

The Concept of Effective Resolution of Divorce Cases in Reducing Divorce Rates at the Religious Court and Supreme Court Levels

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Abstract

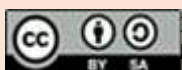
The phenomenon of domestic conflicts culminating in divorce litigation in Indonesia reflects complex normative and procedural dynamics, particularly when cases proceed to the Supreme Court and require an exceptionally prolonged period for final adjudication. This study examines the factors contributing to the protracted duration of divorce rulings and formulates an effective conceptual framework for resolving sustained marital conflicts within the judicial process. The analysis focuses on the practice of religious courts and the lived experiences of disputing parties whose cases extend over several years. This research is grounded in fieldwork conducted in Palembang, involving clients of the Herlina Herman Beroni Family and Sharia Consulting Institute as key informants. Data were collected through in-depth interviews and case document analysis, and were examined qualitatively using a normative juridical approach. Data collection and analysis were conducted concurrently until saturation was achieved. The findings indicate that the prolonged settlement of divorce cases is not merely the result of procedural complexity within the judicial system, but is deeply influenced by persistent interpersonal conflict, breakdowns in communication between spouses, adversarial litigation strategies, and the absence of effective conflict de-escalation mechanisms at earlier stages of the process. These conditions generate stagnation within religious court practice and contribute to extended adjudication timelines, particularly when cases escalate to higher judicial levels. The study argues that effective divorce resolution requires a paradigm shift from a predominantly formalistic litigation model toward a more integrative framework that prioritizes substantive conflict resolution, structured mediation, and communicative restoration between parties. The implications of this research underscore the necessity for institutional reform within religious courts, including the strengthening of mediation mechanisms, the integration of socio-psychological counseling into judicial procedures, and the development of regulatory policies that prevent procedural delays. By bridging normative legal analysis with empirical realities, this study contributes to broader discussions on judicial efficiency, access to justice, and the contextual adaptation of Islamic family law within contemporary Indonesian legal practice.

[Fenomena konflik rumah tangga yang berujung pada litigasi perceraian di Indonesia mencerminkan dinamika normatif dan prosedural yang kompleks, khususnya ketika perkara tersebut berlanjut hingga tingkat Mahkamah Agung dan memerlukan waktu yang sangat

panjang untuk memperoleh putusan berkekuatan hukum tetap. Penelitian ini menganalisis faktor-faktor yang menyebabkan lamanya penyelesaian perkara perceraian serta merumuskan kerangka konseptual yang efektif untuk menangani konflik perkawinan yang berkepanjangan dalam proses peradilan. Kajian ini memusatkan perhatian pada praktik peradilan agama serta pengalaman empiris para pihak yang terlibat dalam sengketa rumah tangga yang berlangsung selama bertahun-tahun. Penelitian ini didasarkan pada studi lapangan yang dilakukan di Kota Palembang dengan melibatkan klien Lembaga Konsultasi Keluarga dan Syariah Herlina Herman Beroni sebagai informan kunci. Data dikumpulkan melalui wawancara mendalam dan analisis dokumen perkara, kemudian dianalisis secara kualitatif menggunakan pendekatan yuridis normatif. Proses pengumpulan dan analisis data dilakukan secara simultan hingga mencapai kejenuhan data. Hasil penelitian menunjukkan bahwa lamanya penyelesaian perkara perceraian tidak semata-mata disebabkan oleh kompleksitas prosedural dalam sistem peradilan, tetapi juga dipengaruhi oleh konflik interpersonal yang terus berlanjut, terputusnya komunikasi antara suami dan istri, strategi litigasi yang bersifat konfrontatif, serta belum optimalnya mekanisme de-eskalasi konflik pada tahap awal penyelesaian perkara. Kondisi tersebut menimbulkan stagnasi dalam praktik peradilan agama dan berkontribusi pada panjangnya proses adjudikasi, terutama ketika perkara meningkat ke tingkat peradilan yang lebih tinggi. Penelitian ini menegaskan bahwa penyelesaian perceraian yang efektif memerlukan pergeseran paradigma dari model litigasi yang formalistik menuju kerangka yang lebih integratif dengan menekankan resolusi konflik substantif, mediasi yang terstruktur, serta pemulihan komunikasi antara para pihak. Implikasi penelitian ini menunjukkan urgensi reformasi kelembagaan dalam peradilan agama, termasuk penguatan mekanisme mediasi, integrasi layanan konseling sosial-psikologis dalam prosedur peradilan, serta pengembangan kebijakan regulatif yang mampu mencegah terjadinya penundaan proses hukum. Dengan menghubungkan analisis normatif dengan realitas empiris, penelitian ini berkontribusi pada perdebatan yang lebih luas mengenai efisiensi peradilan, akses terhadap keadilan, serta adaptasi kontekstual hukum keluarga Islam dalam praktik hukum Indonesia kontemporer.

Keywords: Conflict, Marriage, Appeal Process, Supreme Court, Lawsuit, Divorce.

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INTRODUCTION

Every family has experienced conflict, including married couples. There are various causes of family conflict, ranging from personal problems to other issues, such as finances, work, childcare, and children's education (Susilowati and Susanto 2021). Conflict resolution can be achieved through various strategies, including compromise, confrontation, avoidance, and third-party intervention. Conflict resolution involving a third party is usually done through mediation. Mediation has been proven to be effective in resolving various types of family conflicts, based on good intentions, honesty, and openness (Kamal, Fazzan, and Azhari 2025; Silawati et al. 2025; Sulistiyawati and Hariyanto 2021).

Most married couples who are unable to resolve conflicts resort to divorce as the last resort for marriages that cannot be sustained. In fact, marriage itself contains sacred elements and promises to live together until death separates them. In fact, Indonesia has a consistently high divorce rate. Divorce rates in Indonesia fluctuated from 2022 to 2025. In 2022, there were 516,334 divorce cases, an increase of 15.31 percent (%) from 2021.

Meanwhile, in 2023, the divorce rate decreased to 463,654 cases. In 2024, according to a report by the Central Statistics Agency (BPS), the divorce rate reached 394,608 cases, which decreased. However, based on preliminary data for 2025, the divorce rate in Indonesia is still high with fluctuating trends, namely the main factor being disputes with a value of 63% and 25% in economic problems. The provinces of West Java, Central Java, and East Java show stable divorce rates in the first half of 2025. The dominant causes of divorce are economic problems, domestic violence (DV), ghosting, and online gambling.

Divorce can be avoided by providing premarital counseling at the Office of Religious Affairs or institutions that deal with marriage and its related matters. The counseling program explains in detail the ins and outs of marriage and various tricks for dealing with problems that may arise. Marriage involves not only an agreement between the spouses, but also a comprehensive agreement between both families. A lack of communication in a marriage can lead to fatal misunderstandings and ultimately divorce. An article (Yasniwati, 2023) discusses the need for mediation in efforts to prevent divorce. Contested divorce is the dominant type of divorce in Surabaya, accounting for 70.2% of cases, where the cause of divorce is always ongoing disputes (Ruum & Chasanah, 2023). The legal opinion regarding women's rights after divorce and its contribution to family law in Indonesia is explained in an article (Sanusi, 2023). The phenomenon of rejection of polygamy is one of the causes of divorce in Batam, which is carried out by the career women community (Nisa & Fahmi, 2023).

The divorce rate in Indonesia remains very high and is among the top ten in Asia, with fatherless cases ranking third in the world, where divorce is filed by men who should be able to maintain a good and proper household. In the study (Sari & Maharani, 2023), the implementation of mediation by non-judicial mediators was explored in an effort to prevent divorce. After the divorce decree, there are many cases of husbands renegeing on their obligation to provide for their children and ex-wives (Masyhari & Nurasikin, 2023). Judges must carefully consider divorce decrees, as explained in the article (Abdillah, 2023) regarding the judge's considerations in accordance with the Shafi'i school of thought. The results of the study (Sheilla & Najmi, 2023) indicate that several factors that greatly influence divorce are infidelity, domestic violence, victims of polygamy, economic problems, and frequent disputes or conflicts in the household (Sheilla & Najmi, 2023). The article (Liem et al., 2024) discusses child marriage dispensations, which are positively correlated with one factor, namely divorce and repudiation.

The negative effects of divorce greatly impact children, families, and descendants. Research findings (Akram et al., 2023; Setiawan et al., 2024) show that parental divorce has a detrimental effect on family finances and social life, resulting in a decrease in income and low self-esteem in most children. Articles (Gunawan & Maramis, 2023; Harahap et al., 2024; Sudjana & Bintari, 2024) explain that divorce has a negative impact on children's psychology and the relationship between parents and children.

The negative impact of parental divorce results in a lack of affection, decreased motivation and academic achievement, low self-confidence, and poor socialization and self-regulation skills (Kurniawan et al., 2023; Rahayu, 2023). A lengthy divorce process has a very significant negative impact on children and families. Significant negative impacts can cause stress, mental and physical disorders, leading to, among other things, identity crises, insomnia, and weight changes. Divorce has a negative impact on children, such as confusion, anxiety, sadness, disappointment, and other emotional disorders.

Divorce is not a good or appropriate solution for ending problems that arise in households or families. The divorce process requires sacrifices in terms of time, money, physical and mental energy. Some divorce decisions may be appealed to a higher level of

the Religious Court if one of the parties does not accept the decision. The appeal and cassation processes at the Supreme Court level take even longer. Strengthening the capacity of mediators and the effectiveness of the law is essential in accelerating court decisions (Ribi 2025).

Several appeal and cassation cases in previous studies can also be seen in the article (Sidang, Said, and Wati 2023), which explains that alimony is not stipulated as the wife's right in default and contradictory decisions; the discussion (Wahyuni and Ramadhana 2021) explains the revocation of the petition containing child custody rights and grants the request in absentia based on the Sharia Court's decision; while the paper (Anwar 2021) describes the progressiveness of judges in determining the burden on husbands as a result of divorce, where the paper is sourced from Supreme Court decisions at the first level, appeal and cassation.

The process of appealing a divorce ruling to the Supreme Court takes a long time and costs a lot of money. The decision to file for divorce must be carefully considered and maturely thought through. Misunderstandings and assumptions that are not based on strong evidence will lead to regret later on after the court has issued its ruling. Communication and cross-checking must be carried out before making a final decision. The divorce case that occurred in this study serves as a lesson for married couples to act and be very careful and thorough in dealing with issues that arise from domestic problems.

In the case discussed in this article, the divorce process was protracted and took a very long time, namely four (4) years. The divorce process began with a lawsuit filed in the Religious Court by the wife, but the lawsuit was later dismissed. The divorce process resumed with the husband filing for divorce, but the wife did not agree to the divorce, so she appealed to the Supreme Court. In the fourth year, a divorce decree was issued, which the wife had to accept. In this case, the researcher reviewed and analyzed several factors that caused the lawsuit-divorce process in this divorce. This study explores in depth the factors that cause misunderstandings and ways to overcome communication breakdowns that lead to unilateral decisions to divorce.

METHOD

This study analyzes and measures data using a qualitative and descriptive approach. In terms of type and research discovery strategy, it is a case study and classified as field research, using primary data in the form of key informants, namely divorce parties (plaintiffs and defendants), and secondary data in the form of evidence of divorce proceedings and divorce decrees. The location is the city of Palembang.

Data collection and analysis were carried out simultaneously and repeatedly until saturated data was obtained. The data was taken from issues raised by clients at our consulting office, namely the Herlina Herman Beroni Family and Sharia Law Consulting Institute on Jalan Angkatan 45 Palembang. Data collection and analysis were carried out by sorting and examining each case individually. The researcher used Data Triangulation, which included observation, in-depth interviews, and several documents that could not be made public due to client privacy and objections. Supporting data was taken from various references related to the research material.

RESULT AND DISCUSSION

Divorce Proceedings and Divorce

This lengthy and time-consuming divorce process has had a debilitating impact on physical and mental health. In this case, the divorce proceedings took place in 2021 at the Palembang Religious Court. Various considerations and arguments from the wife ultimately

to the police on charges of adultery, resulting in the husband being declared an external detainee and required to report regularly. The husband had intended and was determined to end the marriage. The divorce ruling issued by the Religious Court was not accepted by the wife, who appealed to the Supreme Court.

The conflicts and disputes between husband and wife are caused by a lack of communication between them, resulting in protracted and unresolved problems. The lack of communication should be addressed by bringing in a mediator trusted by both parties. Every decision made should be a mutual agreement and should be carefully considered, taking into account the various consequences.

Interactive Communication in Married Couples

The long divorce proceedings involving lawsuits and divorce petitions have contributed to the high divorce rate in Indonesia. Several factors contribute to the high divorce rate in Indonesia. Divorce can be prevented by increasing knowledge during the premarital period. Pre-marital education helps prospective married couples navigate their household and be resilient in facing all problems. The discussion and analysis of pre-marital education are described in the article (Kartini et al., 2024). Marriage must be well-prepared in terms of physical and mental aspects. A dominant cause of divorce is early marriage. In fact, early marriage is one of the factors that cause domestic violence and sexual abuse. The representation of early marriage as portrayed in films is narrated and explained in the article (Rani et al., 2024).

In order to build a happy household in this world and the hereafter, it must be based on the principles of responsibility, mutual fulfillment of rights and obligations. A harmonious household should be characterized by peaceful and calm interactions and conflict resolution. To that end, socialization and education on divorce prevention must be carried out consistently and continuously, especially by parties related to marriage, namely the Office of Religious Affairs or Marriage Consultant Institutions. Education can take the form of knowledge and experience regarding the formation and realization of a family that is *sakinah, mawaddah, warrahmah*. Married couples must hone wise attitudes and behaviors in overcoming household conflicts. Interactive and continuous communication between married couples must always be honed.

Quality communication is essential in a marriage. All differences and misunderstandings that lead to conflict can be resolved through good and proper communication, namely by listening to each other, not interfering, not intimidating, respecting each other, being tolerant, and interspersing the conversation with jokes or humor. Effective communication plays a very important role in the household, especially in overcoming family problems. Communication greatly influences comfort and has an impact on improving family well-being. Communication based on honesty, openness, and broad understanding is very helpful in resolving conflicts within the household. Considering that the family is a complex social unit that encompasses diverse backgrounds, needs, and expectations, the vital role of communication in family life is discussed in the article (Rahmayanty et al., 2023).

The initial trigger for the disputes and conflicts in this divorce case was polygamy and a lack of openness between husband and wife. In this marriage, which had been blessed with four children, it turned into a "living hell" after a third party was secretly married. The happiness of the wife and children was no longer fully realized. Polygamy can be practiced with the consent of the first wife. A study (Suwanti & Arifa, 2023) describes the happiness of the first wife in a polygamous marriage. Married couples must always be aware of the importance of a marriage that is binding in body and soul between a man and

a woman who are wise as husband and wife in forming a happy household in this world and the hereafter. Communication must always be maintained well and be of high quality in all situations and conditions.

Maturity in communication within a household is influenced by the maturity of the husband and wife. Maturity in thinking can be obtained from an age that is considered mature in deciding on a marriage commitment. Research (Ayu, 2023) has found collaborative governance among stakeholders in the implementation of policies to prevent early marriage. Problems within the family should be discussed properly and resolved in a win-win solution. A study (Awad, 2023) analyzed interpersonal communication strategies in marriage reconciliation.

Stagnant and vacuum communication is influenced by the lack of awareness of married couples regarding the rights and obligations that must be carried out properly and correctly. Accumulated problems are not immediately resolved and given good solutions, thus becoming a “time bomb” for the household. The article (Hilmi, 2023) examines, from an Islamic perspective, the relationship of marriage and the importance of knowing each other's rights and obligations. The concepts of mutual respect, mutual appreciation, and good interaction and communication between husband and wife must always be maintained and preserved.

Communication between married couples experiencing problems must always be maintained. Before a legal divorce decree is issued by the authorities, communication as an important point in mediation should be carried out intensively, consistently, and continuously. Various preventive measures are taken during the mediation process. This is done to avoid an increase in the divorce rate in Indonesia. The process and events of communication in mediation are described in the article (Ratnasari, 2024). The process of learning and maturing communication in early marriage through video media is discussed in the study (Yulyana et al., 2023). Meanwhile, the article (Mursyid et al., 2024) discusses the use of social media to facilitate communication in marriage. Problems that often arise in marriage are due to a lack of Effective

Concepts for Resolving Divorce and Talak

One of the fundamental aspects of human life is marriage. Maturity and soundness in thinking and acting are crucial to the longevity of a marriage. The bond of marriage is also related to the physical and mental readiness of individuals. Knowledge about marriage is an important aspect in starting a family. Islam teaches that marriage should be hastened for those who are obliged to do so. This is explained in the article (Amanaty & Syarafuddin, 2024) which discusses young marriage from the perspective of scholars. The psychosocial impact of early marriage is explained in the study (Ririn et al., 2024). Meanwhile, the negative impact of early marriage on women's reproduction and the need for motivation in preparing for marriage is discussed by (Zuraidah et al., 2024).

Husbands and wives must be patient and sincere in dealing with differences in their partner's personality, character, or nature. This is because marriage is a long-term commitment in human life. Married couples must be able to endure a relationship that experiences many differences and faces behaviors and habits that are not liked. Every couple should understand the differences in family and socio-cultural backgrounds that were formed before marriage, by mutually sharpening, loving, and nurturing each other.

Understanding of each other's rights and obligations by being tolerant when one partner takes on the other's responsibilities. For example, providing for the family is the husband's responsibility as the head of the household, but there are times when the wife is able and capable of supporting and assisting with this task, so the husband must be wise in

responding and taking over the wife's role in the household. In fulfilling rights and obligations, there should be no ego-centric attitudes or traits in married couples. All interests that exist and apply in the household are shared responsibilities and trusts.

From the explanation and discussion above, an effective concept can be summarized in resolving divorce proceedings that occur at the Religious Court and Supreme Court levels, thereby reducing the divorce rate in Indonesia. The main factor in this concept is communication accompanied by attitudes, actions, and behaviors of mutual understanding, mutual respect, and mutual appreciation for one another.

Effective Concept of Settlement of Divorce Cases and Preventive Measures for Divorce

No.	Problems that Arise	Husband	Wife
1	Disputes Arise	Build a harmonious atmosphere	Reminiscent of happy times
2	Verbal and Non-Verbal Disputes	Directing towards positive things and embracing the family, not entertaining misunderstandings	Cool down and do something fun for the family
3	Ongoing Disputes and Conflicts	Back down	Soothe your partner
4	There is a divorce suit	Clarification, Building More Communication with your wife and taking Actions that can please your partner.	Don't rush into action. Dig deeper into the problem. Introspect.
5	There is a divorce	Openness to the root of the problem	Communication is further improved, if necessary there is a neutral mediator
6	Vacuum of Interaction and Communication	A skilled family mediator who creates space for openness and is more lenient.	Neutral family mediator
7	No More Solutions	Muhasabahand Worship More and Asking Allah SWT for Guidance	Self-reflection, self-reflection, and doing everything that pleases your husband. Pray and worship with

A peaceful, loving, and harmonious family life is the dream of every married couple. This can be achieved by always nurturing love, affection, tranquility, and peace within the family. In the article (Wulandari et al., 2022), the relationship between the paradigm of a peaceful, loving, and compassionate family in the context of Islamic psychology is explained in order to prevent divorce. A deep understanding of the family, the ability to resolve domestic conflicts, and mental preparedness both physically and spiritually can make a marriage happy, lasting, and more colorful. Differences are not a barrier for married couples to unite for sacred and noble goals, but rather lead them to appreciate the art of living in a family and household. The article (Zwagery et al., 2022) further explains that increasing knowledge about strengthening the family can minimize divorce. Married couples can get through any situation and condition if they understand the purpose of marriage, as explored in the article (Saputra, 2022). The study states that preventive measures against divorce and alternative solutions involve clearly understanding the various principles and purposes of marriage. Husbands and wives who are building a household greatly need good and focused interpersonal communication patterns (Lestanto, Ambarwati, and Wilantara 2023). In-depth learning about communication between husbands and wives has been proven to maintain marriages. Married couples must understand the obstacles to effective communication in order to improve the spiritual side of both parties (Edison and Hermanto 2023).

Communication is not only necessary during the marriage, but also essential during the process of filing for divorce or separation. Continuous and ongoing communication in difficult situations and conditions is useful for aligning the wishes and desires of each party so that there are no misunderstandings in their actions. The decision to end a marriage is a mature agreement between both parties.

The responsibilities and fulfillment of the rights of children and ex-wives must be carried out after the divorce. The ex-husband must fulfill the iddah and mut'ah provisions in accordance with the objectives of the law, which are fairness, certainty, and benefit (Lilik Andar Yuni 2021). Legal certainty for the ex-wife as a woman who must be provided for after the divorce decree must be fought for (SitiMusawwamah 2020). The failure to implement the fulfillment of the rights of ex-wives after divorce is caused by ex-husbands neglecting their obligations to fulfill the rights of their ex-wives, the process of executing the fulfillment of these rights being bureaucratic and requiring high costs, and weak law enforcement (Rahmawati et al. 2025). The decision to divorce does not release parents from their responsibilities towards their children, particularly in terms of maintenance, care, and education costs. Fathers and mothers have equal obligations towards their children. If the father is unable to meet all the costs of childcare and education, the mother assumes this responsibility. Although the court has determined that the ex-husband is obligated to provide living expenses or maintenance to his ex-wife, fulfilling this responsibility requires good and open communication.

CONCLUSION

From the results and discussion, the researcher concludes that the extremely long four-year divorce process, often referred to as "talak-talak," is not due to a procedural judicial mechanism, but rather to poor communication between the husband and wife. Their wishes and desires are not clearly communicated, resulting in a prolonged divorce process. The process of "talak-talak" (divorce), which ultimately leads to an appeal to the Supreme Court, indicates a breakdown in interpersonal communication and a prolonged conflict between the parties. Therefore, it is crucial to maintain and foster good and focused communication throughout the marriage process and after the marriage to ensure that the decision is a mutually agreed-upon decision.

To prevent the divorce process from "talak-talak" (divorce), or vice versa, judicial practice should require repeated mediation and ensure the couple is fully committed to the decision to divorce or end the marriage. The mediation process must be attended by both spouses with valid legal standing. Therefore, further research is needed on the validity of the mediation process in divorce cases to complement and sustain this research.

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