

Talāq: Negative Effects on the Couple and Their Children: The Islamic Perspective

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Abstract

One of the major problems that our society is facing today is *Talāq* (divorce). It disunities the family, causes unhappiness and everlasting sorrow to many families. The children that are victims of divorce are facing numerous challenges, one of which is inability to get sound education. The paper adopted a qualitative approach and its data was based on secondary sources and content analysis of relevant documents. *The article harnesses the available information in the Shar'iah to justify the position of Islam on Talāq.* The article looks at *Talāq* and its negative effects on the couple and their children, especially the Muslim ones. In tackling the paper, efforts were made to state the expectations of people on marriage, the meaning of major concepts, the grounds for divorce and the stated steps to prevent its occurrence. It was found out that divorce is only permitted in Islam in extreme cases. However, if it is inevitable it causes a lot of problems not only to the couple but their children. Suggestions were therefore made for its eradication or at least its reduction in our society and the challenge was also thrown to the scholars of Islamic family law to proffer additional solutions to the problems.

Keywords: *Talāq*, effects, education, children, Islamic viewpoint

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1. Introduction

Marriage is supposed to be a permanent union between the husbands and wives, with the resultant effect of numerous benefits such as mutual fulfillment and self-realization, love and peace, compassion and serenity, comfort and hope, establishment of family and bringing up of children. The purposes of marriage according to *Qur'an* 2:187, 7:189, 16:72, 25:54, 30:21 include the followings:

1. Multiplication of human race in a legitimate way.
2. The development of those feelings of love and service which are the pride of humanity today.
3. The emotional and sexual satisfaction in a legitimate manner which reduces illegal cohabitations.
4. Social advancement especially in Yoruba land.
5. Inter family alliance and group solidarity.

In order to make marital bond as permanent as humanly possible, the two partners are expected to meet the conditions of proper age, general compatibility, reasonable bride-price, good will, free consent, unselfish guardianship, good intention and ability to discriminate between good and bad (Abd al Ati 1989). After the marriage, they are also expected to implement all other teachings of Islam that relate not only to marriage, but also the peaceful co existence of the husband and wife.

However, to insist on the permanent nature of marriage, does not mean that the marital bond is absolutely indissoluble. There are times in man's or woman's life when it becomes impossible to continue with the marriage. People's hearts and minds change in different ways for different reasons. The change may become unavoidable and profound as to lead to estrangement and alienation among the couple and at the end defect the purposes of marriage or cause anxiety (Abd al Ati 1982). If the purposes of a marriage are defeated, there is no justification whatsoever to keep the two partners together by force. It is better to terminate the marriage with kindness and honour, equity and peace rather than living together under perpetual pretence. Unhappiness and incessant trouble may be more dangerous to the existence of the family than divorce. It is on this note that Islam permits *Talāq*. Prophet Muhammad (S.A.W.) is reported by 'Abdullah ibn 'Umar that "The most hated of permissible things to Allah is divorce (Sunan Ibn Majah, n.d.)." Sayeed (2019) agrees with this *Hadith* when she says that divorce is a necessary evil which is not easy to avoid in certain situations. The Muslim religious laws concerning marriage, divorce and property are contained in *Shar'iah* Application Act of 1937 of India (Saddiqui 2021).

2.0 Conceptual clarification

2.1 Talāq

Talāq, the equivalent of which is divorce in English is an Arabic word which carries the literal meaning of

freeing or undoing of a knot. It is a freedom from the bondage of marriage or a release from the marriage tie by the husband in accordance with the *Shar'iah* (Kalindr 2019, Chhallani 2018). According to Ali (1986), the jurists called it *Khul'* which literally means the putting off or taking of a thing when it is claimed by the wife. Fyzee (1974) sees *Talāq* as repudiation and that it comes from the bondage of marriage. Doi (1984), Bah (2020), Dagnew *et al* (2020) see divorce as the legal method with which marriage is brought to an end. In the view of Bohanna (1980), divorce is a way of dissolving a legal marriage, which permits the partners to remarry if they choose. Islam also encourages the two of them to remarry (*Qur'an* 2:228-232). Ukpong was quoted by Eyo (2018) as saying that divorce is a legal dissolution of the marriage relation or any formal separation of husband and wife according to established custom. The established custom as used here is *Shar'iah*. Divorce as could be inferred from the above explanations is nothing other than legal way of bringing to an end a legally conducted marriage when the couple are tired of each other and show the desire to end the marriage. The desire to end the marriage can be from the husband or wife ((Shariff *et al* 2021). This brings the Muslims to the Islamic permission of the Muslim women to also seek for divorce from their husbands in accordance with the *Shar'iah*. Their right to do this is called *Khula'* (literally, the putting off or taking off a thing). In this case, the wife returns the whole or part of the bridal gift to the husband (iiu.edu.my, n.d., Patwari & Ali 2020).

2.2 Education

There is no generally acceptable definition of education. Each definition is tailored along the perspective in which an individual understands the concept. The word Education according to Gregory (1972) is derived from the Latin 'educare' which means to lead. He sees education as the natural inheritance of every individual since he is impressed and developed for good or evil by all with which he comes in contact, everything he sees, feels, hears, and does influencing action and forming tendencies. Based on this view, he concluded by saying that education begins in infancy and terminates at death. Prophet Muhammad (S.A.W.) wants the Muslims to acquire education. It was reported on the authority of Anas ibn Malik that Prophet Muhammad (S.A.W.) said that "Seeking knowledge is a duty upon every Muslim, and he who imparts knowledge to those who do not deserve it, is like one who puts a necklace of jewels, pearls and gold around the neck of swines (Sunan Ibn Mājah)." The prophet's concept of education is slightly different from that of Gregory in the sense that the Prophet laid emphasis on positive education while Gregory believes that education could be positive or negative. It seems that Owuamanam (1991) concentrates on positive or functional education in his own definition when he says that education is the inculcation of values, attitudes, skills, competence, experience, information taught or learned or acquired for the purpose of functional living of the individual and growth of the society in which he lives.

A positively functional education is the goal of Islam according to Lemu (1993). She says that knowledge (education) in Islam is not the piling or heaping up of facts or useless information, but useful knowledge that benefits the learner intellectually, spiritually, morally and which he may pass on or make use to benefit other people. The Islamic education that is mentioned in the *Qur'an* and *Hadīth* contained four elements thus: faith, deeds, morals and social (Mutfhoifin (2020).

Chazan 2022) divided the definitions of education into three models thus:

1. The education that is the conscious effort to equip the unequipped young people with fact, knowledge and skills that make them to function well as adults in a given society. He calls this socialization model
2. Education exposure that enables a person to understand of and the practice in skill sets that makes him function in contemporary culture. He opines that this is sometimes called acculturation model
3. Education that focuses on the development of reflective thinking and feeling abilities that make the young to care about how he wishes to exits. This is known by many authors as the liberal or personal-centered model.

He, however, believes that education is a practice. Based on this he adopted the definition of Lawrence Cremin that says that education is the deliberate systematic, and sustained effort to transmit, provide, or acquire knowledge, values, attitudes, skills or sensibilities and any other learning that results from the efforts. Adesemowo and Sotomade (2022) see education as a dynamic instrument of change. It is the act or process of educating or applying discipline on the mind or a process of character training. He opines that education can take place at home, school, church or mosque, community village or town. It is only the literacy aspect of education that is best given at the educational institutions. They divided education into formal education, non formal education, and informal education which are not subjects of discussion here.

Education is an important sector in Nigeria that has not being given adequate attention in the country (Olugbenga (2022) by the successive administrators of the Nigeria. Ojo (2023) opines that for years, Nigeria allocation to education sector has been below the recommended benchmark for the developing nations of which Nigeria is one. The United Nations Educational Scientific and Cultural Organizations (UNESCO) recommended 4 to 6 percent of their Gross Domestic Product (GDP) or 15 to 20 of public expenditure (annual budget) to fund education by member nations. Nigeria is yet to meet the expectation of UNESCO. Below is the allocation of Nigeria to education in her budget from 2016 to 2023.

1. 2016 allocation to education is 7.9%
2. 2017 allocation to education is 6.1%
3. 2018 allocation to education is 7.1%
4. 2019 allocation to education is 8.4%
5. 2020 allocation to education is 6.5%
6. 2021 allocation to education is 5.7%
7. 2022 allocation to education is 5.4%
8. 2023 allocation to education is 8.2%

As good as education is, for the development of individuals and the society at large, divorce impacts negatively on it. The aspects that the researcher is concerned her is the negative effects of divorce on the couple and their children.

2.3 Grounds for Divorce

The *Qur'an* refers to several causes, which may make divorce necessary. But at the same time does not enumerate all causes. The cause of divorce that is spoken of in the *Qur'an* and which includes to a great or less extent all causes is the decision of no longer to live together as husband and wife (Ali. 1986). In other words, divorce could occur when one or both parties have failed to discharge their marital duties and to consort with each other in kindness, peace and compassion (Abd al Ati. 1982). The actions that can lead to the failure of marriage, which may be accepted in litigation as grounds for divorce in Islam according Abd al Ati include the followings:

1. The life or long-term imprisonment of the husband.
2. If the husband is absent and no news could be heard about his where about.
3. If the husband is maimed for life and he is unable to provide maintenance for the wife.
4. The impotence of the husband. According to Fyzee (1974). It must be proved that the husband was impotent at the time of the marriage, and that he continues to be so.
5. Chronically disease such as insanity, leprosy and dieses like Acquired Immune Deficiency syndrome (AIDS)
6. Consistent cruelty by either of the two parties to the other.
7. Incompatibility of temperament of the two parties to such an extent that they cannot live together in marital agreement.
8. Debauchery or moral laxity to such an extent it is not possible to the other party to check again.

Other causes of divorce according to Eyo (2018, and Rajeev (2022) are:

1. Poor communication
2. High expectation or unrealized expectation about the marriage
3. Infidelity
4. Psychological issues
5. Religious or denominational differences
6. Financial problem
7. Age at the first marriage
8. Sexual incompatibility
9. Extramarital sexual affairs
10. Medical reason
11. Addiction
12. Change in status

If one examines the above-mentioned causes of divorce, it would be seen that majority of them are done in favour of women. This is so because women are highly respected in Islam. Islam wants a situation whereby women would be totally liberated from the period of *Jahiliyyah* (period of darkness and ignorance), in which women had no status in the society. This according to Siddiqui (1969) was a period when women could be married and divorced at will, used to satisfy sexual desire of their husbands' visitors, kept perpetually without conjugal relationship with them if they offend their husbands and could even be inherited against their will. In the attempt to relieve them of this oppression, Islam therefore highlighted the grounds for which they can seek for divorce. At the same time, it permits men to opt for polygamy if they so wish, on most of these grounds instead of divorce.

It is to be noted that the mere existence of these ground are not automatic reasons for divorce. If the two of them can cope with the situation without engaging in unlawful acts, then divorce may not be necessary. It is even the position of Islam that once a marriage is legally concluded, nothing should break it again.

2.4. Steps to Prevention Divorce

Divorce is one of the societal evils of the greatest magnitude, which Islam tries to prevent to certain limit that is

possible to any human being. The *Qur'ān* wants the Muslims to keep their wives with them and stay away from divorce. It regards the refraining from divorce as an act of righteousness (*Qur'ān* 33:37). It also discourages divorce by taking cognizance of the flashy desires of men and their negative attitudes to their wives which may lead to divorce and therefore warns them to desist (*Qur'ān* 4:19). Prophet Muhammad (S.A.W.) also buttressed the *Qur'ānic* discouragement of divorce by saying that "Marry and do not divorce because the Throne of heaven quakes from divorce (Al-Islam.org, n.d.)." In another *Hadith*, he stated that "If any woman asks her husband for divorce without some strong reason, the odour of Paradise will be forbidden to her (*Sunan Abu-Dawud, n.d.*)." Islam does not only discourage divorce, it goes further to state the steps for which the rift that could lead to divorce should be nailed down. *Qur'ān* 4:34-35 recommend four major steps to bring the squabbles and misunderstandings that may arise between the couple to normalcy with some intervals. The need for these intervals is to know workability of the earlier step. The steps are:

2.4.1 Admonition

Immediately the problem is noticed, the husband is expected to call his wife and notify her where she is at fault and correct her in a polite manner. The effectiveness of this step prevents a harsher one.

2.4.2 Severing of Conjugal Relations

If the problem persists, the husband is permitted to engage in temporary abandonment in bed or deliberate staying away from the usual sexual intimacy. This is expected to be confined to a reasonable time and must not continue indefinitely; otherwise its purpose would be defeated.

2.4.3 Light beating

Here the husband may apply symbolic beating of the wife without inflicting any physical harm or injury, and the women must not be beaten on the face.

2.4.4 Arbitration

If all the above steps fail, a family council of two arbitrators, one from each side is to be selected to look at the problem with a view of solving it. It is when these people fail to settle the dispute that the two parties can enter into divorce.

On the face value, it seems as if the above remedies for divorce are meant for men only. A critical look at them reveals that at least, the first and the last steps are also applicable to women. The second and the third, which are meant for men, only are attached with some conditions. For instance, in Islam men are regarded as the protectors of women (*Qur'ān* 4:34). As a protector, the husband has the power to correct his wife when she goes wrong through these steps. If he uses the power beyond reasonable point, the wife has the right to seek for divorce and it will be granted if the husband fails to adjust. In view of this, Abdal-ati (1982) is of the opinion that if the conflict emanates from the husband, and the wife fears his cruelty, desertion or aversion, it is their joint responsibility to settle their differences together for the best interest of the family.

2.4.5 'Iddah (period of waiting):

A further step to keep the husband and wife together in Islam, even after the pronouncement of divorce, is the institution of the period of waiting (*'Iddah*). This is a period that a wife must spend in her husband's home after the death of the husband or separation or divorce. The period is different from women to the husband or separation or divorce. The period is different from woman to woman, depending on the condition in which a woman is and the type of situation she finds herself. For example, the divorced woman is expected to engage in three menstruations after the pronouncement of the divorce before she finally packs out of the husband's house (*Qur'ān* 2:228). However, since it is not all women that menstruate, the *Qur'ān* therefore takes pain to specify the period for each category of woman. These are:

1. The *'Iddah* of women who are still menstruating is three menstruations (*Qur'ān* 65:4)
2. The *'Iddah* of women who have passed the age of menstruation is three months (*Qur'ān* 65:4)
3. The *'Iddah* of pregnant woman is until she delivers (*Qur'ān* 65:4)
4. There is no *'Iddah* for a woman whose marriage is not yet consummated (*Qur'ān* 33:49)
5. The *'Iddah* of a woman whose husband dies is four months and ten days (*Qur'ān* 2:234).

2.4.6 Importance of 'Iddah

1. *'Iddah* is a period of temporary separation and suspension of conjugal relations in order to give rooms for rethinking and reconsideration of stands in the best interest of the family and children.
2. *'Iddah* is also recommended so as to know whether the woman is having a child of the former husband in her womb so that there would be no confusion about the paternity of such a child if the woman intends to remarry.
3. It is also a period of gradual release from one status to another new one without much abruption.

2.5 Remarriage

This is the last step by Islam to reunite the husband and wife that enter into divorce. After first divorce the two partners have the right to reassert their conjugal relations within the period of waiting and to remarry after the period. The same right is still given to them after the second divorce, but not after a third divorce. Remarriage

can only happen after the third divorce if the wife marries another husband on her own free will and the man divorces her again with the completion of the waiting period (*Qur'an* 2:228-232).

2.6 Negative Effects of Divorce on Husband and Wife

It is true that Islam permits divorce as the last means of resolving incessant problems that arise as a result of marital bond. At the same time, it also declares it as the most hated of the lawful things that are permitted by God. Bohannon (1980), Biesanz and Biesanz (1965), Fyzee (1974), Heggeness (2019), Rajeev *et al* (2022) enumerate the following negative effects of divorce on the husband and wife.

1. It makes each of the two parties that engage in divorce to live without a person whose presence has been an everyday part of life.
2. In most cases, they convert their differences into artificial grounds that would support the divorce action, and weight of guilt is passed on one party.
3. There are often ill will and bitterness, and friends sometimes take sides. They must therefore learn to make new friends and do away with the old ones with whom they no longer feel comfortable, provided the amendment is not possible.
4. In many cases, the emotional needs of the two parties increased rather than been met, and individual are now left to find solution to his or her problem.
5. Divorce damages a person's self-esteem, because it is an admission of failure in the most vital aspect of living.
6. It wrecks the unity and the peaceful co-existence of the family.
7. It makes the two parties to split their joint owned property and establish separate household and continue searching for another partner which may not be gotten, and that if it is got, may be worse than the previous one.
8. Divorce also prevents conjugal happiness and interfered with proper upbringing of the children.
9. Most women do not get adequate maintenance during 'Iddah period.
10. Many women do discontinue their government or private employment immediately they get married. Seeking for government or private employment may be difficult for them after divorce. Sometimes they may be too old to seek government or private employment. This may has negative effects on their economy.

2.7 Negative Effects of Divorce on the Children

The family is the first and the most influential teacher, and agent of socialization. It plays a lot role in rearing and educating a child during the early years, at pre-school years and when enters schools. The influence of home (family) is important because it is the parents, brothers and sisters and relatives who lay the foundation for success of the child in school learning (Owuamanan 1991). The family must be kept going by husband and wife in mutual co-operation (Ali 1986). The broken down of the family by divorce according to Eyo (2018), Owuamanan (1991), Ali (1986) would have a lot of negative effects not only in the education of the children but on their general development. These effects include the followings:

1. The children are distressed when their parents' divorce. Those of them who are under the age of five years may react with rage and grief as if the parents are divorcing them. The older children understand the situation better, but sometimes try to blame themselves. The adolescents may likely be angry with their parents and feel socially embarrassed by their action. The grown up children may also be upset and angry, but have the ability to adjust quickly because of their less dependence on the marriage (Holmes 1988). This disturbance to a certain extent would affect their sense of concentration in their educational activities for some times hence a downward trend in their performance.
2. Parental divorce according to Brand *et al* (2019) lowers the educational attainment of the children. In many cases, it is the children of divorce that receive poor grades, or drop out of school because of one problem or the other.
3. Apart from that, in Islam, it is true that it is the responsibility of the mother to take care of the boy until he reaches the age of maturity and the girl till she marries if there is no barrier, and also the duty of the father to bear the full cost of maintenance, including housing, clothing and food. The change of environment and the distance of the father's affection would have negative effect on the education development of the child.
4. In Islam, it is the joint responsibility of both parents to act as checks and balances in molding the character of their children (Abdu Raheem 1998]. A division in the disciplinary action of the parents against their children as a result of divorce may resort to the indiscipline of the children. This in effect may make them prone to join gangs and secret societies either ignorantly or in erroneous belief of making good living by being members. Some may also engage in other criminal acts like thuggery, stealing, drug addition, fornication, examination malpractice and abortion because of lack of proper care. These actions make them to become nuisance to the society and if they are caught, they may be jailed for life or for a long period.
5. The children usually withdraw from their peers when it comes to the discussing about their parents.

6. The children mostly develop hatred against the father or mother whom they think is guilty of the divorce.
7. In many cases, there is transfer of aggression to the children by either of the parents who is most negatively affected by the divorce. Sometimes the aggression affects the payment of their school fees and other institutional levies.
8. Economically, the children may witness reduction in the sources of their finance which may make them prone to some social vices which are inimical to the societal norms. As a female, she may result to prostitution or indiscriminative affairs with males which could lead to lot of diseases such as HIV/AIDS and using for ritual purpose by a man.

3 Conclusion

From what have been discussed so far, it would be seen that divorce is a great evil to the smooth development of any society. The burden of its problems is not only on the individuals that enter into it, but also on the children, relatives and the society at large. If efforts are not made to check its occurrence, our society may continue to face numerous challenges relating to divorce.

It is true that Islam permit divorce when it becomes extremely impossible to get on with the marriage; it quickly recommends the steps for its prevention. These steps are not exclusive on their own. It is therefore the responsibility of the scholars of the Islamic family law and other related disciplines to gear up to educate the Muslims on the importance of these steps and prefer additional workable solutions to divorce. On this note, the following suggestions are made for the eradication or minimization of divorce in our society.

1. There should be the establishment of family court with special judges trained in Islamic family laws who would try to advice or direct quarreling couples to marriage counselors for better advice (Biesanz and Biesanz, 1965).
2. Since the family is a reflection of the larger society, a course on Islamic family law should be designed and introduced in all facets of education in Nigeria and in the course, emphasis should be on the importance of sticking to one's marital partner and evil effects of divorce and the course should be taught by experts.
3. In the choice of partner, materialistic tendency, beauty and family background should not be made the overriding target. Efforts should be made to put religion first, because he who is religious would like to abide by the rules and regulations that guide the husband and wife's relationship in his religion and this makes him to avoid those things that can lead to divorce. This is equally applicable to the wife.
4. The husband and wife are given ample opportunity to reconsider their stand during 'Iddah. The two of them should seize the opportunity to settle their grievances in the interest of the family.
5. Nigeria should improve on her allocation for education in her budget. The highest allocation for education in the Nigeria budgets is 8.4% of her annual budget. This is below between 15 to 20% recommended by the United Nations Educational Scientific and Cultural Organizations (UNESCO) for education in the member states.
6. The two of them are advised to remarry instead of engaging in fornication which is against the principle of *Shar'āh*.
7. The welfare of the children is the joint responsibility of the divorced husband and wife. Each of them should render assistance to their children to enable them to become responsible people in the society.
8. The external influence from the either side to divorce should be resisted.
9. The two of them should adjust to each other's demand so that they can reach equilibrium in the family affairs.
10. Religious differences should be avoided to pave way for unity in the family.

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