

# Divorce Problems and Community Social Capital in Realizing Family Resilience in Aceh

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## **Divorce Problems and Community Social Capital in Realizing Family**

### **Resilience in Aceh**

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**Abstrak:** Divorce is a matter that is always fascinating to explore within the Islamic law, since it affects not only legal but also social and cultural issues. Therefore, various ways are carried out by the community to suppress the divorce rate so that family resilience should be maintained. This study aims to discuss to proleptic of divorce practices that occur in Aceh, community response and the socio capital in the form of traditional values and religious leaders in Acehnese society to realize family resilience. This is an empirical legal study employing a sociology of law methodology. Interviews and literature reviews were utilized as methods of data collection. The data demonstrated that social changes in Aceh contributed to an increase in divorce rates. The response of the community to divorce is litigation, *peudame* (reconciling), and non-litigation (through the court). Traditional and gampong (village) officials with cultural and legal authority, such as the *keuchik* (village head), *tuha peut*, head Jurong (neighbourhood chief), and *teungku imuem*, are involved in the resolution of disputes. Meanwhile, divorces that cannot be handled by customary means will be moved to the Religious Courts. In the context of legal sociology theory, however, customary and cultural values as social capital in the form of support from traditional and religious leaders can help to the maintenance of family resilience.

**Keywords:** Divorce, social capital, customary values, traditional leaders, and family resiliency

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**Abstrak:** Perceraian merupakan problematika hukum Islam yang selalu menarik untuk diteliti karena menimbulkan dampak tidak hanya pada masalah hukum, namun juga sosial dan budaya. Karena itu, berbagai cara dilakukan masyarakat untuk menekan angka perceraian agar ketahanan keluarga dapat tetap dipertahankan. Penelitian ini bertujuan membahas problematika praktik perceraian yang terjadi di Aceh, respon masyarakat dan modal sosial berupa nilai adat dan tokoh agama dalam masyarakat untuk mewujudkan ketahanan keluarga. Kajian ini merupakan penelitian hukum empiris dengan menggunakan pendekatan sosiologi hukum. Teknik pengumpulan data yang digunakan adalah wawancara dan studi literatur. Hasil penelitian menunjukkan bahwa terjadi peningkatan perceraian di Aceh yang disebabkan oleh perubahan sosial yang terjadi dalam masyarakat. Respon masyarakat terhadap perceraian diselesaikan dengan cara litigasi atau *peudame* (mendamaikan) dan non litigasi (melalui pengadilan). Penyelesaian secara litigasi melibatkan perangkat adat dan gampong seperti *keuchik* (kepala desa), *tuha peut*, kepala jurong, *teungku imuem* yang memiliki otoritas secara budaya dan hukum. Sedangkan perceraian yang tidak dapat diselesaikan secara musyawarah adat, maka dilimpahkan ke Pengadilan Agama. Namun demikian patut dicatat bahwa dalam konteks teori sosiologi hukum, nilai-nilai adat dan budaya sebagai modal sosial dalam bentuk dukungan dari tokoh adat dan tokoh agama mampu memberikan kontribusi sehingga ketahanan keluarga tetap dapat dijaga.

**Kata Kunci:** Perceraian, modal sosial, nilai-nilai adat, tokoh adat, ketahanan keluarga.

## Introduction

In addition to being a religious and legal issue, divorce also influences social and cultural issues in the global society, such as in Muslim countries in the Middle East, Asia, and even Europe and the United States. Divorce creates a gap that leads to household instability, the collapse of family resilience, and the physical and psychological abandonment of children.<sup>1</sup> Even though the divorce rate in the Middle East is decreasing, a number of problems have surfaced as a result of social and cultural shifts. This is evident from urbanization, modernization, and industrialization, equitable distribution of education, higher

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<sup>1</sup>John Richard Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*, Cambridge: Cambridge University Press, 2003. Mark Carnmack et.al. An Empirical Assesment of Divorce Law in Indonesia, *Studia Islamika* 4, No. 4 (1997), p. 93-108. Mursyid Djawas et.al, "The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi," *Ahkam: Jurnal Ilmu Syariah* 21, No. 1 (2021), p. 163-188. Martina Purna Nisa, "Critical Review of Domestic Violence as Reason for Divorce (Comparison of Divorce Laws in Indonesia, Malaysia and the Maldives)," *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 16, No. 1 (2021), p. 1-23.

engagement of women in the work market, decreased fertility and improved health, the rise of unusual marriages, and the control of selection for spouses.<sup>2</sup> In Egypt, divorce is a lengthy process that requires women to demonstrate to a court that they are seeking a divorce because they have incurred significant losses. Men, however, feel more comfortable in this position without going to court.<sup>3</sup>

In several European nations, such as Denmark, Norway, Sweden, and Finland, which are part of the Nordic culture and have a relatively permissive acceptance of the practice of divorce, it is extremely prevalent due to the liberalism<sup>5</sup> and individualism of these nations. All Nordic nations formally recognize gender equality in marriage and the freedom to divorce without fault on either side. During the period 1951-1988, Denmark and Norway<sup>5</sup> permitted two-way faultless divorce, divorce rates increased in Sweden due to a shift in norms that prioritized parental emotional fulfilment and self-act<sup>5</sup>ualization over stability, and divorce was viewed as a social problem in Finland. The long-term increase in divorce rates can be viewed as an empirical indicator of these significant alterations to the Western social fabric.<sup>4</sup>

The practice of divorce in Malaysia and the Maldives is based on Domestic Violence (*Kekerasan Dalam Rumah Tangga/KDRT*) considerations, which can be the reason of divorce within the context of the country's family law. In Malaysia, however, both spouses have the rights to seek for divorce due to domestic abuses. In the Maldives, family law is exclusively permitted for the wife.<sup>5</sup>

In Indonesia, Islamic divorce has been a social norm for centuries. Polygamy is one of the causes of divorces from prior and subsequent marriages. The phenomena of divorce is not a straight process in Islam. According to Islamic law, a person may be divorced up to three times before the divorce is deemed complete and the couple is no longer permitted to reconcile or remarry. In local communities, the reliance on traditional Islamic marriage rituals prevents them from being registered in state documentation, hence a divorce is not recorded as such.<sup>6</sup>

In Indonesia, the 1974 Marriage Law and the 1991 Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) mandate religious court approval for all

<sup>2</sup> El-Saadani Somaya, "Divorce in the Arab Region: Current Levels, Trends and Features," <sup>1</sup>*The European Population Conference, Liverpool*, January (2017), p. 21-24.

<sup>3</sup> H. Ahmed Zaki, "Culture, and Mobilization: Legal Pluralism and Women's Access to Divorce in Egypt," <sup>1</sup>*Journal of Human Rights* 14, No. 1 (2017), p. 1-25.

<sup>4</sup> Glenn Sandström and Ólöf Garðarsdóttir, "Long-Term Perspectives on Divorce in the Nordic Countries – Introduction," *Scandinavian Journal of History* 43, No. 1 (2017), p. 1-17.

<sup>5</sup> Martina Purna Nisa, *Critical Review of Domestic Violence as Reason for Divorce...*, p. 1-23.

<sup>6</sup> Maria Platt, *Gender and Islam in Indonesia: Women Negotiating Informal Marriage, Divorce and Desire* (Routledge, 2017).



divorces, regardless of which side initiated the divorce. Consequently, a man seeking a divorce is necessary to receive permission to announce a divorce proposal,<sup>7</sup> while a woman seeking a divorce is required to go to court to commence a divorce, with simpler access making Indonesia's divorce rate the highest in the Asia Pacific.<sup>8</sup> In Hindu most populous province, Bali, social law plays an important role in marriage and dissolution, whether through divorce or the death of the spouse. However, marriage and divorce reflect local customs rather than Indian customs, as stated in the Sanskrit Dharmastras, and this provision differs from Ancient Java.<sup>9</sup>

Legal divorce in Lombok represents women's rejection of the dominance of local interpretations and practices of Muslim family law, such as the rejection of men and arbitrary polygamy. Divorce becomes a woman's resistance to male dominance, reinforced by local practice of Islamic law, customary law, and state law. This article addresses a crucial aspect of current Islamic family law, which illustrates patterns of women's dominance and resistance. The arbitrariness of men in governing marriage is evidenced by the high rate of divorce outside of the law and their responses to divorce cases. Muslim women have used Islamic courts to file divorce claims, property claims, and maintenance claims for themselves or their children. What is unique about the participation of women in Islamic courts in modern Indonesia that distinguishes it from other Muslim nations.<sup>10</sup>

In the meantime, the number of husbands and wives filing for divorce at the Syar'iyah Court in Aceh continued to rise. According to data gathered from the Banda Aceh Syar'iyah Court, there were 75 *talaq* (sued) divorces and 194 divorced cases in 2014. In 2015, there were 68 sued divorce cases and 191 contested divorce cases. In 2016, this number grew to 94 and 232 occurrences of divorce, respectively.<sup>11</sup> In 2017; the number of divorce cases increased to 117 and 236 were litigated. In 2017 there were 3,586 cases of litigation and 1,3331 divorces, however in 2018, these figures grew to 4,000 divorces and 1,562

<sup>7</sup> Euis Nurlaelawati, "Muslim Women in Indonesian Religious Courts: Reform, Strategies, and Pronouncement of Divorce," *Islamic Law and Society* 20, No. 3 (2013), p. 242-71.

<sup>8</sup> Dwi Yoga Wibawa. et.al., "SocioEmpathy: A Social-Sensitivity Application to Reduce Stress and Depression of Divorce or Domestic Violence Victims. 6th International Conference on Information and Communication Technology" (Indonesia: International Conference on Information and Communication Technology (ICoICT), (2018).

<sup>9</sup> Creese Helen, "The Legal Status of Widows and Divorcees (Janda) in Colonial Bali. Indonesia and the Malay World," *Indonesia and the Malay World* 44, No. 128 (2016).

<sup>10</sup> Mohamad Abdun Nasir, "Islamic Law and Paradox of Domination and Resistance: Women's Judicial Divorce in Lombok, Indonesia," *Asian Journal of Social Science* 44, No. 1 (2016), p. 78-103.

<sup>11</sup> Case Report at the Banda Aceh Syari'ah Court, 2017.

lawsuits, means an increase of 11.31 percent.<sup>12</sup> According to Hamid Sarong, the divorce rate in Aceh is the result of a paradigm shift and the increasing independence of women.<sup>13</sup> Isnawati Rais shared the same opinion, stating that the high divorce rate was due to economic independence and wife understanding.<sup>14</sup> Wardatun and Smith are of the view that men also do nushuz to women which triggers divorce.<sup>15</sup>

As a result, women are exposed to a greater bodily risk than men who are physically aggressive and stronger than them, preventing them from protecting themselves successfully. Thus, the likelihood of women divorcing their partners is significantly greater than that of men. As a result, those with children who marry an abusive partner, i.e., one who mistreat and abuses them and their children, may require double the patience. Therefore, it can be assumed that those with children are less likely to divorce abusive partners than those without children. This unfavourable dynamic subsequently causes the couple to experience extreme marital discontent, resulting in the decision to divorce.<sup>16</sup>

In the meantime, divorce has its own procedure under Islamic law, such as allowing both parties (husband and wife) the ability to file for divorce.<sup>17</sup> However, divorce has been critiqued for being viewed as one of the masculine authority attitudes toward women in Islamic discourses. Islamic family law has historically permitted men to delegate divorce authority to women through a sort of conditional *talaq*. The husbands may file for divorce where they consider necessary.

Experts have determined that the rise in women's independence is the primary cause of divorce, which is believed to have fostered disharmony and adultery.<sup>18</sup> The role of adat in supporting family resilience and patterns of dispute resolution in Acehnese society according to Islamic law.<sup>19</sup> Other research focuses

<sup>12</sup> Kasus Perceraian Meningkat 13,11 Persen di Aceh, *Republika.co.id.*, 31/01/2019. Accessed, on December 20, 2019. Angka Perceraian di Aceh Utara Meningkat Tiap Tahun, Ini Penyebabnya, *Kompas.com*, 4/7/2019. Accessed, on December 20, 2019.

<sup>13</sup> A. Hamid Sarong, *Hukum Perkawinan Islam Di Indonesia*, Banda Aceh: Global Education Institute, 2015.

<sup>14</sup> Isnawati Rais, "Tingginya Angka Cerai Gugat (Khulu') di Indonesia: Analisis Kritis Terhadap Penyebab dan Alternatif Solusi Mengatasinya," *Al-Adalah*, XII, (2014), p. 191–204.

<sup>15</sup> Atun Wardatun and Bianca J. Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage," *Ummuna* 24, No. 2 (2020), p. 266–295.

<sup>16</sup> Meneloas Apostolou, et.al., "Reasons That Could Lead People to Divorce in an Evolutionary Perspective: Evidence from Cyprus," *Journal of Divorce & Remarriage*, (2018), p. 1–20.

<sup>17</sup> Lyn Parker, et.al., "The Stigmatisation of Widows and Divorcees (Janda) in Indonesia, and the Possibilities for Agency," *Indonesia and the Malay World* 44, no. 1 (2016), p. 27–46.

<sup>18</sup> C.W. Nurlaili, "Faktor-Faktor Penyebab Tingginya Cerai Gugat Pada Mahkamah Syariah Meulaboh," *Deliberatif* 1, No. 1 (2017), p. 129–149.

<sup>19</sup> Mursyid Djawas and Sri Astuti A. Samad, *Conflict, Traditional, and Family*

mostly on the effects of divorce on children.<sup>20</sup> Likewise the considerations of the judges of the religious court judges as expressed in divorce rulings.<sup>21</sup> Fulfillment of women's rights after divorce from religious lawsuits.<sup>22</sup> These studies disregard the extremely significant aspect of Islamic law in divorce, where Islamic law has become a force in social arrangements, where Islamic law has become a factor.

This research aims to investigate the challenges associated with divorce patterns in Aceh and the role of social capital in achieving family resilience. This study suggests that despite the persistence of divorce in Aceh, social and cultural values reinforced by traditional and religious authorities continue to foster family resilience.

This is an empirical legal study employing a sociology of law methodology.<sup>23</sup> Interviews and literature reviews were utilized as methods of data collection. Community-based interviews were performed with religious leaders, scholars, and divorce actors. There were two reasons why Aceh was chosen as a research location: first, since Aceh is known to apply Islamic law, which should be the basis for society so as not to prevent divorce; and second, because Aceh is known to have a high divorce rate. Second, because Aceh has a culture of conflict resolution that exists in the community through the utilization of indigenous knowledge and cultural practices that live and evolve within society.

### Changes in Society and Increasing Divorce Rate

The increase in divorce rates parallels basic societal changes. At least three social dynamics contributed to the emergence of divorce. First, enhancing the autonomy of women. In the period of globalization, when women first began to interact with technology, they have access to information from a variety of sources, allowing them to expand their scientific capacity and knowledge. Additionally, as the number of seminars increases, gender training and women's rights inside the family have a favourable effect on him. Second, changes in social interaction patterns in which women's connections with other women and men

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Resistance. 1 p. 65-84.

<sup>20</sup> Gangsar Ali Daroni, et.al., "Impact of Parent's Divorce on Children's Education for Disability Kids," *IJDS: Indonesian Journal of Disability Studies* 5, no. 1 (2018), p. 1-9. Analiansyah and Ali Abubakar, Children Handling Procedure in Islamic Criminal Offense in Aceh," *Ahkam: Jurnal Ilmu Hukum* 21, No. 1 (2021).

<sup>21</sup> Murniati, M. and Muhammad Akbal, "Studi Tentang Penanganan Perkara Cerai Gugat Pada Pengadilan Agama Kabupaten Bantaeng," *Tomalebbi II*, No. 1 (2015), p. 45-54.

<sup>22</sup> Lilik Andar Yuni, "The Use of Ex Officio to Fulfill Women's Post-Divorce Rights at the Samarinda Religious Court," *Ijtihad: Jurnal Wacana Hukum dan Kemanusiaan* 21, No. 2 (2021), p.135-154.

<sup>23</sup> Salim and Erlies Septiana Nurbani, *Penelitian Teori Hukum pada Penelitian Disertasi dan Tesis*, Buku Kedua, Depok: Rajawali, 2017. Faisal Ananda Arfa and Watni Marpauang, *Metodologi Penelitian Hukum Islam*, Jakarta: Kencana, 2016, p. 36.

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become more open. According to AD, this tendency inspires suspicion and envy in their respective relationships. According to him, he once witnessed a co-worker escorting his wife home. Third, widespread changes in lifestyle, a wife who places unreasonable demands on her husband. Due to his inability to cope with the current circumstances, he chose to divorce his wife.<sup>24</sup> FD shared this sentiment, explaining, "My wife is a wasteful woman; tends to spend money on nothing'. The monthly salary is spent not only up to the twentieth day of the month. In addition, many owe to purchase expensive clothing and mobile phones. I have been counselled numerous times, but my wife does not heed my advice. The wife assumes she has money and responds that although she owes money for her personal requirements, she pays for them herself. Therefore, the husband may not interfere with her lifestyles.<sup>25</sup>

Thus, it is understandable that wives who already have their own income tend to have less respect for their husbands. She feels that she is economically independent, from which she could purchase of luxury goods, and thus they are not worried if they happened to get divorce, this condition aggravates if husbands have no or limited income due to their inability to comply with their wife's needs.

*Fourth*, according to FD, the wide access for women to work full time resulted in their inability to meet basic necessities for their husbands. For example, "The wife always states that when she returns home from work, she feels exhausted", and she is incapable of meeting her husbands' sexual desire. The husband does not appreciate his wife's behaviour resulted in the domestic violence. In return the wife argues that her husband only thinks of doing sexual intercourse and fail to generate family income. This statement is offensive and denigrate the dignity of the husband; while at the same time, it is also understandable that wife should get some rest after long day of work although she may need to spend some times for her husband.

FD's statement indicates the following effects of career women on their husbands: first, they can disregard their wives' biological responsibilities. Second, demeaning the dignity of a husband who appears to seek only inner fulfillment. Biological ties are one of the factors that build family relationships and promote peace. Thirdly, it becomes a catalyst for domestic violence and sows the seeds of a larger dispute if a divorcing couple is unable to maintain control.

Currently, the phenomenon of career women is inverse of the situation of women in antiquity. In traditional Acehese culture, divorce was extremely difficult because the woman's husband was the sole provider. The arrangement differs from the contemporary circumstance in which women must work outside

<sup>24</sup>Interview with AD, filed a divorce in Aceh, August, 2019.

<sup>25</sup>Interview with FD, filed a divorce in Aceh, August, 2019.



the home to meet their daily requirements. They do not fear divorce because they have been able to provide for themselves.

It emerges from the four stages that divorce is related to societal dynamics. There are internal influences that emanate from the husband and wife and external factors that originate from external factors.

### **Influence of Divorce on Family Resilience**

Divorce and its effects on the family, particularly on women and children, have been the subject of extensive psychological and social study. As measured by the quality of their parents' relationship, the level of conflict in a marriage can influence children's response to the danger of divorce and their mental health. Due to the absence of a parent figure in their life, children who endure parental divorce often suffer from severe trauma. Physical and psychological issues found in children's emotional regulation, such as irritability or trouble in coping with interpersonal problems, depression, anxiety, and low self-esteem, make it easy for these youngsters to engage in destructive behaviors, such as drug use. drugs. According to Nusinovici, children whose parents divorce will see a decline in motivation, independence, and agility.<sup>26</sup>

The process of family disruption is influenced by two factors: a lack of social relationships with one's parents and interactions that tend to be forced. It has been demonstrated that coercive relationships between parents and their children influence and even reinforce antisocial conduct in children and adolescents. In addition, economic considerations contribute to serious family problems that hinder the growth of family members. The emotional pressure of parents will produce stress, which will negatively impact the parent-child relationship and parenting quality.<sup>27</sup> Both parents who work full time have a significant impact on the internalization and externalization of their children, for instance, parental conduct and marital relationships degrade and impair children's mental health. For instance, parents with demanding occupations may be in a foul mood at home, interacting with their family in a more angry and frustrated manner.<sup>28</sup>

The findings of a study conducted in Canada indicate that low poverty, high mobility, and ethnic heterogeneity have an effect on the occurrence of crime among adolescents, as well as the impact of single parents, particularly those who

<sup>26</sup> Simon Nusinovici, et.al., "Impact of Parental Separation or Divorce on School Performance In 1-term Children: A Population-Based Study." *Plos One* 13, No. 9 (2018).

<sup>27</sup>King Christian, "Food Insecurity and Child Behavior Problems in Fragile Families," *Economics & Human Biology* 21 No. 1 (2018), p. 14-22.

<sup>28</sup> Andisheh Vahedi, et.al., "Crossover of Parents' Work-Family Conflict to Family Functioning and Child Mental Health," *Journal of Applied Developmental Psychology* 62, no. 1 (2019), p. 38-49.

are divorced. Family discord can have an impact on crime and delinquency for three reasons: 1). Instable individuals and families, as well as single-parent households, likely to have greater rates of criminal and delinquent behaviour than others; 2). The number of vulnerable families in a society might decrease participation and support for formal organizations, so eroding the formal community's social control systems; 3). Families that are vulnerable are less able to participate to the informal social life of society. In contrast, the association between family disorders and delinquency can include inadequate parental bonding, low academic attainment, emotional problems, and resource deficits in people and families.<sup>29</sup>

Divorce has repercussions for a number of interconnected factors. The impact is felt primarily by women who do not wish to remarry with other males. The second effect is also experienced by youngsters, who will experience trauma and psychological illnesses. The children's motivation, autonomy, and dexterity decrease following their parents' divorce. It is not uncommon for the child to engage in bad behaviour. In Aceh, this illness also affects the children of divorced family. The distinction rests on two aspects: children do not engage in negative behavior and they will be neglected.

The effects of divorce also have a psychological impact on women who are mentally unable to remarry. The sense of control over oneself is more secure than the decision to marry, which restricts freedom of speech owing to husbands' pressures. Even the wife becomes more productive when she is left to her own abilities to carry out her duties. So in short divorce will have an impact on the fragility of family resilience and affect all aspects of post-divorce life.

### Divorce Practices in the Acehnese Society

Several variables led to divorces in Aceh, including economic constraints, adultery through social media, family negligence, domestic violence, drug use, women working full time, societal jealousy, and the mental maturity of each partner. It is not sufficient for parties seeking a divorce to cite the reasons in their case; concrete evidence must also be shown at trial, following applicable rules and regulations. If the parties are unable to persuade the judge based on the evidence, it is highly likely that the judge in court would hinder the divorce process by refusing to provide permission for a divorce.

If a woman wants to file for divorce in Egypt, she must follow a lengthy procedure. Women must provide evidence in court. In contrast to men, it is simpler for women to obtain a divorce without going to court.<sup>30</sup> In Indonesia,

<sup>29</sup> Wong Siu Kwong, "Youth Crime and Family Disruption in Canadian Municipalities: An Adaptation of Shaw and McKay's Social Disorganization Theory," *International Journal of Law, Crime and Justice* 40, no. 2 (2012), p.100-114.

<sup>30</sup> H. Ahmed Zaki, *Culture, and Mobilization...*, p. 1-25.

judges in deciding divorce consider legal and juridical aspects in addition to religious aspects, namely justice for the parties.<sup>31</sup>

As in other countries, divorce in Acehese society begins with disharmony between husband and wife, as stated by PT (36 years) and SY (38 years). Each attempt to preserve the marriage in her own manner, particularly by anticipating changes in their husbands. As observed by SY, the spouse is irresponsible, less engaged in acquiring wealth, and merely waits upon his parents to provide for him. You can request anything from the husband's relatives.

Divorce is a taboo topic for the people of Aceh; they feel ashamed to engage in it. If it occurs, it will be done in a manner that few people are familiar with. SY stated that the husband typically leaves his wife without informing his neighbours. In contrast to the prevalent belief that divorce is an everyday occurrence. Even to dissolve a marriage, people are increasingly likely to vote in the *Syar'iyah* Court (Religious Court) so that its verdict is legally binding.<sup>32</sup>

The practice of divorce among the people of Aceh is motivated by numerous factors as indicated in the table below:

Table 1: Reasons for Divorce in Aceh

No	Reasons for Divorce	Respondent	Status
1	I decided to get a divorce because he often took drugs. Actually, I warned him not to consume drugs, but he still didn't abide by my request. He also engages in domestic violence. He also has an affair with another woman and uses drugs	PT	divorced
2	The reason I don't want to live with my wife anymore is because she is so childish, in which she tends to be annoying and request for things; she forces herself to purchase some items beyond our financial ability.	AD	divorced
3	At first it was because I was looking for an employment for my wife. After a long search, he finally got a decent job for her, namely being a Civil Servant at a General Hospital. The wife's profession as a doctor is a factor that causes disharmony	FD	divorces

<sup>31</sup> Dodon Alfiender, "Disparity in The Cosiderations of Judges in Deciding Divorce Dispute in Religius Courts," *Juris (Jurnal Ilmu Syariah)* 21, No. 2 (2022). Arskal Salim et.al., *Demi Keadilan dan Kesetaraan*, Jakarta: PUSKUMHAM UIN Jakarta and The Asia Foundation 2009.

<sup>32</sup>Interview with PT, sued divorce in Aceh, August, 2019.

	in the marital relationship. My wife always said she came home from work tired. When the husband invites for sexual intercourse, she refuses it. The husband did not accept his wife's attitude so that he was slapped once.		
4	In my opinion, it is not only regarding our respective nuclear families. It's all because of my husband, as his parents and relatives finance him for every thing. Since he was single, he has never worked as a laborer. He had no idea how difficult it was to make money. He doesn't want to work hard. For him, two eggs are sufficient to feed her. Since I did not request anything and not very picky at thing, he takes it for granted. However, I do believe that women sometimes should be forceful so that their husbands work hard to make a living. At the time though, I just took what was brought home, but now I believe it is also not right to act that way, and the fact that my husband once mentioned the word 'divorce'.	SY	Divorce

Being a widow is really difficult for PT, because divorce and being a widow are perceived to be cynical in the Acehnese society. If you do a little preening before leaving the house, it will become a topic of conversation among the neighbors. Due to these concerns, she rarely returns to her village after her divorce. PT's principle may be that divorce is preferable to the mental anguish and violence that continue to impede the relationship. PT is willing to assume any risks associated with this divorce.<sup>33</sup> SY, who indicated that she had been traumatized by males, was also affected by the divorce. She had not been married for so long because she feared that she would face similar bad experience with her new spouse.<sup>34</sup>

Children who are victims of divorce also suffer from additional repercussions. CD (20 years old) is devastated and distressed by the separation of her parents. This emotion emerges when she observes her buddies grouped with

<sup>33</sup>Interview with PT, sued divorce in Aceh, August, 2019.

<sup>34</sup>Interview with SY, sued divorce in Aceh, August, 2019.



his intact parents.<sup>35</sup> MA (16 years old) felt similarly puzzled because her parents live in different places. When visiting her mother's home, her father would feel envious, and vice versa, if she lives with her father, she makes her mother feel sad.<sup>36</sup>

### Community Response to Divorce in Aceh

According to the information provided by the respondents, no one wishes for a marriage to end in divorce. People do not accept divorce for a number of reasons, including the fact that they are already aware of the hadith which states: "Talaq is a permissible act that Allah abhors vehemently. Second, there is the prospect of reconciliation inside the family, in accordance with the teachings of Islam, which encourage presenting peacemakers from the male and female households in the event of a domestic conflict. Third, the existence of traditional institutions and indigenous knowledge of the Acehnese people, which have evolved and been maintained by the Acehnese from the past to the present. Existing local knowledge should be able to prevent family difficulties from culminating in divorce.

The use of *talaq* (sued divorce) as a last resort to prevent further harm. The harms that can be avoided by getting a divorce are as follows: first, the husband and wife have lived in separate residences to prevent domestic violence, which is risky for them. Second, anticipating from harmful acts of the parents so that children are safeguarded from trauma and psychological illnesses caused by parental aggression. Third, allowing divorced women the option to marry or not to marry other men.

In general, for the Acehnese, divorce is not an option. The marital tie between partners is extremely holy and, as such, cannot be severed abruptly. Divorce can only be granted if the marriage is irreparably broken, as divorce is a permissible but deeply abhorrent act in God's eyes. If there has been a protracted internal dispute inside the family, all possible attempts should be taken for the family settlement procedure; if this step does not produce the desired result, divorce will be pursued.<sup>37</sup> Therefore, divorce is permitted if there is no other alternative. Someone cannot ask for divorce and acting to divorce his wife due to minor problems; the spouse should make any attempts possible to seek fair solutions to maintain the marriage. The divorce only takes place when there is no solution found at any means possible. Establishing a family unit is not as simple as commonly believed. Thought and educational differences between married partners contribute to family disharmony.

<sup>35</sup>Interview with CD, sued divorce in Aceh, September, 2019.

<sup>36</sup>Interview with FT, sued divorce in Aceh, September, 2019.

<sup>37</sup>Interview with Agustin Hanapi, an academia of UIN Ar-Raniry Banda Aceh, September, 2019.

The people of Aceh have a long history of addressing family issues peacefully and with the spirit of brotherhood. Peace initiatives (*peudamee*) that the community typically employs are *wa ahkaman min ahlihi wa ahkaman min ahliha* (peacemaker from the male family and peacekeeper from the female side). After this action, they were unable to submit a new peace pact to the *gampong's* traditional chiefs.<sup>38</sup>

Through the following channels, family disputes can be resolved peacefully:



People are occasionally influenced by social factors observed through media and in person. Although Islam itself is against divorce. In the *hadith*, the Prophet explained that *talaq* is a legal act that Allah detests intensely. In Islam, family comes first if a problem can be managed within, regardless of its types of the problem. However, if the spouse cannot secure the common ground, divorce is the best option.<sup>39</sup>

The effects of divorce on children are detrimental. This is experienced immediately by the youngsters, as seen in the table below:

Table 2: Effects of Divorce on Children

No	Impact on children's wellbeings	Respondent
1	I am traumatized and distressed by the current state of the family. This sensation of melancholy comes when observing the harmonious other people, such as my friends enjoy happy relationship with their parents. I want to feel the same. There is a location to lodge complaints and be pampered when necessary. I sincerely hope that parents stick together like they formerly did.	CD
2	Both parents are difficult after a divorce since they have separated and no longer reside together. When I visit my father, my mother is envious, and when I visit my mother, I am envious of my father.	MA

<sup>38</sup>Interview with Syamsuar, an Academia and Religious Leader in Meulaboh, September, 2019.

<sup>39</sup>Interview with Agustin Hanapi, an academia of UIN Ar-Raniry Banda Aceh, September, 2019.

3	The separation of both parents makes me incredibly depressed, I am unable to concentrate on my studies, and the shadow of my life when my parents lived together is always present when I am trying to focus on my study.	HR
4	Parental separation is incomplete, and I fervently hope that both of my parents return to their former selves.	IH
5	After my parents' divorce, I felt a substantial impact. Many friends criticized and ridiculed me. I am so depressed that I do not know what to say.	PR

Thus, it appears that diverse responses to divorce fall into three categories. First, in general, the Acehnese do not want divorce inside their families, as divorce is considered a taboo and dishonor. Second, Islamic teaching permits divorce if family circumstances do not permit reunification. Third, in order to prevent divorce, the Acehnese society must first include the family in solving the situation. If this approach fails, the next step is to seek recognized *gampong* leaders in the community to mediate, facilitate, and find the best way to prevent divorces between husband and wife.

### Social Capital and Family Resilience in Aceh

The sociocultural community of Aceh is the most precious resource that the community may utilize as a way of life. To overcome the difficulties in people's life, religious and cultural values merge as a solid force. In Aceh, *peudamee* (reconciling), *peumat jaroe* (shaking hands), *suloh* (peace), and *dhiet* (fine) are known as the culture of *peudamee* (reconciling), *peumat jaroe* (shaking hands), and *suloh* (peace), whose existence is still maintained in maintaining harmony in society, including resolving family disputes.<sup>40</sup> This culture can be used to minimize the divorce rate by incorporating religious and traditional leaders in the search for solutions that promote family unity. Due to their status as figures, customary functionaries are highly regarded and their advice and commands are followed.<sup>41</sup>

The formation of religious beliefs has a significant impact on lowering the divorce rate, and through guidance, can even prevent divorce. Religious

<sup>40</sup>Mursyid Djawas and Sri Astuti A. Samad, *Conflict, Traditional, and Family Resistance...*, p. 65-84. Muslim Zainuddin, "Peran dan Fungsi Kelembagaan Mukim dalam Penyelesaian Perselesaian: Analisis Praktik Hukum Adat di Aceh," *Media Syariah* 19, No. 2 (2017), p. 319-356.

<sup>41</sup>Interview with Syamsuar, an Academia and Religious Leader in Meulaboh, September, 2019.

instruction can be provided during recitations in the *gampong* or in the *dayah* (Islamic boarding school), as well as during the attendance of a course for prospective brides who are approaching marriage. However, when they are not directed, they are rarely followed up by the family. Therefore, guiding should not be confined to KUA (marriage celebrants), but should be carried out continuously by the family as a husband and a wife live their lives.<sup>42</sup> The procedure for resolving disputes at the *gampong* level consists of the following stages:



The complainant (husband/wife) report to the neighbourhood chief's residence to describe the situation they are facing. The head of the neighbourhood initially called one of the parties for questioning based on the given information. After obtaining each piece of information, both were simultaneously summoned to appear before the village chief. The neighbourhood chief will counsel and reunite the husband and wife by presenting their perspectives on the divorce's benefits and repercussions. The next stage is to submit the situation to the *Keuchik* (the village head) if the peace-making process at this level fails. The *Keuchik* will interview one party at a time discussing the problem. In order for the husband and the wife to be deemed *ishlah*-peaceful solution, the next step is to summon them both simultaneously to the *keuchik* for guidance. At this point, there are two possible outcomes: either the problem is handled by accepting the peace offered by the *keuchik*, or no peace accord is reached. In the event that peace is not established, the case will be referred to the *Gampong* Customary Court for further consideration by the *keuchik*, *tuha peut*, and *imeum meunasah* as members of *Gampong* Customary Court judge.

Cases are resolved by the *keuchik* as chairman of the trial, *tuha peut* and *imeum meunasah* as member judges, and the village secretary as clerks (registrars) in charge of drafting the trial procedure. Each character has a specific function inside the plot. The *Keuchik* is the presiding judge and oversees the proceeding. *Tuha peut* and *imeum meunasah* contributed to the examination of the evidence that was presented at trial.<sup>43</sup>

Traditional leaders play a crucial role in resolving a variety of community issues. Issues under the authority of the customary courts consist of 18 cases as outlined in Aceh *Qanun* Number 9 of 2008 concerning the Guidance of

<sup>42</sup>Interview with Syamsuar, an Academia and Religious Leader in Meulaboh, September, 2019.

<sup>43</sup>Interview with Syamsuar, an Academia and Religious Leader in Meulaboh, September, 2019.



Customary Life, which includes: disputes in the household; disputes between families related to *faraid* (heirs issues); disputes between citizens; sexual affairs; disputes over property rights; theft in the family (minor theft); dispute over common property; petty theft; pet cattle theft; violation of adat pertaining to livestock, agriculture, and an animal's offspring; and violation.

There are two assets that have a strategic function in restoring family relationships for the people of Aceh: sociocultural and religious teachings that have been absorbed into the community. Socio-cultural capital is comprised of customary and cultural values that continue to develop and be upheld by the Acehnese in resolving situations, including criminal and civil trials and family disputes. The culture that is still practiced by traditional leaders is the *peudamee* culture (reconciling), which seeks to find answers to diverse family issues. The counsel and opinions provided could impact the parties' desire to avoid divorce. Customary figures who serve as mediators (intermediaries) are wise and prudent in their case decisions. Parties are typically more respectful and deferential to the opinions of established leaders. If it is not implemented, it frequently results in social punishments, such as ostracism or ignoring in the community, because it is deemed that the individual has disregarded the recommendations of traditional leaders. High divorce rates are the result of the dilution of the role of traditional leaders in the *Gampong* culture. The family should be able to reconnect based on existing local knowledge, but due to shame and taboo, they decided not to report it to the village authorities. In contrast, *gampong* leaders have significant legitimacy in mediating family disagreements that persist. When it comes to making just decisions, both traditional and religious leaders are wise. The answers and recommendations provided have analyzed the positive and negative effects and prioritized the parties' advantages.

In addition to traditional leaders, religious leaders also play a role in establishing family ties. Religious leaders who are seen as having appropriate religious scientific knowledge in order to assist warring communities to make peace without difficulty. All sectors of society will accept the choices made by religious leaders and other *gampong* officials, which has a significant impact on lowering the divorce rate. As a result of this peace, the contesting parties do not pursue the matter formally through the *syar'iyah* court.

## Conclusion

Our description suggests several respects: First, the contemporary practice of divorce among the Acehnese has experienced a change. In the past, divorce was considered a taboo act in Aceh, and individuals who engaged in it felt ashamed. In contrast to the prevalent view of divorce in the modern society. This is impacted by the expanding paradigm of thinking and public education. Second, the increase in women's autonomy, changes in social interaction patterns that

allow men and women to join and discuss so that it creates jealousy for their respective partners, changes in life that increase the demands on married couples, and the opening of access for women to work full time, which causes estrangement in relationships in the twenty-first century, are the four causes of societal changes that lead to divorce. The result is that the wife has little time to devote to serving her spouse. Third, because marriage is a sacred act (*mistaqan ghalidhan*), the people of Aceh do not approve of divorce in general. Divorce should only be considered as a last resort if the marriage cannot be saved. Fourth, the socio-cultural religious community of Aceh possesses significant social capital in restoring family harmony. In theory, the sociology of law with socio-cultural values, and Acehnese people who are familiar with the pattern of case resolution, can serve as a strategy in achieving family resilience. Traditional conflict settlement that prioritizes peace for the plaintiffs in order to prevent divorce. Customary and religious values are social capital as well as the identity of the Acehnese people, supported by social actors such as traditional authorities and religious leaders who contribute to avoiding divorce if managed and instilled properly and applied in married life.

## References

### Journals and Books

- Alfiender, Dodon, "Disparity in The Considerations of Judges in Deciding Divorce Dispute in Religious Courts," *Juris (Jurnal Ilmu Syariah)* 21, No. 2 (2022). DOI: <http://dx.doi.org/10.31958/juris.v21i1.5716>.
- Analiansyah and Ali Abubakar, "Children Handling Procedure in Islamic Criminal Offense in Aceh," *Ahkam: Jurnal Ilmu Hukum* 21, No. 1 (2021). DOI: 10.15408/ajis.v21i1.20869.
- Andar, Lilik Yuni, "The Use of Ex Officio to Fulfill Women's Post-Divorce Rights at the Samarinda Religious Court," *Ijtihad: Jurnal Wacana Hukum dan Kemanusiaan* 21, No. 2 (2021). DOI: <https://doi.org/10.18326/ijtihad.v21i2.135-154>
- Arfa, Faisal Ananda and Watni Marpauang, *Metodologi Penelitian Hukum Islam*, Jakarta: Kencana, 2016.
- Apostolou, Meneloas, et.al., "Reasons That Could Lead People to Divorce in an Evolutionary Perspective: Evidence from Cyprus," *Journal of Divorce & Remarriage*, (2018). Doi: 10.1080/10502556.2018.1469333.
- Bowen, John R., *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning*, Cambridge: University Press, 2003.
- Carmack, Mark., et.al. "An Empirical Assesment of Divorce Law in Indonesia," *Studia Islamika* 4, No. 4 (1997).
- Creese, Helen, "The legal Status of Widows and Divorcees (*Janda*) In Colonial

- Bali," *Indonesia and the Malay World* 44, No. 128 (2015).  
Doi:10.1080/13639811.2015.1100862.
- Daroni, Gangsar Ali. et.al.. "Impact of Parent's Divorce on Children's Education For, *IJDS: Indonesian Journal of Disability Studies* 5, No. 1 (2018).  
<https://doi.org/10.21776/ub.IJDS.2018.005.01.1>.
- Djawas, Mursyid, et.al, The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi, *Ahkam: Jurnal Ilmu Syariah* 21, No. 1 (2021). DOI: 10.15408/ajis.v21i1.20870.
- Djawas, Mursyid and Sri Astuti A. Samad, "Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehese Community According to Islamic Law," *Samarah: Hukum Keluarga dan Hukum Islam* 4, No. 1 (2020). DOI: <http://dx.doi.org/10.22373/sjkh.v4i1.5271>.
- King, Christian. "Food Insecurity and Child Behavior Problems in Fragile Families," *Economics & Human Biology*, 28, (2018).  
Doi:10.1016/j.ehb.2017.11.002.
- Kwong, Siu Wong, "Youth Crime and Family Disruption in Canadian Municipalities: An Adaptation of Shaw and Mckay's Social Disorganization Theory, *International Journal of Law, Crime and Justice*, 40, No. 2 (2012). Doi:10.1016/j.ijlcj.2011.09.006.
- Marhánková, J. Hasmanova, "Women's Attitudes Toward Forming New Partnerships in Widowhood: The Search for "Your Own Someone" and for Freedom," *Journal of Women & Aging* 28, No. 1 (2016).  
Doi:10.1080/08952841.2014.950898.
- Marzuki, Peter Mahmud, *Penelitian Hukum*, Jakarta: Kencana, 2014.
- Murniati, M. and Muhammad Akbal, "Studi Tentang Penanganan Perkara Cerai Gugat Pada Pengadilan Agama Kabupaten Bantaeng," *Tomalebbi II*, No. 1 (2015).
- Nasir, Muhammad Abdun. "Islamic Law and Paradox of Domination and Resistance," *Asian Journal of Social Science*, 44, No. 1/2 (2016).  
Doi:10.1163/15685314-04401006.
- Nisa, Martina Purna, "Critical Review of Domestic Violence as Reason for Divorce (Comparison of Divorce Laws in Indonesia, Malaysia and the Maldives," *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 16, No. 1 (2021).<https://doi.org/10.19105/al-lhkam.v16i1.4292>.
- Nusinovici, Simon, et.al., "Impact of Parental Separation or Divorce on School Performance in Preterm Children: A Population-Based Study." *Plos One* 13, No. 9 (2018). Doi:10.1371/journal.pone.0202080.
- Nurlaili, C. W. Faktor-Faktor Penyebab Tingginya Cerai Gugat Pada Mahkamah Syar'iyah Meulaboh. *Deliberatif* 1, No. 1 (2017).
- Nurlaelawati, Euis, "Muslim Women in Indonesian Religious Courts," *Islamic Law and Society* 20, No. 3 (2013). Doi:10.1163/15685195-0010a0003.

- Panatagama, Arga Putra, et.al., Socio Empathy: A Social-Sensitivity Application to Reduce Stress and Depression of Divorce or Domestic Violence Victims. 6th International Conference on Information and Communication Technology (ICoICT) (2018).
- Parker, Lyn, et.al., The Stigmatisation of Widows and Divorcees (Janda) In Indonesia, and The Possibilities for Agency," *Indonesia and the Malay World* 44, No. 128 (2015). Doi:10.1080/13639811.2016.1111677.
- Platt, Maria, *Marriage, Gender and Islam in Indonesia*, Routledge: New York, 2017. Doi: 10.4324/9781315178943.
- Salim and Erlies Septiana Nurbani, *Penerapan Teori Hukum pada Penelitian Disertasi dan Tesis*, Buku Kedua, Depok: Rajawali, 2017.
- Salim, Arskal, et.al., *Demi Keadilan dan Kesetaraan*, Jakarta: PUSKUMHAM UIN Jakarta and The Asia Foundation, 2009.
- Sandström, Glenn, and Ólöf Garðarsdóttir, "Long-Term Perspectives on Divorce in the Nordic Countries – Introduction," *Scandinavian Journal of History*, 43, No. 1 (2017). Doi:10.1080/03468755.2017.1384661.
- Somaya, M. El-Saadani, "Divorce in the Arab Region: Current Levels, Trends and Features," *The European Population Conference, Liverpool*, January (2017).
- Rais, Ismawati, "Tingginya Angka Cerai Gugat (Khulu') di Indonesia: Analisis Kritis Terhadap Penyebab dan Alternatif Solusi Mengatasinya," *Al-'Adalah*, XII, (2014). Doi: 10.24042/adalah.v12i1.183.
- Vahedi, Andisheh, et.al., "Crossover of Parents' Work-Family Conflict to Family Functioning and Child Mental Health," *Journal of Applied Developmental Psychology* 62, (2019). Doi.org/10.1016/j.appdev.2019.01.001.
- Wardatun, Atun and Bianca J. Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage," *Ulumuna* 24, No. 2 (2020). Doi: <https://doi.org/10.20414/ujis.v24i2.416>.
- Zainuddin, Muslim, "Peran dan Fungsi Kelembagaan Mukim dalam Penyelesaian Perselesaian: Analisis Praktik Hukum Adat di Aceh," *Media Syariah* 19, No. 2 (2017). Doi: <http://dx.doi.org/10.22373/jms.v19i2.2025>.
- Zaki, H. Ahmed, "Law, Culture, and Mobilization: Legal Pluralism and Women's Access to Divorce in Egypt," *Muslim World Journal of Human Rights* 14, No. 1 (2017). Doi:10.1515/mwjhr-2016-0022.

### Internet Data

- Angka Perceraian di Aceh Utara Meningkat Tiap Tahun, Ini Penyebabnya, Kompas.com. 4/7/2019. Accessed on December 20, 2019.
- Kasus Perceraian Meningkat 13,11 Persen di Aceh, Republika.co.id., 31/01/2019. Accessed, on Desember 20, 2019.



**Interviews**

Interview with Agustin Hanapi, an Academia in Banda Aceh, September, 2019.

Interview with Syamsuar, an Academia and Religious Leader in Meulaboh, September, 2019.

Interview with PT, sued divorce in Aceh, August, 2019.

Interview with SY, sued divorce in Aceh, August, 2019.

Interview with FT, sued divorce in Aceh, August, 2019.

Interview with CD, sued divorce in Aceh, September, 2019.

Interview with AD, filed a divorce in Aceh, August, 2019.

Interview with FD, filed a divorce in Aceh, August, 2019.

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