



## Gray Divorce at Palembang Religious Court 2022: Factors Associated with Old Age Divorce

Ellis Lindini Putri,<sup>1</sup> Rusmala Dewi,<sup>2</sup> Ari Azhari<sup>3</sup>

UIN Raden Fatah Palembang

Email: [ellislindiniputri@gmail.com](mailto:ellislindiniputri@gmail.com),<sup>1</sup> [rusmaladewi\\_uin@radenfatah.ac.id](mailto:rusmaladewi_uin@radenfatah.ac.id),<sup>2</sup>  
[ariazhari\\_uin@radenfatah.ac.id](mailto:ariazhari_uin@radenfatah.ac.id)<sup>3</sup>

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### Abstract:

Divorce is a phenomenon that is experienced in various age ranges, including among the elderly showing an increasing trend. Previous studies emphasize the negative impact of divorce in old age. This study aims to identify the factors that lead to divorce among the elderly, particularly in the Palembang Religious Court, as well as understand the judges' views on this phenomenon. This field research used a qualitative approach, involving interviews with four judges and analyzing 56 divorce decisions among the elderly. The findings show that elderly couples tend to delay divorce in order to sustain the household, especially for the sake of their children. The decision to divorce is made when they feel unable to endure further problems, considering the greater impact. Thirteen main factors were cited as reasons why elderly couples decided to divorce. While judges attempted mediation, they did not have the authority to force a settlement. The results of this study are expected to provide valuable guidance for legal practitioners and policy makers in designing programs to prevent divorce at an elderly age. The limitation of this study lies in its focus only on the views of judges and decisions in religious courts. Examining the opinions of older people who have divorced directly has not been done, an aspect that needs further research.

### Abstrak:

Perceraian merupakan fenomena yang terjadi di berbagai rentang usia, termasuk di kalangan lansia yang menunjukkan peningkatan tren. Kajian sebelumnya menegaskan dampak negatif dari perceraian di usia lanjut. Penelitian ini bertujuan untuk mengidentifikasi faktor-faktor yang memicu perceraian di kalangan lansia, khususnya di Pengadilan Agama Palembang, serta memahami pandangan hakim terhadap fenomena ini. Penelitian lapangan ini menggunakan pendekatan kualitatif, melibatkan wawancara dengan empat hakim dan menganalisis 56 putusan perceraian di kalangan lansia. Temuan menunjukkan bahwa pasangan lanjut usia cenderung menunda perceraian demi mempertahankan rumah tangga, terutama demi anak-anak mereka. Keputusan bercerai diambil ketika mereka merasa tak mampu lagi menahan permasalahan lebih lanjut, dengan pertimbangan dampak yang lebih besar. Terdapat tiga belas faktor utama yang menjadi alasan pasangan lanjut usia dalam memutuskan perceraian. Meskipun hakim berupaya melakukan mediasi, namun mereka tidak memiliki kewenangan untuk memaksa perdamaian. Hasil penelitian ini diharapkan memberikan panduan berharga bagi praktisi hukum dan pembuat kebijakan dalam merancang program pencegahan perceraian di usia lanjut. Keterbatasan penelitian ini terletak pada fokusnya yang hanya pada pandangan hakim dan

putusan di pengadilan agama. Menguji pendapat lansia yang telah bercerai secara langsung belum dilakukan, menjadi aspek yang perlu diteliti lebih lanjut.

## A. Introduction

Divorce in Indonesia has increased in the last 20 years. Divorce occurs among both the less educated and the educated people. The difference is that the educated tend to experience a more complex divorce process than the less educated.<sup>1</sup> This shows that household conflict can be experienced in both educated and uneducated background families. Unresolved conflicts in marriages have been observed as a significant precursor to marital breakdown.<sup>2</sup> Notably, Islam permits divorce as a last resort when efforts to maintain the relationship between husband and wife are no longer successful.<sup>3</sup>

Moreover, divorce statistics exhibit a nuanced trend indicating a decline in overall divorce rates, juxtaposed with a notable rise in divorces among couples aged over 50.<sup>4</sup> For instance, data from 2010 revealed that 600.000 people over the age of 50 divorced, and the divorce rate in second marriages was 2.5 times higher.<sup>5</sup> Divorce in old age has increased in recent decades as older people choose to be single or unmarried.<sup>6</sup> People who have been divorced or married for the second time have an attitude that favors divorce at age 50 and above.<sup>7</sup> Divorce in old age remains at a high frequency which causes kinship ties to increase when grandparents remarry.<sup>8</sup> The data above shows that divorces that occur among the elderly are very common.

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<sup>1</sup> Rinaldo, Rachel, Eva F. Nisa, and Nina Nurmila. "Divorce narratives and class inequalities in Indonesia." *Journal of Family Issues* (2022): 0192513X231155657.

<sup>2</sup> M. Apriansyah Topan dkk, "Putusan Cerai Gugat Bagi Pegawai Negeri Sipil Tanpa Izin Atasan Di Pengadilan Agama Kota Palembang Perspektif Masalah" *Jurnal Usrob*, Vol. 6 No. 2, (Desember 2022): 140.

<sup>3</sup> Hamzah dkk, "Hak-Hak Perempuan Pasca Perceraian Dalam Hukum Positif Dan Hukum Islam" *Jurnal Usrob*, Vol. 6 No. 1, (Juni 2022): 64.

<sup>4</sup> Raley, R. Kelly, and Megan M. Sweeney. "Divorce, repartnering, and stepfamilies: A decade in review." *Journal of Marriage and Family* 82, no. 1 (2020): 81-99; Högnäs, Robin S. "Gray divorce and social and emotional loneliness." *Divorce in Europe: New insights in trends, causes and consequences of relation break-ups* (2020): 147-165.

<sup>5</sup> Brown, Susan L., and I-Fen Lin. "The gray divorce revolution: Rising divorce among middle-aged and older adults, 1990–2010." *Journals of Gerontology Series B: Psychological Sciences and Social Sciences* 67, no. 6 (2012): 731-741.

<sup>6</sup> Brown, Susan L., and Matthew R. Wright. "Marriage, cohabitation, and divorce in later life." *Innovation in aging* 1, no. 2 (2017): igx015.

<sup>7</sup> Brown, Susan L., and Matthew R. Wright. "Divorce attitudes among older adults: Two decades of change." *Journal of Family Issues* 40, no. 8 (2019): 1018-1037.

<sup>8</sup> Johnson, Colleen L. "Divorced and reconstituted families: Effects on the older generation." *Families and aging* (2019): 33-41.

Based on observations that researchers have carried out at the Palembang Religious Court Class 1A in 2022, many divorces also occur in elderly couples. There were at least 56 cases that had been handled by the Palembang Religious Court Class 1A in 2022. Elderly couples tend to choose divorce when they get into trouble than young couples.<sup>9</sup> Furthermore, Osafo et. al found that men in old age are more likely to choose divorce than women.<sup>10</sup> Alice and Sanders state that divorce in old age is often associated with physical and mental changes that disadvantage women over men. While the choice to remarry after divorce is associated with health recovery and depression, in reality, men are more likely to remarry.<sup>11</sup> Divorce among the elderly is important to study, to find out the factors behind their decision.

A person is called elderly, according to the Indonesian Ministry of Health, if they are 60 years old and above. According to the Indonesian Ministry of Health, old age is divided into several categories, as: The age range of 45-59 years is categorized as the pre-elderly age group; The age range of 60 years and above is categorized as the elderly age group; The age range of 70 years or more is categorized as a high-risk elderly age group.<sup>12</sup>

Divorce by an elderly person can cause several problems such as regret and loneliness. Rini revealed that regrets for elderly couples are personal and social regrets, one of which is social regret for divorcing because they wasted the partner who had led them to success.<sup>13</sup> Robin states that divorce leads to loneliness when compared to those who continue to marry, especially for men.<sup>14</sup>

The study has proven that the presence of a partner has an impact on the emotional state of the elderly. This will of course have an impact on the perception of the elderly regarding their living conditions and will greatly influence depression in the elderly. The existence of a life partner for the elderly plays a role in providing support regarding many things including emotions, problem solving, finances, and even care. Satisfaction with a couple's relationship is felt to be higher in elderly couples than in middle-aged couples. Elderly people without a partner

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<sup>9</sup> Cohen, Philip N. "The coming divorce decline." *Socius* 5 (2019): 2378023119873497.

<sup>10</sup> Osafo, Joseph, Kwaku Oppong Asante, Charlotte Asantewaa Ampomah, and Annabella Osei-Tutu. "Factors contributing to divorce in Ghana: an exploratory analysis of evidence from court suits." *Journal of Divorce & Remarriage* 62, no. 4 (2021): 312-326.

<sup>11</sup> Zulkarnain, Alice, and Sanders Korenman. "Divorce and health in middle and older ages." *Review of Economics of the Household* 17 (2019): 1081-1106.

<sup>12</sup> Charissa, Olivia. "Gambaran tekanan darah lanjut usia (lansia) di Sentra Vaksinasi Covid-19 Universitas Tarumanagara Jakarta." *Tarumanagara Medical Journal* 3, no. 2 (2021): 361-368.

<sup>13</sup> Rini, Rini. "Penyesalan di Usia Lanjut." *IKRA-ITIH HUMANIORA: Jurnal Sosial dan Humaniora* 7, no. 3 (2023): 206-215.

<sup>14</sup> Högnäs, Robin S. "Gray divorce and social and emotional loneliness." *Divorce in Europe: New insights in trends, causes and consequences of relation break-ups* (2020): 147-165.

tend to have low life satisfaction when they are not doing activities. Elderly people without a partner will have higher satisfaction in their lives when they are involved in positive activities.<sup>15</sup>

There has not been much research on the factors that cause divorce in old age. Syam highlighted that the causes of divorce for elderly couples are due to several causes including continuous quarrels, monopouse wives, and infidelity.<sup>16</sup> Khoiriyah examined the causes of divorce in the elderly in judge's decision Number 3952/Pdt.G/PA.Kab.Mlg, the cause was because the wife left her husband and did not carry out her obligations for 6 years.<sup>17</sup> Meanwhile, Hervin and Maya stated that the cause of divorce in the elderly in Lampung was caused by economic factors.<sup>18</sup> Yufri stated that the causes of divorce in old age are economic factors, religious factors, factors of disharmony in the household and factors of not carrying out obligations in the household.<sup>19</sup> Then Zikra mentions in more detail the factors that cause divorce in old age, namely: Worship factors; neglect of obligations; moral factors of the spouse; domestic violence factors; factors of no harmony in the household.<sup>20</sup>

Divorce in old age can bring a negative impact on the lives of the elderly, both physically, mentally and socially. Therefore, this research is important to understand the factors that cause divorce in old age and provide recommendations to prevent divorce in old age. Therefore, the researcher has an interest in conducting research on the factors that cause divorce in the elderly at the Palembang Religious Court Class 1A.

## B. Method

This research uses empirical juridical methods with the research location at the Class 1A Palembang Religious Court. The type of data used is qualitative obtained through interviews and document analysis from primary data sources in the form of copies of old age divorce decisions and interviews with judges, and secondary data sources such as books, legislation,

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<sup>15</sup> Livana, P. H., Yulia Susanti, Lestari Eko Darwanti, and Rina Anggraeni. "Description Of Elderly Depression Levels." *Nurscope: Jurnal Penelitian dan Pemikiran Ilmiah Keperawatan* 4, no. 2 (2018): 80-93.

<sup>16</sup> Syam, Multa. "ANALISIS PENYEBAB TERJADINYA PERCERAIAN LANJUT USIA (LANSIA) DI PENGADILAN AGAMA WATAMPONE KELAS 1A." PhD diss., IAIN Bone, 2020.

<sup>17</sup> Khoiriyah, Siti Nur. "Analisis Penyebab Terjadinya Cerai Talak pada Lansia di Pengadilan Agama Kabupaten Malang (Studi Kasus Perkara Nomor 3952/Pdt. G/PA. Kab. Mlg)." (2022).

<sup>18</sup> Pradikta, Hervin Yoki, and Maya Noviana Sari. "Analisis Faktor Perceraian Suami Istri Di Usia Senja (Studi Kasus Pada Masyarakat Kec. Teluk Betung Timur Kota Bandar Lampung)." *ASAS: Jurnal Hukum Ekonomi Syariah* 11, no. 2 (2019): 117-133.

<sup>19</sup> Adriansyah, Yufri. "Faktor-Faktor Penyebab Perceraian Pada Kalangan Lanjut Usia Di Pengadilan Agama Kota Pekanbaru (Studi Kasus Tahun 2019-2021)." PhD Diss., Universitas Islam Negeri Sultan Syarif Kasim Riau, 2022.

<sup>20</sup> Vini Nur Zikra, "Faktor Penyebab Terjadinya Perceraian Pada Generasi Tua di Pengadilan Agama Pariaman (Studi Kasus 2016-2017)" (Skripsi;UIN Sultan Syarif Kasim, 2017)

journals, articles, and related internet sites. The research subjects were judges who handled divorce cases at an advanced age, with the object of research on the causes of divorce at the age of 56 years and over in these courts in 2022. The population included 2,460 copies of divorce case decisions and 12 judges, while the sample consisted of 56 copies of elderly divorce case decisions and 4 judges handling similar cases. Data collection methods included structured interviews, documentation studies, and literature studies. Data processing was carried out by examining, marking, classifying, and compiling data, and data analysis using the Miles and Heberman model. The conclusion in this research is deductive, according to general matters into specific matters.

### **C. Result**

The article discusses the prevalence of divorces among elderly couples in the Palembang Class 1a Religious Court. It suggests that divorces in older couples often stem from longstanding issues that were endured for the sake of children, but eventually lead to divorce due to a depletion of patience and more harm than good in continuing the marriage. Despite advice given to elderly couples seeking divorce, the judges cannot compel reconciliation between the parties. The article further reveals that among a total of 56 divorce cases in 2022, 8 cases were withdrawn, 1 case was rejected, and the remainder ended in divorce. Among these divorce cases, 13 factors contributing to divorces in older age groups were identified. These cases comprised 29 cases of divorce by talak and 27 contentious divorces. In talak divorces, reasons for separation primarily included the wife's lack of respect for her husband and excessive financial demands, alongside other reasons such as dishonesty, excessive jealousy, infidelity, and the absence of offspring. Conversely, in contentious divorces, reasons included the husband's frequent use of abusive language or domestic violence, failure to provide financial support, both materially and emotionally, to the wife, the husband's infidelity leading to remarriage without the wife's consent, alongside other reasons like excessive jealousy, laziness, alcoholism, and apostasy.

## D. Analysis and Discussion

### 1. Marriage Purposes and Factors Associated with The Gray Divoce in Palembang Religious Court 2022

Marriage is something that is recommended by religion for men and women who have the ability to marry, because marriage can reduce sinful views and protect from adultery.<sup>21</sup> According to Law Number 1 of 1974 concerning Marriage in article 1, the definition of marriage is the inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on God Almighty.<sup>22</sup>

Judging from Article 1 of Law Number 1 of 1974 concerning Marriage, it can be said that marriage is a sacred bond between a man and a woman because it is based on the Almighty God. This marriage bond is a bond that forms a unity and cannot be separated from the beliefs believed by a husband or wife.<sup>23</sup>

However, In the KHI perspective, which is listed in article 2, it is stated that marriage according to Islamic law is, marriage is a very strong contract or *mitsaaqan ghalidhan* to obey Allah's commands and carrying it out is an act of worship.<sup>24</sup> The highest purpose of marriage according to religious law is to protect generations, maintain human genes, and through marriage, both husband and wife gain peace of mind because their love and affection can be channeled. The wife becomes a resting place for the husband when he is tired and tense and vice versa, both are allowed to pour out their love and affection as husband and wife. As Allah says in Q.S Ar-Rum verse 21 which means "Among His signs (greatness) is that He created pairs for you from (your) own kind so that you feel at ease with him. He makes love and affection between you. Surely in that there are signs for those who think."<sup>25</sup>

Based on Islamic teachings, marriage aims to carry out religious orders as an effort to create a harmonious, prosperous, and happy family.<sup>26</sup> In an effort to achieve this desired goal, both parties are obliged to understand each other's interests, especially those bound by rights and obligations, because when the marriage is held and has legally completed the conditions and pillars, it will have legal consequences. Peace and comfort can be achieved if each husband and

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<sup>21</sup> Ahmad Rofiq, *Hukum Perdata Islam di Indonesia*, (Depok: Rajawali Pers, 2019), 53.

<sup>22</sup> P.N.H. Simanjuntak, *Hukum Perdata Indonesi*, (Jakarta: Prenadamedia Group, 2015), 33.

<sup>23</sup> Rosnidar Sembiring, *Hukum Keluarga Harta-Harta Benda Dalam Perkawinan*, (Jakarta: Rajawali Pers, 2016), 43.

<sup>24</sup> Amiur Nuruddin dan Azhari Akmal Tarigan, *Hukum Perdata Islam di Indonesia: Studi Kritis Perkembangan Hukum Islam dari Fikih, UU No.1/1974 sampai KHI*, (Jakarta: Prenadamedia Group,2004), 43.

<sup>25</sup> Qs. Ar-Rum 30: 21, Kementrian RI, *Al-Quran dan terjemaban dilengkapi dengan Asbabun Nuzul dan Hadits shabih*, 324.

<sup>26</sup> Abdul Rahman Ghazaly, *Fiqh Munakahat*, (Jakarta: Prenadamedia Group, 2003), 16.

wife fulfill their obligations and do not neglect their responsibilities, then the happiness of the husband and wife will be perfect.

In principle, marriage is permanent. Given the purpose of marriage as stated in the Marriage Law, which states that the purpose of marriage is to create a happy and lasting family, in accordance with the teachings of Islam, this principle makes divorce difficult. The provisions related to marriage in Islam are actually regulated in detail which, if followed seriously, will create a happy marriage. In a hadith the Prophet said: "the halal act that Allah 'Azza wa jallah hates the most is 'Talak (divorce)." This hadith provides an understanding that divorce is the last resort that can be taken by a married couple if the integrity of the marriage cannot be maintained.<sup>27</sup>

Divorce based on Islamic law that has been promulgated in articles 38 and 39 of Law No. 1 of 1974 and has been described in the following articles. 1 of 1974 and has been elaborated in articles 14 to 18 and articles 20 to 36 of Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 concerning Marriage include: first, "divorce talak", which is a divorce in which a petition for divorce is filed in the Religious Court by and on the initiative of the husband, whose legal consequences take effect when the divorce is decided before the Religious Court session; second, "divorce gugat", which is a divorce in which a divorce petition is filed at the request of the wife to the Religious Court, whose legal consequences take effect when a decision is issued from the Religious Court that has permanent legal force.

Budi Susilo argues that when you decide to divorce, you are required to appear in court. Based on the law, divorce procedures can only be processed or handled by the court. Then the problem that arises is that there are not a few married couples who are confused and have difficulties when undergoing divorce procedures. The main reason is obviously ignorance of the law. Plus the divorce filing procedures that must be passed are generally complicated. In fact, often the complicated divorce process costs a lot of money.<sup>28</sup>

As a result, the purpose of marriage is to create a happy, harmonious and peaceful family. To realize the purpose of marriage, of course, in the household, husband or wife must be aware of their rights and obligations because this is a consequence of marriage itself.

In reality, realizing the purpose of marriage is not easy to do, there will be many problems that arise both due to internal and external factors. If the problems that arise in this household cause continuous disputes and quarrels between husband and wife so that they cannot be resolved or

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<sup>27</sup> Rosa Fitriyana dan Mohamad Faisal Aulia, "Hak Asuh Anak (Hadhanah) Bagi Ibu Pasca Perceraian Kedua Menurut Imam Malik", *Jurnal Usroh*, Vol. 6 No. 2, (Desember 2022): 181.

<sup>28</sup> Muhammad Syaifuddin dkk, *Hukum Perceraian*, (Jakarta: Sinar Grafika, 2013), 7.

a solution cannot be found, then divorce is the last option that must be chosen. Continuous disputes and quarrels between husband and wife are one of the reasons for divorce as stipulated in article 19 letter f of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage jo. Article 116 letter f of the Compilation of Islamic Law. The reason for continuous disputes and quarrels in question is not the main cause, but is the result of a problem factor that has occurred protractedly which is the root of the problem, there were 56 cases of divorce that occurred at an advanced age in the Palembang Religious Court Class 1a in 2022, from a total of 56 cases consisting of cases verstek, ordinary, revoked and rejected, while the number of each case is as follows:

**Tabel 1:** Classification of Cases by Type

No.	Case	Amount of Case
1.	Verstek divorce	37 cases
2.	Ordinary divorce	10 cases
3.	Revoked case	8 cases
4.	Rejected case	1 case

From the table above it can be seen that in the cases handled by the Palembang Religious Court Class 1A in 2022 at the age of 56 years and above there were many divorces that were decided by verstek, namely 37 cases. This verstek case occurred because in the trial process the respondent/plaintiff never attended the trial process and did not send another person as his attorney or representative after an official and proper summons was made. The ordinary divorce cases referred to in the table above are divorce cases that are attended by the parties, namely the applicant/plaintiff and the respondent/plaintiff, in this ordinary divorce case the parties undergo the entire trial process. The total number of divorces in which the parties were present and underwent the entire trial process was less when compared to the verstek cases, which were only 10 cases.

However, although many cases filed by elderly couples at the Palembang Religious Court Class 1A end in divorce, it does not rule out the possibility that there are some cases that can end in peace and the petition/lawsuit is revoked, as in table 5 there are 8 cases that are revoked or successfully reconciled. To find out more about the details of these cases and the factors in which these cases can be reconciled, the following will be described in the table below:



**Tabel 2:** Cases That Ended in Peace/Withdrawn

No	No. of Case	Case type	Parties' age	Marriage's age	factors
1.	2656/Pdt.G/ 2022/PA.PL G	Gugat divorce	The plaintiff (69 years old) the defendant (59 years old)	26 years	<ul style="list-style-type: none"> <li>• No offspring;</li> <li>• The defendant often hit and abused her.</li> </ul>
2.	2450/Pdt.G/ 2022/PA.PL G	Gugat divorce	The plaintiff (61 years old) the defendant (61 years old)	38 years	<ul style="list-style-type: none"> <li>• Marrying without the wife's permission;</li> <li>• Did not provide maintenance;</li> <li>• The defendant often spoke harshly.</li> </ul>
3.	1990/Pdt.G/ 2022/PA.PL G	Talak divorce	The plaintiff (64 years old) the defendant (55 years old)	38 years	<ul style="list-style-type: none"> <li>• Respondent was not honest about finances;</li> <li>• Respondent had to be urged to pray first;</li> <li>• Often left without permission.</li> </ul>
4.	1784/Pdt.G/ 2022/PA.PL G	Talak divorce	The plaintiff (66 years old) the defendant (47 years old)	15 years	<ul style="list-style-type: none"> <li>• Disrespect for husband;</li> <li>• Respondent is having an affair.</li> </ul>
5.	1729/Pdt.G/ 2022/PA.PL G	Talak divorce	The plaintiff (56 years old) the defendant (60 years old)	37 years	<ul style="list-style-type: none"> <li>• the respondent was having an affair;</li> <li>• The Respondent often spoke harshly and committed domestic violence;</li> </ul>

					<ul style="list-style-type: none"> <li>• Does not provide alimony.</li> </ul>
6.	1703/Pdt.G/2022/PA.PL G	Talak divorce	The plaintiff (58 years old) the defendant (64 years old)	14 years	<ul style="list-style-type: none"> <li>• Unable to live in the same house;</li> <li>• There is no compatibility;</li> <li>• The respondent did not care about the applicant;</li> <li>• Did not provide alimony.</li> </ul>
7.	127/Pdt.G/2022/PA.PLG	Talak divorce	The plaintiff (70 years old) the defendant (65 years old)	17 years	<ul style="list-style-type: none"> <li>• Did not treat the applicant like a husband and neglected the applicant;</li> <li>• No longer wanted to live together.</li> </ul>
8.	20/Pdt.G/2022/PA.PLG	Talak divorce	The plaintiff (56 years old) the defendant (51 years old)	21 years	<ul style="list-style-type: none"> <li>• Not being able to have marital relations;</li> <li>• The respondent accused the applicant of remarrying;</li> <li>• The respondent often threw the applicant out.</li> </ul>

From the table above, it can be seen that cases that were successfully reconciled / revoked occurred mostly in couples who were married for more than 10 years, in terms of causal factors, there were several factors, namely, not having offspring, marrying without the wife's permission, not providing alimony, domestic violence, dishonest economic problems, not respecting the husband, leaving the house without the husband's permission, cheating, not caring about the partner, and not being able to have a husband and wife relationship. In cases

that were successfully reconciled, the causal factors could still be accepted or forgiven by the party filing the petition/suit so that it could end in peace, such as in case No. 1703/Pdt.G/2022/PA.PLG and case No. 127/Pdt.G/2022/PA.PLG, the causal factors in this case could still be discussed by the parties because it was not a big problem, so that after mediation by the mediator the parties agreed to reconcile. As in other cases, considerations related to the age of marriage that has been long enough also affect the success in mediation. In addition, other things that can cause the above cases to be successfully mediated are because the respondent/defendant is willing to change and the party who filed the petition/defendant is willing to provide an opportunity for the respondent/defendant.

In addition to ending in divorce and peace there is also a divorce case that occurred at an advanced age or age 56 years and over which was rejected by the Palembang Religious Court Class 1A, this case was registered with no. 1241/Pdt.G/2022/PA.PLG which is a divorce case, this divorce application was rejected because the witness submitted by the applicant was judged by the judge not to have the quality of a witness because the testimony of the witness was not sourced from the witness's own hearing and vision, so that the disputes and quarrels that occurred in the applicant and respondent's household could not be proven.

Regarding cases that end in divorce, if the total number of cases of divorce *verstek* and ordinary divorce is 47 cases, in one case it is not only caused by one factor but there can be many supporting factors. The following will describe what are the factors causing divorce and the number of each causal factor from a total of 47 divorce cases:

**Tabel 3 : Factors Causing Gray Divorce**

<b>No.</b>	<b>Factors</b>	<b>Mentioned in the judge's decision</b>	<b>Percentage</b>
1.	Economy	23	26%
2.	Domestic violence	19	21,4%
3.	Wife disrespects husband	16	18,%
4.	Cheating and marrying without wife's permission	14	15,7%
5.	Excessive jealousy	5	5,6%
6.	Lack of attention to spouse	3	3,4%
7.	Refusal or inability to have marital relations	2	2,2%

8.	Difference of opinion and incompatibility	2	2,2%
9.	Gambling and drunkenness	1	1,1%
10.	Leaving your spouse without news	1	1,1%
11.	Apostasy	1	1,1%
12.	Having no offspring	1	1,1%
13.	Not getting along with stepchildren	1	1,1%
<b>Total</b>		<b>89</b>	<b>100%</b>

Based on the table above, the following are the results of the author's analysis regarding the factors that cause divorce that occurs at an advanced age, namely:

a. Economy factor

Economic factors are the most common factor causing divorce in the elderly at the Palembang Religious Court Class 1A, from the data found 23 divorce cases that occurred in the year 2022 were caused by this factor, of the total factors causing divorce 26% were caused by economic factors and mostly occurred in cases of gugat divorce, namely 15 cases, and divorce divorce 8 cases. Based on an interview with Sirjoni, he said that most of the divorce cases that occurred in elderly couples were due to economic factors and lack of transparency regarding finances.<sup>29</sup> In one case, it is not purely caused by economic factors alone, but also added by the presence of other factors, thus exacerbating the problems in the household that cause elderly couples to decide to divorce, out of 23 cases there is only one divorce case decision that is purely caused by economic problems without any other problems. In cases of contested divorce related to economic issues, the most common reason for divorce is related to maintenance, while in cases of divorce the most common cause is because the wife is not honest or open regarding financial matters and has many debts that are not known by the husband. This economic problem can occur in relation to the age of the husband and wife who are old so that it affects work or income, husbands who have entered old age begin to be lazy to work or have entered retirement so that in terms of income or income has decreased, this situation is exacerbated by wives who are too demanding on financial matters to husbands.

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<sup>29</sup> Interview with Sirjoni (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court

b. Domestic violence

Violence can be verbal and non-verbal, verbal violence in the form of harsh words while non-verbal violence is identical to physical violence. In the household, violence can include physical, psychological, sexual violence and domestic neglect.<sup>30</sup> Physical violence can be in the form of actions that cause severe pain or injury to the victim. Psychological violence is an act that causes fear in the victim. Sexual violence can take the form of coercion in sexual intercourse. Domestic neglect is any form of neglect of obligations and responsibilities. From the data on divorce cases in 2022, the form of violence that caused the most divorces at an advanced age was verbal violence, namely saying harsh words that hurt the partner, which was found in 11 cases, of these 11 cases, five of which were divorce cases and six were contested divorces. In addition, other domestic violence is physical violence, namely there are eight cases and one of them is accompanied by psychological violence in the form of death threats that cause fear in the wife, while in this case all of them are cases of contested divorce. Of all the factors causing divorce at an advanced age, the domestic violence factor occupies the second position as the most contributing factor, which is 21.4%.

c. Wives disrespect husband

In divorce cases that occurred among the elderly in the Palembang Religious Court in 2022, most of the factors causing it were because the wife did not respect the husband, including the wife often did not respect the husband as the head of the household, besides that the wife often left the house without permission, was selfish, spoke harshly to the husband and wanted to win alone. From a total of 56 divorce decisions that occurred in 2022 at the Palembang Religious Court, there were 16 divorce decisions that occurred due to the factor of the wife not respecting the husband, if the percentage of the factor of the wife not respecting the husband is 18% of the total case.

d. Cheating and marrying another woman without wife's permission

Factors causing divorce do not only come from the family members themselves but can also come from outside factors or the presence of a third party in the household. Of all the factors causing divorce, 15.7% were caused by infidelity and marriage without the wife's permission, namely 14 divorce cases in 2022. Of the 14 cases, there were nine divorce cases caused by infidelity and all of them occurred in cases of contested divorce.

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<sup>30</sup> Rozak, Abdul, and Diky Faqih Maulana. "Pengaruh Pandemi Covid 19 terhadap Perceraian Masyarakat Rembang Berdasarkan Aspek Sosial dan Angka di Pengadilan." *Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum* 6, no. 2 (2021): 161-181.

e. Excessive Jealousy

In a household, it is natural for a husband or wife to feel jealous of their partner, but this jealousy can be fatal if it occurs excessively. In divorce decisions in the year 2022, there were five divorce case decisions caused by this factor, if percented from the overall factors causing divorce as much as 5.6% was caused by excessive jealousy, of the five divorce cases caused by this factor there were four cases of contested divorce and one divorce divorce.

f. Lack of attention to partner

Over time, it often reduces the sense of attention and care for a partner, even though at an advanced age a person needs more attention and needs support from the closest people, especially a partner. This lack of attention and care can be one of the factors causing people who are elderly to decide to divorce, in the year 2022 there were three divorce decisions or as much as 3.4% of the total cases that occurred due to a lack of attention and care from the spouse recorded with Decision No. 94/Pdt.G/2022/PA.PLG, Decision No. 221/Pdt.G/2022/PA.PLG, and Decision No. 399/Pdt.G/2022/PA.PLG.

g. Refusing or no longer being able to have marital relations

The condition of the elderly who experience physical changes due to increasing age has an influence on the ability to have intercourse, but despite the decrease in the frequency of sexual activity, this intimate relationship is still needed in the household to remain harmonious. From the data on divorces that occurred in the year 2022, there were only two divorce cases or as much as 2.2% of the total cases with one of the reasons being that the wife refused to have intercourse. The case was registered with No. 837/Pdt.G/2022/PA.PLG and case No. 128/Pdt.G/2022/PA.PLG, the cause of the wife refusing the husband's invitation to have intercourse with her husband is one of them because the wife experiences pain when having intercourse with her husband, this is certainly reasonable considering her age.

h. Differences of opinion and incompatibility

In household life, of course, there have been differences of opinion, this is natural because between husband and wife have different backgrounds so that their nature and way of thinking are also different, but this difference can be overcome if between husband and wife reduce each other's ego and find solutions that can be the midpoint of the problem. If differences of opinion between husband and wife continue to occur, it will certainly cause conflicts that affect domestic life. From the divorce data in the year 2022, there were two

divorce cases or around 2.2% of the total cases caused by differences of opinion and incompatibility between husband and wife which ended in divorce.

i. Gambling and drunkenness

The grounds for divorce due to gambling and drunkenness are regulated in Article 19 letter a of PP. No 9 Years 1975 jo. Article 116 KHI. From the data that the author found, there was one divorce case on the grounds of gambling and intoxication, namely the case with Decision No. 962/Pdt.G/2022/PA.PLG, apart from the reasons for gambling and intoxication which were difficult to cure, in this case the husband was also lazy to work. This factor also raises the existence of other factors that cause couples to believe in divorce, namely due to intoxication, domestic violence often occurs. Of all the factors causing divorce, only 1.1% were caused by this factor.

j. Leaving partner without any speech

Out of a total of 56 decisions in the year 2022, there was one divorce case decision that occurred due to the husband leaving his wife without news, if percented only 1.1% of the total cases caused by this factor. Because the husband left his wife without news, the husband neglected his obligations as a husband, one of which was not providing both physical and mental maintenance. This case was registered at the Palembang Religious Court with No. 197/Pdt.G/2022/PA.PLG.

k. Apostasy

Apostasy or change of religion can be one of the factors that cause the breakup of marriage, this has been explained in article 116 letter h KHI. From the data obtained by the author, there was only one divorce case or 1.1% of the total cases caused by apostasy, while the divorce case caused by this factor was a contested divorce with No. 1696/Pdt.G/2022/PA.PLG, but apart from the change of religion, another factor that caused the wife to believe in divorce was because her husband often prohibited her from worshipping and also often spoke harshly.

l. No Heredity

Basically, not having offspring is not a legally valid reason for divorce, but if the absence of offspring creates new problems that result in household life becoming disharmonious or disputes that can no longer be resolved, of course divorce becomes an alternative taken by the judge.

m. Not getting along with stepchildren

One of the factors causing divorce in couples who have previously been married and then divorced is the children resulting from the first marriage or previous marriage.

according to Rusyidi An the main cause of divorce in couples who marry for the second time is that the new partner cannot get along with their children, because if the child and the new partner do not get along, it will affect the peace in the household, so that they often experience disputes and finally decide to divorce.<sup>31</sup>

## **2. Judges' Views on Old Age Divorce Cases at the Palembang Religious Court**

From the interviews that the author has conducted, Rusyidi An as the judge of the Palembang Religious Court Class 1A really regrets the divorce that occurs in couples who are over 56 years old.<sup>32</sup> Agreeing with Rusyidi An, Syazili also regrets that this can happen, especially for couples who already have children and grandchildren because they are sorry for their children and grandchildren, but on the other hand the judge believes that it is impossible for a husband or wife at an age that is no longer young to believe in divorce if there is no strong reason or cause. The judge always tries his best to reconcile, besides that the trial process is quite long, it is hoped that it can open the hearts of the parties to reconcile.<sup>33</sup>

Sirjoni said that the parties who wanted to divorce were advised a lot, and mediated. tried as much as possible and had asked the family also to help reconcile but because there were enough reasons, the problem was proven and the problems of both parties had been heard, inevitably the judge decided to grant the application / divorce suit. In this divorce case, the judge cannot force the parties to reconcile or withdraw their petition/plaint because it is feared that later they will file a new petition/plaint again, therefore the judge tries to make the couple who want to divorce touched by their heart and have their own awareness to reconcile without coercion.<sup>34</sup>

In addition, M. Lekat said that divorce cases at the age of 56 years and above have occurred even before the year 2022. In cases of divorce at an advanced age that have been handled by M. Lekat, the factor that causes divorce is that the wife cannot serve the husband's biological needs. M. Lekat views that most women cannot perform their obligations as wives when they are elderly due to menopausal conditions and also because the wife feels pain during intercourse which may be caused by postpartum trauma, even though men even though they

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<sup>31</sup> Interview with Rusyidi An, (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court

<sup>32</sup> Interview with Rusyidi An, (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court

<sup>33</sup> Interview with Syazili, (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court

<sup>34</sup> Interview with Sirjoni (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court



have entered old age still expect to be served by their wives, this is what causes infidelity. To avoid this affair, a solution should be found between the husband and wife. In addition, the sense of responsibility between spouses is also reduced, for example in simple things, it is rare to cook food for husbands and husbands begin to be lazy to work, if this continues to drag on, it will cause divorce. However, in certain cases, such couples prefer not to divorce because they feel embarrassed by their children and grandchildren, but even though they do not divorce, such couples prefer to live their own lives.<sup>35</sup>

In the mediation process, there is no difference between mediation for elderly couples and the mediation process for young couples in accordance with PERMA No. 1 Year 2016 concerning Mediation Procedures in Court, the obstacles faced when handling elderly divorce cases also do not exist, just the same as divorce cases in general. Regarding success in mediation, it depends on the problems faced by elderly couples.<sup>36</sup>

In general, couples who have been experiencing problems for a long time but only decide to divorce when they are old, the reason for surviving is because of the children, but because they have run out of patience and there are more disadvantages, in the end they prefer to divorce.<sup>37</sup>

## **E. Conclusion**

After being examined in this study, there are many factors that cause divorce at an advanced age that occurs in the Palembang Religious Court Class 1A years 2022, in one divorce case not only caused by one factor, but also there are many other supporting factors that cause disputes and quarrels that occur in the household to get worse and end in divorce. But of course, among these factors, there is still one factor that is the main factor and other factors are factors that arise as a result of the main factor. In this study, the factor that caused the most divorce was economic factors. In handling divorce cases at an advanced age or age 56 years and over, the Judge tries his best to reconcile the litigants, but in the end all decisions are still in the hands of the litigants, it's just that the Judge really regrets this happening, because he feels sorry for the children and grandchildren. The shortcoming of this research is that it is limited to the opinions of judges and decisions in religious courts. Some important aspects, such as direct

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<sup>35</sup> Interview with Lekat (Judge of the Palembang Religious Court), 4 April 2022 at Palembang Religious Court

<sup>36</sup> Interview with Rusyidi An (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court

<sup>37</sup> Interview with Sirjoni (Judge of the Palembang Religious Court), 10 April 2022 at Palembang Religious Court

interviews with divorced people in their elderly age, have not been conducted. In fact, it is possible that other factors that cause them to divorce will be obtained, because not all reasons can be used as a basis for divorce in front of the court.

## **E. Conflict of Interest Statement**

The authors declare that there is no conflict of interest in the publication of this article.

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## H. Author(s)' Biography

### Ellis Lindini Putri


Graduate of Islamic Family Law Study Program, Faculty of Sharia and Law, UIN Raden Fatah Palembang.

### Rusmala Dewi

Dra. Rusmala Dewi, M.Hum. is a lecturer at the Faculty of Sharia and Law, UIN Raden Fatah Palembang.

### Ari Azhari

Ari Azhati, M.H.I., is a lecturer at the Faculty of Sharia and Law, UIN Raden Fatah Palembang.

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