

Muslim Women Seeking Divorce: An Analysis on Socio-Religious Practice

Boşanmak İsteyen Müslüman Kadınlar: Dini ve Sosyolojik Bir Analiz¹

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Makale Bilgisi/Article Info:

Geliş/Received: 17.04.2021 Düzeltme/Revised:20.05.2021 Kabul/Accepted:22.05.2021

Araştırma Makalesi / Research Article

Atif / Cite as: Meryaniwal, F. & Talwasa, S. (2021). Boşanma İsteyen Müslüman Kadınlar: Dini ve Sosyolojik bir Analiz. Antakiyat, 4(1), 1-20

Abstract

Islamic regulations about Muslims' private life attract attention since it bolds women's rights from several perspectives in society. Marriage and divorce concepts reflect the core approach of Islamic law toward women's rights, and not surprisingly, the Islamic traditional interpretations pulse cultural and social norms render women vulnerable in the private sphere of life. Accordingly, religious institutions fail to develop an inclusive procedure for women seeking a divorce when needed. Muslim society has snowballed divorce to an extent that Muslim women prefer to live with toxic, torturous, and extremely abusive marriages rather than being labeled as a "divorcee," and religious institutions exacerbate this approach. Nevertheless, pre-modern jurisprudence and interpretation of Islam struggle to secure its role in the private aspects of Muslims' life, protecting women's fundamental rights and adapting social norms as well. The paper tends to highlight the significance of religious institutions' role to combat the social stigma of divorce targeting Muslim women, especially those who face domestic violence in a marital relation. The paper points out the absence of any religious instructions encouraging women to get along with toxic and violent marital relations for spiritual assets. It is reiterated that Imams need to facilitate religious divorce for

¹ Bu araştırma sürecinde TR Dizin 2021 kuralları kapsamında "Yükseköğretim Kurumları Bilimsel Araştırma ve Yayın Etiği Yönergesinde" yer alan tüm kurallara uyulmuş ve yönergenin ikinci bölümünde yer alan "Bilimsel Araştırma ve Yayın Etiğine Aykırı Eylemlerden" hiçbiri gerçekleştirilmemiştir. Ayrıca bu araştırma "Etik Kurul İzni" gerektirmeyen bir çalışmadır.

women when special conditions are met. The paper suggests adaptations to the social norms of Muslim society to secure women’s fundamental and religious rights.

Key Words: Divorce, Religious institutions, Muslim women, Social Stigma, Community.

Öz

Müslümanların özel hayatıyla ilgili İslami düzenlemeler, toplumdaki çeşitli açılardan kadın haklarını tanımlamaları nedeniyle dikkat çekmektedir. Evlilik ve boşanma kavramları İslam hukukunun kadın haklarına yönelik temel yaklaşımını yansıtmaktadır ve şaşırtıcı olmayan bir şekilde, geleneksel İslam yorumları kültürel ve sosyal normlarıyla birlikte özel yaşam alanlarında kadınları savunmasız hale getirmektedir. Dini kurumlar gerektiğinde boşanmak isteyen kadınlar için kapsayıcı bir prosedür geliştirememişlerdir. Müslüman toplumu boşanma meselesini o denli büyütülmüştür ki Müslüman kadınlar “boşanmış” diye yaftalanmaktansa zehirli, eziyetli ve aşırı suistimalli evliliklerle yaşamayı yeğler ve dini kurumlar da bu yaklaşımı güçlendirmektedir. Ancak pre-modern İslam içtihatı ve yorumu, Müslümanların yaşamının özel alanlarında temel kadın haklarının korunmasında ve aynı zamanda sosyal normları uyarlamada İslam’ın rolünü korumaya uğraşmaktadır. Bu makale, boşanmanın Müslüman kadınları, özellikle evlilik ilişkisinde aile içi şiddete maruz kalanları hedef alan bir sosyal damgalama olmasıyla mücadelede dini kurumların rolünün önemini vurgulama eğilimindedir. Makale, kadınları manevi değerler için zehirli ve şiddetli evlilik ilişkileriyle geçinmeye teşvik eden herhangi bir dini talimatın yokluğuna işaret etmektedir. İmamların özel koşullar sağlandığında kadınlar için dini boşanmayı kolaylaştırmaları gerektiği yinelenmektedir. Makale, kadınların temel ve dini haklarının korunması için Müslüman toplumun sosyal normlarına uyarlamalar önermektedir.

Anahtar Kelimeler: Boşanma, Dini Kurumlar, Müslüman Kadınlar, Sosyal Damgalama, Topluluk.

Introduction

Shariah, the body of Islamic laws, in principle governs both the actions of individuals and the whole Muslim community. The fundamental sources for the *Sharia* are the Holy book, the Quran, and the *Sunnah*, the normative practice of the Prophet Muhammad. As a part of *Sharia*, Islamic Family law, social, and cultural norms govern marriage and marriage annulment concepts. However, sociocultural norms gain a predominant role over Muslims’ private life, which is likely less women-friendly norms. For instance, divorce counts as a failure for Muslim individuals, and most of the time women bear the heavy burden of this failure based on the social and cultural norms in most Muslim communities.

Nevertheless, a careful and deep study of the time and the *Sunnah* of Prophet Muhammad reveals that although divorce was considered explicitly a disgraceful *Hallal*, *permissible*, for Muslims, it lacked any kind of social or cultural stigma.² During his lifetime, many of Prophet Muhammad’s companions reached divorce as

² Amber Kafil Khan, “Divorce - A Social Stigma,” *24 News HD* (February 4, 2020), sec. Opinion

the last settlement for legitimate reasons, who continued to live normally without being blamed or ashamed as a consequence. This means that good people as the companions of the Prophet may face unsolvable disputes in their marriage just like usual people, and may choose divorce. For instance, two companions of the prophet *Zaid ibn Harithah* and *Zainab bint Jahash*, who married due to his request, never got along with each other in a marital relationship and ended in divorce.³ Besides, the contract-based right to divorce for women “*Talaq al-tafwid*” indicates almost no trace of social stigma around divorce for divorcee women at the beginning of Islam. This approach confirms women’s right to divorce as a clause in the marriage contract known as “*Talaq al-tafwid*,” which points out the nature of marriage as a contract rather than a sacrament bound between two Muslims.⁴ However, Islamic Scholars pursuing traditional and conservative interpretations, deny women’s right to divorce based on the marriage contract, perhaps in conformity with the twelve-century approaches.⁵

The paper briefly points out divorce and the domestic violence concept in Muslim communities, and how religious authorities respond to it. Then, the paper indicates the hurdles that Muslim women face while seeking a divorce; such as the complicated procedure of seeking a divorce from the religious institutions and their incline toward pushing women back to the marriage, the social stigma around divorce, and the post-divorce stage trauma, based on the interviews and updated articles conducted in different Muslim societies, which will be discussed in details. The last part of the paper includes the possible solutions and recommendations for the religious and social institutions’ constructive role to respond to this social challenge and which modern adaptation is required to be considered in Muslim communities. The paper’s findings are briefly concluded at the end.

1.Divorce in Islam

As much as marriage, divorce is inevitable in Islamic societies. Men and women have been entitled to a right to divorce in Islam.⁶ Nevertheless, divorce is undeniably one of the most condemnable *Hallal* acts in Islam. In a famous but slightly weak in narration Hadith, a statement quoted from the Prophet (PBUH), is reported to have said: { أَبْغَضُ الْحَلَالَ إِلَى اللَّهِ الطَّلَاقُ }

‘The most detestable of all permissible deeds to Allah is divorce.’⁷ This means that Almighty Allah hates divorce, though it is not forbidden since human mutual

³ Kafil Khan, “Divorce - A Social Stigma.”

⁴ Sarah Malik, “The Little-Known Divorce Loophole That Could Help Muslim Women | SBS Voices” (January 7, 2020). Sonia Shah-Kazemi, “Untying-the-Knot,” *Nufield Foundatoin*, (2001), 1-83.

⁵ Anisa Buckley, *Not “Completely” Divorced : Muslim Women in Australia Navigating Muslim Family Laws* (Melbourne University Press, 2019).

⁶ Shah-Kazemi, “Untying-the-Knot.”

⁷ Imam Muhammad bin Yazid Ibn Majah al-Qazvini, Sunan Ibn Mājah. ed. Muhammad Fu'ad Abd al-Baqi, (Library of Knowledge, 2008), “Chapter on Divorce”, 2018.

interaction and relations may cause much destruction to carry out the marital life goals.⁸ Similarly, the Holy Quran provides a clear mechanism to follow for sorting out marital conflicts, Almighty Allah says in Sura An-Nisa:

{وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا}

“And if you fear a breach between spouses, appoint one arbiter from the relatives of the husband and one from the relatives of the wife. If the two sides sincerely desire to set things right, Allah will create a way of reconciliation between them, for surely Allah knows everything and is aware of everything”⁹

This verse of the Quran points out one of the mechanisms for settling marital disputes in the family. This along with many other sections in the Quran proves that the bond between wife and husband needs to be guarded and protected from shatter. However, Islamic perceptions reluctantly allow divorce as the last and inevitable resolution for marital disputes.¹⁰ Accordingly, any resolution either reconciliation or divorce needs to be in a good manner protecting the wife’s dignity and honor. Almighty Allah says in Surah Al-Talaq:

{فَإِذَا بَلَغَ الْأَجَلْنِ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ فَارِقُوهُنَّ بِمَعْرُوفٍ...}

“Then when they have reached the end of their (waiting) periods either retain them (in wedlock) in a fair manner or part with them in a fair manner”¹¹

Most of the verses related to two significant concepts, like marriage and divorces, show Islam’s attitude of compassion, kindness, prosperity towards women and men bear this responsibility. Based on sharia law, Muslim men have the unilateral right to extrajudicial divorce, disrespectful of any reason, merely by pronouncing the word of *Talaq*.¹² While women need to seek prior consent from the husbands or claim certain grounds for an annulment.¹³ The certain grounds for annulment valid for scholars could be listed as infidelity, physical, financial or emotional harm, and sexual dysfunction.¹⁴

It is noteworthy that the concept of divorce exists in Muslim societies since the beginning of Islam without any stigma or guilt-trip for any party. For instance, the daughters of the Prophet Mohammad, *Ruqayyah*, and *Umm Kulthoom* were married to *Utbah* and *Utiaba* sons of *Abu Lahab*, who were then divorced after their

⁸ Kafil Khan, “Divorce - A Social Stigma.”

⁹ An-Nisa 4/35

¹⁰ Kafil Khan, “Divorce - A Social Stigma.”

¹¹ Al-Talaq 65/2

¹² Haily Gleeson, Baird Julia, “Bullied, Beaten, Trapped: Muslim Women Denied Divorce from Abusive Men,” *ABC News* (April 18, 2018).

¹³ Buckley, *Not “Completely” Divorced: Muslim Women in Australia Navigating Muslim Family Laws*.

¹⁴ Gleeson, Baird, “Bullied, Beaten, Trapped.”

conversion to Islam and sent back home. After getting divorced, the prophet's companion *Uthman bin Affan*, the noblest and richest companion, married *Bibi Ruqayyah*. After her death, her sister named *Umm Kulthoom* was married to *Uthman bin Affan*.¹⁵ In addition, *Bibi Zainab bint Jahsh* was first married to *Zaid ibn Haris*, and divorce due to disagreement and conflict between them. The prophet was told by Almighty Allah to marry *Bibi Zainab* after spending the specific time, and she had been famous for generosity and nobility among her peer afterward.¹⁶

This means that the Prophet Muhammad married divorced and widowed women, receiving the title of *Ummuhatul Muslimin*. Accordingly, many Islamic scholars protecting Muslim women from post-divorce stigmas, point out the fact that rather than *Hazrat Aysah*, the rest of Prophet Muhammad's wife were either divorced or widows.¹⁷ Similarly, being a divorcee and marrying a divorced woman with several kids was a normal scenario and unreservedly acceptable in society back then. These cases declare the normal status of divorce and lack of any social stigma around the divorce concept at the beginning of Islam.

Currently, practicing the steadfast principles of Islamic thoughts in private life is dimmed, which renders lots of social challenges in Muslim societies. Based on the ABC News interview of members of the board of Imams Victoria Australia, domestic violence counts as the top reason for ending marital relationships among Muslim couples.¹⁸ Besides, early marriages, lack of communication, incompatibility, lack of education, a short courtship before marriage, and family interference or over-involvement are cited as the top reasons for divorce in Muslim communities.¹⁹ It is noteworthy that derogated and violent attitude toward women goes far beyond wedlock and divorce-seeking period, women face threats and violence from ex-husband even after being divorced as well.²⁰

2. Domestic Violence in Islam

Most religious institutions suffice to denounce merely physical abuse, which decreases the level of condemnation of emotional, financial, psychological, and sexual abusive against women.²¹ In other words, it is significant to condemn all forms of abuse and violence against women in Islamic society since the social and financial abuse distress individual far more than any physical abuse in modern life. Social and

¹⁵ Fatema Mohammed, "Is It True That the Two Daughters of Prophet Muhammad Were Married to the Uthman Ibn Affan? - Quora" (Accessed January 31, 2021).

¹⁶ Ibrahim et al., "A Review on The Story of the Holy Prophet and Zaynab Bint Jahsh," *International Journal of Multicultural and Multireligious Understanding* 5/3 (November 1, 2019), 351-364.

¹⁷ Kafil Khan, "Divorce - A Social Stigma."

¹⁸ Gleeson, Baird, "Bullied, Beaten, Trapped."

¹⁹ Fakir Al Gharaibeh - Nicole Footen Bromfield, "An Analysis of Divorce Cases in the United Arab Emirates: A Rising Trend," *Journal of Divorce & Remarriage* 53/6 (August 1, 2012), 436-452.

²⁰ Gökrem Kelebek-Küçükarslan - Özlem Cankurtaran, "Experiences of Divorced Women Subject to Domestic Violence in Turkey," *Journal of Interpersonal Violence*, (July 9, 2020), 0886260520927503.

²¹ Gleeson, Baird, "Bullied, Beaten, Trapped."

financial abuse indicates the common form of violence that Muslim women face during marital relationships either from husband or their in-laws.

Accordingly, the Australian Parliament consider social abuse as a form of domestic violence and describes it as “systematic isolation from family and friends, instigating and controlling relocations to a place where the victim has no social circle or employment opportunities and preventing the victim from going out to meet people.” Furthermore, the economic or financial abuse includes control of money and “preventing the victim seeking or holding employment and taking wages earned by the victim.”²²

Theoretically, a husband shall divorce his wife whenever the continuation of marital relations harms the wife. Otherwise, domestic violence and harms threatening the wife counts as a ground for Muslim women to seek marriage annulment in case they could prove the abusive marital relationship to judicial authorities. At least 70% of the divorces are granted by religious authorities as marriage annulments, *Tafriq*, since the husband refrains to grant a divorce as considered religiously. This means that most of the divorce applications end in marriage annulment since the abusive husbands refuse to cooperate and grant a divorce.

Despite the abuser who makes it hard for his wife to get free of a toxic marriage, many responsible religious authorities refrain to utilize their authority to grant marriage annulment when needed. The majority of clients and advocates claim that Imams and religious authorities avoid granting religious-based divorce for women in practice, forcing them to stay in abusive marital relationships. However, contemporary jurisprudence and its followers facilitate marriage annulment if abuse is incurred, a high-ranking member of the Australian National Council of Imams said: “Islam does not require proven grounds for divorce as a pre-condition to its grant. Divorce is granted if and when requested by either spouse. It is superfluous to say ... that any form of domestic abuse is grounds for an Islamic divorce.”²³

In other words, while some of the younger imams consider the dynamic of domestic violence, some of the elder ones consider this concept from their conservative believes that “men are superior and therefore have rights over women”. This means that all of Imams and religious scholars are not “on the same page” regarding the domestic violence, and some women “are not being believed,

²² Parliament of Australia, *Domestic Violence in Australia—an Overview of the Issues*, Background note (November 22, 2011) (Australia:)

²³ Gleeson, Baird, “Bullied, Beaten, Trapped.”

and they are being forced back to their husbands, being pressured to forgo their entitlements," said an appointee in the Imams' board.²⁴

This means that religious leaders lack the skills to tackle the domestic violence concept in modern society.²⁵ Besides, a high risk of victimization and revictimization embedded with domestic violence due to social and cultural norms in Muslim societies. The social institutions facilitate shame, blame, and stigma around domestic violence to become bolder for women that prevents them to talk and complain about it publicly.²⁶

3. Hurdles against Muslim women seeking divorce

Muslim women trapped in toxic, unhappy, and unhealthy marriages face sociocultural, religious, and legal dilemmas seeking to secure a divorce, both in Muslim and western countries.²⁷ In countries with a different legal system than the Islamic one, Muslim communities lack any Sharia-based judicial institutions to address marriages and divorces; thus, religious institutions, such as Imams, the boards, and councils in the Islamic centers, carry out the duty. Interestingly, religious institutions expose widely varying interpretations of sharia laws,²⁸ which fails to set a suitable precedent. Below, the hurdles against women seeking marriage annulment are described briefly.

3.1. Traditional jurisprudence of Islam

The conservatives and patriarchal interpretations of Islam render an obvious ignorance toward women's rights both in the public and private sphere of life. This approach renders an intricate procedure for women seeking marriage annulment, even when the relationship is abusive²⁹ Most Imams in Islamic communities are self-appointed community leaders, who prefer narrow interpretations of traditional Islamic jurisprudence. Few Imams expose flexible interaction with the pre-modern Islamic thoughts, who face enormous pressure from the conservative scholars to pursue traditional jurisprudence.³⁰ The traditional jurisprudence of Islam consists of the patriarchal interpretation of the *Sharia laws* considering the conservative beliefs, where women are considered a less active group in society. Besides, some Imams living in western countries tend to refrain from touching the challenges in Muslims'

²⁴ Akhtar, Rajnaara. "Unregistered Muslim Marriages in the UK, Examining Normative Influences Shaping Choice of Legal Protection." Taylor and Francis, 2018

²⁵ Rowaida Abdelaziz, "Domestic Violence In Muslim Communities," Weekend Edition Sunday (Accessed January 31, 2021).

²⁶ Gleeson, Baird, "Bullied, Beaten, Trapped."

²⁷ Peliwe Mnguni, "Book Review: Challenging Identities: Muslim Women in Australia," *Journal of International Women's Studies* 12/1 (January 3, 2013), 196–199

²⁸ Gleeson, Baird, "Bullied, Beaten, Trapped."

²⁹ Gleeson, Baird, "Bullied, Beaten, Trapped."

³⁰ Buckley, *Not "Completely" Divorced: Muslim Women in Australia Navigating Muslim Family Laws.*

domestic sphere of life supposing they avoid adding to the rising graph of Islamophobia and consider it a shame to acknowledge domestic violence or marriage annulment in Muslim communities.³¹ Thus, divorce and domestic violence concepts remain untouched by the religious and academic institutions in Muslim communities.³²

3.2 Family bond preference

The majority of social and religious institutions reluctantly authorize women to divorce, aiming to protect the family institution from being shattered and the marriage's sacred contract to be ended. For instance, mothers are the primary source to reach out for coping and solving a problem in a collectivist culture, who unreservedly aim to advise daughters to forget and forgive in order to keep the honor of their marriage intact in the eye of the society.³³ Similarly, parents' response toward domestic violence normalizes the concept among couples and renders illogical justification for men to act as they want. Accordingly, the divorce-seeking process takes forever since the religious institutions avoid taking any responsibility of so-called "family shattering permission" and shunt it back toward husbands,³⁴ who refrain to grant divorce at all, and use their spiritual role to reconcile the couples.

In other words, conservatives prioritize family bound and institutions over women's right to live free of any violence and distress. Thus, religious institutions urge Muslim women to get along with the low standard of marital life and domestic violence for respecting socio-cultural and religious approaches toward the family institution. In addition, Muslim communities lack any coping mechanism for the post-divorce stage, either for men and women;³⁵ however, women suffer much more.

3.3 Women seeking religious divorce:

Most Muslims, regardless of the level of being religiosity, willingly seek religious regulations for most occasions such as marriage, divorce, funeral, and childbirth.³⁶ Accordingly, religious divorce is much common instead of civil divorce in Muslim communities. In countries where the legal framework is different than Islamic laws, Muslim women seeking divorce could be categorized in two as following:

³¹ Rowaida Abdelaziz, "Muslim Survivors Of Domestic Violence Need You To Listen | HuffPost," *Huffpost* (November 12, 2019).

³² Jaime E. Mendoza et al., "Strengthening Marriages in Egypt: Impact of Divorce on Women," *Behavioral Sciences* 10/1 (January 2020), 14.

³³ Shajia Abidi, "In My Muslim Community, Getting a Divorce Is the Same as Being Cursed," *The Tempest* (blog), August 12, 2017.

³⁴ Gleeson, Baird, "Bullied, Beaten, Trapped."

³⁵ Kafil Khan, "Divorce - A Social Stigma."

³⁶ Buckley, *Not "Completely" Divorced: Muslim Women in Australia Navigating Muslim Family Laws*.

- Muslim women who failed to register their marriage in the official system as civil marriage and secure document-based evidence. The lack of any civil marriage documents renders the women deprived of any legal protection to their rights.³⁷ The women have no other option rather than to reach out the religious scholars or religious institutions.
- Muslim women who registered their marriage through and civil procedure and could seek marriage dissolution through the legal procedure. However, civil divorce lacks the meaning and significance of religious divorce and the women prefer to secure the last.³⁸ This means that the majority of Muslim women, whether religious or not, prefer to seek religious and Islamic divorce in addition to a civil one, which puts women on a distressful journey.³⁹

Muslim women seeking divorce face hardships practically not theoretically. “It is noteworthy that it is not religious laws per se, but rather their application that this participant took issue with, and the safeguards within the national legal system against such abuses would therefore be transparency, non-discrimination, and fair representation.”⁴⁰ Regularly the husbands refuse to grant a divorce and religious institutions count as the last but challenging resort. The process of religious divorce or marriage annulment lacks any clear guidelines both for the clients and the Imams, which renders the procedure vague and lengthy, making the journey tougher for the women. It is noteworthy, that the challenging procedure of securing religious divorce exists among Muslim, Orthodox, and Jews communities.⁴¹

Unfortunately, religious authorities fail to proceed with women’s requests for divorce in a systematic and clear framework. In other words, divorce seeking procedure varies between boards and communities, and most of the institutions keep the procedure complicated, lengthy and challenging for women. The procedure can take months, if not years, and highly authentic and reliable evidence as a base to grant a divorce without the husband’s consent.⁴² The very first resolution advised women to give another chance to the husband and continue living with him for at least a few months even through extreme conditions. Besides, families and relatives have the chance to have their points of view regarding the marital relationship, and women need to provide solid evidence for proving domestic violence or any relevant ground for divorce.

³⁷ Akhtar, Rajnaara. “Unregistered Muslim Marriages in the UK, Examining Normative Influences Shaping Choice of Legal Protection.” Taylor and Francis, 2018

³⁸ Shah-Kazemi, “Untying-the-Knot,” 10

³⁹ “Islamic Divorce in the English Courts: Human Rights and Sharia Law,” *British Politics and Policy at LSE* (blog), August 23, 2018.

⁴⁰ Akhtar, Rajnaara C. “Modern Traditions in Muslim Marriage Practices, Exploring English Narratives.” *Oxford Journal of Law and Religion* 7, no. 3 (October 1, 2018): 427–54

⁴¹ Mnguni, “Book Review.”

⁴² Rahmani Nargis, “When a Marriage Ends - Navigating a Post-Divorce Life” (August 1, 2019).

3.4 Lack of information about *Talaq-al- Tafwid*

It is noteworthy that the *Sharia* law authorized Muslim women to include their right to divorce as a clause in the marriage contract signed by both sides, known as “*Talaq al-Tafwid*,” as a “fettered right” to divorce in case defined conditions meet.⁴³ As the very first hurdle against this right, Muslim women lack any information regarding this right. “There is not an awareness of the *Talaq al-Tafwid* position that women can include in the marriage contracts and have a copy. So many of the religious leaders outrightly denied it, looking at the 12th century.”⁴⁴

Dr. Anisa adds that even women who get married under Islamic law, rather than civil law, lack any awareness regarding the pre-emptive avenue, *Talaq al-Tawid*, and the entitlement to a property settlement in a marriage. Thus, a rare number of Muslim women acknowledge the right, who are expected to forfeit this right proving their trust,⁴⁵ good faith, and interest in their marriage. Entitling the right by women counts as a so-called clue of starting a marriage with a mindset of inclining to end it rather than to save it, which emerges another battle for Muslim women to fight. Although this could be correct, it is beyond any doubt that the pros of utilizing this right are more than the cons.

3.5 Social Stigma

The society compels women to live unhappy and toxic marriage rather asking for a divorce,⁴⁶ which “brings the shame” and render women with “low social status” in society. Muslim societies expect women to behave tolerated, convinced, and flexible to any life condition to sustain their marriage. Society considers divorce and marriage annulment disgraceful and normally women get blamed for it.⁴⁷ Embedded religious and social narratives, both hand in hand, hold women directly responsible for “shattering a family” and destroying the husband’s life. In other words, divorce becomes a definition for divorced women.⁴⁸

Several divorced women open up the trauma they survived in the post-divorce stage of life, being blamed for the disgrace they brought to their families, being ashamed for failing to sustain their marriage, and being discriminated against by the way that community judge and weight them, Divorcee women receive negative emotions and behaviors such as, pity, sympathy, slandering, gossiping, judging, and curiosity disregarding any respect for their right to privacy and right to a happy life in

⁴³ Abidi, “In My Muslim Community, Getting a Divorce Is the Same as Being Cursed.” Malik, “The Little-Known Divorce Loophole That Could Help Muslim Women | SBS Voices.”

⁴⁴ Buckley, *Not “Completely” Divorced: Muslim Women in Australia Navigating Muslim Family Laws.*

⁴⁵ Abidi, “In My Muslim Community, Getting a Divorce Is the Same as Being Cursed.”

⁴⁶ Abidi, “In My Muslim Community, Getting a Divorce Is the Same as Being Cursed.”

⁴⁷ Ramzia Hisham Saleh - Rocci Luppacini, “Exploring the Challenges of Divorce on Saudi Women,” *Journal of Family History* 42/2 (April 1, 2017), 184–198.

⁴⁸ Diana Alghoul, “‘Divorced and Proud’: How Arab Women Beat Social Stigma and Start New Life,” *Middle East Eye* (March 8, 2017); Kafil Khan, “Divorce - A Social Stigma.”

Muslim societies. However, the male counterparts are kept immune from such trauma,⁴⁹ which indicates the patriarchal norms once again. In some cases, women lack any basic kind of support, such as a shelter and accommodations to rely on temporarily, when they flee the violent relationship. The safe houses and shelters provide a suitable solution for the challenge; however, many Muslim women who experienced the shelters talked about being perpetually revictimized there.⁵⁰ It is noteworthy that Police and law enforcement authorities in western countries double the hurdle rather than simplifying the situation for Muslim women facing domestic violence.⁵¹

In addition to the hustles against women seeking a divorce, the key challenge embrace women and their families' life after she gets a divorce. The divorcee women facing social stigma automatically face financial, health, and emotional problems in the post-divorce stage,⁵² especially those who single-handedly raise their children. It is also highly unlikely that divorcee women receive suitable marriage proposals since Muslim men generally avoid marrying divorcee women due to the stereotype image of divorcee women in society.⁵³ Not surprisingly, divorced women experience more depression, loneliness, and social interaction anxiety as compared to married women and divorce has been cited as "the worst trauma".⁵⁴ Divorcee women need to handle the trauma themselves and readjust to their new life without receiving support through coping mechanisms. Besides, the chaos of post-divorce life and social stigmas would exacerbate in case they have child custody or guardianship legal cases before the court.

4. A Modern Approach Towards Divorce in Muslim Communities

The modern Muslim communities require a significant shift to handle domestic violence escalating the level of the religious institutions' awareness, especially when the number of divorces raising even in ultra-conservative countries.⁵⁵ The modern approach toward divorce and women seeking divorce shall refrain from sending women back home hoping for reconciliation or encouraging women to "be patient," said the secretary of the Board of Imams Victoria in an interview.⁵⁶ Furthermore, the modern approach needs to facilitate women solving dilemmas relevant to women's rights in the domestic sphere of Muslims' life impacted by the cultural and social norms, ease marriage annulment applications, and consider any kind of violence reliable for a marriage annulment. Social and religious institutions have key roles in

⁴⁹ Alghoul, "“Divorced and Proud”"; Kafil Khan, "Divorce - A Social Stigma."

⁵⁰ Abdelaziz, "Domestic Violence In Muslim Communities."

⁵¹ Abdelaziz, "Muslim Survivors Of Domestic Violence Need You To Listen | HuffPost."

⁵² Saleh - Luppacini, "Exploring the Challenges of Divorce on Saudi Women."

⁵³ Kafil Khan, "Divorce - A Social Stigma."

⁵⁴ Gharaibeh - Bromfield, "An Analysis of Divorce Cases in the United Arab Emirates."

⁵⁵ Fariba Nawa, "Divorce Turkish Style," *The New York Review of Books* (blog), 2019.

⁵⁶ Gleeson, Baird, "Bullied, Beaten, Trapped."

adapting Muslim societies' sociocultural bases and inclining towards a women-friendly society as a standard. For instance, social institutions provide public access to anti-domestic violence training programs and specialized assistance for women seeking to end their marital life due to abuse, or public speeches about women's right to live healthy and safe relationships.

Similarly, various forms of violence need to constitute a ground for marriage annulment if harms women in the family. For instance, *Sheikh Shady Suleiman*, the president of the Australian National Imams Council, became the lead signatory on a statement signed by more than thirty known Muslim figures that condemned "all forms of intimidation and abuse targeting women." Furthermore, the council embraced a consistent campaign for three subsequent years (2015-2017) focusing on the 25th of November, the International Day for the Elimination of Violence against Women, to encourage religious institutions in delivering weekly speeches on condemning domestic violence. It has a tremendous impact on sociocultural norms in a society hearing the religious institutions to condemn domestic violence in its all forms and any marital relation containing abuse avoiding the harm to women. Thus, Imams and religious institutions shall tend to consult Muslim families, who fail to establish healthy relationships, encouraging them to dissolve marital relations rather than maintaining harm or harsh treatments against any member.

4 Solutions

The social challenge requires adaptations in individual, social and collective levels combating the stigma attached to divorcee women in Muslim societies. The religious institutions can exert sufficient effect on sociocultural norms as the primary change agents to adapt the judgmental and condemnatory mindset and behaviors against divorcee women;⁵⁷ however, the significance of society's each member could not be undermined. Thus, the paper suggests the below findings as sufficient approaches toward combating social stigmas against divorce for women in Muslim communities.

5.1 Contemporary Islamic thoughts and interpretations:

Social changes and modernization effects human lifestyle and religious institutions need to update the principles to secure individuals' rights and prosperity. The scholars and Imams shall come out of their comfort zone and touch the sensitive concepts relate to the domestic sphere of life for Muslims based on modern life and its novel standards. For instance, the Indian Parliament passed a bill that criminalized "triple Talaq," which had rendered lots of Muslim women.⁵⁸ This approach seems to be against fundamental principles of *sharia* law; however, the contemporary

⁵⁷ Kafil Khan, "Divorce - A Social Stigma."

⁵⁸ Sugam Pokharel - Amy Woodyatt, "Indian Parliament Criminalizes Muslim Practice of Instant Divorce - CNN" (July 13, 2019).

principles incline to protect individuals' fundamental rights and interests based on current societies' standards. Accordingly, deliberate research needs to be conducted on the modern jurisprudence to "complex and nuanced reading of gender dynamics" adapted society.⁵⁹

Similarly, Imams and religious scholars need to elaborate suitable perceptions on how to comply with marital duties and how to sort out related conflicts when they give public speeches, lectures, and consults to couples or Muslim individuals. Securing women's financial rights through marriage and divorce, the financial provisions that husbands are required to provide shall be protected by religious institutions.⁶⁰ The legal system fails to recognize and protect financial maintenance for women based on *Sharia* law provisions, however, religious institutions and communities could protect this right for Muslim women. However, it should be taken into account that this may also have other disadvantages.

5.2 Active and specialist Muslim women and their role:

The rise of more Muslim female judges, activists, leaders, and feminist theologians could not have a neutral effect on this approach (Buckley, 2019). It shall not be a matter of surprise to retain the significance of women's role in the religious divorce's decision-making process, at least for better communication and interaction with the applicant. Accordingly, Muslim female specialists are encouraged to raise their voices and stand for their rights in a men-dominated framework such as the Imams' board. Besides, the women-led campaigns to reform traditional Islamic law governing marriage, divorce, and women's rights concepts in the society, facilitate adaptations. For instance, some Islamic countries- including Pakistan, Malaysia, Indonesia, Morocco- willing to secure women's right to divorce in standard and civil marriage contracts, recognized as *Tafwith Talaq*.⁶¹ Likewise, the board of Imams Victoria in Australia has commenced advocating a modern approach toward domestic violence and women's right to marriage annulment. Public awareness, women-led advocacy, and legal protection in favor of women's rights in a marital relation provoke society and strengthen the modern approach of Islam.

5.3 The Significance of Counseling Institutions:

The psychological counseling services could make a revolution to the private spare of Muslim couples and families. Couples need to receive pre-marriage counseling services to understand rights and responsibilities in marital life. The family counseling centers or any relevant therapies educate youth and women about the scientific, and novel methods to mental and emotional health, stress

⁵⁹ Mnguni, "Book Review."

⁶⁰ Charrad, Mounira. "Women in Muslim Family Law, by John L. Esposito", *Sociology of Religion* 43, 4 (December 1, 1982): 389-91

⁶¹ Gleeson, Baird, "Bullied, Beaten, Trapped."

management, social and relationship anxiety-related issues in life, and accessing legal assistance and support services in the community.

Social and religious institutions need to make sure that required support mechanisms, including psychological, emotional, social aids, exist for reconciling couples with conflicts to make the family bond stronger and provide negotiation, mediation, consultations, familial arbitrations, individual and marital counseling services. The institutions shall normalize that whenever almost all methods of reconciliation are exhausted to protect marriage, divorce becomes the very last approach to consider for everybody's interest. Nevertheless, several cases exist where getting a divorce could be the only suitable resolution for the conflicts to avoid any harm for parties involved, the sooner the better. It is noteworthy that the services facilitate social acceptance of divorce concepts⁶² and normalizing self-reliance.

5.4 The Legal Framework Protection:

The contemporary legal frameworks in some countries authorize wife and husband to seek divorce claiming similar grounds based on civil law through a relatively straightforward process, known as civil divorce, that has the same weight as the religious one. The civil procedure facilitates marriage and divorce registration through an inclusive system, which needs to be mandatory for the citizens. This mandate provides an opportunity for the parties to make their rights secure in case they claim it before judicial organs. For instance, women's right to initiate divorce (*Talaq- al- Tafwid*) could be one of the marriage conditions in the contract, which ease a divorce process in conformity with legal conditions. In other words, both legal and religious marriage and divorce need to be registered through the professionalized and standardized process. This way, the regulations that organize human relationships and interactions with each other establish a standard framework that keeps the balance between parties' rights and responsibilities.

Accordingly, getting a divorce has become much easier where women's rights are supported by civil law. This could be one of the reasons that Turkish Civil law requires both religious ceremony and formal registration of marriage through the developed procedure. Turkish couples need to announce their desire to get married twice, in front of the religious institutions and again for the official authority. The requirement allows civil law to observe the implication of legal marriage regulations, such as eradicating underage and polygamy marriages, to monitor the religious institutions' performance in conformity with legal provisions, and to protect women's rights in wedlock and divorce. Nevertheless, the parliament passed a bill that authorizes highly credential religious institutions and entities to register

⁶² Kafil Khan, "Divorce - A Social Stigma."

marriages in 2017, which raised women's rights and civil societies' concerns over religious institutions' misuse of this authority.⁶³

In other words, the lack of any professionalized or standardized procedure renders inefficient monitoring over the process that could easily incline to rights' violation. Currently, Muslim women in the UK struggle with this legal vacuum and lose their chance to be protected by the legal system. Muslim couples living in the UK merely conduct a religious ceremony for marriage and refrain to comply with the legal procedure, which renders fragile or even zero legal protection of rights in a marital relation or post-divorce stage.

5.5 Developing Social Coping Mechanism:

Muslim social and religious institutions shall make sure that coping mechanisms for divorcee women, victims of domestic violence, and women at risk exist, and they have access to required professional and legal assistance. "Divorce is a taboo in our society and it's destroying countless lives. We should be able to talk about it, and we should be able to get divorced when we feel it's necessary without us – and our families – being shunned for it." Similarly, the society shall not refrain from any support to assist women in their various aspects of life, especially economic empowerment. "The aim should be to create a society that is compassionate, integrative, and assimilative towards divorced women and that has all legal, social, financial mechanisms in place to help them become healthy, productive, and constructive individuals, contributing to the society with the best of their capabilities."

Muslim women need to have access to education, vocational training, and capacity-building programs, conducted for lower-income, lesser educated, and single parents. The programs facilitate obtaining short course certificates to make them ready to compete for an active role in the market and economic empowerment. This way, the financial dependence could not provide top factors that justify the continuation of a toxic relationship for women. Women empowerment counts as a feature of the social coping system in a society, which encourages women to continue normal and ideal life even after getting a divorce.

Conclusion

The various interpretation of Islamic jurisprudence and lack of any observative institution on how the religious institutions carry out their responsibility renders divorce-seeking women, vulnerable. Religion is a cultural factor influencing the way that perpetrators act and their victims respond in domestic violence cases. The traditional interpretation of religious instructions failed to decrease domestic violence and justifies the use of violence and unfair attitude against women in the

⁶³ Ozan Kose, "Turkish Marriages between Religion and the State," *Reset DOC* (November 6, 2017).

majority of Muslim communities. Even gentle, polite, and prudent strike against women as a last resort fails to cover the obscenity of the act and could lead to further stereotypes against women. In other words, the traditional version of Islam failed to protect Muslim women's fundamental rights and safety, and in worse scenarios, it renders women vulnerable in domestic areas of life and marital relations.

Accordingly, Muslim women suffer toxic and violent relations and continue to accept it as a norm merely due to social stigma and so-called religious thoughts linked to divorce. One of the significant reasons for this deeply rooted culture is the failure of imams and religious scholars to carry out their duties properly in conformity with novel and updated Islamic thoughts. The conservative Imams and religious scholars advise women to patiently get along with their life hardships and accept it as their destiny, which will be rewarded in heaven by Almighty Allah. Nevertheless, the scholars and survivors constantly acknowledge the fact that domestic violence victims encounter hurdles while seeking divorce or marriage annulment links to patriarchal culture rather than religious instructions. Accordingly, the religious and social institutions draw a brutal image of women's lives in the post-divorce stage, especially when children exist, as a perpetual response. The response obstructs women to seek marriage dissolution and pushes them to keep their unhappy or even abusive marriage. Most Muslim women's post-divorce stage commences with being marginalized from society through social and cultural stigmatization.

Based on the interviews with dozens of Imams, advocates, survivors, social workers, and religious scholars mentioned in the paper, three important findings are as below:

1. Muslim women face inconsistency and ad-hoc process seeking a divorce, which lacks any procedural fairness due to Imams' approaches that underestimate the effects of toxic marital life and neglect their role in structuring a healthy society.
2. Imams and religious authorities' response toward Muslim women seeking marriage annulment indicate the persistent lack of awareness or obvious denial of the dynamics of domestic violence and related legal resolutions.
3. As a result, Imams and religious authorities push Muslim women to continue their marital life disrespect of knowing the level of abuse and toxic that exist.

Considering globally accepted liberal and standard norms in communities, divorce and marriage annulment that results in fairness and justice needs to be authorized. It took long years for modern communities to realize that violence against women needs to be exposed rather than being endured. Muslims need to consider that nothing justifies domestic violence and depriving women of

fundamental rights if they elaborate the holy Quran and its thoughts as an inclusive, constructive, and efficient style of life in comparison with other religions. It is noteworthy that the social negative connotation that divorcee women experience in current Muslim societies lacks any history in Islam and *Fiqh*.

The paper strongly supports the concept of urging religious institutions to follow updated and contemporary approaches toward women's rights, marriage annulment, and domestic violence. Relevant and adapted approaches from several countries such as Australia, India, Turkey, Malaysia, could set proper precedents for other Muslim communities. Similarly, educated and scholarly women with legal, religious, and sociology field of interest shall step to reach consensus in this regard.

Currently, social and religious institutions influencing the social norms could mount the pressure to condemn domestic violence, and protect women's right to divorce as a pre-condition to marriage, *Talaq -al- Tawid*, or when extreme conditions exist in a marital relation. In case the fundamental conditions are met, marriage annulment must be granted by the religious institutions and the social institutions must embrace the decision with the required coping mechanism for women, men, and children involved. In other words, coping mechanisms and counseling institutions and their roles shall be embedded in Muslim communities properly. The proposed adaptation will make the divorce-seeking procedure far systematic, and establish an inclusive resilience mechanism.

In addition, women's awareness of their legal and religious rights needs to be enhanced through educational, religious, and social institutions in Muslim communities. For instance, the concept of tolerating domestic violence in order to keep Almighty Allah happy and save the honor of family in the eye of society, need to be eradicated. Flexible and contemporary Islamic thoughts could govern Muslims' private life in harmony with native civil law principles and modern standards. Nevertheless, public and collective awareness of socio-cultural norms and their consequences on society in the long term need to be reminded and repeated in order to raise an alert generation.

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Extended Abstract

Muslim Women Seeking Divorce: An Analysis on Socio-Religious Practice

Islamic principles instructed a flexible and logical approach toward marriage and divorce for Muslims. The fundamental principles secure enjoyment of numerous rights for women and provide them concrete protections in a marital relationship. Individual rights and property have never been dimmed for the sake of social or collective interests. In other words, Islamic thoughts refrain from imposing coercion, discomfort, and any harm to individuals to protect social values, such as supporting family institutions. Marriage annulment and divorce need to be evaluated based on their effects on the individuals in the first step, and then from the aspect of its consequence in society.

Islam's theoretical instructions endorsed women's right to divorce or any condition to ask for divorce prior to accepting the marital relations, which eases seeking a divorce for women when certain and specific conditions met; such as bigamy and addiction.

Nevertheless, the scenario becomes different in practice. Muslim women seeking a divorce, even for legitimate reasons, face hardships from the religious and social intuitions in the society. Besides the hardships of reaching divorce, Muslim women struggle with a high level of stigma and social isolation after being divorce.

The article indicates the difference between the theoretical and practical Islamic principles regarding women seeking divorce and the recognition of legitimate reasons to seek divorce in religious and social institutions. The article underscores how the social and religious institutions fail to protect Muslim women suffering in a marital relation, claiming the traditional and conservative values raised recently mostly in societies with different legal systems or less educated societies. For instance, Muslim women in some Muslim societies bear domestic violence merely to keep the honor of their parents in the eye of society and gain spiritual awards after this life.

The article refrains that any religious obligation on women to suffer domestic violence and broken marital relationship exit and reiterate religious institutions' responsibility to explore women's hardships in private life and protect their fundamental religious rights. It is highly recommended that Imams and Islamic scholars talk about the importance of women's rights in marital relations, and consider an executive mechanism for protecting these rights if the legal system of a country fails. Similarly, it is noteworthy that the social institutions shall take an impressive role in protecting women's rights through providing speeches and lectures, counseling services for youth prior to the wedding, raise information, and assist women to seek help if face abuse in their marital relations.

The article underscores that the social and religious institutions own a crucial role in protecting women's rights in marital relationships based on modern narratives. It is time to make sure that Islamic societies pursue Islamic narratives, both religious and social ones, in favor of Muslim women according to global standards. The author suggests a few solutions and comments be considered by religious and social institutions, which do not sound unfamiliar to the Muslim community. Islamic community needs to apply the Islamic instructions based on the real philosophy behind it in order to keep the title of "prosper community" in the globe. Similarly, Muslim women are entitled to enjoy happy and healthy relationships, strong self-esteem, and be active members of the Muslim community.

Key Words: Divorce, Religious institutions, Muslim women, Social Stigma, Community.