



## Principle Law Family Indonesia On Divorce From The Perspective Of Islamic Law

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**Abstract.** *The term divorce is no longer foreign to the ears, because in every region of the archipelago and even in parts of the world, divorce is something that does not escape happening. It's just that quite a few divorce perpetrators are neglectful of existing rules both from religion and the state. Such incidents require special attention from scientific experts. Divorce does have strong legality, but sometimes divorce perpetrators ignore the risks behind it, such as future growth both physically and spiritually. From this research the author also gained a lot of new knowledge about the ins and outs of establishing a relationship. A high level of tolerance is required from both partners for lasting domestic peace. In this research the author used the library research method, by collecting various forms of data from valid sources. From this research, the author also learned how big the risk is after divorce, because it does not only involve one or two people, but many organs are affected. Especially the descendants of the two divorced couples. Being a Broken Home child is certainly a disgrace in itself which causes a decline in the child's level of social life with his environment. Apart from the social aspect, of course the child will enter a new family atmosphere where the love of both parents will be separate, unlike before when the household was still intact.*

**Keywords :** Marriage, Divorce, Islamic Law

### 1. INTRODUCTION

A bond marriage is life House ladder Which peace and make you happy And hope integrity family forever. On in principle, marriage done with intention to in progress forever, until death one of the husband and wife, this is in line with the principles desired by the Islamic religion.<sup>1</sup>

Whereas objective marriage is A life for House husband and wife's ladder. Couples in a household must be able to act to help and complement each other so that both parties can develop their respective personalities and help achieve the well-being desired by both of them.<sup>2</sup>

The existence of the purpose of marriage stated in the legislation is directly proportional to the principle of making it difficult for divorce to occur which is also in the legislation. This means that divorce must be based on reasons carried out according to the procedures of the legislation in Indonesia. The obligation to divorce is carried out in in front hearing court more emphasized Again on chapter 117 in the compilation of Islamic law<sup>3</sup>, namely the husband's obligation to carry out the oath before the court hearing religion. This rule also existed earlier in the Republic of Indonesia Government Regulation Number 9 of 1975, Article 18<sup>4</sup>, namely that divorce is considered to have occurred when the divorce is declared in court, and the procedures for doing so are explained in Article 14.<sup>5</sup>

Legislation has regulated society in acting legally. about divorce with objective main remove violation the law is divorce in lower hand. <sup>6</sup> However If seen from reality Which There is In society, the phenomenon of private divorce still occurs frequently and is even embedded in society because divorce is caused by several existing factors such as the economy, customs, public legal awareness and religion.

## 2. RESEARCH METHODS

Type study Which used by writer is study library research which is sourced from library data. <sup>7</sup> This data analysis uses A method qualitative, namely deepen step research to obtain valid and accurate data without being in the form of numbers . <sup>8</sup>

## 3. STUDY THEORETICAL

### 1. Divorce according to Law family Indonesia

Divorce is deletion marriage with decision judge, or demands of one party in the marriage. <sup>9</sup> Divorce according to Indonesian means "separation" from the root word "divorce". According to the term divorce is a term for releasing the bonds of marriage. <sup>10</sup> Thus the bonds of marriage can actually be broken and the procedures have been regulated both in the Marriage Law No. 1 of 1974, hereinafter referred to as the UUP arbitrarily as is happening now. <sup>11</sup>

### 2. Divorce according to Law Islam

Divorce in Islam is known as talak, which means to let go and leave. That is release rope marriage end connection husband wife. <sup>12</sup> Divorce is not a prohibition, but as the last door of the household, when there is no other way out. Islam also teaches that having a family is one of the dignities and honors for humans. Therefore, Islam rejects family practices that can lower human dignity, Islam brings up new values for the family. For example, emphasizing that marriage is a strong promise, a commandment of proper social interaction for husband and wife, and linking it in the form of piety and faith with behavior good in family. <sup>13</sup>

## 4. RESULTS AND DISCUSSION

### 1. Understanding Marriage

Humans were created by Allah SWT as social creatures who live in pairs, meaning that humans cannot live alone and definitely need each other. One The same other in his life. Term wedding also called marriage. In Indonesian, "marriage" comes from the word "kawin", which according to the language, means forming a family with the opposite sex; having sexual intercourse or intercourse. The term "marriage" is used generally, for plants, animals, and humans, and indicates a natural generative process.

Marriage is an institutionalized process, where a man And Woman start And look after connection lead come back as basic in homeless ladder. Matter This will cause right And obligation Good in between men and women and with children who are later born.<sup>14</sup>

From the description above, marriage is a relationship that has reciprocal rights and obligations not only to the husband or wife but also to their children.

### 2. Marriage According to UU no. 1 Year 1974

Referring to method view aspect legality from A marriage, regulation in Constitution Republic Indonesia Number 1 Year 1974 or Which Also known as the Marriage Law, this basically has several principles or principles as in the General Explanation of the Law. Republic Indonesia Number 1 Year 1974. Wrong One principle Which stated in Law – this law that is principle to complicate the occurrence divorce that state that : "Because objective marriage is For to form the family that happy eternal And prosperous, so Constitution This adhere to principle to make it difficult for divorce to occur. To allow divorce, there must be certain reasons and it must be done in front of a Court of Session."<sup>15</sup>

On in practice, of course marriage required must held by going through a process of religious and customary rituals to ensure the physical and spiritual maturity of the prospective husband and wife, but if it begins with a process of religious and customary rituals, the relationship can be ended (divorce) by fulfilling the administrative requirements according to statutory regulations. No. There is a obligation partner Which will separate For divorce in a way religious rituals or at most report the state of the relationship to religious or traditional figures. This is a factor that facilitates the divorce process.

From description understanding in on can concluded that marriage is a bond sacred from a man – man And Woman For to weave connection.

House ladder Which okay. Then from That the government is trying so that wedding not easily collapsed by applying the principle of making divorce difficult.

### 3. Divorce Perspective Law Family Indonesia

In essence, divorce has been regulated in such a way in the laws and regulations in Indonesia. Divorce must be carried out in accordance with the rules. law Which applicable No without Meaning And objective. Regulation Indonesian legislation has regulated divorce rules in Indonesia in article Law number 1 of 1974 and article Compilation of Islamic Law. Divorce is valid if it is carried out in front of a court hearing on the condition that the husband and wife's household can no longer be maintained. The flow of divorce in court has been regulated in separate regulations.<sup>16</sup>

Term divorce listed in chapter 38 Law No. 1 Year 1974 Which contains an optional provision that "Marriage can be terminated due to death, divorce and by court decision". So legally divorce means the termination of marriage, which results in the termination of the relationship as husband and wife.<sup>17</sup>

Based on this definition, divorce is the breakup of a marriage due to by death, divorce and court decisions. Although In Law Number 1 of 1974 concerning Marriage there is no clear definition of divorce specifically.<sup>18</sup>

### 4. Divorce Perspective Law Islam

Scholar Shafi'iyah And Hanabilah detailing about law divorce in Islamic glasses. According to them, the law of divorce is sometimes obligatory and sometimes halal and sunnah. In the book Al-Baijarami explained that : "divorce law" There is five, namely

sometimes it is obligatory, such as talaq for a person who swears ila (swearing not to interfere with the wife), or two messengers from the husband and wife's family, sometimes it is haram, such as talaq bit'ah, and sometimes it is sunnah, such as talak for a weak person, unable to carry out the rights of 20 marriage.

From the explanation above, it can be understood that divorce is sometimes obligatory, such as the divorce of two family representatives who want to resolve the division of a husband and wife because divorce is one of the solutions to the division. Likewise, the divorce of a person who swears ila' (not to interfere with his wife) after waiting for a four-month iddah period as the word of Allah: "To those who swear ila' his wife given tough four month (duration). Then If they returns (to his wife), then indeed Allah is Forgiving, Most

Merciful. And if they decide to divorce, then surely Allah is All-Hearing, All-Knowing." (QS Al-Baqarah(2): 226-227).<sup>19</sup>

From the description of the material above, it can be concluded that divorce is an act halal Which most hated by Allah Almighty. So from matter That for very religious scholars strict discuss affairs divorce so that for cleric categorize The law of divorce takes into account the situation and conditions of the husband and wife who are going to carry out the divorce.

## **5. CONCLUSION AND SUGGESTION**

Marriage is a sacred bond between the bride and groom to build a household that is sakinah, mawaddah and warohmah. Therefore, a long process is needed in carrying out a marriage. The existing regulations both in Islam and also Invite – Invite Already in One track Which straight. Where are both of them The same – The same own principle to complicate the occurrence a divorce.

Considering that marriage contains many positive things both from the aspect of Islamic Law and Positive Law. Because marriage is not limited to carrying out the command of Allah SWT as a form of worship of a creature to its creator, but also as a path to strengthen social relations as citizens of the unitary state of Indonesia.

It is common knowledge that Allah SWT created every thing in this world in pairs, one of which is marriage. However, as a pair, every meeting there must be a separation. So it can be concluded that every marriage there is also a separation. Therefore, Allah SWT does not prohibit divorce, but Allah SWT emphasizes that divorce is an act that He hates very much. Because the law of causality in real life is real, therefore if a household relationship is no longer possible to maintain, divorce is the last solution. Allah SWT hates divorce because this act is very Lots contain matter negative to front of it, especially to time in front of their descendants, who are prone to feeling inferior in socializing because they are children from a broken home.

This research suggests that as a married couple we should maintain our marriage. let No the occurrence divorce. Already Lots in society divorce is just a thing that makes it trivial, most of them do not hold on to it principles wedding Which make it No Can endure in the desired bond. Therefore, we as a married couple must really maintain the principles of marriage in our household, so that it becomes a sakinah, mawaddah and warohmah marriage.

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