

THREE MAJOR FACTORS THAT CAUSE DIVORCE AND ITS SOLUTION IN ISLAM

A Case Study at Majalengka Religious Court in 2014 - 2017

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Abstrak

This study aims to determine the factors causing divorce and to obtain the representation as well as obstacles encountered in the litigation, the settlement of divorce cases in Majalengka Religious Court happened in 2014 - 2017. The type of research used in this study is qualitative research using ethnography method because it is carried out in natural condition and it is cultural. The researcher comes directly to Majalengka regency data source and divorce lawsuit so that here the researcher is the key instrument. The result of the study, based on the data taken from 2014 – 2017, reveals that the three major factors causing divorce happened in Majalengka regency are: (1) leaving the obligations (69.20%), (2) Continuous disputes (22.12%), and (3) moral problems (7.45%). Thus, it can be concluded that the most divorce case happened in Majalengka Religious Court is because of leaving the obligation and not fulfilling the rights of the spouse. In particular, divorce factors in Majalengka include (1) economics, (2) irresponsibility, (3) unharmony, (4) third party interference, (5) jealousy and (6) moral crisis. A solution proposed by Imam Nawawi Al-Bantani to overcome the divorce is by fulfilling the rights and obligations of each. The rights of a wife and obligations of a husband are: (1) getting good treatment, (2) earning a living, (3) getting dowry, and (4) getting education. Four kinds of husband's rights and wife's obligations are: (1) getting obedience, (2) getting good behavior, (3) wife is able to keep herself, and (4) getting honesty from wife.

Keywords: divorce, court, divorce by talak, divorce by petition

INTRODUCTION

Marriage has been ordained by Allah as the correct and legal way to produce children and replenish the earth. The family is the basic unit of an Islamic nation or society. Marriage in Islam is more than just a means of obtaining legal sex; it is an extremely important institution which safeguards the rights of men, women and children while satisfying the physical, emotional and intellectual needs of the family members. Marriages built on principles of love, honor; respect and mutual caring are far superior to temporary relationships with a variety of partners. Such marriages stabilize society by protecting its primary unit, the family. Islam therefore, advocates strongly marriage and discourages its dissolution (Bello, 2010: 1).

The Islamic law doesn't prohibit strictly the divorce, because doing so would be contrary to human nature and its spirit of marriage, but also not exactly liberal on the issue of divorce, this conclusion can be prepared by saying of the Prophet Muhammad who said: "by lawful things more hateful to God is divorce." So, we realize that Islamic law has an average attitude regarding the issue of divorce. (Suleimanahmedi, 2014:89).

West Java's divorce rate was among the highest in the world in the 1950s and 1960s; by the mid-1980s, it was about one fifth as high as that in the United States. Regional differentials were still quite pronounced. (Gavin W., Asari, Djuartika, 1994:02)

The divorce rate in Majalengka regency, West Java, is still relatively high. Based on data from Majalengka Regency Religious Court, in 2016 the divorce rate that had been granted by the judge reached 4,535 cases from the divorce claims which reached 4,585 cases. According to Husnan, the major cause of divorce in Majalengka Regency is due to economic problems. Another factor is because of irresponsible husband. According to him, the minimum age of women who can be married is 16 years old and at least 18 years old for men. (Asyari, 2017: 01).

Thus, the researcher considers it is necessary to reveal and analyze the factors that cause divorce happened in Majalengka. Revealing these factors is expected to reduce or slow down the increase of the divorce happened in Majalengka.

There are various kinds of issues related to divorce in Majalengka, but this study specifically aims to:

1. Find out three major factors causing divorce in Majalengka regency in 2014 - 2017.
2. Find out the specific factors of three major causes of divorce in Majalengka regency in 2014 - 2017.

Find out a solution to overcome divorce according to Nawawi al-Bantani.

RESEARCH METHOD

This research was conducted in Majalengka Religious Court located at KH. Abdul Halim Street No. 499, Tonjong, Majalengka District, Majalengka Regency, West Java 45414. This study was conducted for 3 months, from March to May 2018. The type of research was qualitative analysis research using quantitative data as secondary data.

Data collection techniques used in this study were:

1. Interview, which was in form of in-depth interview. Through in-depth interview, what is hidden in one's soul can be uncovered, whether it concerns on the past, present, and future (Bungin, 2008: 67). The interview is intended to focus more on the issues that become the subject of research interest (Pawito, 2007: 133). The interview technique was given to all informants, namely the staff of Majalengka Religious Courts Office and the plaintiff of the divorce.
2. Observation, which was applied in this research in form of direct observation that does not involve the researcher in the observed activity, but the researcher is present in the middle of the activity. The observation in qualitative research is often referred to as passive role observation (Spradley, 2007). The direct observation was conducted in a formal and informal way, to observe the various

activities and happenings happened in the judicial process at Majalengka Religious Court.

3. Recorded Document (Content Analysis). Document is a record of events that had happened. Documents can be in the form of writing, drawing, or monumental works of someone (Sugiyono, 2007: 240). This technique was used to collect data sourced from documents or archives provided in Majalengka Religious Court, namely documentation of claims for divorce, implemented judicial documentation and monograph of Majalengka Religious Court. The results of the study of the existing data were then compiled and associated with "*Uqud Lujain fi Hayaat al-Jawziyyah*" book written by an Indonesian scholar, Nawawi al-Jawi al-Bantani.

Data analysis technique used in this research was interactive analysis technique, a qualitative data analysis technique which consists of three activity flows (data reduction, data presentation, and conclusion as well as verification) that happen simultaneously (Miles and Huberman in Pawito, 2007) .

PREVIOUS RESEARCH

This research is entitled divorce factors in Majalengka and its solution according to Nawawi Al-Bantani. So, there are some things related to the research such as divorce factors in general, divorce factors in Mejalengka, divorce solutions, Majalengka Religious Court, and Uqud Lujain book.

1. Ahmad Salih, *ikrar al-Talaq Kharaj Mahkamah Diniyyah, dirasah tabliyyah 'ala fatawa majlis ulama al-Indonesi al-Rabi' 'ala masail al-Fiqhiyyah al-Mu'ashir*. This study had a title that had relation to divorce and Religious Court in Indonesia. However, the study only discussed specifically the Indonesian Ulema Council (MUI) decision on divorce law outside Religious Court in Indonesia (Sholeh, 2013: 67-70)
2. M. Kastalani, *Relasi Jender dalam Kitab kuning, analisis pemikiran Syekh Nawawi al-Bantani*. Researcher focused on the discussion and comparison between the gender concepts of feminists and the concept of Islam, in this case the object of research is the '*Uqud Lujain*' book. The researcher discussed and compared *das sain* socio-cultural development bases of the world and the Imam Nawawi *das sollen* household concept. The result of his research was that it is mandatory for husbands and wives to fulfill their obligations and to get their respective rights. Researchers found that some of the discussion is no longer relevant to the times. This discussion was still general, not specific to discuss about a particular area, as well as divorce facts that happened in the area of Majalengka. (Kastalani, 2005: 143-144).
3. Moch Sarif Hidayatullah, *Kewajiban Istri Terhadap Suami dalam Serat Centini dan Kitab 'Uqud Lujain'*. This study emphasized the ethical comparisons of the two

literatures that are related to the structure of women in the household. It did not discuss the factors or solutions of divorce. (Hidayatullah, 2013: 01)

4. Euis Nurlaelawati, *Islamic Justice in Indonesia: Family Law Reform and Legal Practice in the Religious Courts*. This paper discussed the application of Islamic family law in Indonesia. It discussed the early history of the birth of the Islamic legal system and its development in Indonesia to modern times. (Nurlaelawati, 2013: 09).
5. Mark E. Cammack and R. Michael Feener, *The Islamic Legal System In Indonesia*. This chapter described the historical evolution and current structure of Indonesia's Islamic legal structure in general. Especially in the 19th century, in the early days of the birth of the Islamic legal system in Indonesia (Cammack, Feener, 2012: 13).
6. Rita Pranawati, *Changes in Muslim Divorce Mediation in Indonesia: A Case Study of the Yogyakarta Religious Court*. This study looked more closely at the title of the paper as it related divorce to Religious Court in Indonesia. It was just the focus of Rita's research on mediation divorce. The focus of the research took place in Yogyakarta and the object of his research tended to discuss the mediation regulation changes happened in 1970 to 2008. (Pranawati, 2017: 31).

Based on the results of the above researches, it can be concluded that research on factors entitled divorce factors in Majalengka and its solution according to Nawawi Al-Bantani is worthy to be studied, because the previous researches that specifically addresses the same problems have not been found.

DISCUSSION

An Overview of Divorce in Majalengka in 2014 - 2017

The number of divorce happened in 2014 to 2017 has its own dynamics. In 2014, divorce cases in Majalengka regency reach 3891. In 2015, the number of divorce increases 4%, there are 4050 cases of divorce happened in Majalengka Religious Court. Similarly, in 2016 divorce cases increase although not really significant, around 7% of which amounted to 4314 cases of divorce. However, in 2017 the number of divorce seems to be decreased 8% from the previous year. The number of divorce in 2017 reaches 3950 cases. In general, the number of divorce has increased every year, although in the last year there is a different trend from the previous year.

Viewed from the type of divorce, in 2014 the number of divorce by talak recorded is around 1323 cases, while the divorce by petition reaches 2568 cases. In 2015, divorce by talak increases 10% around 1453 cases, or increases 130 cases, while divorce by petition increases 1% or 2597 cases, or increases 29 cases. In 2016, divorce by talak cases is amounted to 1672, an increase of 15% or an increase of 219 cases. Divorce by petition in 2016 is amounted to 2642 cases, increases 2% or increases 45 cases. In 2017, divorce by talak shows a drastic reduction of 21% or 1315 cases, or reduces 357 cases. Similarly, divorce by petition, also shows a decline but not significant only 0.3% or reduces 7 cases. The total divorce by talak in 2014 - 2017 is amounted to 5763 while divorce by petition

reaches 10442 cases. Thus, it can be concluded that in general 64% divorce by talak dominates divorce in Majalengka regency compared to divorce by talak which only reaches 36%.

Factors Causing Divorce In 2014 - 2017

The first leading cause of divorce in 2014 is the economic factors that fall into the article of leaving the obligations around 2548 cases or 65.74% of the total cases of divorce. The second rank of the cause of the divorce is third-party interference at about 11.30%. The third cause is the absence of harmony in the family which reaches 9.44% as part of a continuing dispute article. Then, there is no sense of responsibility as much as 9%. The other causes include moral crisis at 3.25% and jealousy at 0.9% which are included in the article of moral decadence. Lastly, the forced marriage is 0.18%. From the explanation, it can be concluded that divorce in 2014 is dominated by the factor of leaving obligations and continuous disputes.

In 2015, the first rank of divorce is caused by leaving the obligations factor, and the economic problems. Of all divorces happened in this year, 55.66% of them are caused by economic problems, although the number decreases 10.08% from the year 2014. The second factor is no responsibility factor at about 17.87%, there is an increase of 6.57% from the previous year. The third and fourth ranks are third party interference around 10.49% and 11.24% for no harmony in the family. The fifth and sixth factors are caused by moral problems, such as moral crisis at 1.78%, decreases 1.47% and jealousy increases 1.15% to 2.05%. In addition, there are other factors such as physical cruelty at 0.37%, biological defects, forced marriage at 0.17%, sentenced at 0.10%, and the rest under age marriage at 0.05%. Thus, the first rank is still caused by leaving the obligations factor concerning economic problems, while the second factor is changed by the increasing factor of no responsibility and the decrease of third party interference factor.

Similar condition happens in 2016, the economic factor becomes the main factor of divorce in Majalengka despite it declines 10.02% from the previous year. 45.64% of the total divorces are caused by economic factors. The second factor at 13.43% is caused by the absence of responsibility, which also decreases 4.44%. The third and fourth ranks are continuous disputes between third party interference at 12.91% and the absence of family harmony at 12.34%. It is just that the cruelty factor experiences an increase in both physical cruelty that increases 0.8% to 1.17% or any mental cruelty which is not found in the previous year to 0.85% of the total case. Followed by 0.68% punishable factor, 0.32% morality, biological defect at 0.25%, forced marriage at 0.23% and unhealthy polygamy at 0.13%. The data show that there is no change in the first, second and third factors of divorce in Majalengka in 2016. It is just found a decline in all three factors. However, some improvements are found, some aspects which are previously in the last ranks are not found again.

A slightly different condition is found in 2017. In general, the first factor causing divorce this year remains due to economic factors, but this factor gradually declines to 43.10% of the total. While the factor of no responsibility experiences fluctuating conditions, increases up to 28.76%. Similarly, if the previous third-party interference becomes the third factor, this year the third position is the unfavorable factor at 13.55%, which is then continued by the third party interference at 6.36%. The next position is caused by moral factors including 3.85% jealousy and moral crisis at 2.97%. In 2017, some cases related to unhealthy polygamy factor are found at 0.88%, it is not found in

the previous years. Other divorces are caused by physical cruelty at 0.32%, sentenced at 0.02% and biological defects at 0.05%.

From the above data it is seen that the factors causing divorce claims happened in Majalengka Religious Court within the period of four years from 2014 - 2017 are as follows:

1. Leaving the Obligations

Right is something got by someone from others, while obligation is something given by someone to others. Rights and obligations of husband and wife are set forth in the marriage law no.1 year 1974 in articles 30 to 34. [R.subekti and R.Tjitosudibyo, Book of the civil law with the Supplement to the Basic Agrarian Law and the Marriage Law, 18th edition, (Jakarta: Pradnya Paramita, 1984), 547-548].

In general, a husband is responsible for upholding a household that becomes the basic joint of the household arrangement. (Marriage Law Section 30, 34). But in society, a wife and husband have the same degree and position in relation to the members of the society and the legal action perspective (Rasjidi 1991: 125-126). Although in the scope of the household a husband is domiciled as the leader of household and wife as a housewife as it is stated in Article 31. (Subekti, Tjitosudibyo, 1984: 547-548).

Among the attempts to assert the households that the husband must follow according to Lili Rasjidi is the fulfillment of family board needs. A husband is responsible for providing shelter for his family as set forth in the Marriage Law article 32: a. Husband and wife must have the good place of residence. b. The residence house referred to in paragraph (1) of this article shall be determined by a joint husband and wife. The residence in paragraph (1) in the sense of a place of residence or home that can be occupied by a husband and wife as well as their children. This verse also shows that a husband must be able to maintain togetherness in order to create harmony in the family, even from problems associated with the procurement of shelter.

The attitude that must be shown by a husband to his wife is more firmly explained in the law of marriage article 33 which states that the husband and wife must love each other, respect, faithful to give help of inner birth to each other. Article 34 adds that the husband is obliged to protect his wife and provide all the necessities of married life with his ability. If those things are not fulfilled by the husband then the wife has the right to claim a lawsuit to the court.

More specifically, the article 34 verse (1) affirms that the husband is obliged to protect his wife and family, that is to provide a sense of security and comfort, and the wife must take care of household affairs. These two indicators can be enough reason to defend or abort a marriage bond. In the Compilation of Islamic Law (*KHI*) chapter VII section 77 to chapter 84. Section 77 states that what is meant by upholding the family is (1) creating a harmonious family life, loving and full of grace that will be the foundation in the life of society. (2) maintain, grow a sense of love, respect, loyalty and help each other. (3) keep and nurture offspring from all aspects together, whether physical, spiritual, intelligent and religious education. (4) maintain personal and family honor together. From the above explanation, it can be understood that upholding the family is essentially a joint responsibility between husband and wife, not only charged to the husband as the head of the family.

Not much different, Article 80 of *KHI* also mentions some rights and obligations of a husband and wife, including: (1) Husband is a guide for his wife and household,

except on matters of important household affairs that must be decided by a husband and wife together. Husbands are obliged to protect their wives and give them something of a household life in accordance with their abilities. (2) The husband is obliged to provide useful education and learning opportunities and useful knowledge for religion, tribe and nation. (3) In accordance with the income the husband must provide: (a) livelihood, clothes (*kiswah*) and residence for the wife. (b) Housing expenses, maintenance and medical expenses for wives and children. (c) Child education expenses. (3) The obligation of the husband to his wife as such applies after the presence of his wife. (4). The wife can free her husband from duty to her. (5) The husband's obligation as referred to in paragraphs fall if the wife is disobedient (*nusyuz*). The above description shows that a husband or wife has a specialization of their respective obligations in a household, in addition to the rights and obligations together. The rights and obligations that can be lost and erased with two things, either with the willingness of the wife, or with the disobedience of a wife.

Tamkin mentioned in article 80 shall be explained in Article 81 of *KHI*, namely the availability of a place for the wife to live. It refers to: (1) providing place for a wife to live is a husband's obligation for a wife or wife who is being divorced by talak or petition but still in the '*Iddah* period. (2) The place here is a proper residence for the wife during the bond or in '*iddah* period by talak or death. (3) The residence should be able to provide security and comfort for the family, either wife or child. (4) Residence also serves as a place to store wealth, as a place to manage and organize household appliances. (5) Husband shall furnish residence in accordance with their abilities and shall be adapted to the circumstances of their living environment, whether in the form of household appliances or other supporting facilities. It is an obligation for a husband to provide a decent, comfortable, secure, and complete residence with all its supporting facilities to realize a harmonious family, loving and full of grace.

Not only residence in article 82 of *KHI*, it is also mentioned that among the obligations of a husband to wife is to provide the cost of living in a balanced and fair in accordance with their respective portions except if there is a marriage agreement especially having more than one wife. Likewise, uniting wives in one place can also be done if there is willingness and sincerity of wives.

A wife has also other obligations that must be fulfilled and become his husband's rights. Article 83 - 84 of *KHI* explains that among the obligations of wife to husband are: (1) devoted to birth and mind within the boundaries justified in Islamic law. (2) The wife has also an obligation to organize and manage the daily household needs well.

If the wife does not want to carry out what has become her obligation both law and religion then she can be categorized disobedient as mentioned in Article 83 paragraph (1) unless it has a valid reason. The existence of a disobedient wife can be a strong reason for the fall of a husband's responsibility to his wife even though it does not apply to his son. The existence of disobedient wife has the impact of law on the husband, as well as its absence. A husband is again required to give the wife rights when the disobedient condition has been over. However, the stipulation of disobedience of a wife cannot be judged as we want, it must be based on the proposition and valid evidence.

Disobedience condition cannot be established on the wife who carries out the household obligations to the husband both in the birth and inner and performs every family needs as well as possible. Certainly, on the boundaries that are taught in law and

religion. In the same way, a husband will be spared from the wife's divorce if he carries out his obligations as a husband, who protects, provides for, maintains the upholding of the household's joints.

There are three factors that lead to divorce resulted from leaving obligations including unhealthy polygamy, economic factors and the absence of responsibility. According to Sopandi, among the forms of leaving the obligation cases happened in Majalengka is the behavior of husbands who do polygamy, marry to other women but not fair. The husband resides in the home of the second wife, not returning for six months or more, allowing the wife to stay with her parents by not providing enough for the household needs or not even providing a living at all while the wife has already had children who need to get a living and pay attention on education. (Sopandi, 2018)

Of the three factors that fall into the category of leaving the obligation that lead to divorce in Majalengka, there are two kinds that become the highest factors, first is due to economic factors and the second is irresponsibility. Economic factor is the highest rank in divorce in Majalengka regency as mentioned above, but from the data available in 2014 - 2017, there is a downward trend in the number of cases. In 2014, there are 65.74% of cases related to economic problems. In 2015, there is a 10% decrease to 55.66% of cases. In 2016, the number of related cases falls back 10%, accounting for 45.64% of cases concerning the economy. Similarly in 2017, the number of cases falls back 2.54% but not significant i.e. 43.10% of the total cases. Thus, it can be concluded that economic factors will gradually diminish and run out, along with improving the economic quality of the Majalengka community.

The factor of the absence of responsibility is generally caused by the absence of a trustful attitude shown by husband or wife. Generally associated with family financial management, because this factor happens in families who are financially adequate. In contrast to economic factors, from the existing data there is a trend of increasing the number of divorces due to irresponsibility. Data in 2014 indicates that divorce due to irresponsibility amounts to 9% of the total divorce in that year. In 2015, the number of divorce due to irresponsibility jumps to 38.87% around 17.87%. However, in the following year, in 2016 there is a decrease in the number of divorces due to irresponsibility 4.44% i.e. 13.43% of the total divorce. In the last year, in 2017 divorce increases sharply as much as 12.42% that is as much as 28.47%. From the above explanation, it can be concluded that irresponsible factors are experiencing dynamics, but tend to lead to an increase in the quantity of divorce for years to come.

2. Continuous Disputes

Continuous disputes may serve as reason and background for divorce as applied in Government Regulation No. 9 year 1975 concerning the governance of Marriage Law No. 1 year 1974, in article 19 letter (f) it is explained that continuous disputes / fights serve as a reason for divorce. Divorce can be realized if there can be no solution or a way out to be able to return to live in harmony in the household.

There are various causes of continuous disputes. Among the causes of household disputes is the lack of emotional intelligence in understanding their partner's feelings. (Naqiyah, 2007, 3) Every couple in a marriage is demanded to be able to understand each other, so that it will bear peace, happiness, affection, and warmth in the household.

Even the nature of marriage is a process of integration between two different personal backgrounds, natures, characters, physics, thinking and emotional styles. It must

be realized by everyone who is married and will marry. So it is a fairness if in the process of integration, there are small clashes that sometimes reduce harmony in the family. But if each is not aware and able to manage the process well then the small clashes will grow and become bigger so it is difficult to be reunited until it finally leads to divorce (Maria, 199: 39).

Difference is a normal thing in a family, many factors that can cause a husband different from the wife. One of the factors is background factor. Gunarsih (1993: 76) argues that differences can occur in the midst of similarity, a spouse who comes from the same region with the same culture will still find differences that can be caused by differences in educational background of each partner, it is likewise other backgrounds such as religious background.

The process of adaptation is a necessity in a household. Every family, husband and wife must face the process of adaptation and conformity together. Things like this have become a tradition and have been going on since the marriage process is there and found. The poor adaptation process between husband and wife will have an impact on the rift of households ending in divorce. (Fahmi, 1997, II).

Armansyah Matondang concludes that aging is the most important factor and has a big share in maintaining the integrity of the household, it becomes a foundation of a household building so it can create a peaceful and eternal survival together. Conversely, weak husband and wife awareness to understand and comprehend each other can lead to divorce.

Love-afflicted households can be eroded by clashes, continuous disputes. These conditions will nourish the growth of hatred and bad suspects towards the couple, as well as mutual trust between one and other that will gradually disappear. Then, empathy, mutual understanding and forgiveness are the things that are needed in maintaining the integrity of the household.

According to Sopandi, among divorce forms that affect the Majalengka community caused by continuous disputes is a dispute between husband and wife about the education system of children, the husband believes that the attitude of pampering crying child is less educational for children, while the wife believes that letting crying children is not commendable act and can hurt the child.

A husband and wife dispute may also be in the form of omission, or disconnection of communication one and other. The husband is reluctant to talk to his wife because he feels disappointed, so the wife does the same attitude as a response to the husband's attitude that close productive communication with the wife.

Disputes can also be triggered by third-party interference such as boyfriends, second wife, parents and family. Just like parental attitudes that are too protective and aggressive in taking care of the child's family. Husbands, wives or daughters feel restrained and disturbed by the presence of the intervention of parents or in-laws in building household utensils. The dispute continues and ends at the green table.

Of the three kinds of divorce due to continuous disputes or continuing disputes in Majalengka community, there are two most prominent of its quantity, such as; (1) there is no harmony in the household, and (2) third party interference. Among these two factors, counted from 2014 - 2017, the first one is more dominant, but the difference is not significant.

The unharmonious factor is indeed the highest within the scope of continuous dispute factor. However, existing data suggest an increasing trend due to family unharmy. In 2014, 9.44% divorce is due to the absence of harmony. The next year, in 2015 divorce increases 8% i.e. 11.24%. The increase also occurs in 2016, but the increase is not so significant that is 1.1% i.e. 13.24%. Similarly in 2017, an increase of 1.21% from the previous year which is about 13.55%. The above data shows that the increase in annual divorce rates due to unharmony shows an increase although not significant. It is possible in the next year that increase will continue to occur.

The second factor is the third party interference factor. Disturbance of the party has its own dynamics. From the data collected annually, it is revealed that this factor has an increase and decrease. In 2014, the number of divorces due to it is about 11.30% of the total divorce that exists that year. The next year, in 2015 there is a decline to 10.49%, decreases 0.81%. In 2016, it increases 12.01% i.e. 12.91%. In the last year, in 2017, there is a rather sharp decline to be 6.55%. The above data shows that there is a dynamics in divorce due to third party interference, but the general trend of this factor tends to decline every year.

3. Morals

Moral is etymologically derived from the Latin. *Mos* is a singular form of the word *mores* that means having a sense of procedure or custom. Indonesian Dictionary (1989: 592), defines moral as morality, character or moral. In terminology, experts have different definitions in describing the nature of morals. Widjaja (1985) argues that moral is the doctrine of good and bad concerning human actions or behavior. Al-Ghazali (1994: 31) better understands that the moral is a synonym of attitude that is temperament, character, strong and persistent nature in the human soul whose existence becomes the source of more certain actions that appear lightly and spontaneously, without going through the planning process. Bambang Daroeso (1986; 22) argues that the moral essence includes three definitions, namely (1) Moral is a set of ideas about the behavior of life with certain characteristics that hold a group of people in a particular environment. (2) Moral is the doctrine of the behavior of life based on a particular view or religion. (3) Moral is the behavior of human life, which stands on the awareness of the necessity to achieve a good, in accordance with the norms prevailing in the community. In general, research can conclude that moral substance is morality, spontaneous behavior and behavior of human life that determines goodness according to the norm of decency and guidance of religion.

Law and morality have relationships like spirits and bodies. One of them becomes meaningless if one ignores the other. Islam makes law as a tool to create the obedience of a servant to the opposite. This obedience will bear a moral servant or being moral person to his neighbor, his environment and also to his God. Islam as the religion of God's mercy for all the universe never separates between the two. Since the law without morals is tyranny, the lawless morality is anarchy and utopia that leads to the animal-fair. (Syarifuddin, 2014: 36).

Divorce can happen because of a moral crisis. The moral crisis is a crisis affecting morality and social ethics together. The moral crisis can be characterized by two phenomena namely tyranny and alienation. Tyranny is a term that describes the deterioration in a person's social behavior, which causes the moral crisis. The alienation is a state where one feels isolated in one group or its existence is not recognized by the group, especially in society. Among the real forms of a moral crisis are social diseases and

deviations such as adultery, infidelity, gambling and so on. A person's low level of education in both quantity and quality can lead to a moral crisis. (Ni'mah, 2014: 20).

Moral issues categorized on polygamy are not healthy. This means that polygamy happens without a procedure determined by law, i.e. without the consent of the previous wife (wives) reinforced by the establishment of the Religious Courts. Then polygamy bears the moral crisis, but without any details of the clear limits of what is meant by moral crisis, both from the aspect of religion and belief. It should be clarified and affirmed the limits of moral crisis between divorced couples. Then the jealousy reason is used as the basis for divorce, it is impossible between couples who do not have jealousy. (Gofar, 2012: 01-02).

Sopandi mentions examples of divorce cases that happens in Majalengka court caused by moral factors. Some of them are caused by violating religious norms behavior, morals and criminal actions such as gambling, drinking and adultery. Nevertheless, this factor is generally not independent, related to other factors such as endless dispute, irresponsibility and the presence of a third person.

This moral factor is divided into three kinds including jealousy, moral crisis, and unhealthy polygamy. Divorce caused by jealousy in 2014 reaches 0.9%. In 2015, it reaches 2.05%. In 2016, increases drastically 10% to a total 12% of the total divorce. While in 2017, the number of divorce due to jealousy decreases drastically 9% to a total 3.85% but still it is higher than in 2015. Thus, overall it shows an increase from year to year.

Divorce due to moral crisis in 2014 reaches 3.25%, while in 2015, there is a decrease about 2% become 1.78%. The decline occurred in 2016, the number of divorces due to moral crisis is 0.32% of the total divorce in that year, but in 2017, there is a divorce spike to 2.97%. The data shows that in general there is a decrease in the quantity of divorce due to the moral crisis, only the increase at the end of the year shows a trend change from decrease to increase, so it will be a possibility in the coming year the number will increase.

Islamic Solutions in Overcoming the Potential of Divorce

Imam Nawawi Al-Bantani in '*Uqud al-lujain fi hayat al-jawziyyah*' book does not directly mention the solution to overcome divorce, but in the book it is described the rights and obligations of a husband and wife. In addition to support the fulfillment of the rights and obligations of husband and wife, Nawawi Al-Bantani explains some codes of ethics that must be on guard by husband or wife.

1. Wife's Rights and Obligations

There are four rights of a wife in which a husband is obliged to fulfill and a husband's right obliged to a wife to be fulfilled. Four rights of wife are:

a. Getting good treatment.

Allah SWT says in the Qur'an surah An-Nisa verse 19; "And associate with them (woman / wife) properly". In surah Al-Baqarah verse 288 Allah says: "And they have a right that is equal to the obligation in a good way, But men (husbands) have one advantage over them."

According to Nawawi, what is meant by proper in the verses of Al-Qur'an surah An-Nisa above is wise. A husband must be able to be wise to a good wife related to time management for his wife, as well as with regard to the provision of

basic necessities of life and portions. Wise also means being able to manage good communication with wife, able to conceptualize and sort out every word issued by husband to keep harmony of the household.

The equal in the surah al-Baqarah above means that both men and women each has the right to get and the obligation to be given. Equal in this case is not the same, as the feminist echoes. Because gender differences are sacred, hence denying the difference in function and role in total is something that is fictitious.

Makruf literally means good. But the indicator of goodness is good according to the standard of religion, not according to the standard of human reason or according to lust. Goodness is associated with direct social interactions such as manners and courtesy, or indirect thing such as maintaining appearances to avoid slander. (Al-Bantani, 5-6)

b. Earning a living

Giving a living is one of the gender potential that God gives to men. Even indicators of obedience to husbands inherit with the basic necessities (*nafkah*) and dowries given to the wife. The existence of basic necessities and dowry in Islam is a measure of the right of husband domination over wife. If the husband gives a wife then the wife is obliged to obey, on the contrary the wife does not have the burden of obedience to the husband who does not give her the basic necessities. Thus, the indicator of the enforceability of rights and obligations between husband and wife in a household depends on the provision of basic necessities.

Nawawi conveys that among the basic necessities that are mandatory to be given by a husband to his wife is clothing and food. However, another thing that the wife's right to give as a basic necessity is the right to have a place to take shelter (home). As mentioned above that among the definitions of *makruf* is doing things that can hurt the wife, including in it the beauty appearance. If the appearance of a tertiary be a problem that must be considered to keep the heart and sincerity of the couple, primary needs such as residence are more than that. Apart from those all, basic necessity is a thing that has a high urgency, so it must be delivered at this crucial moment, Haji Wada which is the final stage of propagation of Rasul SAW before he died. (Al-Bantani, 18-20).

c. Getting Dowry and Other Gifts

Nawawi does not explain in detail about dowry/brideprice in '*Uqud Lujain*' book as it is described in other books such as "*Sulamu Al-Taufiq*". Imam Nawawi explains it is required to the husband to support his wife, and give the master.

In interpreting this opinion, Abdullah al-Tarimi (2013: 157) emphasizes that asking for halal and avoiding the prohibition of food, drink and deed is a duty to every Muslim. Offer and acceptance (*Ijab Qobul*) is a distinguishing distinction between Islamic transactions and non-Islamic transactions. Anything that supports the achievement of a legitimate agreement, such as the giving of a dowry by the husband to the wife must be fulfilled.

Obligation of giving dowry is mentioned in surah An-Nisa verses 9, 14, 21 and also in surah Al-Baqarah verse 237. Dowry in these verses uses various terms such as *al-syadduq*, *nihlah*, *faridlah*, *adjr*. The scholars agree with the duty to pay the

dowry as listed in some understanding of the dowry revealed by the scholars of *madhhab fiqh*.

- 1) According to the school of Imam Malik / Maliki, dowry is defined as something that makes halal wife to have intercourse with.
- 2) According to the school of Imam Sya'ifi / Syafi'I, dowry is interpreted as something that must be paid due covenant of marriage or coitus.
- 3) According to the school of Hanafi, dowry is the right of the wife in the form of a number of property that is given due to the marriage agreement or due to the actual intercourse. (Aziz, 2000: 1042).

According to the Maliki cleric, the existence of the dowry becomes the determinant of whether or not a marriage carries a halal. In the Hanafi cleric scholarship, it can be understood that the halal intercourse is as the effect of the legitimacy of a marriage contract set by the dowry, it becomes a legitimate pole of a marriage, if it is lost, halal and legitimate marriage ceremony are also lost. Similarly, Hanafi's opinion mentions that dowry is the right of wife which becomes obligation of a husband to do so that her rights as a husband can be given by the wife.

d. Getting education.

Nawawi argues that a husband is the leader of his family. Among the obligations of a husband as a leader is to ensure the fulfillment of his partner's religious education. A husband is not only directed as a facilitator of the implementation of learning and teaching the wife, by preparing the education fund and then send it to the religious education institution. Moreover, a husband is directed to be directly involved in providing knowledge and teachers who is obeyed and imitated.

The husband is directed at one goal to maintain the comfort and safety of the household in the world and hereafter. Husband acts as a scholar as well as a policeman to avoid his wife from all disobedient behavior. Husband is expected to have enough religious ability to be able to give direction to his wife. Even if the husband does not have enough religious knowledge to deal with family problems then the husband must be a facilitator between his wife and the scholars who are considered more competent, so the husband remains to be a mentor for his wife except when they face a condition that requires the wife to hear directly from the scholars.

Wives have rights to get religious teachings starting from how to cleanse of impurities as supporters of the legitimacy of worship until the practice and consequence of starting prayer, fasting, zakat until hajj. In addition to cases that go into *Mahdzah* worship, the wives have also rights to get the teaching from husbands related *Ghaira Mahdzah* issues including attitude, norms, morals and ethics. Because the purpose of human life cannot be separated from two things namely the implementation of worship and moral improvement. (Al-Bantani, 390).

A wife has rights to get the proper teaching method, in accordance with the provisions of religion even in the state of disobedience. A disobedient wife remains to have rights to get the protection and security of both verbal and physical violence. If you have to use physical sanctions, there should be a stage that must be passed by the husband. First, counseling in a good way. Second, alienating from wife by

constantly counseling and being in one house. Third, giving a light blow providing that it doesn't give marks on the body, and not hit the face.

From the discussion of the education, it can be concluded that the husband plays an important role in religious education of the wife. It becomes a fairness if the scholars are not so concerned about the age of education of the wife, with the paradigm that the quality and quantity of the wife's education can be fulfilled by the husband and become his obligation as wife's right. The problem arises when the husband is unable to fulfill his role as an educator or even not aware of the role that must be done, due to weak knowledge and knowledge of the husband of Islamic religious education.

Nusyuz is a deviant behavior of a wife against a husband, disobeying God and what his husband rules which is in line with what God commands including the fulfilling husband's rights and the obligations of wife in the household.

Mahdzah worship is a rigid technical worship set by Allah SWT.

Ghairo Mahdzah worship is not rigid worship that its technique has not been set by Allah SWT, generally associated with the social relationship or the matters of human socio-economic relations.

2. Husband's Rights to Wife

There are four husband's rights to be fulfilled by the wife as an obligation, they are as follows:

a. Getting obedience beyond disobedience

The obedience of a wife is a husband's right. Nawawi explains some arguments about the urgency of a wife's obedience to her husband. Being obedient to a husband can make a wife to be a high-rank wife and give her the right to enter heaven from one of the available doors in heaven granted by God.

The obedience of a wife without accompanied by a husband's willing will not bring a wife to a high degree in Allah's sight. But if that obedience bears willingness from husband to his wife who devotes himself completely, then she will be guaranteed to get heaven by Allah SWT.

b. Getting good treatment

A wife is directed to treat her husband and serve him well. According to Nawawi, a wife for her husband is like a servant, her whole life is for husband. Anything that is considered fun and can bring happiness to the husband from good treatment is highly recommended such as picking up arrivals, showing love and affection, glorifying his family, being grateful for gifts, and grateful for every effort made to build a happy home.

Serving and treating the husband well at home is a great behavior, its position and reward is equal with the jihad of a man on the battlefield. Among its forms is to maintain the mood of the husband by giving a good facial expression, so that the husband will feel the peace, comfort, and tranquility in the house. Showing expressions and good looks can bear reward and goodness. On the contrary, showing a bad expression bears the ugliness and wrath of God.

Good attitude is essentially a form of expression of gratitude for what is given by husband to wife. Being grateful to the husband and husband's effort in maintaining the integrity of the household is something that a wife must do. Because the gratitude of a wife to her husband will not only have a horizontal impact on the family but also the transcendental relationship between a wife and the Creator.

Washing and tidying up husband's clothing will bear the goodness in the world and hereafter. Spending money for household needs from clothing, board and food needs. Clothes needed are from sarong to scarf, board needed are from chairs to ceiling, food needed are from vegetables to snack. All bears fruit of worship.

Provide the best education, so that cognitive and emotional children grow and develop well, especially the education of girls who require optimal and consistent management. Girls are a gift that can bring blessing to the family. There are multiples of rewards, and multilevel rewards in it.

c. Wife must be able to keep herself

Keeping herself here is guarding of vices such as not covering genitals, adultery, and behaviors that have the potential to burden and hurt the husband, such as excessive demand. Similarly, keeping the appearance to look attractive by the husband. So, if a husband sees his wife looking at him, he can please him. The wife is required to keep herself from being touched by a man other than her husband, or to avoid behaviors that can destroy the unity of the family by the interference of another man arising from her inability to guard her private parts.

Allah commands directly to every woman of the Muslims, especially those who are married and orders indirectly to husbands to be able to ensure they obey what Allah has commanded. This is due to the existence of the Prophet (s), which is based on the role of the Muslim community, so that what is commanded by the Prophet as a husband also applies to every husband of Muslims. Moreover, husbands in Islamic households serve as leaders who are responsible for what they lead and become the husband's right to be obeyed by the wife.

God has lowered the clothing to the man and woman of piety as a symbol of glory and piety. But when the grace is not grateful for ignoring what God has given from the cover of the nakedness, God will tear the glory and purity that is implanted as he covers the nakedness of a noble woman, with humiliation in the world and in the hereafter of his behavior which ignores His command. (Faidhul Qadir, tt, 3: 189)

In addition to keeping yourself to avoid the slander caused by the opening of genitals of a wife. Keeping the wife's view of the tendency toward other men is also what is ordered in Islam. *Sigat Tarhib*, a threat that requires sanctions when executing something or breaking a rule then the law of the behavior becomes forbidden (*haram*) and leaving it becomes an obligation.

The other wife's obligation is to keep the good speech or deed which potentially burdens the husband in sustaining the life of the household. Wives are instructed to as much as possible lighten the burden of the husband either directly or indirectly. Helping directly can contribute energy or mind to ease the burden of the husband, or indirectly keeping themselves from demanding things that can burden and incriminate husband.

Fostering a household requires cooperation between husband and wife. Among the wife's role is to be the husband's back when it is difficult. Wife is required to be able to help her life friend both morally and materially, directly or indirectly. Direct assistances are such as energy, ideas, and funds. Indirect assistances are like giving motivation, and not burdening the husband with demands that are considered beyond the limits of existing abilities and needs.

In order that cooperation can be established, then the family needs a good and effective communication. Maintaining courtesy in speaking is a way for communication to go perfectly. Improper methods of expressing an opinion may inhibit the inquiry. Then, a wife must be observant in arranging every sentence that is spoken from the selection of words and sound altitude.

Taking care of herself also means keeping the property mandated by the husband. The wife is required to guard every form of misappropriation of the property mandated by the leader of the household. The property should be spent on the husband's consent, whether for daily or religious purposes.

d. Getting Honesty from Wife.

Honesty in this case is transparent to every form of financing and expenditure as well as honesty of the existence of menstruation so that husband can fulfill his biological abilities to his wife. Wife is demanded to be transparent in household financial management. So the husband knows where the family's financial resources come from and for what the treasure is spent, including the case of *maaliyyah* worship like infak, tithe and alms.

Taking a husband's treasure without permission is a behavior that exceeds a great sin, because the act of stealing belongs to one of the major sins when it comes to a certain amount, then she is obliged to get heavy physical sanctions, just like adultery.

Stealing is a great sin but acting shirk with magic and shamans is the greatest sin that God will not forgive unless it is truly repentant. Using this analogy as if the Messenger of Allah wants to convey that the sin of a wife who takes the husband's property cannot be forgiven by God and can undo every practice of worship of the wife during his life until he truly repents.

Transparency is also imposed on the livelihood of the soul. Wife should be open in the determination of menstrual and childbirth, so that the husband's rights can be done without any delay because the wife lies.

CONCLUSION

After discussing the above discussion, the researcher draws some conclusions as follows:

1. The three main factors causing divorce in 2014 - 2017 in Majalengka regency are (1) leaving the obligations (2) continuous disputes, and (3) morals.
2. In specific, divorce factors in Majalengka include (1) economics, (2) irresponsibility, (3) unharmony, (4) third party interference, (5) jealousy and (6) moral crisis.
3. A solution proposed by Imam Nawawi Al-Bantani in overcoming divorce is by fulfilling the rights and obligations of each. The rights of a wife and obligation of

a husband are: (1) getting good treatment, (2) earning a living, (3) getting dowry, and (4) getting education. Four kinds of husband's rights and obligations of a wife are: (1) getting obedience, (2) getting good behavior, (3) wife able to keep herself, (4) getting honesty from wife.

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