

Justice and Legal Certainty in the Annulment of Divorce Decisions: The Perspective of Principles Complicating Divorce

Tasya Putri Latifah

putrilatifahtasya@gmail.com

UIN Sunan Kalijaga Yogyakarta

Abstract

The annulment of a divorce decision highlights a divergence in judicial perspectives regarding the granting of divorce. One of the primary considerations is that the divorce petition was deemed premature, as it did not yet fulfill the requirements for a divorce to be granted. In annulling the divorce, the judges sought to consider all relevant aspects, including legal justice and the principle of legal certainty. This consideration forms the basis of the present study, which aims to analyze how the judges' legal reasoning reflects these principles in rendering a decision that annulled the divorce. This study employs a qualitative, normative juridical approach. The primary data sources are the case files Number 1/Pdt.G/2025/PTA.Yk and Number 422/Pdt.G/2024/PA.Wt, while supplementary sources included books, journal articles, and statutory regulations such as the Marriage Law, the Compilation of Islamic Law (KHI), and SEMA Number 3 of 2023. Data collection was conducted through documentation, and analysis was performed using a descriptive approach based on inductive reasoning. The research revealed that the appellate panel of judges annulled the previous divorce decision based on consideration of justice and legal certainty. From the perspective of legal justice, the judges determined that the divorce petition was premature, as it did not meet the 6 months separation requirement, and there was no evidence of domestic violence during the marriage; therefore, the divorce could not be granted. From the perspective of legal certainty, the panel referred to the principle of complicating divorce proceedings, as stipulated in SEMA Number 3 of 2023. Consequently, the divorce was annulled for failing to meet the substantive requirements of the law. Based on these considerations of justice and legal certainty, the panel of judges annulled the divorce, thereby restoring legal certainty regarding the marital status of the husband and wife.

Keyword: Marriage, Annulment of Divorce, Principle of Complicating Divorce

Abstrak

Pembatalan terhadap putusan perceraian menunjukkan adanya perbedaan pandangan hakim dalam mengabulkan perceraian. Salah satu pertimbangan utamanya adalah gugatan perceraian yang masih prematur karena belum memenuhi syarat perceraian yang dapat dikabulkan. Hakim dalam membatalkan putusan perceraian, berusaha untuk mempertimbangkan segala aspek termasuk keadilan dan kepastian hukum. Hal ini yang membawa arah

penelitian dilakukan dengan tujuan untuk menganalisis keadilan dan kepastian hukum dalam pertimbangan hukum hakim sehingga menghasilkan putusan yang membatalkan perceraian tersebut. Penelitian pustaka ini bersifat kualitatif dengan pendekatan yuridis normatif. Sumber data utama berupa berkas perkara Nomor 1/Pdt.G/2025/PTA.Yk dan Nomor 422/Pdt.G/2024/PA.Wt, sedangkan sumber data tambahan berupa buku, artikel jurnal, dan peraturan perundang-undangan seperti Undang-Undang Perkawinan, Kompilasi Hukum Islam (KHI), dan SEMA Nomor 3 Tahun 2023. Adapun metode pengumpulan data yakni dengan dokumentasi dan metode analisis data dengan metode analisis deskriptif dengan cara berfikir induktif. Penelitian ini menghasilkan suatu pembahasan bahwasannya majelis hakim dalam pertimbangan hukumnya membatalkan putusan perceraian sebelumnya dengan pertimbangan pada keadilan dan kepastian hukum. Menimbang pada aspek keadilan hukum, majelis hakim mempertimbangkan bahwa gugatan perceraian dianggap masih prematur, yakni tidak memenuhi unsur pisah tempat tinggal selama 6 bulan serta tidak adanya tindakan KDRT selama masa perkawinan sehingga perceraian tidak dapat dikabulkan. Menimbang pada aspek kepastian hukum, majelis hakim mempertimbangkan prinsip-prinsip yang memperumit proses perceraian sebagaimana diatur dalam SEMA Nomor 3 Tahun 2023 sehingga perceraian tersebut dibatalkan karena tidak memenuhi syarat perceraian karena percekcoan. Berdasarkan pertimbangan keadilan dan kepastian hukum inilah majelis hakim memutuskan untuk membatalkan perceraian dan memberikan kepastian hukum terhadap status perkawinan suami istri tersebut.

Kata Kunci: Perkawinan, Pembatalan Perceraian, Prinsip Memperumit Proses Perceraian

A. Introduction

Divorce is the legal termination of marital ties through a court decision at the request of either the husband or the wife.¹ Divorce cases are frequently encountered in Indonesia due to the country's high divorce rate. In 2020, the number of divorce cases reached 291.677², and in the following year, 2021, it nearly doubled to 447.743 cases.³ This upward trend continued into 2022, reaching a peak of 448.126 cases.⁴ However, in 2024, the divorce rate decreased to 399.921 cases.⁵ These figures indicate that, despite fluctuations, the divorce rate in Indonesia remains relatively high.

¹ Subekti, *Pokok-Pokok Hukum Perdata* (Jakarta: PT. Intermasa, 1985), hlm. 42.

² Badan Pusat Statistik Indonesia, "Jumlah Perceraian menurut Provinsi dan Faktor pada tahun 2020," *Badan Pusat Statistik*, 2021.

³ Badan Pusat Statistik Indonesia, "Jumlah Perceraian menurut Provinsi dan Faktor pada tahun 2021," *Badan Pusat Statistik*, 2022.

⁴ Badan Pusat Statistik Indonesia, "Jumlah Perceraian Menurut Provinsi dan Faktor, 2022," 2023.

⁵ Badan Pusat Statistik Indonesia, "Jumlah Perceraian Menurut Provinsi dan Faktor Penyebab Perceraian (perkara), 2024," 2025.

Divorce generally serves as a final resort when a marital relationship can no longer be sustained.⁶ Given the high divorce rate, family law, particularly laws regulating divorce, strictly enforces the principles of complicating the divorce process to reduce the frequency of divorce. In Islamic law, divorce is not prohibited, however, it is considered a disliked act, and husbands and wives are encouraged to avoid it whenever possible.⁷ One method to prevent divorce is by complicating the divorce process itself, thereby providing spouses with additional opportunities to reconsider their decision and reconcile. This reflects the philosophical value embedded in the principle of complicating divorce proceedings, which serves as a form of protection for families, including children, who are particularly vulnerable to the adverse effects of divorce.

In practice, the principle of complicating the divorce process has become a fundamental basis for handling divorce cases in court, despite facing various challenges. A notable case illustrating this principle involves the annulment of a divorce decision at the appeal level. The annulment was based on the consideration that the legal requirements for divorce had not been fulfilled due to marital disputes, as regulated in SEMA Number 3 of 2023 Formulation of the 2023 Religious Chambers Letter (c) Number (1) concerning Marriage Law. This provision stipulates that a divorce on the grounds of marital discord may be granted only if the quarrel has reached a point where reconciliation is impossible and the parties have lived separately for at least 6 months, or if an act of domestic violence has occurred.

In every divorce case, the panel of judges must consider the principles of justice and legal certainty. Such considerations aim to ensure that decisions are both fair and capable of maintaining legal certainty regarding the marital status of the parties. Divorce not only dissolves the marital bond but also terminates the legal relationships that arise from it. Consequently, the termination of the marriage affects matters such as children, shared assets, and all rights and obligations linked to the marital status of the husband and wife.

Consideration of justice and legal certainty in divorce decisions is crucial to ensure that both spouses receive their rights and that none of these rights are violated. Given the importance of these principles in guiding judicial reasoning in divorce cases, judges must also incorporate both justice and legal

⁶ A Asman dkk., *Pengantar Hukum Perkawinan Islam Indonesia* (Jambi: PT. Sonpedia Publishing Indonesia, 2023), hlm. 104.

⁷ Durotun Nafisah dkk., "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah* 8, no. 2 (2024): 847.

certainty when annulling a divorce decision. This underscores the significance of the present research, which explores in greater depth the topic of "Justice and Legal Certainty in the Annulment of Divorce Decisions: The Perspective of Principles Complicating Divorce". This study analyzes the implementation of justice and legal certainty in divorce annulment decisions by examining judges' legal considerations.

Research on justice and legal certainty in divorce annulment decisions remains limited. One relevant study by Umi Supraptiningsih and Nurul Anisah examines a divorce case in which the husband failed to pronounce the divorce vow within the court-mandated deadline. Consequently, the wife did not receive justice, experiencing significant disadvantages regarding her legal status, rights, and legal certainty.⁸ This present study is distinctive in that it examines the judges' legal considerations in annulling a divorce decision, exploring the underlying values of legal justice and legal certainty from the perspective of the principle complicating the divorce process. This research not only contributes academically but also provides a valuable reference for legal practitioners and policymakers seeking to enhance the effectiveness of the principles complicating the divorce process, both in statutory regulations and in the development of Supreme Court Jurisprudence.

B. Research Methods

This literature research is qualitative research with a normative juridical approach. The approach is oriented toward the study of positive law, including legislation, legal principles, and legal doctrines.⁹ The approach of this study is oriented toward the analysis of court decisions, specifically Decision Number 1/Pdt.G/2025/PTA.Yk, which annulled Decision Number 422/Pdt.G/2024/PA.Wt. The analysis in this study covers all parts of the court decisions, including the petitum and posita of the lawsuit, the judge's legal considerations, and the final ruling. The main data sources consist of case file Number 1/Pdt.G/2025/PTA.Yk concerning the annulment of a divorce decision, and case file Number 422/Pdt.G/2024/PA.Wt concerning a divorce case. Additional data sources include books and journal articles on divorce and the principle of complicating the divorce process, as well as statutory regulations such as Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law (KHI), and SEMA Number 3 of 2023. The data source collection technique is documentation, while the data analysis technique is a descriptive analysis method using inductive thinking.

⁸ Umi Supraptiningsih dan Nurul Anisah, "Keadilan Bagi Istri Akibat Putusan Batal Demi Hukum," *ADHKI Journal of Islamic Family Law* 1, no. 1 (2019): 113.

⁹ Taufik Firmanto dkk., *Metodologi Penelitian Hukum: Panduan Komprehensif Penulisan Ilmiah Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia, 2024), hlm. 70.

C. Discussion and Research Results

Basic Concepts and Theoretical Basis for Divorce

In positive law, particularly under the Marriage Law, divorce is understood as recognizing that married couples essentially have the authority to terminate their marital relationship.¹⁰ The concept of divorce, as recognized in the Marriage Law, requires that the divorce be carried through the court, with prior reconciliation efforts facilitated by a third party. With regard to the reasons or grounds for filing a divorce case in court, Article 39 Paragraph (2) of the Marriage Law stipulates that a divorce may be granted only if there is sufficient evidence that the parties can no longer live together in harmony as husband and wife. This means that divorce must follow specific processes and procedures as prescribed by positive law.

Divorce can give rise to legal consequences, as in Article 41 of Law Number 1 of 1974 concerning Marriage. This article discusses the legal consequences of divorce, particularly the responsibilities of the former husband and wife concerning child custody, the division of marital property, and financial support for the wife and children.¹¹ The impact of divorce on children is that the ex-husband and ex-wife are still obliged to care for the children as before they divorced. It is necessary that the father bear all the expenses related to the child's needs. In addition, the father is also obliged to fulfill the ex-wife's post-divorce obligations, including *iddah* maintenance, *mut'ah*, and the division of marital property.¹² Regarding the amount of child support, the court will decide how much the father must pay for his child's support. To ensure that children receive support, based on a request submitted by the ex-wife or child, the court can confiscate property from the husband who is deemed negligent in providing for the child.¹³

Divorce in KHI is discussed in greater detail. In Islamic law, divorce is not essentially prohibited, but it is considered a detested act. This makes divorce a last resort when reconciliation or mediation is no longer possible.¹⁴ Referring to Article 114 of the KHI, the termination of a marriage relationship

¹⁰ Muhammad Syaifuddin, Sri Turatmiyah, dan Annalisa Yahanan, *Hukum Perceraian* (Jakarta: Sinar Grafika, 2013), hlm. 16.

¹¹ Nunung Rodliyah, "Akibat Hukum Perceraian Berdasarkan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Keadilan Progresif* 5, no. 1 (2014): 135.

¹² Andri Syaiful Rahman dan Rima Alifa Sirri, "Akibat Hukum Perceraian Dan Problematika Pasca Perceraian," *Jurnal Ilmu Syariah dan Hukum (JISYAKU)* 3, no. 2 (2024): 156.

¹³ Syaifuddin Zuhdi dkk., "The Confiscation of Husbands' Wealth as A Collateral for Post-Divorce Child Support: Perspective of Maqāsid Al-Sharī'ah," *Samarah* 8, no. 2 (2024): 913.

¹⁴ Durotun Nafisah dkk., "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah* 8, no. 2 (2024): 847.

due to divorce can include two things, namely *talak* or a lawsuit for divorce. The term *talak* is derived from Islamic law and refers to a husband's declaration of divorce, whereas the term divorce in general refers to a dissolution of marriage initiated by the wife through a petition.¹⁵ In positive law, this is regulated in Article 117 KHI, which defines *talak*, and Article 132 KHI, which regulates divorce lawsuits. Regarding the reasons for divorce as regulated in Article 116 KHI, namely:

- a. Engaging in sexual relations with someone other than one's spouse, frequently consuming alcohol, gambling, and committing other morally reprehensible acts;
- b. Leaving for up to 2 full years without permission reasons justified by Sharia or for reasons not beyond one's control;
- c. Being sentenced to imprisonment for up to 5 years or to another serious punishment;
- d. Engaging in cruel or abusive behavior may cause harm to one's spouse;
- e. Having an imperfection in a limb or an illness that makes him fail to carry out his obligations as a partner
- f. Irreconcilable quarrels;
- g. Husband's violation of the divorce agreement (*taklik talak*);
- h. A change of faith or apostasy may lead to disharmony within the household.

After separation, women who are left by their husbands often experience neglect of their rights, even though these rights are guaranteed by statutory regulations that must be upheld and used as a legal reference.¹⁶ Divorce between parents also tends to have a negative impact on children.¹⁷ Therefore, the regulations concerning the consequences of divorce focus primarily on fulfilling the rights of the wife and children. Article 149 KHI regulates the legal consequences of divorce for the children and the wife. It stipulates that if the divorce occurs through *talak*, the ex-husband is obliged to: provide *mut'ah* to his ex-wife in a proper manner, except in cases of *qobla al-dukhul*; provide maintenance, housing, and clothing for his ex-wife during the *'iddah* period, except in cases of *talak ba'in*, *nusyuz*, or if she is not pregnant;

¹⁵ Diannita Mustikasari Sudrajat dan Aliesa Amanita, "Penyelesaian Perkara Perceraian Dalam Kompilasi Hukum Islam Di Pengadilan Agama Bandung," *Jurnal Dialektika Hukum* 2, no. 2 (2020): 187.

¹⁶ Darmawan dkk., "Relative Competence of the Sharia Court: Talaq Divorce Lawsuit and Protection of Women's Rights," *Samarah* 7, no. 1 (2023): 98.

¹⁷ Wolfgang Frimmel, Martin Halla, dan Rudolf Winter-Ebmer, "How does parental divorce affect children's long-term outcomes?," *Journal of Public Economics* 239, no. August (2024): 9.

fully pay the dowry or half of it in the case of *qobla al-dukhul*; fulfill the *hadhanah* obligations for those who are under 21 years old.

Furthermore, the consequences of divorce concerning jointly acquired property are regulated in Article 157 of the KHI, which stipulates that such assets shall be divided in accordance with the applicable legal provisions. Article 96 of the KHI regulates the distribution of marital property in the event that one of the spouses passes away, stating that half of the joint property belongs to the surviving spouse. The division of jointly acquired property for a spouse who has outstanding debts must be postponed until a definitive declaration of death is issued, such as a death determination by the Religious Court decision. Meanwhile, Article 97 of the KHI provides that in the case of divorce, the jointly acquired property shall be divided equally, with the husband and wife each receiving one-half, unless a prenuptial agreement stipulates otherwise.

Regulation and Implementation of Principles Complicate Divorce

There are several marital principles related to divorce, one of which is the principle of complicating the divorce process. The principle is essentially consistent with the fundamental principle of marriage itself, namely, to establish a happy and everlasting family founded on the belief in Almighty God.¹⁸ The principle of complicating the divorce process essentially serves to prevent husbands and wives from divorcing easily. This principle primarily relates to procedural law or the judicial process, which tends to require a considerable amount of time. The purpose of this approach is to provide an opportunity for reconciliation or mediation between the spouses who intend to divorce, so that they may reconsider and ultimately withdraw their intention to separate.¹⁹

In addition to the lengthy divorce process, which reflects the principle of complicating the divorce process, the legal grounds for divorce also embody the same principle. As stipulated in Article 39 Paragraph (2) of the Marriage Law, any petition for divorce must be accompanied by valid reasons. Both the Marriage Law and the KHI uphold the same underlying value of restricting divorce, as they require that the divorce process be carried out through the courts. The numerous procedures and stages involved are intended to

¹⁸ Cucu Solihah, *Hukum Perkawinan dalam Teori dan Perkembangan* (Yogyakarta: Zahir Publishing, 2025), hlm. 142.

¹⁹ Dahwadin dkk., *Perceraian Dalam Sistem Hukum Di Indonesia* (Wonosobo: Penerbit Mangku Bumi, 2018), hlm. 132.

discourage the parties from proceeding with divorce and to encourage reconciliation instead.²⁰

In addition to the Marriage Law and KHI, the principle of complicating the divorce process is also reflected in SEMA Number 3 of 2023. This regulation serves as an amendment and refinement of SEMA Number 1 of 2022. The previous regulation stipulated that a divorce on the grounds of continuous quarrels could only be granted if it was proven that the quarrel had been followed by the spouses living separately for at least 6 months. The new regulations under SEMA No. 3 of 2023 further refine this provision, stipulating that a divorce on the grounds of dispute may be granted only if it can be proven that the conflict has resulted in the spouses being unable to live harmoniously, followed by separation of residence for at least 6 months, unless there has been an act of domestic violence.

In SEMA Number 3 of 2023, the provision requiring spouses who are continuously in conflict to have lived separately for at least 6 months is considered a reflection of the principle of complicating the divorce process. This provision aims to encourage the parties, either independently or with the assistance of their families, to reconcile and withdraw their intention to divorce.²¹ The inclusion of provisions regarding domestic violence as a condition for divorce is essentially intended to prevent acts of violence that may endanger the safety of life. This serves as an exception that allows spouses to file for divorce even if they have not been separated for 6 months. Such a provision functions as a legal safeguard to protect the rights of both husband and wife from acts of domestic violence.

The principle of complicating the divorce process does not essentially aim to prevent divorce from taking place, but rather emphasizes that any divorce must be carried out in accordance with the provisions established by law.²² The principle of complicating the divorce process serves as a reminder that the divorce process should be carried out wisely in order to achieve benefits and to prevent divorce decisions that conflict with the law.²³ In their legal considerations, the panel of judges, when applying the principle of

²⁰ Siti Chomsiyah dan I Wayan Agus Vijayantera, "Persyaratan Wajib Untuk Melakukan Perceraian Sebagai Upaya Menegakkan Asas Mempersukar Terjadinya Perceraian," *Jurnal Hukum Saraswati (JHS)* 2, no. 2 (2020): 284.

²¹ Ramadani dan Syahrul Affan, "Analisis Yuridis SEMA No. 3 Tahun 2023 Terhadap Kasus Perceraian di Pengadilan Agama Stabat," *Journal Smart Law* 3, no. 1 (2024): 65.

²² Nurfitri Salsabila, Suriah Pebriyani Jasmin, dan Mustafa Mustafa, "Efektivitas Asas Mempersulit Perceraian Dalam Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Studi Pada Pengadilan Agama Watampone," *Jurnal Ar-Risalah* 4, no. 2 (2024): 16.

²³ Hermansyah, "Interpretasi Asas Mempersulit Perceraian Dalam Perspektif Hukum Islam," *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 1 (2024): 1119.

complicating the divorce process, may refer to the provisions outlined in this circular letter. In case of divorce due to disputes, the judge must consider the duration of separation between the spouses, while carefully examining the facts of the trial to determine whether any acts of domestic violence occurred, as exemplified in this divorce annulment decision.

Analysis of Divorce Annulment

Case Number 1/Pdt.G/2025/PTA.Yk is an appeal against the divorce decision in case Number 422/Pdt.G/2024/PA.Wt. The appellant, the wife, filed the appeal requesting that the appellate panel re-examine the case and annul the lower court's decision. Based on the legal facts established through the trial evidence, the appellate judges concluded that the petitioner's request for divorce from her husband, the respondent, was still premature, as it did not meet the requirements stipulated in SEMA Number 3 of 2023. According to this circular letter, a divorce due to disputes may only be granted if it is proven that the conflict occurred and the spouses have lived separately for at least 6 months, unless there has been an act of domestic violence.

In their legal considerations, the appellate panel examined the facts of the trial and confirmed that both parties had indeed left their shared residence due to an unresolved dispute. The separation lasted approximately 2 months, from the time the spouses vacated the residence until the divorce case was filed in court. The panel of judges concluded that this period of separation did not satisfy the requirements for a divorce as stipulated in SEMA Number 3 of 2023. Adherence to the provisions of this circular letter reflects the application of the principle of complicating the divorce process with the aim of encouraging the spouses to reconsider and potentially reconcile before the final divorce is granted. The requirement of a minimum 6 months separation serves as a key consideration in granting a divorce on the grounds of disputes. In this case, however, the husband and wife had not been separated for the requisite 6 months, even though it was evident that they were in conflict, therefore, the divorce was annulled.

Another important legal consideration for the judges, in addition to the duration of separation, is whether any acts of domestic violence occurred. According to the provisions of SEMA Number 3 of 2023, a divorce on the grounds of disputes may be granted if it is proven that the spouses have irreconcilable disagreements and have been living apart for at least 6 months, unless it is established that acts of domestic violence have occurred. The circular letter provides an exception in divorce cases due to disputes, even if the spouses have not been separated for the 6-month period, a divorce may

still be granted if domestic violence is proven to have taken place within the household.

Based on these facts and applicable regulations, the appellate panel of judges reached a conclusion that differed from that of the trial court, resulting in the denial of the divorce petition. In their consideration, the judges referred to the provisions of Article 1 Number (1) of Law Number 23 of 2004 concerning the Prevention of Domestic Violence, which defines domestic violence as any act that causes suffering or harm whether physical, sexual, psychological, or through neglect of family members, including coercion, deprivation of freedom, or forcing individuals to act against their will in conscious violation of the law. Based on this legal framework, the appellate panel determined that the quarrels between the parties, which led to the separation of residence, constituted an act of domestic violence, specifically verbal violence.

The appellate panel of judges disagreed with the trial court's interpretation regarding the existence of domestic violence. In the appellate decision, it was concluded that no elements of domestic violence were present in this case, contrary to the findings of the first instance judges. This demonstrates that the panels at each court level held differing perspectives on what constitutes domestic violence. The appellate judges determined that domestic violence was not proven, and therefore, the requirements for a divorce on the grounds of disputes were not met. In their legal considerations, the judges concluded that no acts of domestic violence occurred within the family, and as the conditions for divorce due to disputes stipulated in the circular letter were not satisfied, the divorce petition could not be granted. Consequently, the first instance court's decision, which had granted the divorce petition, was annulled. This decision reflects the application of the principle of complicating the divorce process, which aims to make divorce more difficult in order to encourage the parties to reconsider and potentially withdraw their intention to separate.

Justice in the Annulment of Divorce Decisions

Essentially, the wife's appeal was based on her dissatisfaction with the decision of the first instance court, which was rendered by the Wates Religious Court and granted the husband's request for divorce. This case involved a divorce on the grounds of quarrels, the provisions of which are specifically regulated in SEMA Number 3 of 2023. According to this circular, a divorce due to quarrels may be granted if it is proven that the spouses engaged in daily disputes that made reconciliation impossible, followed by a separation of residence for at least 6 months. Alternatively, even if the 6-month separation

requirement is not met, a divorce may still be granted if domestic violence is proven. The facts revealed during the trial showed that the husband and wife quarreled daily and disagreed, resulting in their separation for approximately 2 months. However, there was no evidence of domestic violence, and therefore, the conditions for granting a divorce under the circular were not fulfilled.

In cancelling this case, the panel of judges took into account the principle of legal justice for the parties. Legal justice is understood as a fundamental legal principle that requires equality and equal treatment for every individual.²⁴ In this case, both husband and wife retained their respective rights as stipulated in positive law. The appellant regained her rights and obligations as a wife, while the respondent regained his rights and obligations as a husband. The wife, as the appellant, received justice because the divorce petition, which had not met the legal requirements, was not granted. Conversely, the husband, as the petitioner, was unable to proceed with the divorce because the petition was deemed premature and did not comply with the requirements outlined in the circular. The annulment of the divorce decision reflects the judges' efforts to ensure justice, as the *talak* divorce request should not have been granted, given that it did not fulfil the conditions for a divorce due to disputes.

Legal Certainty in the Cancellation of Divorce Decisions

Based on the judge's legal considerations from both case files, the appellate judges held a view that differed from that of the trial court. In case Number 1/Pdt.G/2025/PTA.Yk, which annulled the divorce decision, the panel of judges referred to the provisions of SEMA Number 3 of 2023, taking into account the principle of complicating the divorce process, specifically the requirements of either a 6 months separation of residence or the existence of acts of domestic violence during the marriage. By applying the rules of this circular letter, the panel considered the aspect of legal certainty in its decision, recognizing that legal certainty requires positive law, that is, written legal provisions that are binding on all legal subjects.²⁵

The annulment of the divorce at the appellate level establishes legal certainty regarding the spouses' marital status. Their marriage remains valid, and the husband's right to pronounce divorce, as recorded in the Wates Religious Court case file, was rendered void. This is because the pronouncement of a divorce must comply with rules in accordance with the

²⁴ Gustav Radbruch, *Legal Philosophy*, 3 ed. (Massachusetts: Harvard University Press, 1950), hlm. 135.

²⁵ Radbruch, hlm. 135–136.

applicable legal and Sharia provisions.²⁶ Meanwhile, the pronouncement of the divorce vow could not take place at the time of the first instance court decision because further legal action had been initiated, meaning that the case did not yet have permanent legal force.²⁷ Furthermore, based on the appellate court case file, which annulled the divorce between the appellant and the appellee, the divorce is considered never to have occurred. This applies to all provisions relating to the marital bonds of the parties. The preservation of the marital bond between the appellant and the appellee, as an expression of legal certainty resulting from the annulment, also extends to the maintenance of their respective rights and obligations, as well as responsibilities toward their children and jointly owned assets.

Synchronization of Justice and Legal Certainty

In deciding to annul the divorce, the appellate panel of judges relied on both the factual evidence presented at trial and the provisions of positive law. The panel first examined the claims of the lawsuit and the evidence presented in order to ascertain the facts regarding the marital relationship between the spouses that had led them to leave their shared residence for approximately 2 months. Additionally, no elements of domestic violence were identified during the marriage, contrary to the findings of the first instance court, which had granted the divorce.

In their considerations, the panel also examined the juridical aspects, particularly the rules outlined in SEMA Number 3 of 2023, which regulates divorce due to disputes. Thus, the judges' decision to annul the divorce was based not only on the factual circumstances of the case but also on positive law. In this process, the panel considered both legal justice and legal certainty. The aspect of legal justice was addressed by assessing the actual events that occurred during the marriage, while the aspect of legal certainty was considered by applying the provisions of SEMA Number 3 of 2023 concerning divorce due to disputes.

Justice and legal certainty were central to the annulment of the divorce. Through the lens of legal justice, the panel concluded that the divorce petition did not meet the factual requirements for divorce as demonstrated during the trial. Legal certainty further reinforced the annulment, as the decision adhered to the rules established in the circular, which embody the values of

²⁶ Faiza Hayati Aprila Hasan, Muhammad Azani, dan Hasan Basri, "Pelaksanaan Pengucapan Ikrar Talak Berdasarkan Pasal 131 Instruksi Presiden Nomor 1 Tahun 1991 Tentang Kompilasi Hukum Islam Di Pengadilan Agama Pekanbaru," *Jotika Research in Business Law* 3, no. 2 (2024): 66.

²⁷ Sulaikin Lubis, Wismar 'Ain Marzuki, dan Gemala Dewi, *Hukum Acara Perdata Peradilan Agama di Indonesia* (Jakarta: Kencana, 2018), hlm. 119.

complicating the divorce process. Based on these considerations, the panel of judges annulled the divorce, thereby reinstating the marital status of the appellant and the appellee with full legal certainty.

D. Conclusion

The judge's decision in case file Number 1/Pdt.G/2025/PTA.Yk, which annulled the divorce, exemplifies the application of the principle of complicating the divorce process while considering both legal justice and legal certainty. The panel of judges addressed the aspect of legal justice by examining the actual events revealed during the trial, particularly the interactions between the husband and wife as family members. The fact that the spouses had a quarrel resulting in their separation from their shared residence for approximately 2 months, and that no elements of domestic violence were found during the marriage, served as the primary basis for the judges to ensure justice in annulling the divorce. In addition, the panel considered the aspect of legal certainty by referring to the provisions of SEMA Number 3 of 2023, which regulates divorce due to disputes. The annulment decision reinforces legal certainty regarding the marital status of the appellant and the appellee, invalidating the husband's right to divorce and preserving the marital bond. Consequently, all rights and obligations associated with the marital relationship remain in effect. This study demonstrates how considerations of justice and legal certainty are applied from the perspective of principles complicating the divorce process. For future research, a more in-depth analysis could be conducted, for example, through an Islamic law perspective, to further examine the annulment of divorce decisions.

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