

THE EFFORTS OF MARITAL RECONCILIATION IN REDUCING DIVORCE RATES

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Abstract: This study discusses the arguing family members are involved in the application of the concepts and procedures of engaging a third party or intermediary. This research is a research library. Based on the research findings that have been discussed, husband-wife disputes and mediators can prevent divorce, and can apply and implement the following principles and mechanisms in the process of reconciliation efforts: fairness, realistic and evidence-based, systematic, tactical, strategic, and courageous; the decision through a non-litigation process to appoint family or community leaders; the decision through a semi-litigation process by presenting the parties and concluding with a written assessment by conciliation or expert judgment, so that it might affect how effective it is at reducing the divorce rate, including effective, less effective, and ineffective.

Keywords: Marriage; Reconciliation; Divorce

INTRODUCTION

Every living thing on this planet, including humans, animals, and plants, was made in pairs by God in order to produce offspring. As a result, none of the world's inhabitants are alone or empty because they continue to grow from generation to generation in order to produce more offspring, or occasionally just for survival.

Marriage is a medium for remembering family relationships, social part of family resilience, and part of worship. A family of faith and noble character, as exemplified by the Prophet Muhammad or desired by the source of the text, is always formed through marriage and is anticipated to be realized in marriage into a *sakinah*, *mawaddah*, and *rahmah* family.

On the other hand, due to the unequal distribution of information and advice regarding marriage and long-lasting household ties, as well as the development of

global information media and technology, the family resilience in the home is still weak, making it possible to be vulnerable to issues in the form of chaos or disputes.

Another perspective holds that the family's poor level of resilience is caused by the underdeveloped human resources and the misguided goals and objectives of nation-building. The degree of material well-being in the community significantly impacts this state. This, in turn affects the degree of spiritual well-being (moral degeneration) and the community's lack of moral and mental fortitude, which has an impact on social control.¹

According to a United Nations (UN) research on divorce rates worldwide, carried by the media in 2019 by womantalk.com, the Maldives may have the highest divorce rate in the world, with 10,97 divorce cases per 10,000 people. Belarus has 4.63 percent of divorce cases per 10,000 citizens, followed by the United States of America with 4.43 percent, Cuba with 3.72 cases per 10,000, Country Estonia with 3.65 cases per 10,000, and the State of Panama with 3.72 cases per 10,000. 3.61 percent of divorces per 10,000 residents in Puerto Rico and 3.42 percent per 10,000 persons in Ukraine. Of 10,000 citizens, also, the State of Russia had 3.42 percent cases of divorce.²

The divorce rate in Indonesia, where Muslims make up the majority of the population, was reported by merdeka.com sources to have increased from 394,246 cases in 2015 to 401,717 cases in 2016, 415,510 cases in 2017, 444,358 cases in 2018, 480,618 cases in 2019, and 306,688 cases in 2020.³

The aforementioned circumstances may signify something crucial, which is actually a legal phenomenon, legal challenges, or legal problems. Under specific conditions, the sacred values of marriage are violated, the commitment of marriage is violated, and the marriage is ended by divorce. Every year, the number of husband-wife divorces rises, threatening to upend the traditional family structure and, if not addressed right away, having an impact on the mental and psychological health of the next generation.

According to M. Bambang Pronorvo, family issues are one of the causes of "spiritual critical" situations. This is because family issues are psychologically complex, far from the idea of an expected and just civil society; they also include

¹Religion Ministry of Indonesia., *Islam dan Isu-Isu Kontemporer Artikel Dakwah dari Jurnal dan Website* (Jakarta: Ditjen Bimas Islam, 2010) p. 138.

²Rerre Adysti, "10 Negara dengan Tingkat Perceraian Tertinggi di Dunia". <https://womantalk.com/love/articles/10-negara-dengan-tingkat-perceraian-di-dunia-ymKe8> (21/12/2019).

³Intan Umbari Prihatin, "Kemenag Sebut Angka Perceraian Mencapai 306.688 Per Agustus 2020", Merdeka.com, <https://www.merdeka.com/peristiwa/kemenag-sebut-angka-percerai-mencapai-306688-per-agustus-2020> (12 September 2020)

indifference to one's own interests (*la ibda' bi-nafsik*), family, neighbors/neighbors, village, sub-district, district, province, and government/state.⁴

Due to the rising number of divorces filed by women (*khula*) and proposed by men (*talak*), Sensitivity, a legal reality, has become entrenched in society. As a result, husband and wife families, all levels of society, Ulama/religious leaders, the government, and law enforcers (judges) must pay attention and determine what steps are necessary to achieve reconciliation efforts.

GENERAL REVIEW OF MARITAL RECONCILIATION AND PREVENTION OF MARITAL SEPARATION (DIVORCE) IN MARRIAGE LAW

Marriage Overview

Marriage's etymological definition refers to the pairing of a man and a woman to become husband and wife.⁵ Marriage is the legal meaning of forming a family with the opposite sex.⁶ According to Islamic law, a marriage must be conducted first with the goal of worship, which entails upholding religious beliefs, in order to understand what marriage is. Marriage in Fiqh

Literature is called two words, namely *Nikah* or *zawaj*; *nikah* means joining sexual relations and is also called *akad*;⁷ While the word *zawaj* is conveyed in the Qur'an Surah ash-Syu'ara' verse 7 and Surah al-Baqarah verse 35 as a partner or mate used in the sense of marriage.⁸

Determining the meaning of the terms *Nikah* and *zawaj* has identical meaning for the phrases sex, partner, mate, and contract. Other literature called it intercourse and agreement (*al-aqdu*). At the same time, *zawaj* is mentioned a lot in the Qur'an. The meaning in the Qur'an is contained in the QS ash-Syu'ara' verse 7, taken from the word زَوْجٌ which means partner, and Surah al-Baqarah verse 35 is taken from the word وَرَزْوَجِكَ which means "and your wife (your partner)".

In terms of terminology, marriage can be seen as a union between one or more women and a man who has been predestined to marry them according to Islamic law, with the provisions of marriage law changing to the status of the name of the husband's bond. The wife, who be present in the same home or room, justifies engaging in sexual activity,²⁶ combining the two to generate offspring.

⁴ Religion Ministry of Indonesia., *Islam dan Isu-Isu Kontemporer Artikel Dakwah dari Jurnal dan Website* (Jakarta: Ditjen Bimas Islam, 2010). p.12.

⁵National Education Department, *Kamus Besar Bahasa Indonesia*, Edisi I (Cet.IV; Jakarta: Balai Pustaka,2007), p. 426.

⁶Fauzan dan Baharuddin Siagian, *Kamus Hukum dan Yurisprudensi* (Cet. I; Jakarta: Prenademidea Group, 2017), p.402.

⁷Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia Antara Fiqh dan Undang-Undang Perkawinan* (Cet.V; Jakarta: Prenadamedia Group, 2014), p. 35-36.

⁸Abdul Rahman I, *Perkawinan dalam Syariat Islam (Shari'ah The Islamic Law)*, Terj. Basri Iba Asghary dan Wadi Masturi (Cet.II; Jakarta: Rineka Cipta, 1996), p. 3.

In accordance with the opinions of the scholars, Abu Hanafiyah defines marriage as a proven contract that is made with the goal of getting pleasure from a woman. Maliki madhab conveys the agreement to enjoy women. According to the Shafi'i madhab, it is possible to secure the acquisition of sexual activity through a contract. According to the Hambali school, marriage is expressly mentioned in the contract in order to permit sexual intercourse.⁹

The legal provisions of the agreement or contract in marriage, according to fiqh, are permissible, meaning that an agreement may be made and it may not be made. What determines is the condition of marriage, which is related to the implementation of husband and wife obligations in marriage and also as husband and wife guidance.

The legalization of marriage is subject to the requirements outlined in Articles 6 and 7 of Law No. 1 of the Republic of Indonesia, Concerning marriage, namely the consent of the intended husband and wife, or both the intended bride and groom, permission from parents or guardians, or a direct blood relationship under the age of 21, as well as both parties being at least 19 years old.

Divorce Overview

The marriage desired by religion, outside Islam or within Islam, is expected to last forever until the death of one of the husbands or wives. However, in certain circumstances, a divorce may occur. A situation where it is possible for divorce to occur because the husband or wife desires it or both agree to separate.

Divorce, etymologically, means separation, separation in marriage, breaking up ties, weaning or splitting.¹⁰ Divorce can happen and is considered natural because the meaning of a contract in marriage is a bond, part of a contract or also called *talak*, which means breaking the bond (hall al-qaid) or releasing the agreement.¹¹ Husband and wife, as the name in marriage, can change to ex-wife or ex-husband after getting a permanent decision (*inkraht*) from the court.

Divorce happens for a reason, as a result of the discord between a husband and wife in the home, or as a cause or result of those actions or behaviors. In these situations, bad husband and wife actions or behavior, which can no longer be defended, are taken through civil/religious courts to be separated/break away from the bond of marriage through legal considerations to accept the court's decision.

The definition of divorce, in other words, according to law, is the termination of the marriage bond by a judge's decision or the demands of one of the parties to

⁹M. Ali Hasan, *Pedoman Hidup Berumah Tangga dalam Islam* (Cet.I; Jakarta: Siraja, 2003), pp.11-12.

¹⁰National Education Department, *Kamus Besar Bahasa Indonesia*, Edisi I (Cet.IV; Jakarta: Balai Pustaka,2007), p. 158.

¹¹Amir Nuruddin dan Azhari Akmal Tarigan, *Hukum Perdata Islam di Indonesia Studi Kritis Perkembangan Hukum Islam dari fikih, UU No.1/1974 sampai KHI* (Cet.V; Jakarta: Prenadamedia Group, 2014), h.206.

the marriage.¹² This is because by accepting the husband and wife in the judge's decision based on legal considerations, with sufficient reasons, they cannot live together. In the judicial process or death by itself has occurred untied.

As referred to in Article 38 of the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage and Article 113 of the Compilation of Islamic Law (KHI) on Marriage, it is stated that the termination of marriage is due to death, divorce, and by court decisions. Article 39 of the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage states that divorce can only be carried out for the person concerned in front of a court session and by trying and unsuccessfully to be reconciled, and there are sufficient reasons for not being able to live in harmony anymore as husband and wife. Article 114 and Article 116 of the Compilation of Islamic Law on Marriage states that the termination of a marriage is due to *talak* or based on a divorce suit by submitting strong reasons that fulfill the main elements of the case there is an unlawful act of one of the litigants.

The view of Abdul Rahman I emphasizes that divorce or the dissolution of a marriage, includes *talak* (divorce in the Shari'a), which shows a legal way to end a marriage, by means of *Fasak* (annulment of marriage), namely the result of the termination of the marriage by being annulled and by way of *syiqaq* (breaking of marital ties) namely the breakup of marriage caused by wrong behavior or actions of the husband or wife.¹³

Divorce by *talak*, can only be done if it has strong reasons according to law or is prescribed according to religion in which there is an element of harm/bad impact on the continuity of the marriage so that there is no reason or other way to fix it, even though for example there is a wife or husband who doesn't want a divorce.

Divorce with *Fasak*, at the will of the judge as a third party after seeing that there is a reason for the provisions of the law or the Shari'a that have already violated the marriage law because the marriage that had previously taken place turned out to be not fulfilling the legal requirements or obstacles (*mawami'*) which was not allowed to continue the marriage; or the cause of the damage that necessitates the cancellation of the marital relationship not to be continued, for the good of them/the husband and wife to avoid in the future other bad things can be caused or new legal problems.

Divorce by *syiqaq*, happens because of the occurrence of disputes between husband and wife brought on by their inability to fulfill their duties and rights. Due to the possibility of domestic violence, it may become necessary to quickly end the marriage or legal link between a husband and wife in order to expedite the case's resolution in court. This is allowed under Islamic law if the benefit outweighs the crime.

¹²H.M.Fauzan dan Baharuddin Siagian, *Kamus Hukum dan Yurisprudensi* (Cet.I; Jakarta: Prenadamedia Group, 2017), h. 581.

¹³Abdul Rahman I.Do, *Perkawinan dalam Syariat Islam (Shari' eh TheIslamic)*, h.79-85.

As mentioned above, a marriage's breakup is due to some cause, namely the death *Talak, Faskh, and Shiqaq*. Amir Syarifuddin added that the breakup of the marriage was also due to *khula*, namely on the basis of the will of the wife separating herself from her husband with a strong reason, even though the husband did not want it.¹⁴

Some strong reasons for the divorce or dissolution of the marriage are because of 1) the *Talak* proposed by the husband to divorce his wife, even though the wife does not want it; 2) because of *khulu*, proposed by the wife to divorce her husband, even though the husband does not want it; 3) because of *fasakh*, when the marriage is annulled because it does not meet the requirements and pillars wedding.

RESEARCH METHOD

To accomplish the goals above, the researcher decided to conduct the type of research literature study, specifically the theoretical and conceptual analysis of literature, namely the systematic proposition of related variables to the phenomenon, followed by a theory that explains and then supported by a definition that explains the concept of generalizing a symptom that has references and the scope is not excessive.

THE EFFECT OF MARITAL RECONCILIATION IN REDUCING THE DIVORCE RATE

Effects of Reconciliation Efforts

In order to be effective, efforts at reconciliation must either have an impact or result in acts that do the family laws that are beneficial to society and whether or if people will follow or obey the law when they apply it. So that there is unity in the application, law and people assist one another. If it relates to the context of rapprochement in law and humans as implementers or implementers in an effort to foster a culture of peace, the law itself will determine whether it has a priority interest in fostering peace and whether humans themselves/ husband and wife maximize the effort (*ikhtiar*).

Legal influence is essentially a set of instruments in which a constitution of power will function to control the behavior of its citizens in their daily lives.¹⁵ The law is made for and returned to the people, and the law exists in the community, it cannot be separated from both to regulate and obey, and the law is used to solve problems in the community.

Soerjono Soekanto's view on the impact of a reconciliation effort is determined by 5 (five) factors, namely; the legal factor itself, the law enforcement factor, namely

¹⁴Abdul Rahman I.Do, *Perkawinan dalam Syariat Islam (Shari' eh TheIslamic)*, p.197.

¹⁵Soetandjo Wignjosoebroto, *Hukum dalam Masyarakat*, Edisi II (Cet.II; Yogyakarta: Graha Ilmu, 2013), p. 87.

the parties who form or apply the law, the facilities or facilities as supporting factors, and community factors, as well as cultural factors.¹⁶

Every problem between a husband and wife in their household can be adequately resolved because it is supported by customary law in their community and is, of course, called upon, and the rule of law/regulation supports the government's attention in providing a budget that is sufficient to revive the culture of peace in the community. Law enforcement by judges in carrying out their legal authority provides space to offer the best thing for married couples, namely reconciliation.

Influencing an effort to reconcile in Islamic family law, it is deemed necessary by means of fiqh to be able to provide input or instructions according to the will of the *nash* on the provisions of current legislation and the legal culture of the community, the right way to resolve husband-wife problems with *sharia*.

The law must be a support, as Muslims must view the law as teaching, meaning that the desired legal teachings come from the divine will, namely the Qur'an and hadith/as-sunnah. Moh. Amin Suma said that the Qur'an calls itself law (*hukm*), there are 90 nicknames of His firmness,¹⁷

As Allah says in QS. Ar-Ra'd/13: 37

وَكَذَلِكَ أَنْزَلْنَاهُ حُكْمًا عَرَبِيًّا وَلَئِنِ اتَّبَعْتَ أَهْوَاءَهُمْ بَعْدَ مَا جَاءَكَ مِنَ الْعِلْمِ مَا لَكَ مِنَ اللَّهِ مِنْ وَلِيٍّ وَلَا وَاقٍ

"And so We have revealed it as an authority in Arabic. And if you were to follow their desires after 'all' the knowledge that has come to you, there would be none to protect or shield you from Allah".¹⁸

The Qur'an claims to be a true and perfect law rather than one that was created by humans, particularly when it comes to attempts to make divorce more difficult or the anticipation of divorce creating some sort of commotion. The Qur'an expresses that divorce is greatly despised by Allah SWT, but it is permitted after attempts at reconciliation have been made.

Al-Qur'an is mentioned as law (*hukm*) from al-Maraghi explained that the Qur'an is the law (*hukm*) because it contains information about "halal" and "haram" and is needed by people of *mukallaf*, for the happiness of the world and the hereafter (*sa'adat al-darain*).¹⁹

Nothing other than Islamic law is the rule for Muslims residing in Indonesia, a non-Islamic nation, as it is outlined in the Compilation of Islamic Law (CIL) of Marriage Law as a husband and wife are legally required to support their family's

¹⁶Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Raja Grafindo Persada, 2008), p. 8.

¹⁷Amin Suma, *Pengantar Tafsir Ahkam* (Cet. II; Jakarta: RajaGrafindo Persada, 2002), h. 3.

¹⁸Religion Ministry of Indonesia, *al-Qur'an dan Terjemahnya*, p.343.

¹⁹Ahmad Mushthtafa al-Maraghi, *Tafsir al-Maraghi*, p.5 (Beirut-Lubhan: Dar al-Fikr, 1394 H/1974 M), h.13.

resilience for the happiness of this world and the afterlife; as a road map to lead the family to *sakinah, mawaddah, and rahman*.

The existence of Islamic law, in the discussion, there are two paths; namely, first, the basic path of faith and piety, Article 29 Paragraph (2) of the Constitution of the Republic of Indonesia, which reads, "The state guarantees every citizen to embrace his religion and worship according to his religion and belief," second, namely the path of statutory regulations - applicable to Muslims such as the Compilation of Islamic Law.²⁰

H.Abdul Gani Abdullah explained relevantly that the statutory rules for the Religious Courts, principally in Law Number 7 of 1989 concerning Judiciary issued by the Religious Courts, are; philosophical reasons, the situation in which the perspective or thinking of the Indonesian people since the arrival of Islam in Indonesia has been influenced by Islamic teachings, because in the territory of Indonesia which adheres to it; as a result, the Islamic legal system is transformed into Indonesian national law, the socialist reason is that the religious teachings of many Islamic communities face legal problems, and the juridical reason is to understand the position or existence of Islamic law in Indonesia.²¹

Islam justifies breaking up marriage as the last step in continuing the household. Dissolving the marriage in this way is a good solution. The rift and turmoil in the household stems from the failure of the rules set by Allah for the life of husband and wife in the form of rights and obligations that must be fulfilled by both parties.

Effectiveness of Reconciliation Efforts

The goal of resolving husband-wife conflicts in order to lower divorce rates is the product of human effort; how it is carried out is consistent with human activities; doing good or bad is subjective in terms of various models, and legal actions also have precedents in society.

The views of Chamliss and Seidman convey two models; the first is a model of society that wants on the basis of agreement on values (value consensus). This model of society is controlled/or knows very little about the existence of conflicts or tensions in which it manifests as the foundation of its life. Second is the model of society that is always dealing with conflict.²²

Anthoni Allot, as quoted by Felik's view, affirmed the opinion above that the effectiveness can be prevented by actions that are not expected to eliminate the choice of chaos, effectiveness in the law must be designed to be realized, and the

²⁰Sulaikin Lubis, *Hukum Acara Perdata Peradilan Agama di Indonesia* (Cet.IV; Jakarta: Prenadamedia Group, 2018), p.16.

²¹Gani Abdullah, "catatan Kuliah Hukum Acara Perdata Peradilan Agama Fakultas Hukum Universitas Indonesia" 30 September 1993 and 1 April 1999.

²²Soleman B.Teneko, *Pokok-Pokok Studi Hukum dalam Masyarakat* (Jakarta: Raja Grafiika Persada, 1993), p.49.

possibility of darkness occurring is just coincidence, the law is able to solve it and get a different new atmosphere.²³

The community model presented by Chambliss and Seidman is strengthened by Anthoni Allot's statement that it can be seen that the level of choice as a measure is expected to be achieved, namely to reduce the divorce rate, must have indicators of planned effectiveness and accuracy of planned or desired targets.

Indicators of efficacy in an activity, in Sutrisno Edi's opinion, include knowing a plan (program), being right on target, achieving goals on schedule, and seeing actual changes..²⁴

The presence of family law must be a complex guideline in resolving household problems, including the settlement of disputes between husband and wife; the law can play a role in providing effective space outside the court and before a court trial; trust in the law has the effect of changing.

The view of Chambliss and Seidman states: "The law is a role holder with humans, so the interaction between role holders and the law can be clearly explained."²⁵ In the Islamic world, efforts to suppress the divorce rate are attempted to be realized because it is based on the teachings of Islamic nomocracy, which is the teaching of implementing effectiveness in social worship in the totality of *hamblumminannas*.

The body and soul are inseparable parts of competing in the goodness that is asked for accountability in the hereafter. According to Tahir Ashary, in the nomocracy of Islam, it has principles in its application, namely trust, deliberation, justice, equality, recognition and protection of human rights, and free justice, peace, welfare, and people's obedience.²⁶

Islam teaches perfect obedience, returning to humans, allowing harm to developing around us / allowing divorce to continue to increase or having problems, immediately finding solutions to suppress the divorce rate, not injuring the will of the texts and applicable legal provisions, the essence of which is every birth effective is only the implementation of worship.

Islam recommends implementing all commendable actions adhering to *al-ta'wazun* (balancing attitude), *al-ta'awwun* (social consolidation), *al-tawassuth* (simplifying attitude in dealing with problems), and views Islam as a religion that provides peace and prosperity, welfare for all mankind with humanism (*rahmah li' alamin*).²⁷

²³Salim H.S dan Erlis Septiana Nurbani, *Penerapan Teori Hukum pada Tesis dan Disertasi* (Jakarta: Rajawali Press, 2013), p.303.

²⁴Sutrisno edi, *Manajemen Sumber Daya Manusia* (Jakarta: Prenadamedia Group, 2007), p. 125.

²⁵Stjipto Rahardjo, *Hukum dan Masyarakat* (Bandung: Angkasa, 1980), p. 119.

²⁶Nurul Qamar, *Negara Hukum atau Negara Undang-Undang* (Cet.I; Makassar: Pustaka Refleksi, 2010). pp. 19-20.

²⁷Muhaimin, dkk, *Studi Islam Dalam Ragam Dimensi dan Pendekatan*, Edisi I (Cet. V; Jakarta: Prenadamedia Group, 2017), p. 350.

The teachings of Islam are syar'i guidelines, there is a will that is given by humans who regulate it (*sunni*) and that will is only the power of Allah swt. (*qathi*) that must be obeyed so that it is clear that the limits of humans doing *ijtihad*, in other words, the law may be born by humans as long as they do not conflict with the limits given by Allah swt.

Relevant in accordance with the concept of effectiveness, Islam has principles that must be adhered to, by Zainal Abidin Ahmad, citing Abdul Qadir Aulah's book entitled "*Al-Islam audha una al_qanuniyah*" stating twelve principles, namely; equality, justice is upheld, spiritual and material independence, deep brotherhood, strong unity, helping and defending each other known as disturbances, maintaining decency and honor, showing noble and noble character, loving each other, and holding the principle of deliberation.²⁸

Effectiveness in reality in society is a cultured human. As stated by Hamka that every Muslim who shapes his mind will be encouraged to do good deeds or vice versa because it is based on the monotheism that is owned, his life movements are returned to his efforts. All his creativity is always centered on Allah SWT., aware or not consciously, born from instinct or from the consciousness of reason, the existence of humans in the world as creatures that He created as a differentiator with other created beings.

The expected manifestation in Islam to suppress the divorce rate is maintaining family integrity, having responsibilities starting from husband and wife as stated in Surah al-Baqarah Verses 38, 187, and 215, Surah ali-Imran Verse 92, Surah al-Rum verse 21, Surah At-Talaq Verse 7, Surah an-Nisa Verse 34, Surah al-Isra 23-24, Surah Luqman Verse 14-15, Surah al-Ankabut Verse 8, then family members of Surah at-Taubah Verse 24, and finally the relatives of Surah Ali Imran Verse 103, Surah al-Hujurat Verse 10, Surah al-Hujurat Verse 12.²⁹

According to a hadith recounted by Abu Hurairah r.a. : "Allah always assists the servant as long as the servant helps his brother."³⁰

Numbers cannot judge kindness by helping, but Allah SWT will return it by providing help and expanding sustenance so that you are always patient and sincere so that all efforts are made to be carried out. The intermediary only tries as much as possible to improve and deliver advice according to the wishes of the *nash*.

Thus, it is deemed necessary to know the effectiveness of the reconciliation efforts of husband and wife involving mediators (peacemakers) in suppressing the divorce rate, consisting of 3 categories;

²⁸Zainal Abidin Ahmad, *Piagam Nabi Muhammad Saw. Konstitusi Negera Tertulis Pertama Kali di Dunia* (Jakarta: Bulan Bintang, 1973), p. 29-30.

²⁹Ahmad Shlaby, *Kehidupan Sosial dalam Pemikiran Islam* (Cet.I; Hamzah, 2001), pp. 98- 119.

³⁰H.R Muslim No. 4867 sited from Abdul Abbas Muhammad Ihsan, [https://asysyariah.com/bantuan-kepedulian-dengan-keikhlasan/\(25/04/2021\)](https://asysyariah.com/bantuan-kepedulian-dengan-keikhlasan/(25/04/2021)).

1. Effective category, where there is good intention and goodwill/ethics of the husband and wife in conciliation, it is appropriate for the judge/assessment of judges to make efforts to reconcile the husband and wife by a mediator prepared by the court and at each stage of the trial.
2. Less effective category, where the judge is handling the case by facilitating the divorce decision with the consideration of "continuous bickering that is no longer possible to be reconciled", therefore, paying attention first to the formality of the plaintiff's lawsuit and the facts of the truth of the incident (fact finding) the emergence of an unlawful/unjust act.
3. Ineffective, where the family arbiter as the *hakamain* in the Religious Courts is not successful in carrying out reconciliation efforts, and community leaders can only function as advisory/consulting outside the court and cannot undertake legal advocacy efforts/efforts for the settlement of husband-wife disputes because it is contrary to Article 39 paragraph (1) Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, reads; "Divorce can only be carried out in front of a court session after the court concerned tries and does not stop reconciling the two parties."

CONCLUSION

The effectiveness of husband-wife reconciliation efforts in lowering divorce rates can be seen from 1) effective peace efforts are carried out if the husband and wife have good intentions and good ethics for household improvement using the services of mediators prepared by the court and advisory judges/judges at each stage of the trial reconciliation efforts. 2) Less effective judges/assessments of judges easily decide divorce cases with irreconcilable considerations should pay attention to the fulfillment of the formalities of the lawsuit and the main substance of the case there is an unlawful/unjust act of one of the parties. 3) Ineffective, that is, family mediators as *hakamain* in court do not work, and community or religious leaders can only function as advisory/consulting outside the court.

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