



Analects of Communication on the impact of Divorce on society in Arabic Country

Causes, effects and Solutions

By

Faten Mohammad AlQahtani

(1433111267)

A thesis submitted in fulfillment of the requirement for the degree of Master
School of Human Development & Techno communication

University Malaysia Perlis

2015



Analek Komunikasi mengenai Perceraian dan kesanya pada masyarakat di Negara Arab

Punca , kesan dan cara menyelesaikan

Faten Mohammad AlQahtani

(1433111267)

Tesis yang dikemukakan untuk mendapat Ijazah Sarjana

Pusat Pengajian Pembangunan Manusia & Techno komunikasi

University Malaysia Perlis

2015

ABSTRAK

Perceraian seolah-olah mula diterima oleh masyarakat pada masa kini kerana ia menjadi isu yang paling biasa di dunia moden. Dengan kadar peningkatan perceraian, kadar ketidakstabilan emosi dan kadar jenayah juga mempercepatkan. Kesannya terhadap kehidupan keluarga, gangguan yang jelas. dalam kehidupan kanak-kanak

perceraian yang memberi kesan yang jelas bukan sahaja pada keluarga tetapi juga ke atas kanak-kanak mereka sendiri. Dan kanak-kanak yang akan menjadi mangsa yang paling menyakitkan dalam pertempuran ini. dan kesan itu akan mengganggu kedua-dua perasaan dan fikiran mereka. Sesetengah kanak-kanak cenderung untuk menjauhkan diri daripada sebarang bentuk interaksi sosial dan tidak lama lagi menjadi tenggelam dalam kesedihan mereka. Ini menjadikan mereka sangat takut dan bimbang dengan alam dan masyarakat.

Selain itu, apabila kanak-kanak marah begitu kuat sebab perceraian mereka mengambil jalan keluar dengan melakukan jenayah atau mengambil ubat untuk mengatasi kemarahan ini. Oleh itu, kanak-kanak itu mempunyai peluang yang lebih tinggi untuk menjadi budak jahat. Ramai kanak-kanak tidak dapat menumpukan perhatian kepada pelajaran mereka sepanjang masa kes perceraian. Keadaan sekitar boleh membuat ia sukar untuk kanak-kanak yang memberikan tumpuan kepada pelajaran. Kanak-kanak pasti kehilangan keyakinan diri dan mula tidak mahu belajar lagi

Kebanyakan orang berfikir bahawa tidak ada yang positif tentang perceraian dan kesan negatif adalah lebih jelas. Perceraian boleh menjadi satu perkara yang positif apabila perkahwinan itu mula bercanggah dan pergaduhan yang menjadi kanak-kanak terdedah dan berada dalam persekitaran bahaya apabila melihat kekurangan rasa tidak hormat dan hilang kepercayaan. Setrusnya kanak-kanak itu telah menjadi mangsa keganasan rumah tangga. oleh itu perceraian memdedahkan kanak hal yang sebenar maka kanak akan membesar di masyarakat yang lebih memahami dan menerima perceraian. Itulah sesungguhnya sampungan yang positif.

Kesimpulannya, ini adalah masa yang sesuai kepada masyarakat bahawa perlu melakukan sesuatu untuk memelihara kesucian perkahwinan. Bagi perceraian kadar yang terus meningkat

pada kadar yang membimbangkan, dan kemudian masyarakat itu sendiri akan dicemari. Dan orang akan hilang kepercayaan terhadap kestabilan cinta, perkahwinan dan hubungan jangka panjang. Dan kehidupan akan menjadi lebih tertekan daripada sekarang.

© This item is protected by original copyright

Abstract

Divorce seems to be more socially acceptable nowadays and is also the most common issue in the modern world. With the increase rate of divorce, the pace of emotional instability and crime rate is also quickening. Its effect on the family life, interference in the development of the children an crime is obvious.

It is divorce that has an impact on not only their families but also their own children. And children are likely to be the most painful victims in this battle. It effects on both their feelings and minds. Some kids tend to stay away from any kind of social interaction and soon become immersed in their sadness. This makes them very fearful and worried by nature.

Moreover, there are times when children feel so much anger because of divorce that they resort to committing crimes and taking drugs to overcome this anger. Hence, such children have higher chances of becoming delinquents. Many children are not able to concentrate on their studies during the time of divorce. The circumstances surrounding divorce may make it hard for the child to focus on academic goals. Children are bound to lose their self-confidence in such cases and may not want to study at all.

Most people think that there is nothing positive about divorce as the negative effects are more obvious and talked about. Divorce can be a positive thing when the marriage is in high conflict and the children are exposed to be in an environment where they see a lack of respect and trust. Often when the child has been a victim of domestic violence then that child will grow up disliking societies' vices. That is surely a positive side.

In conclusion, it is high time now that the society must do something to preserve the sanctity of marriage. For of the pace divorce continues to increase at such an alarming rate, and then the society itself would be adulterated. And people would lose faith in the stability of love, marriage and long lasting relationships. And life would be far more stressful than it is now.

The Research Problem :

The theoretical rationale of this study is that conditions associated with divorce reside outside the family within a broader social system where the family finds itself located. The absence of major differences in divorce law from one place to another within the Arabic and Muslim country makes it possible to explore this hypothesis by examining areal differentials in divorce rates. Crude divorce rates and crude marriage rates for Several indicators of modernization are available for the same areas from the 1959 Census of Population. About 80 per cent of the variation among areas with respect to the crude divorce rate is accounted for by six variables: the crude marriage rate, the percentage of urban population, and the employee-worker ratio in the labor force, each of which is positively associated with the divorce rate; and the proportion of poorly educated women, the ratio of children to adult males, and the mean household-family size, each of which is negatively associated with the divorce rate.

The research attempts to answer the following questions which derive from the basic problem: Objective (s) of the Research

- What is the best way of dealing with a divorce?
- Divorce and provisions between Shariah Islam and law
- The reasons of divorce and effects on the family and society
- What is the most important issues relating to divorce in modern forms?
- How is the Government and scientists in solving problems relating to divorce and settlement

Objectives Research:

- Clarify and bad side effects resulting from divorce in the family and society
- Trying to put forward ways to face the grounds of divorce and put an end or solutions by the correct legal means (Shariah)

- . Causing problems in the divorce, whether individual or social
- How to face all in Arabic and Muslim country

The importance of research:

- Relating to marriage and divorce issues concerning the lives of Muslims today.
- Statement of causes and the types of divorce
- The effects of divorce on the family and society.

Field will be limits about divorce, research causes and consequences, and its effects on society, children and the family in general and the Muslim community in particular.

And try to discuss the solutions available:

1. Marriage and Divorce in Islamic societies
2. The reasons for the delay in marriage and the prevalence of divorce and dislocations (Khlu') in the Arab and Islamic communities
3. Divorce and types of reasons and motives that lead to divorce
4. The effects of divorce on the family and society.

The research approach is based on:

1. Al- Quran and Sunnah and The views of Ulama' and scholars
2. Analytical approach the achieving of statements and evidence and proofs it.
3. Descriptive approach describe some cases prevalent types of divorce in the present era.
4. A field study and a direct dialogue with some scientists and officials.

There are a lot of previous studies on the subject of marriage and divorce, and their impact on society and the family including

1. Al-Quran and translator .
2. Ibn Taymiyyah, Taqi al- Din Ahmed ,1995. AlIkhtyaraat alFiqhiah Ibn Taimiyyah:dipilih oleh Barraak al-Din Abu al-Hasan yang Damsyik Beirut Lubnan, Dar ElKutub ElIlmiah..
3. Ibn Taymiyyah, Taqi al-Din Ahmad. 1992. Fatawi Al-Nikah wa Ahkamuh.Mesir-Lubnan
4. Abu Zahrah . Imam Muhammad ,1999. Tanzim ElUsrah LilMujtama' Dar Al-Fikr El-Arabi.
5. Ibnu Baz. Abdul Aziz Abdullah,1999. Fatwa Ulama ElBalad ElHaram. D. N.
6. IbnQadamah. Mowaffaq al-Din Abu Ahmed Mohammed Abdullah. AlMughni. Tahkiq Dr /Abdullah Al-Turki
Wa Akhrun. Maktabah El- Kaherah. Jilid: 1
7. Abu Rizk. Halima Ali. Tahun 2001. Mas'uliat alUm FiElTarbiyyah Dar Manahij ElNasher wa ElTawzea'.
8. Ibnu Rushd, Abu al-Qurtubi Waleed Mohammed bin Ahmed: 1995, Bedayat AlMujtahi wa Nehayat AlMuktasid Tahkiq : Majid Al Hamwi, Beirut. Dar Ibn Hazm.Jilid: 1.
9. Ibrahim. Saleh Suaad,1989. Adwa' ala Nizam alUsrah Fi Al-Islam. Jaddah . Matab' ElNasr.
10. Ibrahim. Moawad Awad. D. T AlUsrah wa AlIslam Islam. Alexandria. Dar elNasher LilJameyyen.
11. Abu Yahya. Mohammed Hassan ,1987. Aham Qadaya AlMaraah AlMuslimah Jordan.Dar al-Furqan.
12. Imam. Mohamed Kamal El Din ,1998. AlZawaj FiAlFiqh Al- Islami. Dar ElMaarif.
13. Al Nawab, abd Rab Nawabulddin, 1415, Taakher Sen alZawaj,Ryadh ,Dar AlSaud.
14. Al Saud, Sarah Abd Muhseen ,1421, AlMaraah AlMuslimah wa AlZulm alIjtemaai,D.N.
15. AlBoti .Muhammad Said Ramadan,1996,AlMarah Bain Tughian AlNizam Akgharbi wa lata'if AlTasytia elRabani,Dar ElFikr AlMuaser.
16. AlBukhari,1996, Sahih AlBukhari ,dar ElKitab ElMasri ElLubnani
17. AlJuzairi,Abd Rahman,1995, Kitab AlFiqh ala Elmazahib ElArbaah,Juzu' 3-6 Dar ElFikr LilTibaah Wa AlNasher
18. ElGergani,Ali bin Muhammad Ali, D.T. ElTa'rifat LilGergani,Dar ElRayyan LilTurath.

19. Khatib. Mohammed Abdullah. 1993. Fatawa Hawl AlDen wa AlDunia Fi Qadaya AlMuslim, Dar ElNasher wa ElTawzea. T.2

Chapter One

1. Engagement in Islam
2. On the consummation of marriage
3. Marriage in Islam
4. Reforms after Islam
5. Marriage by Purchase
6. Marriage by Inheritance

A. Importance of Sex in Marriage

B. Fulfillment of Sexual Urge

C. Celibacy and Monasticism is Forbidden

D. Beneficial Effects of a Married Life

E. Marriage Enhances the Value of Prayers

Engagement according to sharee'ah means that the man asks the woman to marry him. The view of the scholars is that engagement is prescribed for one who wants to get married. Allaah says (interpretation of the meaning“ : (And there is no sin on you if you make a hint of betrothal [al-Baqarah 2:235 and it was narrated that the Prophet (peace and blessings of Allaah be upon him) got engaged to ‘Aa’ishah. (Al-Bukhaari, al-Nikaah, 4793). And in al-Saheeh it also states that the Messenger (peace and blessings of Allaah be upon him) got engaged to Hafsah. (Al-Bukhaari, al-Nikaah, 4830.

The Messenger of Allaah (peace and blessings of Allaah be upon him) encouraged the one who wants to get engaged to look at the woman to whom he wishes to propose. According to the hadeeth, “When any one of you proposes marriage to a woman, if he can look at that which will encourage him to go ahead and marry her, then let him do so.” (Abu Dawood, al-Nikaah, 2082; classed as hasan by al-Albaani in Saheeh Abi Dawood, 1832 .(

But in Islamic sharee’ah there are no specific practices that must be followed with regard to engagement. What some Muslims do, announcing the engagement, having a party to celebrate and exchanging gifts, all comes under the heading of customs which are permissible in principle, and none of them are haraam except those which sharee’ah indicates are haram – which includes the exchange of rings between the engaged couple, a custom which is known in Arabic as “dublah.” This custom goes against sharee’ah for the following reasons :

1- Some people think that these rings increase the love between the spouses and have an effect on their relationship. This is an ignorant (jaahili) belief and is an attachment to something for which there is no basis in sharee’ah and which does not make sense .

2-This custom involves imitating the non-Muslims such as Christians and others. It is not a Muslim custom at all. The Messenger (peace and blessings of Allaah be upon him) warned us against that when he said, “You will inevitably follow the paths of those who came before you, handspan by handspan, cubit by cubit, until even if they entered the hole of a lizard, you will follow them.” We said, “O Messenger of Allaah, (do you mean) the Jews and Christians?” He said, “Who else?” (Narrated by al-Bukhaari, al-I’tisaam bi’l-Kitaab wa’l-Sunnah, 6889; Muslim, al-‘Ilm, 6723).

And the Prophet (peace and blessings of Allaah be upon him) said: “Whoever imitates a people is one of them.” (Narrated by Abu Dawood, al-Libaas, 4031; classed as saheeh by al-Albaani in Saheeh Abi Dawood, 3401).

3-This engagement usually takes place before the ‘aqd (marriage contract), in which case it is not permissible for the man to put the ring on his fiancée’s hand himself, because she is still a stranger (non-mahram) to him, and has not yet become his wife .

Finally, we will quote the words of Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) on this matter :

‘ “Dublah’ or Mihbas or Halaqah is a word that refers to the engagement ring. In principle there is nothing wrong with rings (i.e., they are permissible), unless they are accompanied by certain beliefs, as some people do when the man writes his name on the ring that he gives to his fiancée, and the woman writes her name on the ring that she gives to her fiancé, believing that this will guarantee the bonds between the spouses. In this case this ‘dublah’ or engagement ring is haraam, because it represents an attachment to something for which there is no basis in sharee’ah and which does not make sense. Similarly it is not permissible for the man to put the ring on the woman’s hand himself, because she is not yet his wife, so she is still a stranger (i.e., non-mahram) to him; she is not his wife until after the marriage contract is done”. Al-Fataawa al-Jaami’ah li’l-Mar’ah al-Muslimah, 3/914.

On the consummation of marriage

In Allah’s name, His mercy is infinite and eternal! Hoping on the Single God, the Possessor of true knowledge and wisdom, I pray to Him for strength and skills to express a humble judgment that would correspond to the truth of God’s Word, and not to the temporal knowledge of this age .

According to the Holy Qur’an the marriage between man and woman is one of the most important God’s commandments.

“ Allah has given you wives from among yourselves, and through them He has granted you sons and grandsons. He has provided you with good things”,- reads the Holy Qur’an (the Holy Qur’an, 16:72).

“ By another sign He gave you wives from among yourselves, that you might live in joy with them, and planted love and kindness in your hearts. Surely there are signs in this for thinking men” (the Holy Qur’an, 30:21).

Having authorized marriage between man and woman Allah, He is Wise and Just, established a special order of the consummation of marriage.

Requirements to meet before the consummation of marriage

According to the norms of Shariah and Islamic tradition a young man, who intends to enter into marriage, should meet the following requirements which anticipate the marriage:

- pay attention to a girl without her knowledge;
- if he likes her, he should talk to her in a public place;
- make sure beforehand that there are no obstacles to a marriage that are stipulated by Islamic law (for example, blood or foster relationship);
- if she matches him in her world view and values, he should hint her at his intention to marry her -;if the girl accepts the proposal, a young man should talk to her parents (or tutor) in order to receive their consent;
- arrange match-making and engagement after receiving the absolute consent on the part of the girl and her parents agree on the date of the marriage.

As one of the first steps to the marriage a young man should express his wish to the chosen one in an open or veiled form. In case of mutual consent to marriage it is necessary to arrange match-making and engagement.

Engagement is the act of the public promise of both sides to enter into marriage. Yet it does not grant future spouses any additional right besides their right to associate with each other in the presence of their parents and relatives or in a public place. The majority of theologians hold that during and after engagement the young man is allowed to look only at those parts of the girl's body that are not 'aurah (i.e. only at her face and hands). It is strongly prohibited to kiss or embrace each other, for before the marriage man and woman are still alien to each other.

Islamic theologians are unanimous in the opinion that if there is an obvious consent to marriage on the part of the girl, no other man may propose to her. It is canonically prohibited. But in case

if there is no obvious consent to marriage on the part of the girl another man is allowed to woo her.

According to a hadith man "... has no right to an engagement against the engagement of his brother except for in case if he rejected [the engagement] or by his consent" (hadith from Abu Hurayra and Ibn 'Umar; the holy ahadith from al-Bukhari, Muslim and Ahmad).

There is nothing wrong if several young men have proposed to a girl being unaware of each other's intentions.

Requirements and recommendations to the moral make-up of future spouses

It is necessary to pay special attention to the physical state, moral values and material welfare of a future wife or a prospect husband. And yet one of the most significant virtues of the future spouse is spiritual and religious knowledge and piety. "Take in marriage those from among you who are single and those... who are honest. If they are poor, Allah will enrich them from His own abundance" (the Holy Qur'an, 24:32).

Marriage in Islam:

In Islam, marriage is a legal contract (Literary Arabic: عقد القران *'aqd al-qirān*, "matrimony contract"; نكاح between two people. The bride is to consent to the marriage of her own free will. A formal, binding contract is considered integral to a religiously valid Islamic marriage, and outlines the rights and responsibilities of the groom and bride. There must be two Muslim witnesses of the marriage contract. Divorce is permitted and can be initiated by either party. The actual rules of marriage and divorce (often part of Personal Status Laws) can differ widely from country to country, based on codified law and the school of jurisprudence that is largely followed in that country.

In addition to the usual marriage until death or divorce, there is a different fixed-term marriage known as *zawāj al-mut'ah* ("temporary marriage") permitted only by the Twelver branch of Shia Islam for a pre-fixed period. There is also *Nikah Misyar*, a non-temporary marriage with the

removal of some conditions permitted by some Sunni Muslims, which usually amount to the wife waiving her right to sustenance from her husband.

In Islam, marriage is not compulsory and a Muslim has the right to live a single life if he or she wishes to. One example is Prophet Isa, who neither married nor had any children. However, marriage is an act of Sunnah in Islam and is highly recommended.

Pre-Islamic Arabia

In Pre-Islamic Arabia a variety of different marriage practices existed. The most common and recognized types of marriage at this time consisted of: marriage by agreement, marriage by capture, marriage by purchase, marriage by inheritance and "Mot'a" or temporary marriage.

Prior to Islam, women could not make decisions based on their own beliefs, and had little control over their marriages. They were never bound by contract for marriage or custody of children and their consent was never sought. Women were seldom allowed to divorce their husbands and their view was not regarded for either a marriage or divorce. If they got divorced, women were not legally allowed to go by their maiden name again. They could not own or inherit property or objects, even if they were facing poverty or harsh living conditions. Women were treated less like people and more like possessions of men. They, however, could be inherited and moved from home to home depending on the wants and needs of their husband and his family. Essentially, women were slaves to men and made no decisions on anything, whether it be something that directly impacted them or not. If their husband died, his son from a previous marriage was entitled to his wife if the son wanted her. The woman had no choice in the matter unless she was able to pay him for freedom, which was, in most cases, impossible.

One of the most extraordinary practices that took place was that if a husband died, his son could inherit his wife (his own mother) to be his own wife. Marriage by inheritance, and incestuous between a son and his own mother was "a widespread custom throughout Arabia, including Medina and Mecca". If the son of a deceased husband (his deceased father) did not want his wife (own mother), the woman was forced to leave her home and live in a hut for one year. The hut that the women lived in was kept dark with very poor air circulation. After one year, the woman was allowed to come out of the hut, and people were permitted to heave camel excrement at her. People in Mecca would blame her for refusing to sleep with her own son.

In 586 AD women were acknowledged to be human. Although this appears to be a change in the status of women in Arabia, they were only acknowledged as human with the sole purpose of serving men. They were considered human, but were not given the same rights as men and were not treated equally in respect to men. In fact, it was common for a new father to be outraged upon learning that his baby was a female. It was believed that girls ensured a bad omen and men thought that daughters would bring disgrace to the family. Because baby girls were thought to be evil, many of them were sold or buried alive.

Marriage by Agreement

The first of four common marriage practices that existed in pre-Islamic Arabia was marriage by agreement. This consisted of an agreement between a man and his future wife's family. This marriage could be within the tribe or between two families of different tribes. In the case that involved a man and woman of two different tribes, the woman would leave her family and permanently reside within her husband. The tribe of the husband then kept the couple's children, unless a different arrangement was previously made which returned the children to their mother's tribe. In other cases women were forbidden from marrying outside of the tribe and had to either marry another member or a stranger who would agree to live within her tribe. The reason for inter-tribal marriages was to ensure the protection and possession of the children the couple would produce. Women in inter-tribal marriages received more freedom and retained the right to dismiss or divorce their husbands at any time. The women had precise rituals they used to inform their husbands of their dismissal, such as this: "if they lived in a tent they turned it around, so that if the door faced east, it now faced west, and when the man saw this, he knew that he was dismissed and did not enter".

Marriage by Capture

The second of four common marriage practices that existed in pre-Islamic Arabia was marriage by capture, or "Ba'al", as it was known in Arabic. Most often taking place during times of war, marriage by capture occurred when women were taken captive by men from other tribes and placed on the slave market of Mecca. From the slave market these women were sold into marriage or slavery. In captive marriages men bought their wives and therefore had complete control over them. Women in these marriages had no freedom and were subjected to following

their husband's orders and bearing his children. These women became their husbands property and had no rights to divorce or dismissal of her husband and therefore completely lost any previous freedom. Her husband had absolute authority over her, including the exclusive right to divorce. The husbands of these marriages were classified as their wife's lord or owner and had complete rights to his wife and her actions.

Reforms after Islam

Prophet Muhammad had reformed the laws and procedures of the common marriage practices that existed during his prophet hood. The rules of "marriage by agreement (marriage through consent)" and "marriage by capture" were reformed and a strict set of rules and regulations were put in place. The practices of "marriage by purchase" and "marriage by inheritance" were forbidden. Several chapters and verses from the Quran were revealed which banned such practices.^[11]

Under the Arabian pre-Islamic law, no limitations were set on men's rights to marry or to obtain a divorce.^[12] Islamic law, however, restricted polygamy (^[Quran 4:3]) The institution of marriage, characterized by unquestioned male superiority in the pre-Islamic law of status, was redefined and changed into one in which the woman was somewhat of an interested partner. 'For example, the dowry, previously regarded as a bride-price paid to the father, became a nuptial gift retained by the wife as part of her personal property' Under Islamic law, marriage was no longer viewed as a "status" but rather as a "contract". The essential elements of the marriage contract were now an offer by the man, an acceptance by the woman, and the performance of such conditions as the payment of dowry. The woman's consent was imperative. Furthermore, the offer and acceptance had to be made in the presence of at least two witnesses.¹ A man was not allowed to leave his wife and marry someone else just because the other women pleased him more. A married woman also had rights over the husband as stated by Muhammad that "You have your rights upon your wives and they have their rights upon you. Your right is that they shall not allow anyone you dislike, to trample your bed and do not permit those whom you dislike to enter your home. Their right is that you should treat them well in the matter of food and clothing

Marriage by Purchase

The third of four common marriage practices that existed in pre-Islamic Arabia was "marriage by purchase." This was a more traditional marriage practice. These marriages consisted of a woman's family paying a man "Mahr", or a dowry; to marry their daughter. The dowry usually consisted of items like camels and horses.

Women in "purchased" marriages faced the same oppression as the women who were forced into marriages by capture. This practice may have led to a decrease in female infanticide due to the profit a family could incur for selling their daughter. Women in these marriages were subject to their husbands control and had very little rights or freedom of their own.

Marriage by Inheritance

The fourth and last of four common marriage practices that existed in pre-Islamic Arabia was "marriage by inheritance". This kind of marriage would thus result in a incestuous relationship between a son and his own mother. Such "marriages" was "a widespread custom throughout Arabia, including Medina and Mecca". This practice involved the possession of a deceased man's wife being passed down to his son. In such a case, the son has several different options. He could keep her (own mother) as his wife, arrange a marriage by purchase for her to enter into from which he would receive a dowry for her, or he could simply dismiss her and had the right to forbid her to remarry. In these cases, as in the majority of marriage practices at this time, the woman had little or no rights and was subjected to follow the orders of her inheritor.

Marriage is indefinitely : according to Islam marriage is forever and suppose to be until death.

Marriage and Diverse :

Marriage, as prescribed by Allah, is the lawful union of a man and woman based on mutual consent. Ideally, the purpose of marriage is to foster a state of tranquility, love and compassion in Islam, but this is not always the case. Islam discourages divorce but, unlike some religions, does make provisions for divorce by either party.

Allah provides general guidelines for the process of divorce with emphasis on both parties upholding the values of justice and kindness in formalizing the end to their marriage (see [Quran 2: 224-237] for general guidelines regarding divorce).

Allah encourages the husband and wife to appoint arbitrators as the first step to aid in reconciliation in the process of divorce. If the reconciliation step fails, both the man and woman are guaranteed the right to divorce as established in the Quran, but the difference lies in the procedure for each one. When a divorce is initiated by the man, it is known as Talaq.

The pronouncement by the husband may be verbal or written, but once made, there is to be a waiting period of three months ('Iddah) during which there can be no sexual relations, even though the two are living under the same roof.

The waiting period helps to prevent hasty terminations due to anger and allows both parties time to reconsider as well as to see if the wife is pregnant. If the wife is pregnant, the waiting period is lengthened until she delivers. At any point during this time, the husband and wife are free to resume their conjugal relationship, thereby ending the divorce process. During this waiting period, the husband remains financially responsible for the support of his wife.

The divorce initiated by the wife is known as Khul' (if the husband is not at fault) and requires that the wife return her dowry to end the marriage because she is the 'contract-breaker'. In the instance of Talaq, where the husband is the 'contract-breaker', he must pay the dowry in full in cases where all or part of it was deferred, or allow the wife to keep all of it if she has already been given it in full.

In the case that the husband is at fault and the woman is interested in divorce, she can petition a judge for divorce, with cause. She would be required to offer proof that her husband had not fulfilled his marital responsibilities. If the woman had specified certain conditions that are Islamic ally accepted in her marriage contract, which were not met by the husband, she could obtain a conditional divorce.

The controversy regarding the seeming inequity in divorce lies in the idea that men seem to have absolute power in obtaining a divorce. The interpretation of scholars in the past has been that if the man initiates the divorce, then the reconciliation step for appointing an arbiter from both sides is omitted. This understanding diverges from the Quran injunction. Any difference in powers between the husband and his wife with regard to divorce can be extracted from the

following verse (which means): {...And due to them [i.e., the wives] is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is exalted in Might and Wise.}[Quran: 2:228]

In the following verse, according to existing interpretations, Allah gives the reason for the small difference in the verse (which means): {Men are in charge of women by [right of] what [qualities] Allah has given one over the other and what they spend [in support] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard.} [Quran: 4:34]

Thus, it is clear that there is a 'degree' of difference with regards to the rights of men and women in divorce, and that the greater right that men were given is due to their being the leaders and financial supporters of the household. This, however, does not mean that women are inferior to men or that they are second-class human beings.

Many of the laws regarding divorce in some Muslim countries are based upon Quran references on the subject. As with all human laws, they must adapt to dynamic circumstances. Issues pertaining to custody have become controversial. For example, Allah in the Quran advises the husband and wife to consult each other in a fair manner regarding their children's future after divorce, as this verse states (which means): {...If they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them.} [Quran: 2:233]

Some jurists stipulate that custody of the child is awarded to the mother if the child is under a certain age and to the father if the child is older. There is no Quran evidence of age being a determinant for custody. Similarly with regard to the issue of alimony, in the Quran the ex-husband's financial obligation to his ex-wife is mandated, but a specific formula for the amount of support is missing; Allah Says (what means): {And for divorced women is maintenance according to what is acceptable – a duty on the righteous.}[Quran 2:241] This is open for negotiation between parties and should be in accordance with the husband's financial ability.

There has been much distortion and propagation of misunderstanding about a woman's rights related to marriage and divorce. Only with self-education and awareness of the Quran text are men and women able to learn the truth that Allah has prescribed and understand the scholarly interpretations in order that the spirit of justice is realized. Allah Says (what means): {And when you divorce women and they fulfill their term [of their 'Iddah], either keep them according to reasonable terms or release them according to reasonable terms, and do not keep them, intending harm, to transgress [against them]. And whoever does that has certainly wronged him. And do not take the verses of Allah in jest. And remember the favor of Allah upon you and what has been revealed to you of the Book [i.e., the Quran] and wisdom [i.e., the Prophet's Sunnah] by which He instructs you. And fear Allah and know that Allah is Knowing of all things.} [Quran 2:231]

Importance of Marriage in Islam

The Holy Quran says, “And marry those among you who are single and those who are fit among your male slaves and your female slaves; if they are needy, Allah will make them free from want out of His grace; and Allah is Ample-giving, Knowing.” (Surah an-Nur, 24:32)

The above ayat begins with the words Wa Ankehoo (And marry...). The imperative form of the word ‘nikah’ implies that either it is obligatory or highly recommended.¹ According to scholars, though marriage is a highly recommended act, it becomes obligatory when there is a chance of falling into sin.

The Prophet (S) says, “No house has been built in Islam more beloved in the sight of Allah than through marriage.”

On another occasion the Prophet (S) said, “The best people of my nation (Ummat) are those who get married and have chosen their wives, and the worst people of my nation are those who have kept away from marriage and are passing their lives as bachelors.”

Imam ‘Ali (A.S.) exhorts, “Marry, because marriage is the tradition of the Prophet (S).” The

Prophet (S) also said, “Whosoever likes to follow my tradition, then he should know that marriage is from my tradition.”

A. Importance of Sex in Marriage

In Islam, marriage is not restricted to a platonic relationship between husband and wife, nor is it solely for procreation. The Islamic term for marriage, “nikah” literally means sexual intercourse. So why has Islam provided extensive rules and regulation regarding sex? This was because Islam has fully understood that sexual instincts cannot and must not be repressed. They can only be regulated for the wellbeing of human beings in this life and for their success in the hereafter. Sex in married life has been openly recommended in Qur’an, “...when they [i.e., the wives] have cleansed themselves [after menstruation], you go into them as Allah has commanded...” (Surah al-Baqarah, 2:222)

B. Fulfillment of Sexual Urge

The Holy Prophet (S) and the Holy Imams (A.S.) also encouraged their followers to marry and to fulfill their sexual urges in lawful ways as can be seen from the following: The Prophet (S) said, “O you young men! I recommend marriage to you.” Imam Reza (A.S.) said, “Three things are from the traditions of the Messengers of God (A.S.): using perfume, removing the [excessive] hair and visiting one’s wife.” 7

C. Celibacy and Monasticism is Forbidden

Islamic is totally opposed to monasticism and celibacy. ‘Uthman bin Maz’un was a close companion of the Prophet (S). One day his wife came to the Prophet (S) and complained, “O Messenger of God (S)! ‘Uthman fasts during the day and stands for prayers during the night.” In other words, she meant to say that her husband was avoiding sexual relations during the night as well as the day. The Prophet (S) was angered. He did not even wait to put on his slippers. He went to ‘Uthman’s house and found him praying. When ‘Uthman finished his prayers and turned towards the Prophet (S), he said, “O ‘Uthman! Allah did not send me for monasticism, rather He sent me with a simple and straight [Shariah]. I fast, pray and also have intimate relations with my

wife. So whosoever likes my tradition, then he should follow it; and marriage is one of my traditions.”

D. Beneficial Effects of a Married Life

Various studies prove that married people remain healthier, physically and mentally. Islam has always maintained that marriage is beneficial for us in many ways. Islam also regards marriage as a way to acquire spiritual perfection. The Prophet (S) said, “One who marries, has already guarded half of his religion, therefore he should fear Allah for the other half.”⁹ How true! A person who fulfills his sexual urges lawfully would rarely be distracted in spiritual pursuits.

D. Beneficial Effects of a Married Life

E. Marriage Enhances the Value of Prayers

The Prophet (S) said, “Two rak‘ats (cycles) prayed by a married person are better than the night-vigil and the fast of a single person.”¹⁰ A woman came to the Prophet (S) and said that she had tried everything to attract her husband but in vain; he does not leave his meditation to pay any attention to her. The Prophet (S) told her to inform her husband about the reward of sexual intercourse which he described as follows: “When a man approaches his wife, he is guarded by two angels and [at that moment in Allah’s views] he is like a warrior fighting for the cause of Allah. When he has intercourse with her, his sins fall like the leaves of the tree [in fall season]. When he performs the major ablution, he is cleansed from sins.”

F. Marriage increases Sustenance

The Holy Prophet (S) remarked, “Give spouses to your single ones, because Allah makes their morality better (improves it) (under the shadow of marriage) and expands their sustenance and increases their generosity (human values).”

Chapter 2

Divorce in Islam

In the laws of Islam (sharia) there are three kinds of divorce, each with separate rules. When a man has initiated a divorce, the procedure is called **ṭalāq** (Arabic: الطلاق). When a husband accuses his wife of adultery without supplying witnesses and the wife denies it, the process is called **li'ān**. (Arabic: لعان) When a woman has initiated a divorce it is called **khula** (Arabic: خلع). Talaq is easily obtained, while obtaining khula is typically quite difficult.

In the ṭalāq divorce, the husband pronounces the phrase "I divorce you" (in Arabic, talaq) to his wife, three times. Many Islamic scholars believe there is a waiting period involved between the three talaqs, pointing to Quran 65:1 and various hadiths. However the practice of "triple ṭalāq" at one sitting has been "legally recognized historically and has been particularly practiced in Saudi Arabia."

Shia and Sunni Muslims have different rules for performing a ṭalāq divorce. Sunni practice requires witnesses. According to some Sunni schools of jurisprudence, each talaq utterance should be followed by a waiting period of three menstrual periods for women or three months (iddah), when the couple are supposed to try to reconcile with the help of mediators from each family, until the third and final ṭalāq. Some Sunnis who believe the practice of triple talaq in one go to be wrong, nonetheless accept it as final, especially the Hanafi schools of jurisprudence.

Shi'a practice also has a iddah waiting period when the couple are supposed to try to reconcile with the help of mediators from each family, but requires two witnesses for the declaration of ṭalāq. If the couple breaks the waiting period, the divorce is voided. After the waiting period is over, the couple is divorced and the husband is no longer responsible for the wife's expenses, but remains responsible for the maintenance of the children, until they are weaned.

In the laws of Islam (sharia) there are three kinds of divorce, each with separate rules. When a man has initiated a divorce, the procedure is called **ṭalāq** (Arabic: الطلاق). When a husband accuses his wife of adultery without supplying witnesses and the wife denies it, the process is called **li'ān**. (Arabic: لعان) When a woman has initiated a divorce it is called **khula** (Arabic: خلع). Talaq is easily obtained, while obtaining khula is typically quite difficult.

In the ṭalāq divorce, the husband pronounces the phrase "I divorce you" (in Arabic, talaq) to his wife, three times. Many Islamic scholars believe there is a waiting period involved between the three talaqs, pointing to Quran 65:1 and various hadiths. However the practice of "triple ṭalāq" at one sitting has been "legally recognized historically and has been particularly practiced in Saudi Arabia."

Shia and Sunni Muslims have different rules for performing a ṭalāq divorce. Sunni practice requires witnesses. According to some Sunni schools of jurisprudence, each talaq utterance should be followed by a waiting period of three menstrual periods for women or three months (iddah), when the couple are supposed to try to reconcile with the help of mediators from each family, until the third and final ṭalāq. Some Sunnis who believe the practice of triple talaq in one go to be wrong, nonetheless accept it as final, especially the Hanafi schools of jurisprudence.

Shi'a practice also has a iddah waiting period when the couple are supposed to try to reconcile with the help of mediators from each family, but requires two witnesses for the declaration of ṭalāq. If the couple breaks the waiting period, the divorce is voided. After the waiting period is over, the couple is divorced and the husband is no longer responsible for the wife's expenses, but remains responsible for the maintenance of the children, until they are weaned.

It is also possible for a woman to petition a qadi (judge of Muslim jurisprudence) for a divorce under certain conditions. The circumstances which are regarded as acceptable vary amongst the four Sunni groups of Islamic schools of jurisprudence.

Talaq :

The Muslim husband may initiate the divorce process by pronouncing the word talaq, the formula of repudiation, three times. The first two times the talaq is pronounced, it may be withdrawn. But the third time it is pronounced, the divorce is irrevocable. There are a range of systems specifying the requisite formalities to complete an irrevocable divorce, i.e., whether some period of time must elapse between each pronouncement of talaq, whether there must be mediation, or the need for witnesses. According to the Quran which is the book on which Islam is based, there is a waiting period. In countries where polygyny is permitted, there is no waiting period before the husband can remarry. The wife must usually wait three months after the third talaq has been spoken before remarrying (this period is known as iddah).