

Outside the Court: Decoding Divorce Challenges and Solutions at Shariah Court of Baling, Kedah

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Abstract

Divorce outside the court refers to divorces that occur outside the court or without obtaining permission from the court in Malaysia. The Islamic Family Law Enactment (Kedah Darul Aman) 2008 stipulates that divorce must be carried out in front of the court according to Section 57 (1). Several issues arise regarding divorce outside the court, especially those involving challenges in implementing divorce outside the court. Ambiguous and unclear divorce pronouncements will cause difficulties for the court in the divorce process. Furthermore, it also complicates the wife's divorce application if the divorce occurs outside the court. Therefore, this study was conducted to examine the concept of divorce outside the court from the perspectives of Shariah and the law in the state of Kedah and to analyze the issues and challenges of implementing divorce outside the court in the Shariah Court of Baling, Kedah. This study used a qualitative method, where research data was collected through semi-structured interviews and literature reviews. The research data were then analyzed using content analysis and thematic analysis methods. The study found that there are several issues and challenges in implementing divorce outside the court in the Shariah Court of Baling, Kedah. Among the issues that arise include financial matters, family interference and third-party interference. Meanwhile, in terms of the challenges of implementing divorce outside the court, challenges such as the concealment of the divorce pronouncement by the husband, lack of acknowledgment of divorce from the husband's side, and difficulty in divorce application by the wife exist. For implication, this study urges parties involved in the Shariah legal institution, especially the Shariah Court of Baling, Kedah officers to be more aware of the issues and challenges that exist in implementing divorce outside the court.

Keywords: Divorce Outside the Court, Issues and Challenges, Shariah Court, Shariah Court of Baling, Kedah.

Introduction

Divorce is the act of separation between a husband and wife. Divorce means ending the marriage relationship either by the choice of the husband or by the decision of the judge. Linguistically, divorce means separation. In terms of terminology, it signifies the breakdown of the marital relationship and the termination of the husband-and-wife relationship with cause (Jabatan Kehakiman Syariah Pahang, 2024). A common mistake made by Muslims in Malaysia is uttering divorce or talaq outside the court, or more accurately, in legal terms, uttering divorce without the court's permission. Uttering talaq outside the court is considered an offense categorized as a Shariah crime (Jabatan Kehakiman Syariah Pahang, 2024). The act of uttering talaq outside the court is an offense under the Islamic Family Law Enactments. Any husband found guilty of uttering divorce outside the court can be charged under the Islamic Family Law Enactment and may face a fine of up to RM 1000.00 or imprisonment not exceeding 6 months or both (Utusan Malaysia, 2020).

Divorce outside the court refers to divorces that occur outside the court or without obtaining permission from the court in Malaysia. The Islamic Family Law Enactment (Kedah Darul Aman) 2008 stipulates that divorce must be carried out in front of the court according to Section 57 (1). In the context of Malaysia, divorce outside the court often relates to Islam and Islamic family law. Besides, there are regulations and procedures regarding divorce outside the court. Therefore, for couples who wish to divorce officially in the eyes of the law, it is recommended to go through the process in the Shariah Court according to the established law. Furthermore, based on past studies, there are issues and challenges in implementing divorce outside the court. According to Ismail (2004), a divorce conducted without the court's permission may risk not being properly registered. Difficulties may arise when the wife claims to have been divorced more than 3 times. If the divorce is not registered, it will give the husband an advantage to retain his wife by claiming that the divorce has only occurred less than 3 times. This is one reason why divorces uttered outside the court need to be confirmed.

Moreover, according to Mohamad & Mokhtar (2004) concerning divorce outside the court and without court permission, it aims to control and regulate so that a divorce can be carried out in a proper manner. The meaning of divorcing in a proper manner, besides pronouncing it during the wife's purity period, includes not exacerbating, not vilifying, not committing violence, and resolving all issues such as iddah maintenance, child maintenance, child custody, and so forth. Therefore, if the court is truly satisfied that a marriage has indeed failed and after reconciliation efforts have been made, only then will the court grant permission to the husband to utter talaq. Additionally, this law is enacted to ensure that divorce is only allowed to occur in necessary circumstances.

There are several issues that arise regarding divorce outside the court, including challenges in implementing divorce outside the court. Unclear and ambiguous divorce pronouncements will cause difficulties for the court in the divorce process (Awaludin, 2018). From a legal standpoint, the utterance of divorce or reference may be valid, but in terms of the law, it becomes an offense that can be prosecuted and punished. There are many cases of parties uttering divorce outside the court, and when they appear in court, they do not know the actual number of utterances that have been made, whether explicitly or metaphorically. In fact, there are cases where husbands have uttered divorce more than 10 times without

confirmation in court. This problem will cause difficulties for the parties involved (Kosmo, 2022).

At the same time, divorce pronouncements made outside the court and not confirmed result in divorce information not being recorded in the Islamic Religious Affairs Office. If such cases are brought to court for confirmation after a long period, it will be difficult for the parties to recall the details of when the divorce pronouncement occurred. Divorce pronouncements that are not brought for confirmation are also feared to cause problems when reference occurs outside the iddah period (Saifuddin, 2018). This clearly poses problems and challenges for the wife if divorce is implemented outside the court. Therefore, a study needs to be conducted to examine and analyse the issues and challenges of implementing divorce outside the court in the Baling district, Kedah.

Literature Review

Divorce Outside the Court

The practice of divorce outside the court presents a range of challenges and solutions in various Islamic communities. Factors contributing to this practice include economic issues, adultery, excessive demands, and gambling (Umira et al., 2022). However, this practice can lead to legal issues, such as neglect of children and wives' rights, and the legality of the divorce itself (Nursaidah et al., 2020). From a legal perspective, divorce outside the court is not always recognized, leading to uncertainty and potential harm to the Islamic community (Hidayat et al., 2019). The influence of religious leaders and public understanding can also contribute to this practice (Faiz et al., 2022). Despite these challenges, the practice of divorce outside the court continues to be a significant issue in Islamic communities, highlighting the need for further research and potential solutions.

The issue of divorce in Malaysia's Shariah Court is complex, with various challenges and potential solutions. Osman & Nagasi (2022); Hashim et al (2012) both highlight the importance of reconciliation and conciliation in family disputes, but note the low success rate of these processes. Minarrahmah (2020); Khan et al (2021) discuss the legal penalties for divorce outside the court and the challenges in enforcing post-divorce orders, respectively. Abdul Hak et al (2014); Kamaruddin (2009) both emphasize the need for effective family mediation and access to justice, particularly for women. Jamaluddin et al (2015); Abdul Hak et al (2014) further explore the societal and judicial perspectives on divorce, with a focus on women's rights. These studies collectively underscore the need for more effective reconciliation and conciliation processes, as well as the importance of ensuring access to justice and protecting the rights of women in the divorce process.

Divorce outside the court refers to divorce conducted without the permission of the Shariah Court. Divorce outside the court includes verbally pronouncing divorce without court permission, divorcing via email, and divorcing via WhatsApp or SMS. In such cases, either the wife or husband must submit an application to the Shariah Court to confirm the divorce, even if they are confident and certain that the pronouncement used clear wording and the talaq uttered has taken effect. Confirmation is necessary to allow the divorce to be recorded in accordance with Islamic Family Law provisions. It is not just to fulfil legal requirements but also for the future welfare of the parties involved (Nur Hafiz, 2020).

Section 57 of the Kedah Islamic Family Law Enactment (2008) provides for the registration of divorces outside the court. Anyone who divorces his wife through talaq outside the court and without court permission must, within seven days of the pronouncement, report it to the court. The court must conduct an investigation to ensure that the talaq pronounced is valid according to Shariah law. If the court is satisfied that the talaq pronounced is valid according to Shariah law, it falls under the provisions of Section 125. Section 125 provides as follows: First, issuing an order confirming the divorce with talaq. Second, recording the divorce. Third, sending a copy of the record to the relevant registrar and to the Chief Registrar for registration. In exercising this power, the court will investigate both the husband and wife to gain a clear understanding of the Shariah law regarding the pronouncement (Nor Asyiqin, 2022). A husband cannot simply utter divorce outside the court. A husband who wishes to divorce his wife must obtain permission from the court before any pronouncement meaning divorce can be made. If a husband utters divorce to his wife, whether explicitly (clearly) or implicitly, such as through SMS, WhatsApp, or the like, outside the court and without court permission, then the husband or wife must confirm the pronouncement in the Shariah Court before it can be registered at the religious office (Yasir, 2023). A husband can be punished under the Islamic Family Law (Federal Territories) Act 1984 (Act 303) Section 124 for divorcing outside the court and without court permission. "If a man divorces his wife by pronouncing talaq in any form outside the court and without the permission of the Court. Then he has committed an offense" (Yasir, 2023).

Issues and Challenges of Implementing Divorce Outside the Court

Wan Faisal (2016) states that divorce is a solution resulting from problematic marriages or unsatisfactory marriages for one or both partners. Generally, divorce is a manifestation of the failure of the couple to resolve or manage conflicts between them, leading them to decide to separate or divorce. Textor (1989) mentions that unfulfilled emotional needs, financial and job-related issues, involvement of third parties, differences in values and goals, communication difficulties, negative behaviour of partners, different parenting approaches, drug abuse, and abuse are examples of various reasons for dissatisfaction and disappointment that can lead to divorce.

Syafie (2021) states various issues that may arise with divorces outside the court. Among these issues is the absence of records at the religious office regarding the divorces that have occurred. When another divorce pronouncement occurs, it becomes difficult to determine the remaining divorces. Furthermore, there is an issue of sexual intercourse without referral beforehand. The last issue that may arise is ignorance about the iddah period and referral occurring after the iddah period ends. Whereas, Saifuddin (2018) states the same in issues and challenges of implementing divorce outside the court. Among them is the absence of records at the religious office, making it difficult for parties to recall details if the same matter recurs in the future. If it happens again, the judge must confirm the previous divorce pronouncements, and it will be more difficult and time-consuming for the judge to make decisions in the future. If divorce pronouncements occur frequently, it can lead to triple divorce without realization and prevent remarriage. Divorce pronouncements outside the court can also happen with triple talaq at once, surely causing difficulties if hidden. If divorce pronouncements are not brought for confirmation, it is feared that referrals will not be made within the iddah period. Additionally, sexual intercourse during divorce pronouncements and its impact on the lineage of born children are feared.

Urus (2021) highlighted the issues and challenges of implementing divorce outside the court in her study. It affects the wife, as they are impacted in terms of their rights after the divorce. If the divorce occurs without following legal procedures, such as pronouncing talak outside the court, their rights become diminished due to the lengthy process required to confirm the divorce. Among the rights that wives can obtain are determining the iddah period, iddah maintenance, *ruju'*, *mut'ah*, *hadhanah*, jointly acquired property, outstanding dowry, and outstanding maintenance throughout the marriage. Furthermore, this stems from the husband himself not complying with the country's laws and being unaware of legal procedures but knowledgeable about Shariah law. This situation is highly dangerous and concerning because if talaq occurs outside the court, many negative possibilities can arise, and the main implications are on the wife. For example, the husband may refuse to acknowledge whether he has pronounced talaq in front of his wife or without her knowledge. It is even more distressing when there are no witnesses to attest to the talaq pronouncement. This matter is very serious because it unjustly affects the wife, especially when the talaq is pronounced while she is menstruating, postpartum, in a state of purity but has recently engaged in marital relations, or while pregnant. This issue must be taken seriously to ensure that the correct iddah calculation starts from the moment the talaq is pronounced.

Implementation of Divorce Outside the Shariah Court in Baling, Kedah

Pronouncing divorce or talaq outside the court is an offense under the Acts and Enactments of the Islamic Family Law of the states. Any husband found guilty of pronouncing divorce outside the court can be prosecuted under the Islamic Family Law Enactment and will face punishment. Additionally, if convicted, the offender can be fined up to RM1000.00 or imprisoned for up to 6 months, or both. Furthermore, this study focuses solely on the Baling area. Therefore, the implementation of divorce outside the Shariah Court in Baling, according to the Kedah State Islamic Family Law, dictates that divorce must be conducted in front of the court in accordance with Section 57 of the 2008 Kedah State Enactment for the confirmation of divorce pronouncement. In terms of implementation in the Shariah Court of Baling, husbands and wives involved in divorce cases outside the court must file divorce claim statements. Subsequently, the court will set a date to summon both parties and conduct a hearing. Additionally, the court considers based on the husband's confession.

In general, the researcher has analysed the highlights of the literature review and has outlined several important aspects related to the study. Various issues arise when the surrounding community takes divorce outside the court lightly, which also negatively impacts the institution of the family within a household. Therefore, due attention must be given to the issues and challenges of implementing divorce outside the court.

Research Methodology

Research Design

The research design is an action plan that details how a study is conducted (Marican, 2006). It serves as a guide to assist researchers in collecting, analysing, and interpreting the results of the research. Additionally, the research design serves as a model to enable researchers to make inferences regarding the variables under study.

Qualitative research is a naturalistic study that does not adhere to statistical specifications; hence, the research findings cannot be generalized. Furthermore, qualitative research

“contributes” something to statistical research. “Something” here refers to something meaningful and immeasurable (Schostak, 2002). This study utilizes qualitative methods through a case study approach to focus on and elaborate on issues and challenges related to the implementation of divorce outside the court.

According to Yin (2016), a case study is defined as an investigation that examines phenomena occurring in real-life contexts. This research approach is also employed to focus on specific themes. Data processing techniques use the case study method to examine all the research questions that arise.

Data Collection

Research Instrument

The instruments in this study are interview questions. These interviews are targeted at the officers of the Shariah Court in Baling, Kedah. Additionally, the researcher also collected data through secondary sources such as articles, journals, books and magazines, as well as primary sources such as semi-structured interviews with Shariah Court of Baling, Kedah officers.

Data Sources

There are two types of data sources in this study: primary and secondary sources. Primary sources are basic information obtained directly by the researcher through interviews, observations, document analysis, and questionnaires, while secondary sources are information obtained through interpretation and summaries of sources:

- i. Primary sources: Primary sources are new discoveries, original research, whether published or unpublished, and are original information. Primary sources involve interviews with the assistant registrar of the Sharia Court in the Baling district (Lim, 2018).
- ii. Secondary sources: Secondary sources consist of materials or documents examined through reading written materials recorded elsewhere. These sources include magazines, journals, encyclopaedias, newspapers, pamphlets, and blogs (Lim, 2018).

Interview Procedure

Before proceeding further with this study, the researcher needs to go through several steps, including obtaining permission letters to conduct interviews from the Kulliyah of Shariah and Law, Universiti Islam Antarabangsa Sultan Abdul Halim Mu'adzam Shah (UniSHAMS) office. These letters are required to obtain approval from the university to conduct the study at Shariah Court in Baling, Kedah.

Furthermore, the researcher chose to conduct the study in a specific way and process. The research process involved using semi-structured interviews to explore issues or topics in depth, and the design of questions did not need to be planned. Informants were allowed to speak freely based on their subjective responses to situations they had been involved in (Marican, 2006). This process included selecting research tools based on interview questions, selecting subjects based on the discussed topics, selecting samples, such as assistant registrars of the Shariah Court, selecting the location for the study, which was the Shariah

Court in Baling, Kedah, and selecting the appropriate timing for conducting the interview sessions.

Data Analysis

The data analysis method in this study involves the procedures of how data is analysed. The methods used are content analysis and thematic analysis. It is divided into two divisions as follows:

i. Content Analysis: Content analysis in qualitative research focuses more on text as an interpretation of meaning internally and subjectively (Nur Asriq Zarina, 2009). Additionally, content analysis studies, whether qualitative or quantitative, are widely used in the field of media and communication to analyse documents such as newspapers, books, and transcripts. However, qualitative studies also use content analysis to analyse themes from interviews. Therefore, the researcher chose content analysis because it is suitable for obtaining and generating the findings of this study based on context and process.

ii. Thematic Analysis: Thematic analysis is a process conducted to identify themes in qualitative data (Zarina, 2009). The purpose of thematic analysis is to identify themes, which are important or interesting patterns in the data. Therefore, it is suitable for the study to analyse the qualitative data collected for the researcher to address the research problems.

Analysis and Discussions

Divorce Outside the Court from the Shariah and Legal Perspectives

Divorce outside the court, also known as extrajudicial divorce, is a form of divorce that occurs without involving the court. From the Shariah perspective, divorce outside the court is still considered a valid form of divorce as long as it adheres to the procedures prescribed by Islamic law. The Kedah Islamic Family Law Enactment 2008 has established procedures for divorce outside the court in the state of Kedah. The analysis of the study was conducted based on four main themes as follows:

i. Shariah Perspective on Divorce Outside the Court

From the Shariah perspective, divorce must be conducted through the court process prescribed in Islamic family law. This is because divorce is a serious action with profound effects on the lives of spouses, families, and society. Therefore, it is important for divorce to be conducted fairly and according to the established Islamic law. This was also explained by informant:

"Talaq conducted outside the court does not meet the requirements set by Islamic law. Therefore, divorce outside the court is considered invalid and does not result in a valid divorce under Islamic law. As a result of the invalidity of divorce outside the court, questions arise between divorcing couples regarding responsibilities towards children, jointly acquired property ownership, and other related rights." (Informant)

The findings of this study are consistent with Nur Hafiz (2020) study. Confirmation is necessary to allow the divorce to be recorded according to the provisions of Islamic Family Law. It is not merely to comply with the law but rather for the benefit of the parties involved in the future.

Furthermore, it ensures that the rights and responsibilities of spouses, children, and joint property ownership are handled fairly and according to valid Islamic legislation.

ii. Divorce Outside the Court According to the Laws of Kedah

In this study, divorce outside the court according to the laws of Kedah also needs to be considered. The laws related to divorce outside the court are important to be aware of for someone who has established a household to avoid cases of divorce outside the court. Therefore, the researcher interviewed informant to obtain a deeper explanation regarding divorce outside the court according to the laws of Kedah. The comments provided by informant are as follows:

"In terms of the law, it is called the confirmation of divorce wording in Kedah Enactment number 57 of 2008. From a legal perspective, when a party attends, usually it is either one party or both parties. But if the wife is present, she will accuse her husband in the divorce wording outside the court. For example, divorce wording such as SMS, telephone, or face-to-face meetings, so there will be a dispute there, and divorce outside the court occurs. When the matter leading to divorce is mentioned, the community will just say divorce, regardless of whether the divorce is final or not. When coming to court, the first process is to file the case. The divorce claim statement starts with a summons. For example, if the wife attends, she will file the case related to that case. She needs to provide details when getting married.

Where they were when and when the divorce occurred, and where, details need to be provided. The court will accept that claim, and the court will set a date to call both parties. Besides, the court will discuss only the case not involving maintenance or the like, and it is also based on the confession of the husband." (Informant)

This clearly indicates the same expression from Awaludin (2018), which states that Section 57, the Kedah State Family Law Enactment provides for the registration of divorces outside the court. A person who divorces his wife with the word "talaq" outside the court and without the court's permission shall, within seven days from the pronouncement of the talaq, report to the court. The court shall conduct an investigation to ensure whether the talaq pronounced is valid according to Shariah. Therefore, divorce outside the court is not recognized in Islamic family law and does not provide legal protection to divorcing couples. The court process prescribed in Islamic family law is important to ensure that divorce is carried out fairly and based on the established Islamic law.

Issues of Divorce Outside the Court: Shariah Court of Baling, Kedah

Based on the interviews conducted, the findings indicate that three factors play a role in influencing the issues of divorce outside the court. These factors include financial issues, family intervention, and third-party intervention. Furthermore, this analysis discusses the challenges of implementing divorce outside the court by analysing each related issue.

i. Financial Issues

Financial issues are one of the major issues in the occurrence of divorce outside the court, as acknowledged by informant as follows:

"And the highest issue is the financial issue. The occurrence of financial problems, for example, the husband not having a stable job, and there being no money to buy a house, will cause stress for the husband and wife, leading to cracks in the household and divorce occurring outside the court." (Informant)

This analysis also reveals that the economic aspect plays a significant role in decisions regarding divorce outside the court. Financial instability, especially in cases where couples do not have access to sufficient financial resources, becomes a serious obstacle in causing issues leading to divorce outside the Court in Baling, Kedah.

ii. Family Interference

In this study, the researcher has observed several issues, such as the occurrence of divorce outside the court, which is a factor of family interference. The researcher asked the informant for an explanation regarding family interference:

"Family interference, such as living together with in-laws and a married couple residing with them, can lead to the husband feeling undermined and challenged because the wife tends to listen more to her parents. Due to the wife's inclination to heed her parents' advice, the husband may neglect his responsibilities towards her. Most cases like these occur in Baling." (Informant)

The findings of this study are also consistent with Textor (1989), which states that different parenting approaches are examples of various reasons for dissatisfaction and disappointment among couples that can lead to divorce. Therefore, family interference in marriage is one of the reasons for divorce outside the court.

iii. Third-Party Interference

One of the crises evident in marital life is the presence of third-party interference. Third-party interference issues affect the institution of family and established households. This was evidenced in interviews conducted with informant:

"When crises occur, the likelihood of divorce increases. Additionally, if the husband is involved in scandals or third-party relationships, which are common in Baling, starting as friendships and then becoming close, household stability will be compromised due to the involvement of a third party, leading to a high possibility of divorce." (Informant)

This also aligns with Textor (1989), which suggests that involvement of a third party is an example of various reasons for dissatisfaction and disappointment among couples that can lead to divorce.

Challenges in Implementing Divorce Outside the Sharia Court in Baling

Many challenges can be observed when implementing divorce outside the court. It can have negative effects on both the husband and the wife who have divorced. Here, the researcher interviewed informant to obtain more accurate answers regarding the challenges of implementing divorce outside the Shariah Court in Baling, Kedah, including:

i. **Concealing the Pronouncement of Divorce by the Husband**

Concealing the pronouncement of divorce is a common issue. Perhaps due to the stigma that court proceedings take a long time, some individuals decide not to confirm the pronouncement of divorce. From a legal perspective, the pronouncement may be valid, but legally, it becomes an offense that can be prosecuted and punished. The informant also commented:

"Problems arise when the couple conceals the pronouncement of divorce, often due to prolonged hesitation, leading both parties to panic and seek individual consultations. From the perspective of Islamic law, the pronouncement remains valid, and when brought to court, the divorce is likely to be immediately pronounced." (Informant)

This also coincides with Saifuddin (2018) study which suggests that if the pronouncement of divorce is not brought for confirmation, there is a fear that the waiting period for remarriage (iddah) may not be observed. In conclusion, concealing the pronouncement of divorce by the husband from the wife has negative impacts on both parties, creating uncertainty and instability in the marital relationship.

ii. **Lack of Acknowledgment of Divorce by the Husband**

The acknowledgment of divorce by the husband is crucial in Islamic family law. The absence of acknowledgment by the husband indicates that he does not recognize the divorce as valid or official. This lack of acknowledgment poses a significant challenge in implementing divorce outside the court and can result in more severe problems for both the husband and wife seeking divorce. The informant commented on this issue:

"Challenges emerge when there is no acknowledgment; in such cases, a hearing will be convened, during which the court will instruct the husband to submit a defence statement. If the husband denies the pronouncement, the court will schedule a subsequent session to reconsider the divorce, with both parties in attendance." (Informant)

This finding aligns with Urus (2021), which suggests that if divorce occurs without following legal procedures, such as pronouncing the divorce outside the court, the rights of the parties involved may become precarious due to the prolonged time required to confirm the divorce. Among the rights that wives can claim in the Sharia Court are determining the iddah period, iddah maintenance, reconciliation, *mut'ah*, *hadhanah*, and jointly acquired property. Therefore, it is crucial for couples seeking divorce to manage their divorce processes legally in court to ensure justice and protection of the rights of all parties involved.

The analysis indicates that divorce outside the court, from both the Shariah and Kedah state law perspectives, aims to preserve harmony and the rights of husbands and wives after divorce. It also aims to maintain the sanctity of Islam and the Muslim community. In analysing the issues and challenges of implementing divorce outside the court, three main issues have been identified. Meanwhile, in terms of challenges, there are three challenges; financial issues, family interference and third-party interference. Firstly, financial issues that can lead to divorce outside the court. Secondly, interference from family members that can disrupt household harmony and facilitate divorce outside the court. Thirdly, third-party interference can also result in divorce outside the court. The analysis also identifies challenges in

implementing divorce outside the court. These include issues if the husband or wife conceals the pronouncement of divorce, lack of acknowledgment from the husband, and the rights lost by the wife after divorce outside the court.

In brief, this study explores the issues and challenges surrounding divorce outside the court, particularly in the Baling district, Kedah. The findings have implications in two main forms; knowledge and empirical evidence. The study offers fresh data to Shariah legal institutions, notably the Shariah Court, serving as a knowledge reference for future endeavours. The acquired knowledge aims to identify the concept of divorce outside the court according to Shariah and the laws of Kedah, emphasizing the importance of understanding divorce from both Shariah and legal perspectives, especially for couples seeking to avoid divorcing outside the court.

Furthermore, the study examines the issues and challenges of implementing divorce outside the court at the Shariah Court in Baling, Kedah, concluding that various obstacles exist in this process. Additionally, the study aligns with the goal of providing knowledge and awareness to various stakeholders, including Shariah lawyers, academics, society, the Shariah Judiciary Department, and other researchers in Islamic Family Law. It emphasizes the negative impact of divorcing outside the court on women's rights, highlighting the need for safeguarding these rights by Shariah lawyers. Academics require data on these challenges, and society must grasp the implications to prevent adverse outcomes. The Shariah Judiciary Department of Kedah Darul Aman should address these issues to provide guidance, while other researchers in Islamic family law also require information in this field.

This study takes the form of a case study involving a specific sample or informant. The aim is to obtain detailed information and analysis from the study. Therefore, the results of this study have opened up broader avenues for related further research. Additionally, this study is also subject to several limitations or constraints, which still restrict the study's results within the framework outlined by the researcher. Some proposed further research that can be explored includes quantitative studies and focused studies on issues and challenges.

A quantitative study on divorce outside the court may involve the collection and analysis of numerical or statistical data to understand trends, causative factors, and the impact of divorces occurring outside the court process. This study may involve investigating the number of divorces in the community, the main reasons for divorce, profiles of individuals involved, and social or economic implications. The quantitative approach allows for a more systematic and measurable understanding of the phenomenon of divorce outside the court.

To understand issues more deeply, this suggestion emphasizes the need for additional research and more comprehensive analysis. This involves collecting data, analysing emerging trends and patterns, and identifying the root causes of the issues. Better research and analysis results will provide a clearer understanding of the issues and a stronger foundation for further action. Additionally, since issues and challenges are constantly evolving, it is suggested to continue monitoring and updating the approaches used. This entails gathering more detailed information and making improvements for the better.

Conclusion

In summary, this study illuminates the intricacies associated with divorces that occur outside the courtroom, focusing specifically on the Baling district in Kedah. Through the lens of Shariah and Kedah state law, divorce outside the court is seen as a means to maintain marital harmony and uphold the rights of both spouses, while also preserving the sanctity of Islam and the Muslim community. The analysis identifies three main issues contributing to divorce

outside the court; financial strains, interference from family members, and third-party involvement. Financial difficulties often precipitate divorces outside the court, while familial and third-party interference can exacerbate marital discord, leading to divorce. Furthermore, challenges arise in concealing divorce pronouncements, lack of acknowledgment from spouses, and the subsequent loss of rights by the wife after divorce outside the court.

Overall, this study offers substantial theoretical and contextual contributions. By examining divorce from the perspectives of Shariah and Kedah state law, the study adds to existing knowledge by emphasizing its role in maintaining marital harmony and safeguarding the rights of spouses, while also upholding the sanctity of Islam and the Muslim community. Moreover, the identification of key issues contributing to divorce outside the court, such as financial strains, family interference and third-party involvement, offers valuable insights into the underlying factors driving marital discord. This understanding is crucial for stakeholders, including Shariah lawyers, academics, society and the Shariah Judiciary Department, as it underscores the need for ongoing research and awareness-building efforts to address these challenges effectively.

Furthermore, the research underscores the importance of safeguarding women's rights and promoting marital stability within the legal framework. By recognizing the implications of divorcing outside the court, stakeholders can work collaboratively to develop strategies aimed at mitigating these challenges and ensuring equitable outcomes for all parties involved. However, while this study provides valuable insights, it acknowledges its limitations and highlights the potential for future research endeavours to explore quantitative studies and focused examinations of specific issues and challenges. Through continued monitoring and adaptation of research approaches, stakeholders can contribute to the ongoing discourse on divorce and family law, ultimately striving for better outcomes and societal well-being.

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