



JURISPRUDENTIAL PERSPECTIVES ON DIVORCE PETITIONS BASED ON CHILDLESSNESS: AN ANALYSIS OF JUDICIAL REASONING

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Abstract

Marriage is a physical and spiritual bond between a man and a woman with the aim of forming a happy, eternal, and prosperous family based on the One Almighty God. One of the important goals of marriage is to have children as the successor to the family. However, in reality, not all married couples are blessed with children. This study aims to examine and analyze judicial considerations in deciding divorce lawsuits caused by childlessness through a jurisprudential approach, with a focus on how judges interpret the absence of children as a legal basis for divorce, analyze the legal foundations and jurisprudence applied, and examine considerations of justice, household harmony, and the fulfillment of spousal rights and obligations in judicial decisions. This research employs a normative juridical method through a literature study comprising primary legal materials in the form of legislation and court decisions, secondary legal materials such as scholarly literature and expert opinions, and tertiary legal materials as supporting analysis. All legal materials are analyzed using a qualitative descriptive approach by interpreting the substance of the law and the judicial reasoning applied in deciding divorce cases due to childlessness. The results indicate that although childlessness is not explicitly stipulated in legislation as a ground for divorce, judges in practice may interpret this condition as a form of continuous disputes and quarrels, as regulated in Article 19 letter (f) of Government Regulation Number 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law. Judicial considerations generally emphasize aspects of household harmony, the implementation of the rights and obligations of spouses, and the principle of justice for the disadvantaged party. Therefore, this study confirms that jurisprudence plays an important role in filling legal gaps and providing direction for the application of marriage law in Indonesia, particularly in divorce cases arising from childlessness.

Introduction

Marriage constitutes a fundamental social institution that occupies a central position in societal life, functioning as a primary unit in maintaining social order and continuity (Goode, 1982; Murdock, 1949). Beyond its role as a formal union between individuals, marriage serves as the structural foundation for the formation and sustainability of family systems. Within the framework of Indonesia's positive law, marriage is defined as a physical and spiritual bond between a man and a woman aimed at establishing a happy and enduring family based on belief in the One and Only God, as stipulated in Article 1 of Law Number 1 of 1974 on Marriage (Republic of Indonesia, 1974). This legal formulation indicates that marriage extends beyond a merely juridical relationship, encompassing intrinsic spiritual and moral dimensions that impose obligations of responsibility, fidelity, mutual respect, and commitment between spouses as essential prerequisites for achieving a harmonious and sustainable household (Subekti, 2004; Soemiyati, 1986). Furthermore, the continuation of lineage represents one of the principal objectives of marriage, reflecting the perpetuation of family institutions and kinship structures (Koentjaraningrat, 2009). In this regard, many couples place great



hope on the presence of offspring as a complement to the marital bond they have established. However, in reality, not all married couples are able to have children. Various factors, both medical and non-medical, may cause couples to experience difficulties in having offspring. This condition often creates psychological, social, and even economic pressure, especially in communities that still regard the presence of children as a primary indicator of household harmony. Pressure from the extended family, societal views, and feelings of dissatisfaction between husband and wife may lead to prolonged conflict.(Prodjodikoro, 1974)

In such situations, it is not uncommon for one party to feel that the objectives of marriage have not been fulfilled, leading them to choose to terminate the marital bond through divorce. This phenomenon often appears in the form of *cerai gugat* (wife-initiated divorce), in which the wife files for divorce against her husband because she feels unable to continue the marital life without the presence of offspring. Although the absence of children is not explicitly stated in statutory regulations as a legal ground for divorce, in practice this aspect frequently arises in the proceedings of religious courts. The issue of not having offspring in a marriage is not merely related to biological factors, but also touches upon sociological, psychological, and juridical dimensions. This presents a challenge for judges in rendering decisions that are not only based on the applicable legal provisions, but also take into account considerations of justice, propriety, and the welfare of both parties.(Nugroho, 2022)

Divorce, under Indonesian law, is regarded as the last resort (*ultimum remedium*) when a marital relationship can no longer be maintained. This is in line with the principle contained in Article 39 paragraph (1) of Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, which states that “Divorce may only be carried out before a court session after the court concerned has tried and failed to reconcile the parties.” This provision affirms that the state views marriage as a sacred bond, and therefore divorce may only be granted when there is truly no alternative to preserving the integrity of the household. Furthermore, Article 19 of Government Regulation Number 9 of 1975 provides details regarding the grounds that may be used to file for divorce, including: when one party commits adultery, abandons the other party for two consecutive years without permission, receives a prison sentence of five years or more, commits cruelty or severe physical abuse, suffers from a physical disability or illness that prevents them from fulfilling their obligations as husband or wife, and the occurrence of constant disputes and quarrels (Dwi Arini Zubaidah, 2022).

In the context of *cerai gugat*, namely a divorce petition filed by the wife against her husband, the plaintiff possesses a legal right to request the dissolution of the marriage whenever there are legitimate grounds that can be proven before the court. One of the reasons that frequently appears in the practice of religious court proceedings is the couple’s inability to have offspring, whether caused by biological factors such as infertility or psychological factors that affect the marital relationship. Although the absence of offspring is not explicitly mentioned in statutory regulations as a ground for divorce, in practice many wives employ this condition as the basis of their claim, arguing that the marital life is no longer harmonious and that the purposes of marriage as stipulated in Article 1 of the Marriage Law can no longer be achieved.

In this regard, the judge plays a crucial role in assessing whether such a reason fulfills the criteria of “continuous disputes and quarrels” as regulated in Article 19 letter

(f) of Government Regulation Number 9 of 1975 or Article 116 letter (f) of the Compilation of Islamic Law (KHI). Divorce arising from the inability to have offspring constitutes a phenomenon that is particularly compelling to examine from a juridical perspective, because it concerns the application of positive law that does not directly regulate such circumstances, yet appears frequently in judicial practice. The judicial considerations employed by judges in deciding cases of this nature become highly significant to analyze in order to understand how the values of justice, humanity, and legal certainty are manifested within the religious court system in Indonesia. Moreover, this issue reflects the dynamic interaction between statutory norms, sociocultural expectations, and the lived realities of married couples, thereby demanding that judges not only adhere to the textual formulations of the law but also engage in a contextual interpretation that accommodates the welfare, dignity, and legitimate interests of both parties. Consequently, the study of wife-initiated divorce based on childlessness not only enriches the discourse on marriage and family law but also contributes to a broader understanding of how the legal system responds to evolving social needs and moral considerations in contemporary Indonesian society (Gussevi et al., 2023).

The phenomenon of *cerai gugat* resulting from the inability to have offspring constitutes one of the most complex issues in the practice of family law in Indonesia, as it involves not only juridical aspects but also moral, social, and religious dimensions. In a society that continues to regard the presence of children as a symbol of happiness and the perfection of a household, the absence of offspring is often perceived as a failure to achieve the fundamental purposes of marriage. Such social perceptions subsequently give rise to psychological pressure on the couple particularly on the wife which may ultimately lead to a desire to terminate the marriage through legal means. From a legal standpoint, the absence of children is not explicitly mentioned as a legitimate ground for divorce in statutory regulations, whether in Law Number 1 of 1974 on Marriage or in the Compilation of Islamic Law (KHI). Nevertheless, in the practice of religious court adjudication, judges frequently encounter cases in which the primary reason presented by the plaintiff is the couple's inability to have offspring. In such circumstances, a judge cannot simply dismiss the petition; rather, the judge must examine and consider the extent to which this condition has caused the loss of marital harmony, the breakdown of affection and mutual care, and the disruption of the performance of the rights and obligations of husband and wife as regulated in Articles 77 through 84 of the KHI. Moreover, this judicial assessment must extend beyond a rigid textual interpretation of the law and take into account the broader sociological implications that childlessness imposes upon the couple. The judge must evaluate whether the absence of offspring has resulted in continuous tension, emotional distress, or a persistent deterioration in the relationship that no longer allows the marital bond to function as intended. This requires a balanced approach that harmonizes legal certainty with considerations of fairness, moral responsibility, and the lived realities of the parties involved (Mohsi et al., 2021).

Judicial consideration becomes a highly important aspect, because the judge does not merely act as an implementer of statutory law, but also as an enforcer of justice who must take into account human values and morality in every decision rendered. Through their interpretative authority, judges may interpret that the absence of offspring which results in household disharmony can be categorized as continuous disputes and quarrels as referred to in Article 19 letter (f) of Government Regulation Number 9 of 1975 or Article 116 letter (f) of the Compilation of Islamic Law (KHI) (Usup, 2016). Therefore, although it is not explicitly regulated, such a reason may serve as a juridical basis for

granting a divorce petition when it can be convincingly proven. The study of jurisprudence becomes highly relevant in this context, because through court decisions that have obtained permanent legal force, it becomes possible to understand how judges interpret and apply the law to similar cases. Jurisprudence also functions as a guideline and as a source for the dynamic development of law, particularly when written norms have not clearly regulated a specific legal event. This research aims to examine and analyze the judicial considerations in deciding wife-initiated divorce cases arising from the absence of offspring by tracing relevant decisions of the religious courts. Through a jurisprudential approach, this research is expected to provide a comprehensive understanding of how marriage law is applied within the context of the rights and obligations of husband and wife, as well as the extent to which the values of justice, humanity, and religious teachings are reflected in every legal consideration made by the judge.

Research Method

This research employs a normative legal method, also commonly referred to as *juridical-normative research*, which focuses on examining the positive legal norms that are currently in force. This approach is chosen because the research is not conducted through field observations, but rather through an in-depth study of statutory regulations, legal doctrines, and court decisions related to divorce, particularly wife-initiated divorce resulting from the absence of offspring (Hatimah et al., 2019). In its implementation, this research integrates several forms of approaches. First, the *statutory approach*, which is carried out by thoroughly examining the legal provisions that regulate marriage and divorce in Indonesia. Several regulations that serve as primary references include Law Number 1 of 1974 on Marriage along with its amendment through Law Number 16 of 2019, (Adiyanta, 2019) Government Regulation Number 9 of 1975 on the Implementation of the Marriage Law, as well as the Compilation of Islamic Law (KHI), which serves as the guiding framework for religious courts (Benuf & Azhar, 2020). In addition, this study also employs a *case approach* by examining final and binding decisions of religious courts concerning wife-initiated divorce cases arising from the inability to have offspring. Through this approach, the researcher seeks to identify patterns of judicial reasoning, the legal principles applied, and the manner in which legal norms are implemented in judicial practice. This approach is crucial because jurisprudence often functions as an unwritten source of law that may guide the application and development of legal norms in the future (Tan, 2021). Furthermore, a *conceptual approach* is also utilized, namely by analyzing fundamental legal concepts such as the purposes of marriage, the rights and obligations of husband and wife, and the meaning of household harmony within the perspective of both Islamic law and national law. This approach helps broaden the understanding of the values of justice and humanity that constitute the moral foundation underlying every judicial decision rendered by the judge (Sovia et al., 2022).

The sources of data used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations and relevant court decisions, while secondary legal materials comprise literature, legal textbooks, scholarly journals, and the opinions of legal experts. As for tertiary legal materials, such as legal dictionaries and encyclopedias, they are utilized to clarify the terminology and concepts employed throughout the study. All of these legal materials were collected through library research, namely by examining various written sources and official documents, including the decision database of the Supreme Court of the Republic of Indonesia (Syawqi, 2022).

After the legal materials were gathered, the analysis was carried out qualitatively by interpreting the substance of the regulations and judicial decisions to uncover the legal meaning contained within them. The analysis is presented in a descriptive-analytical manner by illustrating how the law on divorce is applied in practice, particularly in wife-initiated divorce cases arising from the absence of offspring. From the results of this analysis, it is expected that a comprehensive understanding can be obtained regarding the legal grounds and judicial considerations underlying the decisions, as well as the extent to which such decisions reflect the principles of justice, legal certainty, and legal benefit for the parties involved (Marune, 2023).

Results and Discussion

A. Decision Number 536/Pdt.G/2020/PA.Sel

Case Number 536/Pdt.G/2020/PA. Sel is a divorce dispute filed by a wife against her husband in the Religious Court of Selong, East Lombok. The petition originated from the marital harmony that had long disappeared, particularly because the husband was considered unable to carry out his obligations as the head of the household, both in providing material and spiritual support and in providing offspring. Since the year 2019, the relationship between the two had become increasingly distant until they finally lived separately without any meaningful communication. Efforts at reconciliation did not produce any results, causing the plaintiff to conclude that the purpose of marriage as stated in Article 1 of Law Number 1 of 1974 on Marriage, namely to form a happy and lasting household based on the Almighty God, could no longer be achieved. Because the defendant never appeared in court even though he had been summoned legally and properly, the panel of judges examined this case in *verstek* in accordance with the provisions of Article 125 paragraph 1 of the *Herziene Indonesisch Reglement* HIR.

In its legal considerations, the panel of judges emphasized that the Religious Court has both absolute and relative competence to examine this case as stipulated in Article 49 paragraph 1 letter a of Law Number 7 of 1989 concerning the Religious Courts as amended by Law Number 3 of 2006 and Law Number 50 of 2009. From the evidence consisting of the Marriage Certificate Extract Number 204/24/III/2011, witness testimonies, and the facts revealed during the trial, the judges concluded that the marriage between the plaintiff and the defendant was valid according to Islamic law and state law. However, the evidence also showed the existence of continuous disputes, separation of residence for more than one year, and the disappearance of the husband's responsibility to provide maintenance. Based on these facts, the panel was of the opinion that the household of the parties had broken apart with no hope of reconciliation.

The Panel of Judges then emphasized the legal basis for divorce as regulated in Article 19 letter f of Government Regulation Number 9 of 1975 in conjunction with Article 116 letter f of the Compilation of Islamic Law, which states that divorce may be granted when continuous disputes and quarrels occur without any hope of living together in peace. In this context, the judge applied a jurisprudential approach by referring to the Jurisprudence of the Supreme Court of the Republic of Indonesia Number 379/K/AG/1995 dated March 26, 1997, which affirms that when a husband and wife have been in conflict and living separately, their marriage is considered to have broken down and the divorce claim may be granted. The application of this jurisprudence demonstrates that the judge employed an empirical and factual approach because the assessment of the collapse of the marriage was not only based on moral or emotional

aspects but also on the social reality that both parties had long lived apart and had no possibility of reconciliation.

The legal considerations used in this decision are not solely based on the normative text of the legislation, but also on social realities and empirical facts found in the field. This approach aligns with the concept of progressive law introduced by Satjipto Rahardjo (2006), which asserts that law should be viewed as a means to deliver substantive justice rather than merely carrying out formal procedures. Thus, divorce in this decision is not regarded as a failure, but rather as a wise legal solution to prevent greater harm and injustice for the wife. The judge also grounded the reasoning on the fiqh principle that preventing harm is prioritized over obtaining benefit (*dar'u al-mafasid muqaddam 'ala jalb al-mashalih*), so the divorce is considered a form of legal and moral protection.

This decision demonstrates that the judge does not apply the law rigidly, but rather interprets legal norms in accordance with the values of justice that live within society. In the operative verdict, the panel of judges decided to grant the plaintiff's claim by default, impose one *ba'in sughra* divorce, and assign the litigation costs to the plaintiff. The decision reflects the effort of the religious court to maintain a balance between legal certainty and substantive justice. Overall, this ruling illustrates the application of law that is rational, contextual, and oriented toward public welfare, in line with the objectives of Islamic law that prioritize justice and humanity.

B. Decision Number 5989/Pdt.G/2018/PA.Sbr

Decision Number 5989/Pdt.G/2018/PA.Sbr is a divorce lawsuit filed by a wife against her husband at the Religious Court of Sumber, Cirebon Regency. This lawsuit arose because their household was no longer harmonious. Since the year 2017, the plaintiff and the defendant had lived separately due to frequent quarrels and because the defendant did not fulfill his obligations in providing material and spiritual support. In addition, the absence of offspring during the marriage further worsened their relationship until there was no longer any desire to maintain the household. The plaintiff considered that the purpose of marriage as stipulated in Article 1 of Law Number 1 of the Year 1974 concerning Marriage, namely to form a happy, eternal, and prosperous family, could no longer be realized. Because the defendant was not present at the court hearing even though he had been summoned in a lawful and proper manner, the panel of judges examined this case in default based on the provisions of Article 125 section 1 of the HIR, which allows the examination of a case without the presence of the defendant if the summons has been carried out lawfully.

During the trial process, the panel of judges examined written evidence in the form of an excerpt of the marriage certificate and a domicile certificate, as well as hearing two witnesses who stated that since June 2017 both parties had lived separately without communication and without any successful reconciliation efforts. The witnesses also confirmed that the defendant had not provided financial support during the period of separation and had abandoned his responsibilities as the head of the household. Based on the evidence and facts revealed in the trial, the judges concluded that the household of the parties had experienced continuous disputes and ongoing conflicts with no hope of reconciliation, as regulated in Article 19 letter f of Government Regulation Number 9 of the Year 1975 in conjunction with Article 116 letter f of the Compilation of Islamic Law. The judges then assessed that the divorce was the appropriate and fair legal step to end

the physical and emotional suffering experienced by the plaintiff, while also providing legal certainty of status for the parties involved.

In its legal considerations, the panel of judges relied on the foundation of positive law that was strengthened by Supreme Court precedents as a source of legal interpretation. The judges referred to Supreme Court Jurisprudence Number 38 K AG 1990 dated 5 October 1990, which affirms that when prolonged conflict has occurred between a husband and wife and the marriage can no longer be maintained, a divorce claim may be granted without the need to determine which party is at fault. Based on this precedent, the judges viewed the law not merely as a collection of rigid provisions, but as an instrument to uphold justice that is living and meaningful for human beings. The law is implemented not only to fulfill formal procedures, but also to ensure protection for the party who suffers as a result of injustice within the marriage. This approach reflects progressive legal thinking, which places human values and social justice above mere legal certainty, so that the resulting decision is not only valid in a normative sense, but also substantively and morally fair.

The panel of judges issued a ruling that granted the plaintiff's petition by way of *verstek*, imposed one *ba'in sughra* divorce, and assigned the litigation costs to the plaintiff. This decision demonstrates that the judges sought to maintain a balance between legal certainty and substantive justice. The judges emphasized that preserving a household that has lost harmony and responsibility would contradict the objectives of Islamic law. Therefore, this ruling not only enforces the legal norms, but also illustrates the application of law that embodies moral, spiritual, and social values, representing a form of justice that is living and genuinely felt within society.

In their legal considerations, the panel of judges of the Religious Court of Selong in Decision Number 536/Pdt.G/2020/PA.Sel and the panel of judges of the Religious Court of Sumber in Decision Number 5989/Pdt.G/2018/PA.Sbr both used Supreme Court jurisprudence as the basis for strengthening legal legitimacy and providing consistent interpretative direction in divorce cases filed by a wife due to the absence of offspring and the non fulfillment of physical and spiritual rights within the household. In both cases, the judges referred to two important precedents, namely Supreme Court Jurisprudence Number 38/K/AG/1990 and Jurisprudence Number 379/K/AG/1995, which are frequently used as references in divorce cases arising from marital disharmony, prolonged disputes, and the loss of the purpose of marriage as intended in Article 19 letter f of Government Regulation Number 9 of 1975 in conjunction with Article 116 letter f of the Compilation of Islamic Law.

Supreme Court Jurisprudence of the Republic of Indonesia Number 38 K/AG/1990 The case underlying this jurisprudence was a divorce lawsuit filed by a wife against her husband due to continuous quarrels, disharmony, and the absence of communication and responsibility from the husband. In that case, the plaintiff succeeded in proving that the marital relationship could no longer be saved even though she could not show who was the main cause of the disputes. The Supreme Court then held that when a marriage has lost its main purpose which is to create a happy, peaceful, and lasting family then the relationship can be considered socially and emotionally broken although it remains legally binding.

Through this decision the Supreme Court emphasized that the judge is not required to prove who is most at fault in the domestic conflict but only needs to ensure that the

marital relationship can indeed no longer be maintained. Thus, Jurisprudence Number 38 K/AG/1990 introduced a new paradigm that divorce may be granted if the condition of the household shows the existence of a damaged divorce or broken marriage. This consideration is based on the principle of public interest *maslahah mursalah* in Islamic law namely that maintaining a relationship filled with quarrels and suffering will only cause greater harm *mafsadah* than its benefits. Jurisprudence 38 K/AG/1990 provides room for judges to use moral and social considerations in deciding divorce cases especially when maintaining the marriage only prolongs the suffering of one party.

Jurisprudence of the Supreme Court of the Republic of Indonesia Number 379 K/AG/1995. The case that formed the basis of this jurisprudence began with a divorce lawsuit between a wife and a husband in which the husband had left the household without a legitimate reason and had not provided material support to the wife for a considerable period of time. The Supreme Court through its decision emphasized that if the husband and the wife are no longer living in the same house and there is no hope for them to live harmoniously again then the household has been proven to be broken and meets the legal requirements for a divorce. This decision also affirms an important principle in family law that the absence of harmony and the absence of material support obligations are concrete evidence of the breakdown of the household marital relationship.

The Supreme Court assessed that the act of leaving the household without returning is a concrete fact that reflects the actual breakdown of the marital relationship. In practice this jurisprudence has become a reference for judges in the religious courts to decide divorce lawsuits filed by wives that are based on negligence in providing material support and on the separation of residence. Thus, Jurisprudence Number 379 K/AG/1995 functions as judicial guidance in interpreting Article 19 letter f of Government Regulation Number 9 of 1975 and Article 116 letter f of the Compilation of Islamic Law which states that divorce may occur when there are continuous disputes and continuous quarrels. This decision provides clarity that continuous quarrels do not always have to take the form of verbal conflict but may be understood as a factual situation in which the marital relationship has ended functionally.

In practice this jurisprudence later became judicial guidance for judges in the religious court system in handling divorce cases filed by wives that are based on the negligence of the husband in providing material support and on the separation of residence. Many judges use it as a basis of legal discovery called *rechtsvinding* especially when the text of the regulation does not yet provide sufficient clarity. Through this jurisprudence the Supreme Court essentially affirms an important principle that the integrity of the household is not measured only by the formal existence of the marital relationship but by the presence of responsibility affection and the fulfillment of basic rights.

Jurisprudence Number 379 K AG 1995 demonstrates the commitment of the Supreme Court to uphold substantive justice which is justice that stands for public welfare and for the actual conditions of society. The Supreme Court shows that Islamic law in Indonesia is elastic and adaptive to social realities. This principle was later followed by many religious courts including in Decision Number 536 Pdt G 2020 PA Sel in which the judges interpreted the condition of living separately the absence of material support and the absence of offspring as concrete evidence of the loss of the purpose of marriage. Thus, this jurisprudence does not merely serve as a normative legal guideline but also reflects law that is dynamic and imbued with humanity.

Conclusion

From the analysis of the two decisions of the Religious Court namely Decision Number 5989 Pdt G 2018 PA Sbr of the Religious Court of Sumber and Decision Number 536 Pdt G 2020 PA Sel of the Religious Court of Selong it can be concluded that the two cases have the same substantive dispute which is a divorce lawsuit filed by a wife due to not having offspring and the non fulfillment of the obligation of material support by the husband however the panel of judges used different jurisprudence as the basis for their considerations. The difference in the use of jurisprudence in the two decisions does not indicate a contradiction but rather a difference in the focus of the judges legal reasoning. The judge in the Religious Court of Sumber placed emphasis on the normative and moral dimension which is the loss of inner harmony due to the absence of offspring while the judge in the Religious Court of Selong placed emphasis on the factual dimension namely concrete evidence in the form of neglect and separation of the household. Both judges equally sought to uphold substantive justice which is the enforcement of justice that takes into account public welfare and protection for the disadvantaged party.

Thus, the differences in the jurisprudence applied by the courts actually enrich the practice of religious court adjudication, demonstrating that Islamic family law in Indonesia is elastic and adaptive to social contexts. The Supreme Court jurisprudence No. 38/K/AG/1990 and No. 379/K/AG/1995 both regulate divorce on the grounds of continuous disputes and quarrels (Article 19 letter f of Government Regulation No. 9 of 1975), yet each emphasizes different aspects of the issue. Together, they embody a form of progressive law in which legal interpretation does not merely follow the textual formulation of regulations, but also upholds justice, human values, and societal relevance.

The findings of this study indicate that although childlessness is not explicitly mentioned in statutory regulations as a ground for divorce, judges in practice may interpret such circumstances as a manifestation of continuous disputes and quarrels as stipulated in Article 19 letter (f) of Government Regulation No. 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law. Judicial considerations generally focus on the harmony of the household, the fulfillment of the rights and obligations of both spouses, and the sense of justice for the party who feels aggrieved. Therefore, the study affirms that jurisprudence plays a crucial role in filling legal gaps and guiding the implementation of marriage law in Indonesia, particularly in divorce cases (*cerai gugat*) arising from the absence of offspring.

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