. In the opinion of Umar Sulaiman Al-Asqar, stated that: "*The husband's obligation to provide for his wife is due to the status of the wife who is a prisoner of her husband. If the wife works (without her husband's permission) and earns money, then the cause for which the husband is obliged to provide a living condition has fallen.*" (Umar Sulaiman Al-Asqar 2012).

Based on the above opinion, a husband is still obliged to provide a living for his wife who works outside the home if she allows and does not provide a living if she does not allow it.

If a husband does not provide a living or spending money for family needs even though he can afford it, then he has directly violated the juridical provisions that have been established by positive law and Islamic law.

The husband's irresponsible attitude in providing a living for his wife can cause harm or damage to his wife and will be more pronounced if a wife does not work. This attitude is contrary to the teachings of Islamic law which prohibits its people from doing harm or giving harm to others. As the rules of Usulul fiqh which states that:

لَا ضَرَرَ وَلَا ضِرَارَ

"*You can't do things that can harm yourself and harm others.*"

In Islamic law there are three attitudes that may be taken by the wife in responding to the husband's irresponsible attitude in terms of providing a living. These attitudes include;

First, taking the husband's property according to what is needed, as in the case of Hindun bint Utbah against her husband Abu Sufyan.

عَنْ عَائِشَةَ أَنَّ هِنْدَ بِنْتَ عُتْبَةَ قَالَتْ يَا رَسُولَ اللَّهِ إِنَّ أَبَا سُفْيَانَ رَجُلٌ شَحِيحٌ وَلَيْسَ يُعْطِينِي مَا يَكْفِينِي وَوَلَدِي إِلَّا مَا أَخَذْتُ مِنْهُ وَهُوَ لَا يَعْلَمُ فَقَالَ خُذِي مَا يَكْفِيكِ وَوَلَدَكَ بِالْمَعْرُوفِ

From 'Aisha that Hindun bint 'Utbah said: "O Messenger of Allah, indeed Abu Sufyan (my husband) is a man who is miserly. He does not give me (sustenance) which is sufficient for me and my child, except what I take from him while he does not know." Then he said: "Take what is sufficient for you and your child properly." [Narrated by Bukhari, no. 5364; Muslim, no. 1714].

Second, file for divorce to the judge to do khulu 'because the husband is not responsible. As the argument of Al-Baqarah : 229

فَأَمْسَاكِ بِالْمَعْرُوفِ أَوْ تَسْرِحِي بِإِحْسَانٍ

"After that, you can reconcile again in a ma'ruf way or divorce in a good way."

Third, be patient with the husband's attitude. As the word of Allah SWT in An-Nisa':19

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا

And associate with them in a proper manner. If you don't like them, (then be patient) because maybe you don't like something, even though Allah has made a lot of good in it.

The divorce case that occurred at the Kudus Religious Court caused by the husband being irresponsible in terms of providing a living is an act that is contrary to the juridical rules both derived from Islamic law and positive law. According to Jumadi's statement, as a judge at the Kudus Religious Court stated that; "A husband who is irresponsible in terms of providing a living even though he is able has violated the divorce agreement clause 1, 2 and 4 which he said during the marriage contract". A husband who is not responsible for providing a living for his wife and family according to the law of marriage in Indonesia can take legal action against this act. In accordance with what has been regulated in the Compilation of Islamic Law Article 77 paragraph 5 and the Marriage Law in Article 34 paragraph (3) which reads: "If a husband and wife neglect their obligations, each of them can file a lawsuit to a religious or state court".

Legal steps taken by a wife who filed a divorce suit with economic factors in the category of the husband being irresponsible in terms of providing a living even though he was able were in accordance with the juridical basis of both Islamic law and positive law. Meanwhile, the husband's irresponsible actions in terms of providing a living even though

he is able are an act of tyranny against his wife. Therefore, there is a need for legal protection for wives who get unfair treatment from their husbands.

2) Husband's income is not enough to meet the needs of the family.

According to Ibrahim Muhammad Al Jamal, a living is whatever is given to the wife such as food, clothing, money and others (Ibrahim Muhammad al Jamal 1986).

According to Zakiah Drajat, living means shopping, which means something given by a person (husband) to his wife and relatives as basic necessities for them, such as clothing, food and drink and shelter (Zakiah Drajat 1995).

Fulfillment of needs in terms of priority scale in Islamic law is divided into three parts, namely (Koto, n.d.) :

a) Dharuriyat Needs (Primary Needs). Dharuriyat needs are benefits that are the basis for upholding human life both related to religion and the world. If he escapes from human life, it results in the destruction of the order of human life. This dharuriyat benefit is the basic foundation for ensuring human survival. If it is damaged it will appear natural and great disaster.

As for what is included in the scope of this dharuriyat masalah, there are five kinds, namely matters relating to the maintenance of religion, soul, mind, lineage and property. Avoiding any action that results in the non-maintenance of one of the five main things (benefits), including principles or dharury. Islamic law strongly emphasizes the maintenance of these things, so that in order to maintain life (life) it is permissible to eat forbidden (haram) goods, even obligatory as long as it does not harm others. Therefore, for people who are in an emergency who are worried that they will die of starvation, it is obligatory to eat pork, carrion and drink wine.

b) Hajiyat needs (secondary needs). Hajiyat or secondary needs are everything that according to sharia law is not intended to maintain the five main things, but is intended to eliminate difficulties, difficulties, narrowness and ihtiyat (be careful) of the five main things.

c) Tahsiniyat Needs (Tertiary Needs) or Kamaliyat (Complementary Needs). Tahsiniyat (tertiary needs) or Kamaliyat (Complementary Needs) needs are the level of needs which, if not met, do not threaten the existence of any of the five points above and do not cause difficulties.

The need for dharuriyah must take precedence over the consumption of hajiyah and tahsiniyah. Do not let the tahsiniyah threaten the fulfillment of dharuriyah consumption.

According to Imam Malik who stated that the amount of living is not determined by the provisions of *syara'*, but based on the circumstances of each husband and wife. And this will vary based on differences in place, time and circumstances. This opinion is also in accordance with the opinion of Abu Hanifah. Because of the uncertainty of living, whether it is equated with giving food in *kafarat* or with giving clothes. Because the *fuqaha* agree that the provision of clothing has no limit and that there is a limit to the provision of food (Ibnu Rusyd 1989).

Meanwhile, according to Imam Syafi'i, what is used as a standard in the measurement of living in this case is the food problem is the social status and economic ability of the husband. The basis of this opinion is the letter *At Talaq* verse 7.

With the following details: the husband's obligations are divided into three levels. If the husband belongs to the poor group, he is only obliged to provide a minimum of one mudd, if he belongs to the middle class then he is obliged to give a minimum of 1.5 mudd, and if he is in a condition of being able to provide a minimum of 2 mudd.

From the two scholars' opinions, it is known that the form of living that has a minimum limit is a living related to food problems which aims to carry out life.

In the case of divorce, because the husband is unable to meet the needs of the family or in other words, the husband's income is not sufficient to meet the needs of the family due to the minimal salary or because the husband is not aware of the size of the family needs which eventually leads to quarrels between husband and wife which lead to divorce. In this case of divorce, there are three opinions of scholars (Zakiah Drajat 1995):

(1) A wife is allowed to demand *faskh* or *khulu'*. This opinion is the opinion of the majority of *Malikiyah*, *Shafi'iyah*, *Hanabilah* scholars.

(2) It is not permissible to demand *faskh* or *khulu'* and the wife is obliged to be patient.

This opinion was followed by *Hanafiyah*, Imam *Shafi'i*, and *Shaykh Abdurrahman as-Sa'adi*.

(3) It is not permissible to demand *Faskh* or *Khulu'*, and a rich wife is obliged to provide for a poor husband.

Shaykh Umar Sulaiman al-Ashqar, said: "The *Hanafi* scholars allow a wife to owe her husband's dependents to fulfill her living, in a condition that her husband's income is not enough to meet the needs of the family. Meanwhile, the jurists (*Malikiyah*, *Syafi'iyah*, and *Hanabilah*) argue that a wife is told to choose between staying with her husband with

her difficulties or separating from him with Faskh or Khulu' and living for the wife is not obligatory for the husband who is unable or in distress.”(Umar Sulaiman Al-Asqar 2012).

In cases like this, Islamic law invites wives not to burden their husbands with what they cannot (husbands can afford) and to be patient until Allah makes it easy. With the word of Allah SWT in the letter At-Thalaq: 7.

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

Allah does not burden a person except (according to) what Allah has given him. Allah will provide space after hardship.

Then Islamic law encourages wives to help their husbands in meeting the needs of families that their husbands cannot afford on their own. The wife can help her husband by working and stop working when the husband is able to provide for the needs of the family.

In the divorce case at the Kudus Regency Religious Court, many wives chose to divorce from their husbands when their husbands were unable to provide for the family.

3) The husband is not able to provide a living because of poverty caused by a lot of debt.

Poverty is a complex limitation because it is very dependent on perceptions that are built on the environment. Parsudi Suparlan defines poverty as a low standard of living, namely the level of material deficiency in a number or group of people compared to the standard of living generally applicable in the society concerned (Sanusi 1999). Poverty is a weak condition, especially weaknesses related to material things, whether caused by own behavior or due to disasters or calamities.

The husband's poverty that arises after the marriage contract is caused by debt or other factors and results in the husband's inability to pay for his wife and children, resulting in difficulties for his wife and children and then a reason or basis for filing a divorce suit is made to the Religious Court.

According to the opinion of the Shafi'i, Maliki, and Hambali schools, a divorce suit can also be filed against the husband if he is unable to provide adequate clothing and housing because he is poor, so he is not only unable to provide a living (Mahmud Yunus 1983).

If the husband's poverty is caused by layoffs, or goes bankrupt, the wife may choose between being patient while waiting for her husband to recover economically, or filing a divorce suit with the judge. If the judge has the right to decide on divorce because

the husband is disabled, of course for reasons of poverty it can also be decided because it is closely related to welfare and survival (Agus Salim 1989).

If the wife at the time of the contract has known about the poverty of her future husband and she is willing to accept her husband's poverty, then the wife has no right to make her husband's poverty a reason for divorce. However, if during the execution of the marriage contract, a husband who is capable then goes bankrupt and becomes poor, then the wife can file for divorce after the court previously gave the husband the opportunity to provide for his wife (Hadi Mufaat Ahmad 1992).

There is a difference in the limits of opportunity or tolerance given to the husband in order to fulfill his wife's income, the Shafi'i school of thought gives a limit of three days, the Maliki school of thought for one month, the Hambali school of thought for one year, or in this case leave it to the authority of the judge to determine the grace period that time (M. Hasbi Ash-Shiddieqy 1998).

Divorce cases claiming that the husband is poor because he has a lot of debt or because of other factors in the Kudus Regency Religious Court many end in divorce even though the judge has given a limit of opportunity or tolerance for the husband to fulfill his wife's income.

4) A wife who is too demanding in terms of providing a living. In this case, Islamic law examines it from two sides, namely:

a) The husband is less aware of how much the family needs that require financing. The attitude of the husband who does not want to know how much the family needs must be met and he only provides a living to the extent of his giving even though he is able to give more. This attitude is a miserly attitude and is an attitude that is not commendable and even sinful. As the Prophet SAW said:

كَفَى بِالْمَرْءِ إِثْمًا أَنْ يُضَيِّعَ مَنْ يَفُوتُ رَوَاهُ أَبُو دَاوُدَ

It is enough for that person's sin to waste those who are his dependents (HR. Abu Dawud)

To respond to the husband's attitude like this, the wife is allowed to take the husband's property to taste according to what is needed without the husband's knowledge. As in the case of Hindun against her husband, Abu Sofyan.

عَنْ عَائِشَةَ أَنَّ هِنْدَ بِنْتَ عُتْبَةَ قَالَتْ يَا رَسُولَ اللَّهِ إِنَّ أَبَا سُفْيَانَ رَجُلٌ شَحِيحٌ وَلَيْسَ يُعْطِينِي مَا يَكْفِينِي وَوَلَدِي إِلَّا مَا أَخَذْتُ مِنْهُ وَهُوَ لَا يَعْلَمُ فَقَالَ خُذِي مَا يَكْفِيكِ وَوَلَدِكَ بِالْمَعْرُوفِ

From 'Aisha that Hindun bint 'Utbah said: "O Messenger of Allah, indeed Abu Sufyan (my husband) is a man who is miserly. He does not give me (sustenance) which is sufficient for me and my child, except what I take from him while he does not know." Then he said:

"Take what is sufficient for you and your child properly." [Narrated by Bukhari, no. 5364; Muslim, no. 1714].

In conditions like this a wife is allowed to make demands against her husband in terms of providing a living due to high family needs.

b) The husband is really not able to meet the needs of the family based on his income. In this condition, Islamic law forbids wives from carrying out heavy demands that the husband is unable to carry out or fulfill. As the word of Allah SWT in Surah Al-Ahzab verses 28-29 which relates to the attitude of the wives of the Prophet who had demanded in terms of providing a living.

يَا أَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكَ إِنْ كُنْتُمْ تُرِيدْنَ الْحَيَاةَ الدُّنْيَا وَزِينَتَهَا فَتَعَالَيْنَ أُمَتِّعَنَّ وَأَسْرَحَنَّ سَرَاحًا جَمِيلًا. وَإِنْ كُنْتُمْ تُرِيدْنَ اللَّهَ وَرَسُولَهُ وَالْآخِرَةَ فَإِنَّ اللَّهَ أَعَدَّ لِلْمُحْسِنَاتِ مِنكُنَّ أَجْرًا عَظِيمًا

O Prophet! Say to your wives, "If you want life in this world and its adornments, then come here so that I can give you mut'ah and divorce you in a good way." And if you desire Allah and His Messenger and the land of the Hereafter, then surely Allah will provide a great reward for those who do good among you.

The attitude of the wife who makes demands on her husband in terms of providing a living can be tolerated because indeed complex family needs are not limited to food and drink needs. A wife in making demands on her husband in terms of providing a living must also look at the husband's ability to fulfill these demands, whether he is able or not. It is an unethical act if a wife makes demands on her husband in terms of providing a living while the husband is unable to carry it out.

In the reality of people's lives, the needs that need to be supported or need financing are not limited to food and clothing needs, but there are various needs that require financing, for example; financing for children's education, children's snacks, home electricity bills, treatment when sick, various kinds of goods loans and others that require financing.

In the divorce case at the Kudus Regency Religious Court, the husband was reluctant to provide the amount of support demanded by the wife to be able to meet the family's needs with the assumption that the money given to the wife was sufficient to meet the family's needs, but this is different from the wife's assumption that the money given husband is not enough to meet the needs of the family.

Internal factors within the household have been identified as the dominant cause of divorce in Kudus. Based on interviews, many wives testified that they no longer received financial support from their husbands. This condition forced them to bear the household expenses alone, including the cost of raising children. One informant stated:

“My husband has not provided financial support for almost a year, not even for basic household needs. I have to sell small goods just so that my children can continue their schooling.”

Case documents from the Kudus Religious Court in 2022–2023 confirm this testimony. Out of thousands of divorce cases decided, around 41% cited economic reasons, particularly the husband’s failure to provide for the family. In many divorce petitions filed by wives, the inability of the husband to meet household needs was explicitly documented.

Sociologically, a husband’s failure to provide financial support often stems from weak household financial management. Becker’s *Household Economics Theory* (1981) explains that unequal distribution of household resources tends to create conflict and reduce marital stability. The field findings support this view, as households where wives bear greater financial burdens experience more tension that often ends in divorce.

Analysis of external factors

1) The sluggish economic activity in Kudus Regency, especially in the raw material processing industry.

The sluggish economic activity in Kudus Regency has an impact on the occurrence of layoffs by several companies engaged in the processing of raw materials. Terminations of employment (PHK) carried out by several companies have an impact on the occurrence of new unemployment which has an impact on financial stability or family income. Financial instability or family income can interfere with the stability of meeting family needs. This condition, can trigger the emergence of a disharmony in household relationships, especially the association of husband and wife which can lead to divorce.

In response to this, Islamic law recommends to keep trying and be patient. As the word of God in Surah Al-Baqarah verse 155.

وَلَنَبْلُوَنَّكُمْ بِشَيْءٍ مِّنَ الْخَوْفِ وَالْجُوعِ وَنَقْصٍ مِّنَ الْأَمْوَالِ وَالْأَنْفُسِ وَالثَّمَرَاتِ ۗ وَبَشِّرِ الصَّابِرِينَ ۝

And We will surely test you with a little fear, hunger, lack of wealth, soul and fruit. And give good news to those who are patient.

In addition to being patient and still trying, Islam recommends managing family expenses in the middle and not being extravagant. As the word of Allah SAW in Surah Al-Furqon verse 67.

وَالَّذِينَ إِذَا أَنْفَقُوا لَمْ يُسْرِفُوا وَلَمْ يَقْتُرُوا وَكَانَ بَيْنَ ذَلِكَ قَوَامًا

And (including the servants of the Most Merciful God) those who, when they spend (wealth), they are not excessive, and are not (also) stingy, between the two naturally.

In addition to internal household dynamics, external economic pressures constitute a major determinant of divorce cases in Kudus Regency. The region has experienced fluctuations in the local economy, particularly within the industrial and trade sectors. Statistical data from the Religious Court of Kudus show that divorce cases surged during periods of economic instability, reflecting the significant influence of macroeconomic conditions on family resilience. Interview results with judges at the Religious Court also revealed that many wives filed for divorce following their husbands' dismissal from factories or when small businesses suffered losses, leaving households without steady income.

The rise of unemployment and inflation is another pressing external factor. Data from the Central Statistics Agency (BPS) of Kudus indicate a notable increase in unemployment rates following industrial downsizing, particularly in the cigarette and textile industries, which are the main sources of livelihood for the local population. Inflation further exacerbates the situation, reducing the purchasing power of households and increasing the burden of daily expenses. For many families, the inability to meet rising living costs became a trigger for prolonged domestic conflict, eventually culminating in divorce (Prasasti, Nugroho, and Aziz 2025).

This phenomenon is consistent with the Relative Deprivation Theory, which posits that individuals' dissatisfaction grows when their living standards decline compared to social expectations. In Kudus, families who once enjoyed a stable livelihood suddenly faced economic deprivation, fueling tensions between spouses. The lack of social security nets also contributed to the fragility of marriages under economic stress. From the perspective of family sociology, this demonstrates that external structural pressures beyond individual behavior play a decisive role in shaping the stability of marriage.

Thus, external economic factors in Kudus are not merely background variables but act as direct triggers of divorce. The data underscore that economic instability, unemployment, and inflation can destabilize family relationships, eroding patience, communication, and tolerance within households. In this light, addressing divorce requires not only resolving internal household disputes but also improving broader economic policies and social welfare programs.

The tobacco industry, which is the backbone of the economy, employs many women, so when layoffs or production declines occur, the impact is immediately felt in households. The low level of education among most women in Kudus also weakens their bargaining position. Local culture, which still places women in the domestic sphere, adds a double burden: on one hand, they are expected to work, and on the other, they remain

fully responsible for the family. The perspective of global capitalism increasingly reveals how small families in Kudus become victims of macroeconomic instability.

Normative Analysis: Perspectives from Islamic Law and Indonesian Positive Law

The empirical findings concerning the dominance of economic factors—both internal (failure to provide support, debt) and external (layoffs, industrial instability)—as drivers of divorce in Kudus must be examined through the lens of Islamic law (*fiqh*) and Indonesian Positive Law. This analysis aims to establish the **juridical legitimacy** of divorce petitions filed by wives based on the husband's financial difficulties or failure.

1) Foundations in Islamic Law (*Fiqh*)

Islamic law views marriage (*nikāḥ*) as a sacred bond built upon *mawaddah wa raḥmah* (love and compassion), aimed at protecting the family's welfare (*maqāṣid al-sharī'ah*) (Hariati, 2021). The husband's obligation to provide financial support (*nafaqah*) constitutes a fundamental pillar in safeguarding this welfare.

a. Failure of the Financially Capable Husband (*Shāḥīḥ*)

- **Absolute Obligation of Support:** The husband is designated as the protector (*qawwāmūn*) of his wife because Allah has preferred some over others (men over women) and because they spend their wealth (Al-Qur'an, n.d.). This obligation is **absolute** and is not negated even if the wife has a job and income (Al-Asqar, 2012).
- **Juridical Implications:** If a husband is financially capable but neglects or is stingy (*shāḥīḥ*) in meeting the family's basic needs, this act is categorized as **oppression (*zulm*)**. The wife is entitled to take the husband's property moderately without his knowledge (*khuzī mā yakfīki wa waladaki bi al-ma'rūf*) or to demand the dissolution of the marriage (*fasakh*) before a judge (Al-Mundziri, 2003). Such stinginess clearly violates the *Usulul Fiqh* maxim: “لَا ضَرَرَ وَلَا ضِرَارَ” (no harm shall be inflicted or reciprocated) (Koto, n.d.), which serves as the primary basis for a judge to grant *fasakh* (Salim, 1989).

b. Financial Inability of the Husband (*I'sār*)

- **Divergent *Fiqh* Views:** Cases in Kudus involving layoffs and industrial instability (*External Factors*) often result in financial inability (*i'sār*). Regarding this situation, *fiqh* scholars hold divided opinions:
 - a) **Majority (Malikiyyah, Shafi'iyyah, Hanabilah):** The wife is given the **choice** between patiently waiting for the husband's economic

recovery or demanding **fasakh** (divorce) (Drajat, 1995; Yunus, 1983). If this inability threatens the continuity of life, it is considered *ḍarar* (harm) that permits divorce (Al-Asqar, 2012; Ash-Shiddieqy, 1998).

b) **Hanafiyyah:** The wife **must be patient** and is not allowed to demand *fasakh*, unless the inability occurred before the contract and was not disclosed (Al-Asqar, 2012).

- **Application in Indonesia:** Judicial practice in Indonesian Religious Courts, including Kudus, tends to adopt the majority view, which allows *fasakh* based on post-contract financial inability, especially after the judge grants a grace period (Hadi, 1992; Ash-Shiddieqy, 1998).

c. *Maqāṣid al-Sharī'ah* Perspective

Economic failure poses a serious threat to the primary objectives of Islamic law, specifically the protection of welfare (Nurhikmah, 2024). Economic crisis particularly endangers three pillars of *maqāṣid*:

- ***Hifẓ al-Nafs* (Protection of Life/Welfare):** Extreme poverty prevents the fulfillment of food, health, and children's education, which are fundamental family rights.
- ***Hifẓ al-Māl* (Protection of Property):** Mounting debt or negligence in support damages the family's economic stability and assets.
- ***Hifẓ al-'Irḍ* (Protection of Dignity/Honor):** Prolonged domestic conflict due to financial hardship erodes the dignity and harmony of the household.

Therefore, divorce (*ṭalāq*) is permitted as a last resort (*al-ṭalāq ākhir al-dawā'ain*) to restore justice and protect threatened rights (*Hifẓ al-Huqūq*) (Nurhikmah, 2024; Hariati, 2021).

2) Foundations in Indonesian Positive Law

Indonesian Positive Law strongly supports a wife's right to file for divorce based on economic factors, largely adopting the principle of *ḍarar* (harm) legitimized in *fiqh*.

- a. **Law No. 1 of 1974 on Marriage (UU No. 1/1974):** Article 34 Paragraph (1) and (3) reiterates the husband's obligation to protect his wife and provide all necessities of marital life according to his capability (Fathoni & Wanti, 2024).

Paragraph (3) explicitly states that if one party neglects their obligations, the other party may file a complaint with the Religious Court (UU No. 1/1974).

- b. **Compilation of Islamic Law (KHI):** Article 80 Paragraph (4) details the husband's duties, including support (*nafaqah*), housing, household expenses, medical care, and children's education according to his income (KHI). The husband's failure to provide support for six consecutive months constitutes a valid ground for divorce in the KHI (Yunus, 1983).
- c. **Judicial Practice of the Kudus Religious Court:** Field findings show that the majority of wife-initiated divorce petitions (*cerai gugat*) are granted when the husband's economic failure is substantiated (Wibowo, 2024). Judges confirm that they issue divorce rulings based on evidence of support abandonment, which is considered a breach of the **Stipulation of the Divorce Agreement** recited at the marriage ceremony (UU No. 1/1974).

3) Synthesis and Analytical Linkage

The normative analysis reveals a **convergence** between empirical findings and the legal framework. Economic inability caused by both internal (stinginess/debt) and external (layoffs/industrial instability) factors collectively creates **prolonged household conflict** (*shiqāq*). This conflict, in the eyes of the law (both *fiqh* and positive law), is classified as **harm** (*darar*) (Hariati, 2021).

This established *darar* provides a strong legal basis for wives in Kudus to exercise their right to request *fasakh* (known in positive law as *cerai gugat*). Thus, the court's decision to grant divorce on economic grounds is not merely a response to social conflict but also an enforcement of the principle of justice (*hifz al-huqūq*) embedded in both state and Islamic family law. This demonstrates Islamic law as an adaptive and responsive framework to contemporary social realities (Novitasari et al., 2019).

CONCLUSION

This study affirms that economic factors, both internal and external, are the main drivers of the high divorce rate in Kudus Regency. Internal factors are reflected in the husband's inability to fulfill his obligation to provide for his wife and children, while external factors are influenced by macroeconomic conditions such as rising unemployment, inflation, and the decline of local industries. From the perspective of Indonesian positive law, this condition corresponds with Article 34 of Law No. 1 of 1974 on Marriage, which stipulates the husband's duty to provide for his wife and children. It

is also reinforced by the Qur'anic injunction in Surah Al-Baqarah [2]:233, which emphasizes the father's obligation to provide for the mother in a proper manner. Therefore, divorce on economic grounds holds legitimacy not only within Islamic law but also under state law.

These findings carry significant normative and practical implications. Normatively, the study underscores the flexibility of Islamic law in addressing contemporary social challenges while upholding justice and family welfare. Practically, collaborative efforts are required among the government, religious courts, and society. The local government should expand employment opportunities, stabilize the prices of basic needs, and implement family economic empowerment programs. Religious courts are expected to enhance mediation and pre-divorce counseling services by involving family counselors and Islamic economic experts. Meanwhile, Muslim communities need to strengthen awareness regarding financial planning, household economic management, and Islamic financial literacy as the foundation of family resilience.

This research enriches the body of literature on the interrelation between economic factors, divorce, and Islamic law in the Indonesian local context, while contributing to broader studies in the sociology of Muslim families. Socially, the study highlights that family resilience is inseparable from economic stability. Thus, this research not only describes the causes of divorce but also provides normative reflection and policy recommendations to strengthen Muslim families in the modern era.

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