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An Examination of Islamic Family Law in Kampar Regency, Riau: Focusing on the Causes and Prevalence of Divorce in the Community

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Abstract

Marriage is the union of a male and a female to establish a harmonious household, which is a natural inclination of human beings to form partnerships. However, empirical evidence in the field contradicts this notion, since it observes numerous conflicts inside households, sometimes even leading to divorce. Kampar sub-district, located within the Kampar district, recorded a total of 9 divorce cases in the year 2021. The objective of this study is to elucidate the factors contributing to *talak* divorce in Kampar District and to examine the significance of divorce for those who initiate *talak* divorce in Kampar District. This study is a sociological investigation that specifically examines the factors contributing to divorce and divorce rates among the residents of Kampar District, Kampar Regency in 2021, with a particular emphasis on the application of Islamic family law. The data collection methods employed were interviews and document analysis. The research findings indicate that the variables contributing to divorce in Kampar District, Kampar Regency include economic circumstances, infidelity, domestic abuse, and educational background. Regarding the significance of divorce for individuals, there are two distinct forms: the notion of liberation and a means of resolving difficulties. In the realm of Islamic family law, divorce is not encouraged, although it is regarded as a viable solution if the household cannot be sustained.

Keywords: Divorce, The Kampar Community, Islamic Family Law

8 **abstrak**

Pernikahan adalah penyatuan seorang pria dan wanita untuk membentuk rumah tangga yang harmonis, yang merupakan kecenderungan alamiah manusia untuk membentuk kemitraan. Namun, bukti empiris di lapangan bertentangan dengan anggapan tersebut, karena banyak terjadi konflik dalam rumah tangga, bahkan terkadang berujung pada perceraian. Kecamatan Kampar, yang terletak di Kabupaten Kampar, mencatat total 9 kasus perceraian pada tahun 2021. Tujuan dari penelitian ini adalah untuk menjelaskan faktor-faktor yang menyebabkan terjadinya cerai talak di Kecamatan Kampar dan untuk mengetahui makna perceraian bagi mereka yang melakukan cerai talak di Kecamatan Kampar. Penelitian ini merupakan penelitian sosiologis yang secara khusus mengkaji faktor-faktor penyebab perceraian dan tingkat perceraian di kalangan penduduk Kecamatan Kampar Kabupaten Kampar pada tahun 2021, dengan penekanan khusus pada penerapan hukum keluarga Islam. Metode pengumpulan data yang digunakan adalah wawancara dan analisis dokumen. Temuan penelitian menunjukkan bahwa variabel yang berkontribusi terhadap perceraian di Kecamatan Kampar, Kabupaten Kampar meliputi keadaan ekonomi, perselingkuhan, kekerasan dalam rumah tangga, dan latar belakang pendidikan. Mengenai signifikansi perceraian bagi individu, ada dua bentuk yang berbeda: gagasan pembebasan dan sarana untuk menyelesaikan kesulitan. Dalam ranah hukum keluarga Islam, perceraian tidak dianjurkan, meskipun dianggap sebagai solusi yang layak jika rumah tangga tidak dapat dipertahankan.

Katakunci: Perceraian, Masyarakat Kampar, Hukum Keluarga Islam

6 **Introduction**

Marriage is a highly significant establishment in the society. The purpose of this institution is to legitimize or codify the legal bond between a male and a female. Marriage refers to the physical and spiritual connection between a man and a woman, who become husband and wife, to establish a joyful household and experience *Sakinah, Mawaddah, and Rahmah*.¹ Marriage is a universal *sunnatullah* that encompasses all beings, including humans, animals, and plants.²

Allah SWT, as the omnipotent Creator of all beings, created them in pairs. According to the affirmation in QS. Al-Zari'at verse 49, everything has been created

¹ Dri Santoso, et.al., Harmony of Religion and Culture: Fiqh Munākahat Perspective on The 14yo Marriage Custom," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 22, No. 2 (2022). Mursyid Djawas, et.al., "Creating Family Resilience in Indonesia: A Study of "Marriage Guidance" Program in Aceh and South Sumatera," *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 17, No. 1 (2022).

² Maimun Maimun, "Pernikahan dalam Kompilasi Hukum Islam dan Perdata," *Jurnal Al-Mizan* 9, No. 1 (2022), p. 12-21. Sayyid Sabiq, *Fikih Sunnah* 6, (Bandung: PT. Al-Ma'arif, 1997), p. 9.

in pairs to stimulate contemplation.³ This verse in the Qur'an highlights the notion that humans were formed in pairs to engage in marriage, to satisfy the innate needs of human existence. This involves the interaction between men and women, aiming to achieve familial bliss by the teachings of Allah and His Messenger.⁴

Marriage is a legal agreement that allows for social interactions and establishes specific rights and responsibilities between a man and a woman who are not closely related.⁵ Marriage in Islamic law is a solemn compact, known as *mitssaqan ghalidzan*, that entails a deep commitment to obeying Allah's instructions and regarding them as acts of worship.⁶ In Islam, it is mandatory to arrange meetings between men and women, with the ultimate goal of facilitating a marriage. Marriage is a coveted aspiration for individuals, particularly young men and women who are in a romantic relationship. The desire to have a joyful, harmonious, and peaceful family is common to both getting married and enjoying a married life. Marriage is the act of joining together a man and a woman to establish a harmonious home, which is inherent to human nature.

The verse above illustrates the concept of duality, wherein various elements like as earth and sky, night and day, sun and moon, light and darkness, pagan faith, land and sea, life and death, happiness and harm, heaven and hell, good and bad, are paired together. This pairing extends to all living creatures and plants as well. It is important to be aware and assured that the God who brought everything into existence is singular and does not have any companions. As elucidated in Surah Yaasin, verse 36 of the Qur'an.

Marriage is a divine process ordained by Allah SWT for humans to procreate, reproduce, and ensure the preservation of their offspring's existence. Once each partner is prepared to fulfill their duty in a constructive manner to achieve the objectives of marriage. As the divine decree of Allah SWT Surah Al-Hujurat, verse 13:

يٰۤاَيُّهَا النَّاسُ اِنَّا خَلَقْنٰكُمْ مِنْ ذَكَرٍ وَّاُنْثٰى وَجَعَلْنٰكُمْ شُعُوْبًا وَّقَبٰلِيْلٍ لِتَعَارَفُوْا ۗ اِنَّ اَكْرَمَكُمْ عِنْدَ اللّٰهِ اَتْقٰىكُمْ ۗ اِنَّ اللّٰهَ عَلِيْمٌ حَبِيْرٌ

Meaning: "Oh human beings, we have created every one of you from both males and females. Subsequently, we divided you into several countries and tribes to facilitate mutual understanding and familiarity. Truly, the most honorable individual in the eyes of Allah is the one who possesses the highest

³ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, (Semarang: PT. Karya Toha Putra, 1996), p. 522

⁴ Ahmad Azhar Basyir, *Hukum Perkawinan Islam*, (Yogyakarta: UII Press, 2007), p. 11. Salim HS, *Pengantar Hukum Perdata Tertulis (BW)*, (Jakarta: Sinar Grafika, 2006), cet. ke 4, p. 61.

⁵ Beni Ahmad Saebani, *Fiqh Munakahat 1*, (Bandung: Pustaka Setia, 2001), p. 9

⁶ Tim Redaksi Nuansa Aulia, *Kompilasi Hukum Islam*, (Bandung: CV. Nuansa Aulia, 2015), p. 2

level of devotion and righteousness. Allah, without a doubt, possesses complete knowledge and awareness".⁷

Articles 2 and 3 of the Compilation of Islamic Law explicitly define the concept of marriage and its underlying objectives. According to Article 2, marriage in accordance with Islamic law is a very binding contract, known as *mitsaqan ghalizhan*, which entails strict obedience to the dictates of Allah SWT. It is considered an act of worship. Article 3 explicitly states that the objective of marriage is to establish a domestic life characterized by tranquility, affection, and compassion.⁸

In Islam, the preservation of marital longevity is a paramount objective. The marriage contract is carried out forever so that the husband and the wife together can or can construct a household as a haven of shelter, enjoy an outpouring of love and care for their children so that they grow well. Thus, it can be asserted that the marital relationship between a husband and a wife is the most sacred and enduring bond. This is evident from the fact that Allah SWT himself referred to this bond as a "strong agreement." As stated in the 21st verse of QS. An-Nisa.⁹

Allah does not desire to create people in the likeness of other animals, who exist with unrestricted freedom to act on their instincts, engage in relationships between males and females in a chaotic manner, and lack any form of norms or regulations. However, to uphold the integrity and respectability of individuals, God establishes laws that align with their capabilities. This type of marriage has offered a secure means for the expression of sexual instinct, as well as ensuring the proper care of progeny and safeguarding women from being treated as easily exploitable resources.¹⁰

The ultimate objective of marriage is to cultivate a household that serves as a haven of serenity, protection, and calmness. However, the observations in the field indicate that this is not true, since numerous instances of domestic disputes have been observed, some of which have even resulted in divorce.¹¹ Various factors might lead to the dissolution of a marriage, including the death of one spouse, divorce (*talak*), annulment (*fasakh*), mutual separation (*khulu'*), false accusation of adultery (*li'an*), refusal to have sexual relations (*zihar*), and a vow of abstinence (*ila'*).¹²

Islamic law fundamentally prohibits divorce within the institution of marriage. This is seen in the manifestations exhibited by the Prophet Muhammad. Divorce is considered a permissible action in Islam however it is disliked by Allah.

⁷ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, (Semarang: PT. Karya Toha Putra, 1996), p. 115

⁸ Abdurrahman, *Kompilasi Hukum Islam di Indonesia*, (Jakarta: CV. Akademika Pressindo, 1995), p. 114

⁹ Slamet Abdin dan Aminuddin, *Fiqih Munakahat II* (Bandung: Pustaka Setia, 1999), p. 9

¹⁰ Syaid Sabiq, *Fiqih Sunnah* 6, p. 10

¹¹ Jumni Nelli and Sobhan Lubis, "Community Support for Divorced Women: A Study in Riau Province," *Samarah: Jurnal Hukum keluarga dan Hukum Islam* 6, No. 1 (2022).

¹² Moh Rifa'i, *Ilmu Fiqih Islam Lengkap*, (Semarang: PT. Toha Putra, 1978), p. 482.

The term "divorce" refers to the legal dissolution or termination of a marriage between a husband and a wife. Regarding divorce, two commonly used words are "divorce by mutual consent" and "divorce by death". Divorce during life refers to the legal separation of a husband and a wife while both are still alive, whereas divorce by death refers to the separation of a husband and a wife due to the death of one of them.¹³

As per Article 38 of Law Number 1 of 1974, divorce refers to the termination of a marriage.¹⁴ Divorce matters in the Compilation of Islamic Law (KHI) are governed under articles 113 to 148. Upon examining the contents of these pages, it becomes evident that the divorce process is arduous, as it necessitates compelling and precisely lawful justifications. This is affirmed in article 115 of the KHI which says the following: Divorce proceedings can only take place at a court session, following the court's attempt to reconcile the two parties.¹⁵

According to KHI article 115, divorce refers to the act of formally declaring the intention to end a marriage. This declaration must take place in a court setting and be seen by religious court judges. If the declaration of divorce is done outside of a court, then the divorce is deemed unlawful, rendering it void and without legal enforceability.¹⁶

If the marital tie is robust, it should not be susceptible to harm or be undervalued. All efforts to belittle the institution of marriage and undermine its significance are detested by Allah, as they undermine virtue and diminish the advantages that exist between a husband and wife.¹⁷ According to the *hadith* of the Prophet, as narrated by Ibn Abbas, the Prophet *sallallahu 'alaihi wasallam* stated that divorce is the *halal* thing that Allah dislikes the most.¹⁸

This *hadith* demonstrates that *talak*, or divorce, should only be considered as a final recourse, akin to an "emergency exit," when the preservation and sustainability of the household can no longer be upheld. Because the prospect of *talak* is a final alternative, Islam requires that before divorce efforts be made for peace between the two parties, either through a judge (the arbitrator) from both sides or by measures as will be outlined.¹⁹

In Islam, anyone who attempts to undermine the bond between a husband and a wife is regarded as having renounced Islam and is devoid of any esteemed position within the Islamic faith.²⁰ According to a *hadith* narrated by Abu Hurairah, the

¹³ Sudirman, *Pisah Demi Sakinah*, (Surabaya: Pustaka Radja, 2018), p. 9-10.

¹⁴ Nurhadi, *Himpunan Perundang-Undangan yang Berkaitan dengan Kompilasi Hukum Islam dengan Pengertian dan Pembahasannya*, (Jakarta: Mahkamah Agung RI, 2011), p. 143.

¹⁵ Nurhadi, *Himpunan Perundang-Undangan...*, p. 92

¹⁶ Choirul Abror, *Hukum Perkawinan dan Perceraian*, (Yogyakarta: Ladang Kata, 2017), cet. 1, p. 17

¹⁷ Sayyid Sabiq, *Fiqh Sunnah 8*, (Bandung: PT. Al-Ma'arif, 1997), p. 9

¹⁸ Al-Imam Al-Hafizh Abi Dawud, *Sunan Abi Dawud*, Juz 3, (Beirut: Dar Risalah Alamiyah, 1430 H), p. 105

¹⁹ Ahmad Rofiq, *Hukum Perdata Islam di Indonesia*, Edisi Revisi, (Jakarta: PT Raja Grafindo Persada, 2015), p. 214

²⁰ Sayyid Sabiq, *Fiqh Sunnah 8*, p. 10

Prophet Muhammad (SAW) stated that anyone who deceives a woman into turning against her husband or a slave into rebelling against their master does not belong to our community.²¹

Wives who seek divorce without a legitimate cause or justification are prohibited from experiencing the heavenly fragrance. According to the Islamic principles, every divorce must be grounded in valid causes and justified arguments. According to the *hadith* of *Rasulullah*, as narrated by Tsauban, *Rasulullah shallallahu 'alaihi wasallam* stated that any lady who seeks a divorce from her husband without a valid reason will be deprived of the fragrance of paradise."²²

In 2021, a total of 1289 divorces were recorded in Kampar district, encompassing both contested divorces and *talak* divorces. This number is ranked second, following Pekanbaru, which holds the first position with a count of 1793. The number of recorded divorce cases in 2020 was 1171.²³ The data indicates a substantial rise in divorce cases between the years 2020 and 2021. Executing a marriage ceremony is a complex task that needs expertise and a solemn approach to fulfill this religious obligation.

This study is a sociological investigation that specifically examines the factors contributing to divorce and divorce rates among the residents of Kampar District, Kampar Regency in 2021, with a particular emphasis on the application of Islamic family law.²⁴ The data collection methods employed were interviews and document analysis. This study examines the factors contributing to divorce and divorce rates within the Muslim community in Kampar District, Kampar Regency in 2021, with a focus on the application of Islamic family law.

Factors contributing to divorce and the prevalence of divorce in Kampar District, Kampar Regency

Divorce is the legal termination of a marital relationship, in which the husband and the wife cease to fulfill their respective role obligations, and one partner chooses to split and live alone. The Religious Court is empowered to offer evaluations and deliberations concerning the reasons for their divorce. Here, the question arises as to whether the husband's justifications for divorcing his wife align with Islamic law and religious principles.

Discussing divorce and its contributing elements is a well-established occurrence in society. Nevertheless, divorce, in all its facets, remains intriguing, significant, and pertinent to persist in discussing. Research on the causes of divorce is typically categorized into two main elements: external forces and internal ones.²⁵

²¹ Imam Al-Hafizh Ibi Dawud, *Sunan Abi Dawud*, p. 503

²² Muhammad bin Isa At-Tarmidzi, *Al-Jami'ul Kabir*, Jilid 2, (Beirut: Dar Gharib Islami, 1996), p. 478-479

²³ <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pa-bangkinang/kategori/perceraian.html> diakses tanggal 25 Oktober 2022.

²⁴ Khairuddin Ali, *Metodologi Penelitian Hukum*, Jakarta: Sinar Grafika, 2016.

²⁵ Khairuddin Nasution, *Islam Tentang Relasi Suami dan Isteri Hukum Perkawinan 1 dilengkapi Perbandingan UU Negara Muslim*, (Yogyakarta: Academia + Tazafafa, 2004), p. 19

Socioeconomic status encompasses various characteristics such as social class, occupation, economic circumstances, education, income, family involvement, and limited societal control, which are recognized as external influences. Internal aspects pertain to personal problems, namely personal stress arising from diverse disparities in the personality structure of each individual involved. Based on the findings of the conducted data search, the following information has been obtained:

Table 1: Reasons for Divorce

No	Respondent	Reasons for Divorce
1.	Ferdi	Economic
2.	Sayaruddin	Love Affairs
3.	Sarkawi	Economic and domestic violence
4.	Frans Rezeki	Economic
5.	Sariyanto	Love Affairs

Source: Field Data, 2022.

The table above illustrates the diverse factors that lead husbands to divorce their spouses. Factors such as the economy, domestic abuse, infidelity, and education also contribute to the likelihood of divorce.

The family is the most basic social unit, comprising a husband, a wife, and their offspring. Individuals who become part of a family unit using marriage. This union aims to establish a harmonious and contented family that thrives both physically and psychologically, ensuring security in both worldly life and the hereafter. Thus, the objective of family life will be achieved in alignment with religious principles, specifically *mawwaddah*, *rahmah*, and *sakinah*. Islam espouses a set of legal principles that are essential for a marriage to be considered valid. These principles serve as the foundation of marriage according to the Islamic teachings. In the realm of domestic life, it is not always feasible for all marriages to adhere to the principles outlined in Islam, resulting in the failure of the marriage to meet its intended objectives and ultimately leading to divorce.

The sorts of divorce are tailored to the specific errors committed by both the husband and the wife. The grounds for divorce are stipulated in Article 19 of the Government Regulation Number 9 of 1975 of the Republic of Indonesia, if:

1. One of the parties engages in adultery or develops an incurable addiction to alcohol, drugs, gambling, or similar behaviors;
2. One party voluntarily separates from the other for a continuous period of 2 (two) years without the consent of the other party and without a justifiable reason beyond their control, even if it is for an indefinite duration in Malaysia, stating that they have been abandoned by the other party and are unaware of their whereabouts;
3. If one of the parties is sentenced to imprisonment for a duration of 5 years or more after the marriage has occurred, or receives a more severe sentence, and
4. If one party engages in cruelty or serious abuse that poses a threat to the other party, then the husband has two options to divorce his wife. Firstly, he can

exercise his right of *talak*, both *raji'i* and *ba'in*. Secondly, he can resort to *meli'an*, particularly in point (a). The wife has the option to seek *khuluk* or utilize a marriage agreement, specifically *taklik talak*, if it exists.

5. One of the parties is incapacitated due to a physical impairment or sickness, rendering them unable to fulfill their duties as a spouse. The husband has the option to either accept or decline it. Similarly, the wife has the option to file for divorce or engage in sexual intercourse with her spouse to finalize the marriage.
6. The marital relationship is characterized by ongoing conflicts and disagreements, with no prospect of restoring harmony within the household. The settlement is entrusted to two *hakam* or judges, who consider the interests of both the husband and the wife. The aforementioned reasons are reiterated in article 19 of the Republic of Indonesia Government Regulation Number 9 of 1975, covering the same subject matter. Furthermore, article 116 of the Indonesian KHI reinforces this notion, incorporating the following further provisions:
 7. The husband commits a violation of *ta'liq talak* when it is spoken during the wedding procession or *khulu'*.
 8. Conversion to a different religion or renunciation of one's faith resulting in discord within the family. The judge was the one who granted the divorce. Although the marriage does not violate the Islamic law, it is considered null and void according to legal regulations.

Al-Ramliy identifies several justifiable causes for divorce, which are as follows.²⁶:

1. On behalf of the husband. He is deficient in meeting his wife's obligations, unable of providing financial support, and so forth.
2. From the wife's perspective, the husband's honor cannot be preserved unless he is concerned about the potential occurrence of a man who may engage in a sinful relationship with his former wife in the future. In his commentary on al-Ramli's work, Al-Syibramalisiy asserts that if a man becomes aware of another individual intending to engage in a sinful act with his wife, and he could prevent it by exercising his authority over her, his mindset would be considered forbidden (*haram*) unless he is afflicted by a severe illness. Residing with him would be truly remarkable. (b) Undesirable conduct, specifically if he is unable to restrain himself from engaging with her in the customary manner.²⁷

Based on the comprehensive study conducted in the field, which comprised interviews with divorce parties as well as religious figures and the Religious Courts, it is evident that there are multiple factors contributing to divorce in Kampar District, Kampar Regency. These factors include:

1) Economic Factors

²⁶ Abdul Hadi, *Fiqh Munakahat*, (Semarang: CV. Karya Abadi Jaya, 2015), p. 179-180.

²⁷ Abdul Hadi, *Fiqh Munakahat*, p. 174.

My husband's occupation as a rubber farmer is insufficient to support our family's necessities. Conversely, the occupation of a rubber farmer disrupts the financial equilibrium of the family. According to reports, the lack of balance is attributed to the unfavorable price of rubber. Previously, the price per kilogram reached 17 thousand, but it has now dropped to only 7 to 8 thousand. As a result, the family's daily necessities are not adequately satisfied, leading to conflicts and ultimately resulting in infidelity and divorce. According to the author's data, individuals in inferior economic conditions, such as Sariyanto and Sarkawi who work as rubber farmers, or Frans who lacks stable employment, are identified as the culprits behind divorce.

2) Factor of Unfaithfulness

Infidelity is a significant factor that can lead to marital damage or divorce. This is primarily attributed to the inadequate public education in the areas of religion, morals, and general education. Consequently, people have a limited understanding of ethical principles in maintaining a household. As a result, when faced with family conflicts, their thinking and perspectives become narrow, leading them to choose divorce rather than attempting to exercise patience. This data aligns with the instance presented by the author, namely about the extramarital affair with the couple Sayaruddin and Jasmanidar, where Sayaruddin was the unfaithful spouse. Furthermore, the individuals responsible for conducting the affair were the spouses, Sariyanto and Mardia Suryani. The individuals responsible for initiating divorce were found to possess limited educational attainment, less practical knowledge, and a lack of discernment, which rendered them more susceptible to deciding to divorce.

3) Level of violence

Instances of domestic violence frequently arise, catalyzing the dissolution of a household, specifically leading to divorce. The prevalence of low education levels and indolence in the Kampar District area leads to a significant number of spouses engaging in income-generating activities to contribute to their family's financial stability. Consequently, this situation often leads to conflicts and even instances of domestic violence. Ultimately, the husband divorced his wife due to his profound embarrassment at his well-recognized misconduct, while the wife, no longer willing to submit to her husband, chose to part ways. This statement aligns with the interview with Sarkawi.

4) Educational Influence

Education-related factors contribute to the occurrence of divorce. Due to certain circumstances, couples may not have fully capitalized on educational chances. Perhaps he still harbors a desire to pursue more study at an advanced level. Participating in schooling necessitates a strong focus. Minor issues within the household have the potential to provoke anger in a young father, or conversely, to be influenced by his anger. Insufficient education, particularly in religious matters, is a contributing factor to the high divorce rates observed in Kampar District.

Based on the aforementioned points, it is evident that a significant proportion of individuals who undergo divorce belong to the Muslim community. This can be

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attributed to the understanding within Islam that divorce is permissible (*halal*), albeit it is disliked by Allah SWT. This is concerning, as the residents of Kampar District readily opt for divorce, even in cases where family issues are minor. In addition, certain individuals residing in the Kampar District perceive divorce as a common occurrence within their surroundings, hence deciding to divorce without hesitation.

As a person's income increases, so does their social and economic standing. Spencer stated that an index might be used to ascertain the social standing of an individual or a collective. The index can be derived from the mean score attained by an individual in many domains, such as education, family income, and the occupation of the household head. Therefore, it is evident that individuals who have gone through divorce begin with a disadvantaged economic status, rendering them incapable of meeting their family's financial requirements.²⁸

Review of the Islamic Law regarding Divorce and Divorce in Kampar

The scope of the review of Islamic law which is used as a benchmark for the causes of divorce and divorce among the Muslim population in Kampar District, Kampar Regency includes a review of the opinions of ulama and a review according to the laws implemented in Indonesia.

Divorce or sued divorce to end a marriage is an act permitted by Allah. Even though it is permissible, on the other hand, divorce or sued divorce is the most hated by Allah. Regarding the legal side and Allah's hatred of the practice, it can be seen in the following hadith:

7 حَدَّثَنَا كَثِيرُ بْنُ عَبْدِ حَدَّثَنَا مُحَمَّدُ بْنُ خَالِدٍ عَنْ مُعَرِّفِ بْنِ وَاصِلٍ عَنْ مُحَارِبِ بْنِ دِثَارٍ عَنْ ابْنِ عُمَرَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ أَبْغَضُ الْحَلَالِ إِلَى اللَّهِ تَعَالَى الطَّلَاقُ

Meaning: "Has told us Katsir bin 'Ubaid, has told us Muhammad bin Khalid from Mu'arrif bin Washil from Muharib bin Ditsar from Ibn Abbas from the Prophet *sallallahu 'alaihi wasallam* he said: The *halal* matter that Allah hates most is divorce³²⁹

This *hadith* is proof that among the *halal* ways there are those that Allah will be angry with if they are not used properly and the one that is most angry with the perpetrator without a justified reason is the act of giving divorce. So giving divorce has absolutely no reward and cannot be seen as an act of worship. This *hadith* also proves that husbands must always refrain from giving divorce while there is still a way to avoid it. A husband is only allowed to give divorce if he is forced to, there is no other way to avoid it, and divorce is one way to create benefits.

Therefore, it can be seen from this *hadith* that although it is permissible to divorce, Islam does not justify divorce which is carried out haphazardly without any basis in the provisions of the Islamic law. To carry out a divorce there must be

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²⁸ Bahrein, *Sosiologi Pedesaan: Suatu Pengantar*, Jakarta: PT. Raja Grafindo Persada, 1996, p. 139

²⁹ Al-Imam Al-Hafizh Abi Dawud, *Sunan Abi Dawud*.

13 sufficient reasons that the husband and the wife will not be able to live in harmony as a husband and a wife.³⁰

6 Living in a marital relationship is the *sunnah* of Allah and the *sunnah* of the Prophet. That is what Islam desires. On the other hand, breaking away from married life violates the *Sunnah* of Allah and the *Sunnah* of the Prophet and violates Allah's will to create a household that is *sakinah mawaddah* and *warohmah*.³¹

Nevertheless, if the marital bond becomes unsustainable and persists, leading to its eventual deterioration and detriment, Islam permits divorce as a viable option. If harm is present, Islam permits divorce.

Divorce, also known as *talaq* in Ushul Fiqh, is considered *makruh*, meaning it is disapproved of and not favored. This controversial regulation can be observed through the measures used to deter the incidence of *talaq*, involving multiple steps.³² It is true that the Qur'an does not contain any verses that explicitly demand or prohibit divorce. However, several verses specifically instruct believers to engage in marriage. The Qur'an has numerous passages that govern the practice of *talaq*. However, these verses primarily focus on specifying the circumstances under which *talaq* should take place, whether it be in the form of a command or a prohibition.³³

The elements contributing to divorce among the residents of Kampar District, Kampar Regency, by Islamic law, are as follows:

1) Factors related to the economy

Imam Malik, Imam Shafi'i, and Imam Ahmad permit divorce by the ruling of the religious court, provided that the wife asserts her claim due to the lack of financial support and the husband genuinely lacks sufficient assets to fulfill the wife's requirements.³⁴ One of the ideas they adhere to is that:

- a) the husband is responsible for the well-being of his wife and should either fulfill this duty in a commendable manner or respectfully end the marriage. This is based on the directive of Allah SWT as stated in Q.S al-Baqarah verse 229:

فَأَمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ

Meaning: "Either speak of it positively or separate from it amicably."³⁵

If the husband is unable to financially support his wife, it indicates that he has failed to fulfill the directive mentioned in this passage.

- b) Allah SWT stated in Surah al-Baqarah, verse 231:

وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا

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³⁰ Abdul Hadi, *Fiqh Munakahat*, p. 173.

³¹ Amir Syarifuddin, *Hukum Perkawinan Islam*, p. 199.

³² Amir Syarifuddin, *Hukum Perkawinan Islam*, p. 200.

³³ Amir Syarifuddin, *Hukum Perkawinan Islam*, p. 200.

³⁴ Sayyid Sabiq, *Fikih Sunnah 4*, (Jakarta: Cakrawala Publishing, 2009), p. 68

³⁵ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, (Semarang: PT. Karya Toha Putra, 1996), p. 36

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Meaning: “Avoid making derogatory references towards them, as such actions constitute persecution”³⁶

About this issue, the Prophet Muhammad (peace be upon him). Utter words verbally

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 أن رسول الله صلى الله عليه وسلم قال: ((لا ضرر ولا ضرار))؛ حديث حسن

Meaning: “Inflicting harm and retaliating with harm is not allowed.”³⁷

The most significant detriment to a wife is undoubtedly the lack of support from her husband. Thus, it is the responsibility of the Religious Court to protect the wife from potential harm in such a situation.

- c) If it is acknowledged that the Religious Court has the authority to issue a divorce based on a husband's flaw, then the decision to deny alimony can be argued to be more detrimental and distressing to the woman than the defect itself. The lack of support provided can be cited as a grounds for divorce due to its expeditious nature.

2) Factor of Unfaithfulness

Engaging in divorce without a legitimate justification is an abhorrent action that is condemned and detested by God. The Prophet, peace be upon him, stated:

قَالَ أَبِغَضُ الْخَلَالِ إِلَى اللَّهِ تَعَالَى الطَّلَاقُ

Meani: “Divorce is the most detested action by God in the context of halal”.³⁸

This *hadith* serves as evidence that within the permissible actions, there exists something that incurs God's displeasure if it is not carried out appropriately. The action that elicits the greatest anger from God against the one who commits it without valid justification is the act of divorce. Hence, bestowing divorce yields no benefits and cannot be regarded as a form of religious devotion. This *hadith* serves as evidence that the husband should consistently refrain from divorce as long as there are alternative solutions available. The spouse is permitted to divorce solely by circumstances necessitating it, with no alternative means of avoidance, and divorce is one of the avenues to generate advantages.³⁹

1. Causes of domestic violence

Moral dilemmas contribute to the prevalence of divorce in Kampar District, Kampar Regency. Undoubtedly, the combination of environmental changes and a lifestyle that deviates from religious precepts can lead to divorce over time. Instances of moral crises include indolence, alcohol consumption, gambling, and various other behaviors.

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³⁶ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, (Semarang: PT. Karya Toha Putra, 1996), cet. ke 1, p. 37

³⁷ Imam Hafizh Abi Dawud, *Sunan Abu Dawud*, Juz 5, (Beirut: Dar Risalah Alamiyah, 2009), p. 478

³⁸ Al-Imam Al-Hafizh Abi Dawud, *Sunan Abu Dawud*, Juz 5, (Beirut: Dar Risalah Alamiyah, 2009), p. 4

³⁹ Abdul Rahman Ghazali, *Fiqh Muamalat*, Jakarta: Kencana, 2010, p. 212.

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2. Educational influence

The aspiration of a husband and a wife in their marriage is to establish a harmonious, loving, and blessed household. When a lack of compatibility and misunderstandings within a household result in divorce, this situation is evidently regarded as detrimental. In accordance with the Islamic jurisprudence, it is imperative to eliminate any form of injury as prescribed by the principles of the Islamic law:⁴⁰

الضَّرُّ يُزَالُ

Meaning: "Damity must be eradicated"

According to this principle, the *fuqaha* establish that if there are circumstances in the relationship between a husband and a wife that involve money and cause harm to one of the parties, who experiences *madharat*, they have the right to initiate the dissolution of the marriage, and then the judge will dissolve the marriage.⁴¹

If the domestic life of a husband and wife lacks harmony or compatibility, it can lead to one party adopting a cruel attitude. In such cases, the aggrieved party has the right to dissolve the marriage, which often results in ongoing disputes between the two parties.

If the marriage persists, it will result in *mafsadah* for both parties, as the absence of harmony between the husband and wife will prevail. According to the principles of *Fikiyah*, it is more advantageous to separate from him through divorce rather than maintaining the relationship:

إِذَا تَرَاحَمَتِ الْمَصَالِحُ قُدِّمَ الْأَعْلَى مِنْهَا وَإِذَا تَرَاحَمَتِ الْمَفَاسِدُ قُدِّمَ الْأَخْفُ مِنْهَا

Meaning: "It signifies that when there are two contradictory *mafsadat*, the one with the larger harm is chosen above the one with the lesser harm".

This rule states that in cases where multiple benefits are mutually exclusive, the superior benefit takes precedence. Engaging in matters that bring greater profit is highly favored by Allah *Azza wa Jalla* due to the added goodness they include. Regarding the possibility of collecting some advantages and obtaining all of them, the latter is of more significance. Conversely, in situations where multiple adversities, or *masfsadat*, need to be conquered by a single entity, the one with the least severe *masfsadat* is selected. If it is possible to completely avoid the evils, then it is the desired outcome. Additionally, the account of *Shaykhul Islam* Ibnu Taimiyah, may God have mercy on him, recounts an encounter between him, one of his friends, and a group of Tatars who were consuming alcoholic beverages known as *khamr*. Ibn Taymiyyah did not prohibit them from using alcoholic beverages. His friend inquired as to why he did not intervene and prevent their actions. Ibn Taymiyyah responded that if they refrain from consuming alcoholic beverages, they would still commit acts of dishonoring Muslims and seizing their possessions. This would constitute a more severe form of injustice, as it directly affects other

⁴⁰ Abdul Rahman Ghazali, *Fiqh Muamalat*, p. 245.

⁴¹ Abdul Rahman Ghazali, *Fiqh Muamalat*, p. 246.

individuals. Indulging in the consumption of *khamr* is a malevolent action that solely pertains to the individuals involved.⁴²

Therefore, education is necessary in order to acquire the knowledge and skills required to establish a strong and harmonious family. The number of divorces in Kampar Subdistrict, Kampar Regency, has been consistently increasing over the years. This can be attributed to the challenging circumstances and conditions that exist in Kampar Subdistrict, which are more pronounced compared to other villages. This phenomenon can be attributed to the dearth of education, the absence of accountability, and the moral quandary prevalent in the familial setting. Additionally, the lack of adherence to religious principles further exacerbates the situation. In contrast, other regions exhibit a greater sense of familial responsibility and encounter relatively less obstacles

Strategies for Avoiding and Minimizing Divorce

Discussing the topic of divorce and its prevalence in the lives of Muslims is a challenging and inevitable task. Nevertheless, the absence of a remedy or means to prevent or reduce divorce is not implied. During the interview, the researcher discussed with the Religious Figure and Head of the Kampar KUA (The Office of Religious Affairs) the potential reduction in divorce rates. The Religious Figure expressed the belief that, if required, measures would be used to make issues more challenging in the Religious Courts. Prior to marriage, it is essential for every prospective bride and groom to adhere to a process known as Marriage Counselling, in which the counsellor provides guidance for marriage. This process should not be treated as a mere formality, but rather as a means to effectively guide the couple in implementing the knowledge gained from the marriage counsellor. The purpose is to establish a harmonious, affectionate, and compassionate family.

One of the counsellors utter that:

when brides, particularly husbands, seek my opinion at the KUA, I consistently advise those seeking divorce to consider the significant financial obligations that come with remarriage. This serves as a reminder for the disputing parties, especially those involved in divorce proceedings, to carefully reconsider their decision and avoid further complications. It is unwise for a man to hastily label his wife as the worst, as all partners, including women, possess imperfections. I employed this strategy to dissuade them from pursuing their intentions, but I observed that despite being informed, the majority persisted. Nevertheless, there were evident endeavors to mitigate the number of occurrences. Specifically, the topic of discussion is divorce, particularly divorce. In Islam, the Prophet provided guidelines for selecting a li¹² partner prior to marriage, among of which:⁴³

تُنكحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا وَلِحَسْبِهَا وَلِجَمَالِهَا وَلِدِينِهَا، فَاطْفَرُ بِذَاتِ الدِّينِ تَرَبُّثٌ يَدَاكَ

⁴²<https://almanhaj.or.id/4072-kaidah-ke-33-jika-ada-kemaslahatan-bertabrakan-maka-maslahat-yang-lebih-besar-harus-didahulukan.html>

⁴³ Interviewed with Riki Setiawan, Chair of KUA in Kampar, 14 April 2023.

Meaning: Women are typically married for four main reasons: their riches, their ability to bear children, their physical attractiveness, and their religious beliefs. Therefore, it is advisable to select a lady who is devoutly religious in order to increase one's chances of finding happiness in marriage.⁴⁴

Divorce is a common occurrence in the Bangkinang Religious Court. Since its establishment, the court has consistently dealt with a higher number of divorce cases compared to other types of proceedings. Hence, the Bangkinang religious court has implemented many measures to reduce divorce cases, particularly those related to Divorce. During an interview with Dr. Hasanul Hakim M.A, the deputy chairman of the Bangkinang Religious Court, he stated that the court has implemented mediation as a measure to reduce the number of cases, particularly those related to divorce.⁴⁵ The parties have the prerogative to select a mediator who will facilitate the resolution of the dispute, so ensuring convenience during the mediation process:

- a. To facilitate the selection of a mediator, the Court Chairman supplies a list of mediators with a minimum of five names, together with their educational background or professional experience.
- b. The Chief Justice includes the names of judges with certificates in the mediator list.
- c. If there is a lack of judges or certified judges in the specific jurisdiction, it is permissible to include all judges from that jurisdiction on the roster of mediators.
- d. Individuals who are officially certified as non-judges have the option to submit a formal request to the court's leader to have their names included in the roster of mediators for that specific court.
- e. Once the Chief Justice has verified and confirmed the authenticity of the certificate, they proceed to include the applicant's name in the roster of mediators.
- f. The Chief Justice conducts an annual assessment and revision of the roster of mediators

Moreover, he said that to reduce the number of divorce cases brought to religious courts, it is advisable to engage in mediation between the parties concerned. Mediation is a method of resolving conflicts where the parties involved engage in negotiation or reach a consensus, with the help of a mediator who lacks the power to make or enforce a settlement. The primary attribute of the mediation process is bargaining, which is fundamentally synonymous with the deliberation or consensus process. During the mediation process, it is essential to adhere to the principles of negotiation, debate, and consensus, which means that no force or pressure should be

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⁴⁴ Abdullah Muhammad bin Ismail al-Bukhari, *Shahih Bukhari*, (Beirut: Dar al-Kitab 'Ilmiyyah, 1992), p. 1105

⁴⁵ Interviewed with Hasanul Hakim, Deputy head of Religious Court of Bangkinan, 17 April 2023.

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applied to accept or reject any proposal or solution. Approval from all parties is required for everything. The mediation process entails the following procedures:

- a. Once the case has been assigned a number and a panel of judges has been selected by the chairman, the judges then make a decision for the mediator to proceed with the mediation process.
- b. Once all parties are present, the panel presents the mediation determination to both the mediator and the parties interested in the case.
- c. Subsequently, the mediator proposes to the parties involved in the case that a peaceful resolution should be pursued, with the aim of mitigating the damages incurred by each party.
- d. The mediator's term lasts for 21 consecutive days, regardless of the outcome of the peace process. On the 22nd day, the mediator is required to return the position to the panel responsible for the decision.⁴⁶

The researcher attempts to provide more solutions in line with those suggested by the informant. These solutions are as follows:

- a. Obtain a letter of reference from the KUA to utilize as evidence in divorce proceedings.
- b. Assuming that a marriage that commences positively will also conclude positively, and conveying this notion to both parties.
- c. Before the wedding, the bride and groom are required to undergo home harmonization training at the KUA or get marriage assistance. We must collectively comprehend that divorce is permissible according to Islamic law, although it is disfavored by Allah SWT due to its potential for both beneficial and negative consequences.

To gather additional information, researchers conducted interviews with multiple respondents to ascertain the positive and bad ramifications of divorce, which are outlined as follows:

- a. The litigants or parties involved are relieved to have completed the divorce process, as it is no longer weighing on their thoughts.
- b. Subsequently, following the completion of the divorce proceedings, both the husband and the wife are granted increased autonomy to seek out new companions.
- c. In cases of prolonged domestic violence, where the harm inflicted is more severe than before, it is advisable for the wife to seek divorce rather than continue living in a household that does not align with the desires of both parties.⁴⁷

⁴⁶ Interviewed with Hasanul Hakim, the Deputy Head of the Religious Court of Bangkinan, April 17, 2023.

⁴⁷ Interviewed with Nurhasanah, a community member in Kampar, April 15, 2023

Following the presentation of the good effects of divorce, as evidenced by interview findings, the subsequent discussion will focus on the negative consequences of divorce. Specifically, it will be highlighted that if divorce is not handled with caution, the children resulting from the marriage may be neglected or abandoned. Divorce can negatively impact the connection between the former partner and even the former spouse's family. The situation weighs heavily on the minds of youngsters and leads to less harmonious family connections, becoming a topic of gossip among residents.

The Meaning of Divorce for Divorcers According to Islamic Family Law

Divorce Under Islamic Family Law signifies the termination of a protracted marital journey stemming from socio-cultural factors, divergent aspirations, and differing requirements between the husband and the wife. Understanding the incidence of normative disputes around divorce is crucial in explaining the husband's inclination to divorce his wife. In contemporary culture, characterized by rapid advancements in various domains, divorce is no longer perceived as a taboo subject. Consequently, it is no longer considered a shameful or avoidable occurrence.

This research demonstrates that divorce signifies the termination of a volatile marital union that has progressed to the point where the individuals involved opt to reside separately. The divorce proceedings they ultimately initiated were not merely a momentary decision, but rather a protracted undertaking that necessitated input from multiple parties, particularly the immediate family and close relatives. Hence, various connotations of divorce can be discerned, encompassing:

a) Liberty

Marriage is a contractual arrangement between two parties, involving the exchange of rights and obligations. If this process has challenges in the execution of marital life, it might lead to the breakdown of their respective responsibilities. In one manifestation, failing in this particular position is utterly unacceptable, leading to the ultimate consequence of divorce. The failure of each spouse's duty is linked to the challenge of adapting to divergent perspectives on rights and responsibilities in the context of marriage.

In this instance, divorce can be interpreted as a form of liberation. Released from many obligations that must be fulfilled during marriage. As informed by a community member, he found his wife's recent behavior intolerable, even though they had been married for a considerable period, specifically several decades. On every occasion when a difficulty arises, he consistently acts negatively, and thus the couple desires for liberation from such circumstances by committing the divorce.⁴⁸

Therefore, in this scenario, the marriage is no longer sustainable due to the absence of harmony inside the household. Divorce is seen as the ultimate means to liberate oneself from the statements made by one of the informants.

⁴⁸Interviewed with Sayaruddin, Masyarakat di Kampar, April 18, 2023.

b) The Exit Strategies

The attribution of this interpretation to the divorce of the respondents emerged because all respondents encountered a multitude of issues during their former marital life, which inevitably led to protracted arguments and disputes. The husband and the wife have reached a point where they are unable to find a mutually beneficial solution, leading them to choose divorce.

Divorce is pursued as a means to resolve a multitude of conflicts and issues, despite the recognition that divorce does not eliminate the presence of problematic individuals. As one participant pointed out, it is highly uncommon, if not nonexistent, for someone to easily perceive or detect their spouse's infidelity. Therefore, divorce is the optimal resolution for such a difficult situation. While divorce may not be a comprehensive solution, it can bring peace of mind to those in conflict.⁴⁹

Given the circumstances, it is evident that the actor cannot sustain the marriage as it would not lead to domestic bliss, but rather result in enduring harm. Divorce is viewed by respondents as a viable choice and means of escape. As corroborated by a source, there is currently a lack of compatibility among the members of our home. Consequently, this situation leads to protracted disputes, necessitating the immediate course of action, which is divorce.⁵⁰

Divorce is the only viable solution for them to address their domestic issues. For them, it is preferable to seek a divorce and live without a spouse rather than remain in an unhappy marriage. Divorce is perceived as a solution to the various challenges they encounter, and it is also regarded as a commonplace action.

Conclusion

Based on the data presented in this study, it can be deduced that divorce can be caused by a range of internal and external factors. The author's research indicates the following reasons that contribute to divorce in Kampar District: economic factors, infidelity factors, violent factors, and actors. In the context of divorce among the Muslim population in Kampar District, it is permissible according to Islamic family law to continue with a divorce if the continuation of the marriage will cause injury to both the husband and wife due to a lack of harmony between them. Opting for divorce is more desirable than continuing the partnership due to factors such as his lack of responsibility, the prevalent ethical dilemma in society, and a disrespect for religious tenets. Divorce represents the end of a long and complex marriage resulting from social and cultural influences, differing goals, and specific needs of the husband and wife. Therefore, various understandings of divorce can be identified, including Freedom can be defined as the culmination of a sequence of agreements between two parties, encompassing the exchange of rights and responsibilities, ultimately resulting in the formation of a marital union. In this case, divorce can be understood as a type of emancipation. Relieved from several marital responsibilities

⁴⁹ Interviewed with Sariyanto, the community member in Kampar, April 17, 2023.

⁵⁰ Interviewed with Ferdi, the community member in Kampa, April 18, 2023.

that need to be completed. The institution of marriage is necessarily accompanied by a myriad of issues that frequently result in discord and disputes. Divorce is a considered and perceived option that aims to offer a means of escape.

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