

CHAPTER V CLOSING

A. CONCLUSIONS

1. The legal considerations of the Panel of Judges in granting the divorce petition in the Decision of the Religious Court of Surabaya No. 1253/Pdt.G/2021/PA.Sby is appropriate and based on Article 39 paragraph (1) and (2) of Law No. 1 of 1974 on Marriage, which stipulates that divorce may only be granted in court after conciliation efforts have failed and if there are sufficient grounds. jo. Article 19 letter (f) of Government Regulation No. 9 of 1975 jo. Article 116 letter (f) of the Compilation of Islamic Law on the grounds for divorce due to continuous disputes and quarrels to the extent that there is no hope for a harmonious life within the family. However, according to the researcher, in legal considerations, the judge may add Article 116 letter (g) of the Compilation of Islamic Law on grounds for divorce due to the husband violating the *taklik talak* as a basis for the court's legal consideration, as the defendant in this case, the husband, has violated the *sighat taklik talak* by failing to provide the required maintenance for three months and causing physical harm to the wife, as well as Articles 33 and 34 paragraph (1) and (2) of Law No. 1 of 1974, which regulate the rights and obligations of husband and wife within the family, as the legal basis for the Court's decision.
2. The legal consequences of the granting of the Plaintiff's claim in the Surabaya Religious Court Decision No. 1253/Pdt.G/2021/PA.Sby. regarding child custody emphasize that the Plaintiff, as the biological mother of the child aged 15 (fifteen) months, is entitled to child custody. This is in accordance with

Article 105 letter (a) of the Compilation of Islamic Law (KHI), which states that in the event of a divorce and the presence of a child under the age of 12, custody rights belong to the mother without restricting the biological father's right to visit, provided that such visits do not harm the child's rights. This means that the Plaintiff, as the biological mother of the 15 (fifteen) months old, is entitled to full custody of the child, and the Defendant, in this case the husband, is ordered to pay child *support* in accordance with the needs of the child of the age of the Plaintiff and the Defendant, amounting to Rp.3,000,000.00 (three million rupiah) per month until the child reaches adulthood.

B. RECOMMENDATIONS

Based on the research conducted, the researcher believes that the Court should consider Article 116 letter (g) of the Compilation of Islamic Law on Divorce, which states that divorce may occur due to the husband's violation of the conditions of divorce, namely "failing to provide mandatory maintenance for three months and causing physical harm to my wife." Additionally, Article 33 in conjunction with Article 34 paragraph (1) and (2) of Law No. 1 of 1974 on the rights and obligations of husband and wife within the family should serve as the legal basis for the Court's decision. Furthermore, the government should strengthen policies regarding marriage regulations and education on family life to ensure that marriages in Indonesia are more valued and to prevent similar incidents from occurring in the future.