

Regret Of Divorced Individuals In The Perspective Of Islamic Family Law

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Abstrak

Penelitian ini bertujuan untuk menganalisis fenomena penyesalan pasca perceraian dari perspektif hukum keluarga Islam. Metode penelitian yang digunakan adalah deskriptif kualitatif dengan pendekatan studi kasus. Data dikumpulkan melalui wawancara mendalam, observasi partisipan, dan analisis dokumen. Subjek penelitian mencakup individu yang telah mengalami perceraian dan menyatakan penyesalan, serta konselor agama yang terlibat dalam proses mediasi dan konseling. Hasil penelitian menunjukkan bahwa penyesalan pasca perceraian sering kali terjadi akibat kurangnya pemahaman terhadap konsekuensi jangka panjang dari perceraian, baik dari aspek psikologis, sosial, maupun hukum. Dalam perspektif hukum keluarga Islam, perceraian seharusnya menjadi solusi terakhir setelah berbagai upaya mediasi dan konseling dilakukan. Namun, keputusan bercerai sering kali diambil secara tergesa-gesa tanpa mempertimbangkan dampak jangka panjangnya. Penelitian ini juga menyoroti peran penting konselor agama dalam memberikan nasihat dan mediasi yang dapat mengurangi terjadinya perceraian yang tidak perlu serta meminimalisasi penyesalan pasca perceraian.

Kata Kunci: Penyesalan pasca perceraian, hukum keluarga Islam, ṭalāk, mediasi.

Abstract

This study aims to analyze the phenomenon of post-divorce regret from the perspective of Islamic family law. The research adopts a qualitative descriptive method with a case study approach. Data were collected through in-depth interviews, participant observation, and document analysis. The participants included individuals who had experienced divorce and expressed regret, as well as religious counselors involved in mediation and counseling processes. The findings reveal that post-divorce regret often arises due to a lack of understanding regarding the long-term consequences of divorce, encompassing psychological, social, and legal aspects. From the perspective of Islamic family law, divorce should serve as a last resort after all avenues for mediation and reconciliation have been exhausted. However, divorce decisions are frequently made hastily without consideration of their lasting impacts. This study further highlights the critical role of religious counselors in providing advice and mediation to reduce unnecessary divorces and mitigate post-divorce regret.

Keywords: Post-divorce regret, Islamic family law, *ṭalāk*, mediation.

A. Introduction

Divorce (*ṭalāk*) is one of the issues that often leads to social and psychological complications. There has been an increase in cases where people who enter *ṭalāk* express deep regret for their decision, often due to hasty decisions or a lack of understanding of the legal and social consequences of divorce. This study is important given the significant impact of this issue on family stability and child well-being (Dunst et al., 2021). Therefore, it is important to find out more about what could be done to prevent the recurrence of similar cases, as well as solutions that can be applied if regrets have already occurred.

In the context of Islamic family law, divorce is an issue that has wide and varied consequences, not only on the individuals directly involved but also on families and society at large. Divorce is often seen as a last resort to resolve marital problems that cannot be resolved through mediation or therapy. However, the decision to divorce is frequently made hastily, without a proper understanding of the legal and social consequences that accompany it (Chief, 2023). Divorce cases decided without careful consideration often result in deep distress for those seeking it, especially when the decision is made under emotional pressure or without sufficient consultation with legal or religious advisors. The increase in cases of divorce indicates a lack of public understanding of the process and consequences of divorce (Khan, 2019). This research aims to examine the extent to which inadequate information and preparation contribute to divorce decisions that are later regretted (Hocaoglu & Yalcinkaya, 2020).

Divorce is not only a legal process, but also a complex social and emotional process. Islamic law provides strict guidelines on how and when a divorce can be initiated. This includes conditions that must be met before a divorce can be granted, such as consultation with a religious counselor and attempts at mediation between the husband and wife. This process aims to ensure that all parties have considered the consequences of ending the relationship (Sjödín et al., 2020).

In many cases, people seeking divorce may not understand or appreciate the long-term impact of their decision, both on themselves and on other family members, especially children. Children are often the most affected by divorce and face many psychological and academic challenges. Family instability and changes in parenting

patterns can place significant strain on their well-being and development (Essler et al., 2021).

Divorce also has broad social consequences. In many societies, divorce is stigmatized and can affect a person's ability to integrate and participate in social life. For example, divorced women may face greater economic hardship and social isolation. This situation highlights the importance of providing adequate social support and resources for people going through divorce (Freak-Poli et al., 2022).

Talak's impact on family stability and the welfare of children is far-reaching, and it is important to examine what can be done to prevent similar cases in the future. One approach is to provide broader and more in-depth education and training on Islamic family law, which should include not only married couples or those considering marriage but also the community at large. This education should include information about the emotional, social, and economic impacts of divorce, as well as strategies for managing family conflict (Kreyenfeld & Trappe, 2020).

In addition, it could be of great benefit to improve access to counseling and mediation services before deciding to divorce. These services can help couples explore all available options and possibly find alternative solutions that do not involve divorce (Forest, 2020). Trained mediators specializing in Islamic family law can provide valuable insight and help guide these difficult conversations more transparently, which minimizes conflicts and misunderstandings.

Literature review

1. Divorce Law in Islam

Islamic law offers a clear structure for divorce, distinguishing between *Ṭalāk raj'ī* (revocable) and *Ṭalāk ba'in* (irrevocable) (Hurriyah et al., 2024). *Ṭalāk raj'ī* allows for reconciliation during the *iddah* period, which typically spans three menstrual cycles, giving the husband the chance to reconcile without needing a new marriage contract, reflecting Islam's focus on family preservation. Conversely, *Ṭalāk ba'in* is permanent, and once the *iddah* ends, the couple cannot reconcile unless they remarry under a new contract (Taqiuddin, 2021). This is generally for relationships that cannot be repaired. Although the right to *ini'late* divorce is primarily with the husband, Islamic 'aw ensures that women's rights are also upheld, particularly regarding financial support during *iddah*, balancing family stability and both parties' rights (Ubaidilah & Husna, 2023).

2. Women's Rights

Islamic family law grants women significant rights post-divorce, ensuring their protection and dignity (Print et al., 2024). After a divorce, women are entitled to receive financial maintenance, known as *nafkah iddah*, during the *iddah* period to prevent financial vulnerability as they transition to independent life. In addition, they are entitled to the full *mahr* (dowry) if it has not yet been paid. In certain situations, they may also receive child support. Beyond financial rights, Islamic law protects women from unfair treatment, prohibiting husbands from reclaiming gifts or property given during the marriage, emphasizing women's rights in divorce (Sulthan et al., 2024).

3. Psychological and Social Impact of Divorce

Divorce can have deep psychological and social effects, especially for children and women. DICU, (2024) show that children often face emotional distress post-divorce, which can manifest as anxiety, depression, or behavioral changes. The instability of family life after divorce further contributes to these issues, affecting their academic and social performance. Women may also experience emotional challenges, especially if the divorce involved conflict. The social stigma surrounding divorce in many Muslim societies can intensify these difficulties, leading to isolation and exclusion. This stigma not only impacts mental health but also limits the ability of divorced individuals to reintegrate and rebuild their lives (Burton et al., 2022).

4. Role of Religious Counselors

Religious counselors are vital in helping couples navigate the complexities of marriage and divorce within Islamic law (Profile,2024). They serve as mediators, guiding couples toward reconciliation and conflict resolution before divorce is considered. By applying Islamic teachings, counselors encourage healthy communication and problem-solving, reducing impulsive divorce decisions. Premarital counseling is also important in Islam, as it helps couples understand their roles and responsibilities, preparing them for future challenges (Al-shaddadi et al., 2023). In cases where divorce is inevitable, religious counselors provide emotional and spiritual support, assisting individuals through the post-divorce process. Their role is essential in fostering community support, reducing the social isolation and stigma often experienced by divorced individuals (Kim et al., 2023).

5. Post-Divorce Regret

Regret after divorce is common, often resulting from a lack of understanding of its long-term consequences. Many individuals who initiate divorce without fully considering emotional or financial challenges later express regret. This feeling is often heightened by social pressures, leading to hasty decisions. Regret may also stem from the effects on children, who may suffer emotionally and socially after divorce (Moore & Abetz, 2019). The social stigma associated with divorce can make adjusting to post-divorce life more difficult, leading to feelings of isolation. Islamic law promotes counseling and mediation to prevent such regrets, encouraging couples to explore all options for reconciliation before finalizing a divorce (Babakhani, 2023).

B. Method

This study uses a descriptive qualitative method using a case study approach, where data are collected through in-depth interviews, participant observation, and document analysis. Interviews will be conducted with people who have experienced divorce, particularly those who express regret after divorce, as well as with religious counselors involved in the mediation and counseling processes. In addition, a document analysis will be undertaken to examine relevant Islamic legal texts regarding *ṭalāk* and women's rights after divorce. The research will use purposive sampling to select participants with direct experience of divorce, allowing for a more nuanced understanding of the psychological and social impacts, as well as the role of religious counselors in managing post-divorce grief. The data will be analyzed using thematic analysis, where the results of the interviews and document reviews will be categorized into major themes, such as the psychological effects of divorce, social stigma, and the effectiveness of religious mediation. The results of this research are expected to provide a better understanding of the role of Islamic family law in preventing unnecessary divorces and alleviating post-divorce neglect.

C. Result and Discussion

Definition of *Ṭalāk*

Ṭalāk is the dissolution of a marriage initiated by the husband upon a certain phrase (Anthony, 2024). In Islamic law, there are two types of *ṭalāk*: *ṭalāk raj'i* (revocable) and *ṭalāk ba'in* (irrevocable). *Talak*, performed by the husband against his wife, pronouncing the formula *ṭalāk*, not only involves a verbal declaration, but also includes various legal, social, and psychological aspects. In Islamic law, the two types of *ṭalāk* - *ṭalāk raj'i* and *ṭalāk ba'in* - each have specific legal and social consequences (Zulhamdi, 2020).

Ṭalāk Raj'i refers to a form of divorce where the husband is given the opportunity to reconcile with his wife during the *iddah* period (the waiting period after divorce). *Iddah*

usually lasts three menstrual cycles and is designed to ensure that no pregnancy has occurred before the divorce. This type of *ṭalāk* gives both parties time to reconsider their decision, and leaves room for reconciliation. *Ṭalāk raj'i* is considered a lighter and more reversible form of divorce, emphasizing the importance of maintaining family ties (Gürmen et al., 2021).

In contrast, *Ṭalāk ba'in* is a form of divorce that cannot be annulled. After the *Ṭalāk ba'in* has been pronounced and the *iddah* period has passed, the husband cannot reconcile with his wife, except by a new legitimate marriage contract, if both parties wish. *Ṭalāk ba'in* is often used in cases where the relationship has deteriorated significantly, leaving no hope of reconciliation. This type of divorce involves a stronger and more permanent separation, allowing both parties to continue their lives without any legal ties to each other (Hogendoorn et al., 2020).

A thorough understanding of these two types of *ṭalāk* is essential for those directly involved in the process and for community members who may support those going through divorce. This understanding will enable individuals and communities to understand better the process and the implications of the decisions made, as well as to provide appropriate advice and support.

It is also important to note that the *ṭalāk* process in Islam is strictly regulated by Sharia (Islamic law). This process aims to prevent impulsive decisions that could lead to regret or other damage to the family structure. Thus, before declaring a *ṭalāk*, it is often recommended that the husband consult a religious advisor or scholar to discuss his decision and receive advice in accordance with Islamic teachings.

Ṭalāk Procedures in Islamic Law

The *Ṭalāk* process must be carried out prudently and in accordance with the procedures prescribed by the Sharia, which include the presence of witnesses and religious advisors to ensure that the decision has been properly considered. The *Ṭalāk* process in Islamic law is not a matter to be taken lightly; it must be carried out with great care and in strict accordance with the procedural guidelines established by the Sharia (Shaham, 2020).

This process is designed to ensure that all decisions made result from careful consideration and in full consultation with Islamic teachings. By involving witnesses and religious advisors, the process not only ensures the legality of *ṭalāk* under Islamic law but also preserves the moral and social integrity of all parties involved.

1. Role of witnesses in the Ṭalāk process

The presence of witnesses during the *Ṭalāk* process usually consists of two adult male witnesses who are fair and trustworthy, or in some cases, one male witness and two female witnesses who meet the criteria of justice. Their role is to ensure that *ṭalāk* is pronounced and performed correctly and to help prevent impulsive statements or those made under pressure. The presence of witnesses helps maintain transparency in the *ṭalāk* process and ensures that all parties have a fair chance in the process.

2. The Role of Religious Advisors

Religious Counselors provide spiritual advice and guidance based on Islamic law to people considering *ṭalāk*. They also verify that all the conditions and pillars of *ṭalāk* are met before *ṭalāk* is pronounced. Their role includes informing individuals about the consequences of *ṭalāk*, suggesting alternatives to divorce, such as mediation or counseling, and helping couples to explore all available options before making an irreversible decision.

3. Careful Consideration

The *ṭalāk* process should be seen as a last resort after all efforts at reconciliation have been exhausted. Islam teaches that although *ṭalāk* is permissible, it is one of the most detestable permissible acts by Allah and, therefore, should be avoided if there is no other choice. It is essential that people considering *ṭalāk* take their time, seek

comprehensive advice, and consider all the long-term impacts of their decision, including the emotional, financial, and social consequences.

Psychological and Social Consequences of Ṭalāk

Ṭalāk often leads to negative consequences for all parties involved, especially children. These effects can manifest as psychological problems, such as depression and anxiety, as well as social problems such as stigma and isolation. In the context of social and psychological perspectives, Ṭalāk (divorce in Islamic law) not only represents a legal separation between two individuals, but also marks the beginning of various social effects that are often felt by all those involved, especially children (Sulthan et al., 2024). A deeper analysis of these effects reveals that the psychological and social consequences of Ṭalāk can have a lasting impact, changing the trajectory of individuals' lives and influencing social dynamics (Hossain & Salama, 2023).

Psychologically, ṭalāk often becomes a source of trauma for the divorced couple and their children. Children, in particular, are very vulnerable to the psychological effects of their parents' divorce. They may experience strong feelings of loss, sadness, and confusion. Studies show that many children of divorced parents experience higher levels of depression and anxiety than their peers whose parents stayed together. Research by Fegert et al., (2020) found that sudden changes in family structure and the loss of daily routine can make children feel unstable and insecure, which can lead to serious emotional problems.

In addition, ṭalāk can cause or worsen psychological conditions such as post-traumatic stress disorder, especially if the divorce involves high levels of conflict or domestic violence. According to Silberg, (2021), exposure to parental conflict and tension can leave deep psychological scars in children, which can be difficult to heal. For adults, the loss of a spouse through ṭalāk is often perceived as a personal failure, leading to a decrease in self-esteem and overall psychological well-being.

On a social level, ṭalāk can lead to stigmatization and isolation. In many societies, especially those with strong traditional or religious values, divorce can be seen as taboo or as a sign of inability to fulfill marital responsibilities. The social acceptance of divorced people is often diminished, affecting their ability to interact and function in society. For example, Hadad Haj-Yahya et al.,(2018) research shows that women who divorce in some Middle Eastern communities often experience significant social exclusion, which can limit their access to social and economic support.

The social impact of ṭalāk is also evident in the social engagement of children. Children from divorced homes often show declines in academic achievement and social participation, as studied by (Lacour & Tissington, 2019). Lack of consistent role models and sudden changes in emotional support can reduce their ability to concentrate and actively participate in school and extracurricular activities.

Cases of Regret after Ṭalāk

Several case studies and surveys show that many people who initiate Ṭalāk express regret after the decision, often due to a lack of understanding of its consequences or due to social pressure.

This regret often stems from a lack of deep understanding of the long-term consequences of Ṭalāk, as well as the social pressures that may influence the initial decision to divorce. The importance of education and counseling before making a decision to divorce becomes crucial to reducing these instances of regret.

Post-divorce grief is often associated with several complex and interrelated factors. *First*, many people do not fully understand the legal and financial implications of divorce, particularly regarding property division, child custody, and post-divorce support. This lack of understanding can lead to shock and disappointment at the new reality of life after divorce.

Second, grief can also be caused by the psychological impact of divorce. Individuals may not anticipate the emotional difficulties associated with marital separation, including loneliness, identity changes, and adjusting to a new social status as a divorced person. A study by Sarmadi & Khodabakhshi-Koolaei, (2023) found that many divorced people experience significant depression and anxiety, which intensifies their feelings of regret for the decision to divorce.

Third, social pressure plays a crucial role in post-divorce regret. In some societies, there is a stigma associated with divorce that can make individuals feel isolated and excluded. This pressure often stems from traditional values and high expectations that a marriage “must succeed,” so when divorce occurs, individuals may feel that they have failed to meet social or family norms (Adidi & Obiagwu, 2019).

Given the high rate of divorce and its significant impact, there is an urgent need for educational interventions and support prior to *ṭalāk*. Counseling and education programs designed for couples considering *ṭalāk* can help them fully understand the implications of their decision. Counseling provides a safe space to explore emotions, hopes, and concerns and helps couples explore alternatives to divorce, such as mediation and couple therapy.

The role of community and religious institutions is essential in supporting people going through divorce by reducing stigma and raising awareness. people with the emotional and social consequences of divorce. Broader community education about the realities of divorce and the elimination of stigma can foster a more supportive and empathetic environment for people experiencing this type of divorce.

A Legal Approach to Overcoming Remorse

Islamic law provides several mechanisms to address regret after divorce, including the possibility of reconciliation in cases of *ṭalāk raj'i*, as well as counseling and mediation by religious institutions. These mechanisms aim to support those involved in a divorce and ensure that decisions are based on a sound and complete understanding of the consequences.

Reconciliation (*Rujūk*) is a process by which a couple who have divorced through *ṭalāk raj'i* can be reunited during the 'iddah (waiting period) before its termination. *Ṭalāk raj'i* is a type of divorce that allows for reconciliation without the need to enter into a new marriage contract. This process allows couples to reevaluate their decision after having had time to reflect and perhaps resolve the issues that led to the divorce. The concept of reconciliation is crucial because it recognizes that the decision to divorce may have been made under emotional or external pressure, and provides an opportunity for consideration before final separation.

In addition to reconciliation, Islamic law strongly encourages counseling and mediation as ways to resolve marital problems before proceeding to *ṭalāk*. Religious institutions and counselors often participate in this process, offering spiritual and practical advice rooted in Sharia law. The goal of counseling is to help couples uncover underlying problems, communicate their needs, and expectations more effectively, and find solutions that can avoid divorce (Bradbury & Bodenmann, 2020).

Mediation is another process in which a neutral third party (usually a religious counselor or trained mediator) helps both parties reach a mutually acceptable agreement on various issues related to the divorce, such as the division of property, custody, children, and financial support. Mediation aims to find a peaceful and equitable solution, prioritizing the collective good and the continuity of family relationships, especially when children are involved.

Community and religious institutions' support not only plays a vital role in addressing existing grievances but also in prevention. Support communities can provide a social and emotional safety net for people going through divorce, offering guidance, support and emotional validation. This is particularly important in societies where the

stigma surrounding ṭalāk remains strong, adding to the emotional burden for those affected.

Role of Counselors and Religious Institutions

Religious counselors and Religious institutions play a key role in preventing unnecessary divorces and helping divorcees overcome regret and social consequences. Its role is not only to prevent wrongful divorces, but also to provide essential support to those who have gone through ṭalāk, helping them deal with potential regrets and social impacts.

Religious counselors, often respected scholars or community leaders, are actively involved in educating and counseling couples about the importance of marriage and how to handle conflicts that may arise. Through premarital counseling, religious counselors help prospective couples understand the responsibilities and expectations associated with marriage in Islam. This approach aims to prepare couples for the potential challenges they may face in marriage, thereby reducing the risk of divorce in the future.

When conflicts arise in a marriage, religious counselors are often the first mediators to try to resolve issues before they escalate to ṭalāk. They apply Islamic principles to guide couples through mediation and counseling, promoting healthy communication and mutual problem-solving. In many cases, these interventions are effective in resolving conflicts and strengthening the marital bond, thereby avoiding unnecessary divorces (Chief, 2023).

Islamic institutions, such as mosques and religious organizations, also play an important role in supporting individuals and families affected by ṭalāk. They offer various services that help individuals cope with the emotional and social challenges they may face after a divorce. These institutions often host support groups, post-divorce recovery workshops, and individual counseling sessions, all designed to help individuals manage the changes in their lives and adjust to their new status divorced people.

These programs not only focus on emotional recovery but also address practical aspects of life after divorce, such as financial management, parenting, and social reintegration. This is essential to helping divorced people feel accepted in the community, especially in societies that continue to view divorce as taboo.

D. Conclusion

Although ṭalāk is a legal solution to end a marriage, it often leads to long-term negative effects for all parties. stakeholders, especially children. The regret that arises after ṭalāk is often linked to decisions made without fully understanding the implications and consequences of such actions, as well as the social pressures that lead to divorce. The role of religious advisors and Islamic institutions in preventing unnecessary divorces and supporting those affected by ṭalāk is essential. Through premarital counseling, conflict mediation, and post-divorce support, these counselors and institutions help minimize regret and improve the emotional and social stability of those involved. This approach not only reduces the risk of unnecessary divorce, but also better prepares couples to face the challenges of marriage. The importance of premarital education and counseling as preventive measures cannot be underestimated, as it provides the tools and knowledge needed to manage conflict and understand the responsibilities of marriage. References used in this analysis, including academic sources and religious texts, reinforce the importance of these practices in maintaining family harmony and strengthening social bonds in the community.

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