



Islamic Family Law and the Challenges of Divorce in the Modern Era: A Legal and Socio-Religious Review

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ABSTRACT

This study examines Islamic Family Law and the challenges of divorce in the modern era through a literature review approach. Divorce in contemporary Muslim society is no longer shaped solely by traditional domestic problems, but also by broader social transformation, including economic pressure, changing gender roles, technological development, weakening interpersonal communication, and shifting religious and cultural values. These conditions make divorce not only a legal matter but also a socio-religious issue that requires a comprehensive and contextual analysis. This study aims to analyze the concept of divorce in Islamic family fiqh, identify the legal and socio-religious factors influencing divorce in the modern era, and explore the relevance of Islamic family law in responding to contemporary family problems. This research employs library research with a qualitative-descriptive approach. Data were collected from primary and secondary sources, including books, classical Islamic texts, journal articles, previous studies, and relevant legal documents. The data were analyzed using content analysis through data reduction, thematic categorization, interpretation, and conclusion drawing. The findings show that divorce in Islamic family fiqh is legally permissible but ethically restricted, and it is positioned as a last resort after reconciliation efforts fail. The study also finds that many modern divorce cases are influenced by social change, limited religious literacy, emotional immaturity, and misunderstandings of rights and obligations within marriage. By relating Islamic family fiqh to theories of family law and maqāsid al-sharī'ah, this study concludes that family fiqh remains highly relevant, provided that it is interpreted contextually and implemented in ways that promote justice, welfare, mediation, and family resilience in contemporary Muslim society.

Keywords: Islamic Family Law, Challenges of Divorce, Modern Era, Legal and Socio-Religious Studies

1. Introduction

Islamic Family Law is the most fundamental social institution in human life and occupies a central position in Islam. (Burgess et al., 2000) From an Islamic perspective, the family is not merely understood as a biological and social bond between man, woman, and children, but also as a space for the formation of values, morality, responsibility, and the spiritual resilience of its members. Therefore, Islamic family jurisprudence (fiqh keluarga) functions as a normative framework governing various aspects of domestic life, including marriage, the rights and obligations of husband and wife, maintenance, child education, conflict resolution, and divorce. Within this framework, family fiqh plays a strategic role in maintaining order, justice, and public welfare in Muslim family life. (Rahman et al., 2025)

However, the development of modern society has brought various changes that affect the stability and dynamics of family relationships. Modernization, urbanization, the increasing participation of women in the public sphere, changes in communication patterns due to digital technology, economic pressures, shifting social values, and the rise of individualism have all had significant consequences for household life. On the one hand, these changes create opportunities for more dialogical and equitable family relationships. (Nomor, 2025) On the other hand, they

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also generate new challenges that often lead to prolonged conflict, disharmony, and divorce. In this context, divorce can no longer be understood merely as a matter of formal legal procedure, but also as a complex socio-religious phenomenon. (Harisi & Abdullah, 2024)

Normatively, Islam regards marriage as a *mitsaqan ghalizha* (a solemn covenant), established on the foundations of affection (*mawaddah*), compassion (*rahmah*), and tranquility (*sakinah*). Therefore, divorce is essentially considered a last resort when efforts to preserve the marriage are no longer possible. Although divorce is permissible in Islamic law, it is not regarded as an ideal choice. In family fiqh, divorce is regulated in detail to prevent arbitrary action and to ensure justice, the protection of rights, and consideration of its impact on all family members, especially women and children. Thus, the discussion of divorce in family fiqh extends beyond the question of legality to encompass ethical, social, psychological, and humanitarian dimensions. (Artikel, 2025; Tua, 2024)

In contemporary reality, the phenomenon of divorce indicates that many households are facing increasingly complex problems. Family conflict is no longer triggered solely by classical factors such as economic hardship, infidelity, or incompatibility, but also by newer factors such as dependence on social media, declining quality of interpersonal communication, changing expectations regarding gender roles, weak religious literacy within the family, and emotional immaturity among spouses. This situation shows that the issue of divorce in the modern era requires a more comprehensive reading, not only from the perspective of textual Islamic law but also from the socio-religious dimensions underlying it. In this regard, family fiqh must be understood contextually in order to remain relevant in addressing the dynamics of the times. (Ilmiah & Syakhshiyah, 2025a)

The study of Islamic Family Law and divorce is becoming increasingly important because there is often a gap between the ideal norms of Islamic teachings and the actual practices of Muslim family life in society. On the one hand, fiqh emphasizes responsibility, deliberation, patience, and justice within marriage. On the other hand, reality shows that not all couples possess sufficient knowledge, spirituality, and relational skills to manage conflict in a healthy manner. As a result, divorce often takes place in situations marked by dispute, mutual blame, and the neglect of protection for vulnerable parties. This condition highlights the need for an in-depth examination of how family fiqh is understood, interpreted, and implemented in the face of modern social change. (Maraknya et al., 1858)

This research is relevant to be conducted through a literature review approach because the issue of divorce in family fiqh cannot be separated from the variety of theoretical, normative, and empirical perspectives that have developed in academic literature. Through a literature review, the researcher can systematically examine classical and contemporary fiqh perspectives on divorce, identify socio-religious factors influencing the growing challenges of family breakdown, and analyze the relevance of family fiqh principles in responding to modern household issues. This approach also enables a critical synthesis of previous studies so that patterns, tendencies, and opportunities for the development of a more context-responsive understanding of family fiqh can be identified. (Riset & Edukasi, 2025)

In addition, a literature review is important to emphasize that Islamic Family Law is not merely a set of formal legal rules, but also carries the orientation of *maqāṣid al-sharī'ah*, which stresses the protection of religion, life, intellect, lineage, and property. In the context of divorce, this *maqāṣid* approach is highly relevant for assessing whether a particular decision, practice, or form of conflict resolution truly leads to public welfare (*maslahah*) or instead intensifies social harm. Therefore, this study is not only useful for enriching academic discourse on family fiqh, but may also provide conceptual contributions to strengthening Islamic family

education, household guidance, and the development of more adaptive socio-religious policies.

Based on the above explanation, it can be understood that divorce in the modern era is a multidimensional issue that requires a broader reading than merely the termination of the marital bond. Divorce is closely related to changes in social structure, cultural values, quality of religiosity, and the ability of families to manage relationships. In this position, family fiqh has an important role as both a normative foundation and an ethical framework to guide Muslim family life in accordance with the principles of justice, responsibility, and public welfare. Therefore, the study entitled "Family Fiqh and the Challenges of Divorce in the Modern Era: A Legal and Socio Religious Review" is important to undertake in order to provide a deeper, more systematic, and contextual understanding of the relationship between family fiqh norms and the dynamics of divorce in modern Muslim society. (Mei et al., 2025)

The research problem in this study arises from the fact that divorce in the modern era is no longer influenced solely by traditional domestic issues, but also by social change, technological development, shifting values, and the complexity of relationships within Muslim families, all of which require a more contextual reading of Islamic law. In this situation, family fiqh plays an important role as a normative foundation in regulating domestic life; however, its relevance, implementation, and responsiveness to contemporary challenges of divorce still require in-depth examination. Therefore, this study is focused on the following questions: how is the concept of divorce in the perspective of family fiqh understood in Islamic literature, what legal and socio-religious factors contribute to the growing challenges of divorce in the modern era, and how can family fiqh be reconstructed or actualized so that it remains relevant in responding to the dynamics of divorce in contemporary Muslim society?

2. Methods

The research method employed in this article is library research with a qualitative descriptive approach. This method was chosen because the study focuses on the conceptual, normative, and analytical examination of various sources of literature relevant to the theme of family fiqh and the challenges of divorce in the modern era. (Maret & Kontempore, 2026) A literature review enables the researcher to trace, identify, compare, and synthesize the various perspectives that have developed within both the Islamic intellectual tradition and contemporary academic studies concerning divorce as a legal and socio religious issue. The data sources in this study consist of primary data and secondary data. Primary data include books, classical Islamic texts, scientific journals, and academic articles discussing family fiqh, the law of divorce in Islam, and the dynamics of contemporary Muslim families. Meanwhile, secondary data are obtained from supporting documents such as previous research findings, relevant legal regulations, dictionaries, encyclopedias, and other scholarly sources related to the topic of the study. Data collection was conducted through document analysis, namely by tracing, reading, reviewing, and classifying the literature according to the research focus. Furthermore, the data were analyzed using content analysis, with the following steps: data reduction, thematic categorization, content interpretation, and conclusion drawing. (Islam et al., 2025) The analysis was carried out systematically by emphasizing an understanding of the main concepts, differences in viewpoints, and the relevance of family fiqh in responding to the challenges of divorce in the modern era. To ensure the validity of the data, this study applied the principles of persistent source observation, reference adequacy, and theoretical triangulation, namely by comparing various perspectives from

classical, contemporary, and socio-religious literature. Through this method, the study is expected to produce a comprehensive, critical, and contextual understanding of divorce from the perspective of family fiqh. (Ilmiah & Syakhshiyah, 2025b)

3. Findings and Discussions

The findings of this literature review show that divorce in the modern era is no longer a purely private domestic matter, but a multidimensional issue shaped by legal, social, cultural, psychological, economic, and religious factors. Within the framework of Islamic family fiqh, divorce is recognized as a lawful act, yet it is placed within a strict ethical and legal structure that emphasizes justice, responsibility, reconciliation, and the protection of family members. The review of classical and contemporary literature indicates that Islamic law does not treat divorce as an ideal outcome of marital conflict, but rather as a final option when efforts toward reconciliation can no longer preserve the objectives of marriage. In this regard, family fiqh provides a normative foundation for regulating divorce, while family law theory helps explain how legal norms operate within changing social realities.

One important finding is that the concept of marriage in Islamic Family Law is fundamentally teleological. Marriage is not only a legal contract but also a moral and spiritual institution aimed at realizing *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion). This understanding is closely related to the *maqāṣid al-sharī'ah* approach, particularly the protection of lineage (*ḥifẓ al-nasl*), dignity, and social order. In this perspective, the rules governing divorce are not merely procedural provisions but part of a broader legal philosophy intended to maintain justice and minimize harm. Classical jurists discussed divorce under detailed categories such as *ṭalāq*, *khulu'*, *fasakh*, and judicial separation, demonstrating that Islamic law has long acknowledged the complexity of marital dissolution. However, these mechanisms were designed to ensure deliberation and not impulsive termination of marriage. The literature therefore suggests that divorce in Islam is legally permissible but ethically restrained. (Thorik et al., 2025)

This finding may be understood through the theory of Islamic legal objectives, especially as articulated in *maqāṣid*-based legal reasoning. The *maqāṣid* framework is highly relevant in analyzing divorce because it shifts attention from formal permissibility alone to the consequences of divorce for the welfare of individuals and society. If divorce becomes a source of prolonged injustice, child neglect, emotional violence, or economic vulnerability, then the legal discussion must address not only whether divorce is valid, but whether its process and effects fulfill the higher objectives of Islamic law. Thus, Islamic family fiqh should not be reduced to textual rules alone; it must also be interpreted in light of welfare, fairness, and harm prevention. (Ridwan et al., n.d.) (Alfariszi & Ahsan, 2024)

A second finding of this study is that contemporary divorce is strongly influenced by structural and social transformation. The reviewed literature consistently highlights economic pressures, changing gender roles, urban lifestyles, weakened extended-family support, digital communication, social media exposure, and rising expectations of emotional fulfillment as major factors affecting marital stability. (Indriani, 2024) In many Muslim societies, the family has shifted from a collectivist institution supported by kinship networks to a more individualized arrangement in which emotional satisfaction and personal autonomy play a stronger role. This social transformation produces both opportunities and tensions. On the one hand, it may encourage more equal marital relationships and greater awareness of women's rights. On the other hand, it may intensify conflict when couples lack the communication skills, emotional maturity,

and religious understanding necessary to negotiate changing roles and expectations.

This condition can be analyzed through sociological theories of family change. Structural functional family theory views the family as an institution responsible for socialization, reproduction, emotional support, and social stability. When internal conflict weakens these functions, divorce becomes more likely. At the same time, conflict theory helps explain that marital breakdown may emerge from unequal power relations, particularly where authority, economic access, and decision-making are not shared fairly. (Andriza, Hertina, 2023; Hamim et al., 2025) In the context of Islamic family law, these theories are useful because they reveal that legal disputes over divorce often reflect deeper social tensions rather than isolated personal failure. Therefore, the challenge is not only to restate legal rules but also to understand how those rules interact with modern patterns of family life. (Indonesia, 2024)

Another important finding is that there is often a gap between the normative ideals of Islamic family fiqh and the lived reality of Muslim households. The literature shows that many marital conflicts escalate because couples enter marriage with inadequate preparation in religious literacy, emotional regulation, financial management, and conflict resolution. In principle, family fiqh establishes mutual rights and obligations between spouses, including maintenance, respect, protection, and cooperation in family responsibilities. Yet in practice, these principles are sometimes interpreted rigidly, selectively, or patriarchally. Some men understand authority only as control, while some women may perceive rights only through the language of resistance without a parallel emphasis on mutual obligation. As a result, marital life may be shaped more by unbalanced cultural constructions than by the ethical spirit of Islamic law. (Maraknya et al., 1858)

This finding is closely related to the theory of legal consciousness and the distinction between law in the books and law in action. Family law, whether religious or state-based, is not applied in a vacuum. Its meaning is filtered through social values, education, institutions, and community habits. In this sense, Islamic family fiqh may contain just and balanced principles, but its practical impact depends on interpretation and implementation. Therefore, contemporary scholarship increasingly argues for contextual fiqh, that is, an interpretation of family law that remains faithful to Islamic sources while responding to present-day realities. Contextualization does not mean abandoning doctrine; rather, it means reviving the substantive purposes of the law so that it can address current forms of harm and injustice. (Fatholla, 2023)

The review also finds that women and children are often the most affected parties in divorce, particularly when the process is conflictual and lacks legal or ethical safeguards. Islamic family law provides important provisions concerning maintenance during waiting periods, child custody, lineage, inheritance implications, and financial rights. However, the effectiveness of these protections depends on legal awareness, institutional enforcement, and moral responsibility. Contemporary family law theory emphasizes that the legitimacy of legal norms must be assessed partly by their capacity to protect vulnerable parties. This is consistent with the Islamic legal principle of preventing harm (*dar' al-mafāsīd*) and promoting welfare (*jalb al-maṣāliḥ*). Accordingly, the literature suggests that divorce should not be discussed only as a right of termination, but also as a process requiring accountability and post-divorce justice. (Mei et al., 2025)

From the perspective of Islamic feminist legal thought and gender-sensitive family law analysis, another significant issue is the reinterpretation of authority and reciprocity within marriage. Several contemporary scholars argue that Islamic family fiqh should be read through the principles of justice, consultation, and

mutuality rather than domination. Such readings do not reject the Islamic legal tradition but challenge the patriarchal assumptions that have sometimes shaped its historical application. In this view, many divorces are not caused by the failure of Islamic teachings, but by the failure to embody those teachings in equitable family practice. Therefore, reconstructing family fiqh for the modern era requires greater emphasis on partnership, communication, and shared moral responsibility.

Furthermore, the literature review shows that contemporary divorce cannot be adequately addressed through a purely formal legal approach. It requires interdisciplinary engagement between fiqh, sociology, psychology, and family law studies. Islamic family jurisprudence already contains resources for this broader engagement because it combines legal norms with ethical values and social responsibilities. (Artikel, 2025) Theories of dispute resolution are relevant here, especially those that emphasize mediation, negotiation, and restorative approaches. Islamic teachings on *ṣulḥ* (reconciliation), family mediation, and staged responses to marital conflict demonstrate that preservation of the family, where possible, remains a legal and moral priority. (Harisi & Abdullah, 2024) Therefore, modern application of family fiqh should strengthen preventive and mediative efforts before divorce occurs, while also ensuring fairness if divorce becomes unavoidable. Overall, the findings confirm that Islamic family fiqh remains highly relevant to the issue of divorce in the modern era, but its relevance depends on contextual interpretation and responsive implementation. Family fiqh provides the normative and ethical basis for understanding marriage as a sacred covenant and divorce as a last resort governed by justice. Family law theories, meanwhile, help explain why divorce has become more frequent and complex under conditions of social transformation. The dialogue between these two bodies of knowledge is essential. Without legal and ethical guidance, modern family life may become vulnerable to fragmentation and impulsive individualism. Without sociological and contextual understanding, fiqh may be applied in a rigid manner that fails to address contemporary realities.

4. Conclusion

This study concludes that divorce in the modern era should be understood not merely as the legal dissolution of marriage, but as a complex socio-religious phenomenon shaped by changing social structures, economic pressures, gender relations, technological influences, and shifting family expectations. From the perspective of Islamic family fiqh, divorce is legally permissible but ethically restricted, and it is positioned as a last resort after reconciliation efforts have failed. The study also shows that Islamic family law is fundamentally oriented toward justice, responsibility, welfare, and the protection of vulnerable family members, particularly women and children.

The findings further indicate that many contemporary marital conflicts emerge not only from legal problems, but also from weak religious literacy, inadequate emotional preparedness, poor communication, and contextual misunderstandings of spousal rights and obligations. Therefore, the relevance of family fiqh in the modern era depends on its contextual interpretation and its ability to respond to current social realities without losing its normative foundations. By integrating theories of family law, *maqāṣid al-sharī'ah*, and socio-legal analysis, this study affirms that Islamic family fiqh remains highly significant in addressing divorce issues. What is needed is not the abandonment of fiqh, but its reconstruction and actualization in a way that strengthens mediation, justice, and family resilience in contemporary Muslim society.

References

- Alfariszi, M., & Ahsan, K. (2024). *Pelanggaran Hak Asasi dalam Rumah Tangga Perspektif Hukum Keluarga Islam dan Kitab Undang-Undang Hukum Positif Indonesia*. 10(2), 122–132.
- Andriza, Hertina, M. (2023). *Kekerasan Dalam Rumah Tangga Dalam Perspektif Sosiologi Hukum Islam*. 3, 7663–7677.
- Artikel, I. (2025). *Jurnal Penelitian dan Pengkajian Ilmiah*. 2(7), 1150–1161.
- Burgess, M., Enzle, M. E., & Morry, M. (2000). The social psychological power of photography: Can the image-freezing machine make something of nothing? In *European Journal of Social Psychology* (Vol. 30, Issue 5, pp. 613–630). [https://doi.org/10.1002/1099-0992\(200009/10\)30:5<613::aid-ejsp11>3.3.co;2-j](https://doi.org/10.1002/1099-0992(200009/10)30:5<613::aid-ejsp11>3.3.co;2-j)
- Fatholla. (2023). *PANDANGAN HUKUM ISLAM TERHADAP KEKERASAN DALAM RUMAH TANGGA (KDRT)*. 5(2), 202–223.
- Hamim, K., Muhammad, L., & Wathoni, N. (2025). *Mencegah Kekerasan Dalam Rumah Tangga (KDRT)*. 4, 261–274.
- Harisi, I. La, & Abdullah, M. W. (2024). *PEMBAHARUAN HUKUM KELUARGA ISLAM DALAM*. 5, 226–241.
- Ilmiah, J., & Syakhshiyah, A. (2025a). 3 1,2,3. 7.
- Ilmiah, J., & Syakhshiyah, A. (2025b). *THE SAKINAH FAMILY FROM THE PERSPECTIVE OF ISLAMIC LEGAL*. 7.
- Indonesia, P. (2024). *Rekontekstualisasi Fikih Keluarga di Era Modern : Studi*. 04(02), 140–163.
- Indriani, D. (2024). *Konsep Perlindungan Istri pada Kekerasan dalam Rumah Tangga (KDRT) Perspektif Hukum Islam*. 3(3), 283–295. <https://doi.org/10.36701/qiblah.v3i3.1436>
- Islam, U., Nur, A., Jl, A., No, P., Agung, K. J., & Selatan, K. L. (2025). *Relevansi Konsep Nafkah dalam Hukum Keluarga Islam terhadap Dinamika Kehidupan Modern mengatur hubungan antaranggota keluarga , termasuk hak dan kewajiban yang melekat pada tentang pemenuhan kebutuhan materi , tetapi juga menjaga keharmonisan rumah tangga dan*. 7.
- Maraknya, D. A. N., Dini, P., & Perspektif, D. (1858). *Muqaddimah*. 16, 68–78.
- Maret, V. N., & Kontempore, T. (2026). *Al-Amin : Jurnal Ilmu Pendidikan dan Sosial Humaniora*. 3, 271–278.
- Mei, I., Sabili, M., Ilmu, P., Sosial, P., Islam, U., Maulana, N., Ibrahim, M., Keluarga, F., Anak, H. A., Tangga, P. R., Fiqh, F., Custody, C., & Problems, M. H. (2025). *Fiqih Keluarga sebagai Solusi Problematika Rumah Tangga Muslim Kontemporer*. 3, 986–992.
- Nomor, V. (2025). *Jurnal Hukum Al Adl Harapan Jurnal Hukum Al Adl Harapan*.
- Rahman, A., Mandiri, U. S., Islam, U., & Palangkaraya, N. (2025). *REORIENTASI KEADILAN DALAM HUKUM KELUARGA ISLAM : GAGASAN KESETARAAN HAK SUAMI-ISTRI ERA KONTEMPORER*. 05(02), 85–97.
- Ridwan, M., Ridwan, M., & Ridwan, M. (n.d.). *Al-Iqtisodiyah : Jurnal Ilmu Hukum dan Hukum Keluarga Islam*. 11–20.

Riset, J., & Edukasi, M. (2025). *PERCERAIAN DAN HAK HAK PASCA PERCERAIAN DALAM HUKUM*. 2, 494–508.

Thorik, A., Sugandi, M. I., & Prasetya, F. (2025). 02(04), 93–108.
<https://doi.org/10.33752/mjsi.v2i04.11154>

Tua, K. O. (2024). *Bagus , Kewajiban Orang Tua terhadap Nafkah...* | 44. 3, 44–56.