

DIVORCE RISK MITIGATION IN ISLAM

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Abstract

The purpose of this study is to describe various efforts in Islam to minimize the risk of divorce in order to maintain family integrity. Divorce is a complex and multidimensional social phenomenon that has a significant impact on individuals, families and society. The method used in this research is to use a qualitative approach with a literature study research type. This study was conducted by understanding the literature related to the phenomenon of divorce and its risk mitigation in the Islamic concept, which was sourced from various media such as books, journals, and relevant previous research. The result of this study is that in the Islamic context, divorce is not a desirable thing and is considered the last solution after maximum efforts of mediation and reconciliation have been made. Islam is a religion that emphasizes the importance of maintaining the integrity of the family and provides clear guidelines regarding marriage. Islam also provides comprehensive guidelines and strategies to minimize the risk of divorce and maintain family integrity. Efforts to minimize the risk of divorce are; Improvement of spiritual life, effective communication, family support, the role of scholars and counselors, and marriage education programs.

Keywords: Risk Mitigation, Divorce, Family Integrity

INTRODUCTION

According to the Big Indonesian Dictionary (KBBI), the word mitigation means actions that can reduce disasters. (Kemendikbudristek, 2016). Meanwhile, the definition of risk itself is the unpleasant or detrimental, harmful consequences of an act or action (Kemendikbudristek, 2016). (Kemendikbudristek, 2016). Furthermore, the definition of divorce is the same as separation or division, in this case there is a conflict that occurs in the household between husband and wife in living a married life. From the above understandings, what researchers mean is that Islam provides strategies and preventive efforts to minimize and even close all gaps so that divorce does not occur which will cause greater conflict and disaster and can even result in the destruction of the order and integrity of the household until it ends in divorce.

Mitigating the risk of divorce in Islam by offering an in-depth understanding of the values and norms in husband and wife relationships and married life sourced from sources of Islamic law, namely the Qur'an, Hadith and the Compilation of Islamic Law and other references. These understandings are implemented into various strategies and efforts to minimize the risk of divorce in maintaining family integrity. Islam has regulated the relationship between husband and wife in such a way that the household is full of mawaddah wa rahmah. However, the reality of life proves that maintaining the preservation and continuity of life with husband and wife is not an easy matter to implement, even in many cases the affection and harmonious life between husband and wife cannot be realized.

Psychological, biological, economic factors, differences in inclination, outlook on life, often appear in domestic life and can even lead to a household crisis. Divorce in fiqh terms is called talak or furqah, the word talak means breaking ties, canceling agreements, while furqah means divorce, in fiqh terms it is defined as divorce between husband or wife. As Zahri Hamid views that, according to Islamic law divorce means; 1) Eliminating marital ties or reducing attachment with certain words; 2) Removing the bonds of marriage and ending the relationship between husband and wife; 3) Removing the bonds of the marriage contract with the utterance of divorce or its equivalent. (Hamid, 1976).

Meanwhile, according to the Compilation of Islamic Law in Indonesia Chapter 116, divorce is a husband's pledge before a Religious Court session which is one of the reasons for the dissolution of marriage. (Ministry of Religious Affairs, 2018).

There are several reasons for divorce, as stated in the Compilation of Islamic Law in Indonesia Chapter 116. Divorce can occur for reasons or reasons; 1) One of the parties commits adultery or becomes a drunkard, addict, gambler and so on that is difficult to cure; 2) One of the parties leaves the other party for 2 (two) consecutive years without the other party's permission and without a valid reason or for other reasons beyond his/her control; 3) One of the parties receives a prison sentence of 5 (five) years or a heavier sentence after the marriage has taken place; 4) One of the parties commits cruelty or serious maltreatment that

endangers the other party; 5) One of the parties gets a disability or illness with the result that he/she cannot carry out his/her obligations as husband and wife; 6) There are continuous disputes and quarrels between husband and wife and there is no hope that they will live in harmony again in the household; 7) The husband violates the taklik talak. The husband violates the taklik talak; and 8) Change of religion or apostasy that causes disharmony in the household. (Ministry of Religious Affairs, 2018).

Based on this description, it can be understood that divorce is the breaking of the legal marriage bond between husband and wife by using the word talak or the like. With reasons or various reasons so that divorce occurs. However, what must be understood is that divorce is the last resort if the husband and wife have tried to make an effort and everything has been done to improve marital life which turns out that there is no other way out except by divorce. Divorce is lawful but hated by Allah SWT.

METHODS

The method used in this research is to use a qualitative approach method, the data presented in descriptive form with the type of literature study research. This study is conducted by understanding the literature related to the phenomenon of divorce and its risk mitigation in the Islamic concept, which comes from various media such as books, journals, and relevant previous research. In its application, the author uses normative analysis of the values that apply in Islam by sourcing from the Qur'an, Hadith and from the Compilation of Islamic Law in Indonesia. In this paper, there are differences with other researchers on divorce, the author tries to be more comprehensive in terms of risk mitigation or strategies and efforts to close the door to divorce unless there are reasons or reasons (illat) that support the divorce.

RESULTS AND DISCUSSION

Basically, marriage is a sacred physical and mental bond. This can be seen from the wedding procession which is so sacred. Marriage like other worship has a purpose. The purpose of marriage according to Law Number 1 of 1974 is to obtain peace, love and affection, so that a happy and eternal family can be created based on God Almighty. Even a marriage has the values of worship to Allah SWT, and also follows the sunnah of the Prophet Muhammad Saw. According to the Islamic view, marriage is a form of worship in which a man and a woman make a contract with the aim of achieving a life that is sakinah (calm, peaceful), mawaddah (mutual love and affection), and warahmah or a life that is blessed by Allah. (Thobroni, 2010). More fully, as stated in the Qur'an in Surah Ar-Rum verse 21, Allah, the Almighty, says which means: "And among the signs of His power is that He created for you wives of your own kind, that you may tend to Him and feel at ease with Him in your love and affection; surely in such there are signs for those who think". (Ministry of Religious Affairs, 2019).

The above verse explains that marriage is a sacred bond and a very strong covenant. Therefore, Islam stipulates the terms and conditions of marriage with the provision that the marriage contract is held once and for all. Lasting marriage is a very desirable goal in Islam.

But in reality, building a household is not as easy as turning both hands. So many obstacles, tests and trials that hit the married couple's home life one after another, so that happiness in the household is difficult to achieve by the married couple.

In the various problems and trials that face the married couple's household, often the married couple chooses the path of divorce under the pretext that it is the best and last way to solve their problems. The dynamics of household problems today are increasingly diverse. The essence of the sanctity of marriage has now begun to erode. The shift in perspective in dealing with household problems today, many factors cause disharmony in the household. The factors faced are different, such as family economic factors, educational background, biological factors, and so on.

In fact, although divorce is permitted, Allah Swt, hates it as the Hadith of the Messenger of Allah, narrated by Imam Abu Dawud, is as follows:

Meaning: Verily, the lawful thing most hated by Allah is divorce. (HR. Abu Dawud. Hadith number 1863).

This hadith can mean that although divorce is permissible or lawful, it is the last resort after other alternative solutions have been exhausted, because Allah, the Almighty, hates divorce. This hadith is also often used as evidence in stating that Islamic law hates divorce (thalaq). In other words, it is agreed that the Sharia strongly disapproves of thalaq because it has negative implications. In line with what was expressed by Gus Arifin, saying that the husband's right to break the marriage is called talak or divorce, this right to divorce up to three times. The wife's right to ask for divorce, called khulu', must have reasons justified by Sharia. However, if a wife is divorced, she is more entitled to take care of her children than her husband as long as she has not remarried. If she marries, then her husband has the right to take care of her. (Arifin, 2016).

In fact, it is not uncommon in society, many ex-husbands leave or hand over their biological children to their ex-wives without providing for them externally anymore even though the ex-wife has not remarried, in the sense that the ex-husband feels that after the divorce, the birth support is cut off along with the breakdown of the inner support. Especially after it was decided by the Religious Court that the ex-husband must pay regular allowances for the ex-wife and children. This is very

contrary to the law listed in the Compilation of Islamic Law in Indonesia Chapter 149 (Ministry of Religious Affairs, 2018).

It is very reasonable that divorce is something that is highly hated by Allah Swt., although it is allowed as long as there are reasons or reasons that are in accordance with the provisions. Because divorce will have a negative impact, this is in accordance with the views of experts Altundag revealed, divorce is caused by the function of the family that is not going well. The main cause of divorce is due to conflict between husband and wife and weak communication functions. The phenomenon of divorce is always increasing every year, which has an impact on children. Children will potentially experience a difficult time after the divorce of parents because most of them occur under the shadow of conflict and quarrels. (Altundag & Bulut, Mucaj & Xeka, 2014).

Although Islam pays great attention to the unity and integrity of the family, it is possible that due to various factors it can increase the risk of divorce, be it internal or external factors. Internal Factors; 1) Lack of communication, effective and open communication is an important foundation in a marriage relationship. Lack of communication can lead to misunderstandings, prolonged and unresolved conflicts, and feelings of neglect or not being cared for by the spouse; 2) Character and value incompatibility, differences in personality, values and life goals can be a source of conflict in marriage; 3) Imbalance of roles and responsibilities, differences in perceptions of roles and responsibilities in the household can lead to disharmony and tension; 4) Economic problems, economic difficulties can trigger stress and conflict in marriage; 5) Emotional gaps, differences in emotional needs and ways of expressing them can lead to dissatisfaction and loneliness; 6) Disobedience to Islamic teachings, the further away from Islamic values and teachings can ensure the weakening of spiritual and moral bonds in marriage.

Meanwhile, what can trigger the risk of divorce from external factors are; 1) Social and cultural pressure, social and cultural norms that encourage easy divorce can affect perceptions and attitudes towards marriage; 2) Environmental factors, an environment that does not support families, such as lack of social support and access to facilities, can increase the risk of divorce; 3) Generational gap, differences in views and values between older and younger generations can lead to conflict in the family. Silalahi said that to form a family concept in married life is not easy. Although it is only done by two individuals, but of course each has different basic principles before the unification of basic principles, couples should discuss their respective principles to see and recognize the advantages and disadvantages of these basic principles. (Silalahi, Karlinawati, 2010).

Islam provides various strategies as an effort to minimize the risk of divorce and maintain family integrity, namely as follows; 1) Improving spiritual life, namely strengthening faith and taqwa, because strong faith and taqwa to Allah Swt., will be

the foundation for harmonious relationships; 2) Increasing solemnity in prayer, recitation, and dhikr, because these habits can calm the heart, increase harmony, and strengthen the spiritual bond between husband and wife;

3) Seeking religious knowledge, increasing understanding of Islamic teachings related to marriage, family, and husband-wife relationships, because it can provide practical guidance and solutions to resolve conflicts; 4) Strengthening communication and harmony, open and honest communication, by building open, honest, and respectful communication is the key to building a healthy relationship; 5) Avoiding unnecessary conflicts, as seeking peaceful solutions and avoiding unnecessary arguments can maintain domestic tranquility and harmony;

6) Maintaining affection, by showing affection and attention to the spouse on a regular basis can strengthen the relationship and build mutual respect; 7) The role of family and society, family support, with moral and practical support from the family can help couples in facing the challenges of marriage; 8) The role of ulama and counselors, because with the role of ulama and family counselors can provide guidance and solutions based on Islamic teachings to overcome problems in marriage; 9) Marriage education programs, with the existence of Islamic-based marriage education programs can prepare prospective brides and grooms to face the challenges and responsibilities of building a family.

From the above explanation, what is no less important is the concern and awareness of all parties, mitigating the risk of divorce in Islam requires mutual concern and awareness from all parties. Both individual concerns, because each individual has the responsibility to maintain the integrity of the family and try their best to build harmonious relationships. Or social concern or awareness, because society needs to build an environment that supports families and pays attention to issues that can trigger divorce.

CONCLUSION

It is very reasonable that divorce is something that is highly hated by Allah Swt., although it is allowed as long as there are reasons or reasons that are in accordance with the provisions. Because divorce will have a negative impact, especially on the growth and development of children.

Many factors lead to divorce, including; lack of communication, incompatibility of character and values, differences in personality, values, and life goals can be a source of conflict in marriage, imbalance of roles and responsibilities, different perceptions of roles and responsibilities in the household can lead to disharmony and tension, economic problems, economic difficulties can trigger stress and conflict in marriage, emotional gaps, differences in emotional needs and ways of expressing them can lead to dissatisfaction and loneliness, disobedience to Islamic teachings, getting away from Islamic values and teachings can ensure the weakening of spiritual and moral bonds in marriage.

Divorce is a serious problem that can have a negative impact on individuals and society. Islam provides comprehensive guidelines and strategies to minimize

the risk of divorce and maintain family integrity. Improving spiritual life, effective communication, family support, the role of clerics and counselors, and marriage education programs are some important steps in mitigating the risk of divorce. Joint concern and awareness from all parties is needed to create an environment that supports families and prevents divorce.

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