

DIVORCE AMONG MUSLIMS IN THE DIGITAL AGE: SOCIAL AND LEGAL IMPLICATIONS IN MALAYSIA

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ABSTRACT

Technology that accelerates and broadens the flow of knowledge across the economy and society is what defines the digital era. In the digital age, it has become more typical for parties to use multiple electronic devices, including computers, iPads, and "discoverable" material. Statistics show that more people than ever are using digital devices and media. People readily share their most intimate details and emotional posts about them on the internet. This could be particularly instructive in cases where one party to a family law dispute is not happy with their spouse. The issue is when a lot of information is shared around the world about one's private matters that it contributes to the increase in the divorce rate. This research is in the form of a qualitative study that employs the content analysis method. The analytical study is conducted by collecting materials from primary and secondary sources which are obtained by using library research. The primary material for this study are legislation such as the Selangor State Islamic Family Law Enactment 2003 and data gathered by the Department of Statistics, Malaysia. The secondary material are books, journals, thesis, articles and the others. The findings of this research show that the influence of social media such WhatsApp, Facebook, Instagram and other digital platforms are factors that have led to the disruption of the family unit and have contributed to the increase in the dissolution of marriage in the current digital era. Accordingly, there is also a lack of laws that specifically regulate issues relating to online divorce.

Introduction

If we discuss the definition of the digital era, it will always be related to the world of science. Not even experts can define the digital era, because the flow of development always moves quickly in line with the demands of the times. The general understanding of the digital era is a condition of the times or life in which all activities that support life can be made easier with the existence of sophisticated technology. Apart from that, the digital era is also here to replace some of the technology of the past so that it can advance and become practical. At the same time as more and more new technologies are being introduced to society, some outdated technologies are starting to be abandoned automatically, so that there is a technological development in the digital era that continues to run rapidly. The 1970s saw the introduction of the personal computer, and as new technology was developed that allowed for the rapid and free transfer of information, the era known as the "digital age," also known as the "information age," came into being. Healthcare work practices were completely transformed by the digital revolution, which began around 1980 with the introduction of the Internet and continued with mobile devices, social networking, big data, and computing clouds (Sherer, 2019).

The digital age has permeated every aspect of our existence. We are more connected than ever thanks to the development of the internet and the widespread use of smartphones, social media, and other digital platforms. The digital age has sped up and eased communication, but it has also altered how we engage with one another, creating opportunities as well as problems for interpersonal relationships. Digital era also gives good and bad impacts to the relationship between humans. The digital age has greatly improved our relationships. Its ability to facilitate communication with distant parties is among its greatest benefits. We can now communicate with loved ones who are spread out across the globe via social media, messaging apps, or video calls. Relationships that might have been hard to sustain otherwise have been strengthened as a result of this. Moreover, the digital age has facilitated the development of new connections. Connecting with people who share interests, values, or lifestyles has become easier thanks to social media, dating apps, and online forums. People can now find romantic partners, meet new friends, and even form communities centered around common interests or causes more easily as a result of this. Additionally, the digital age has opened up new avenues for emotional and intimate connection. People are able to explore their sexuality and emotional needs in ways that were previously unattainable thanks to the rise of sexting, online dating, and virtual reality. People are now able to explore new facets of themselves and intimacy with greater openness and acceptance thanks to this (Alkhateeb et al., 2023).

Digital technology is becoming more and more prevalent in all aspects of human life. In many different industries, examples of digital technology are emerging in response to human needs. It will therefore be simpler to comprehend examples of digital technology if they are organised according to their types. Regarding the classification of digital technology types and instances, some examples are as follows:

Technology of Digital Communication

Communication technology is the first instance of digital technology. Humans still use this kind of digital technology the most. Due to the fact that humans are social creatures, they will always need to interact with other people. As a result, this kind of technology also saw quick invention and development. Digital technology of this kind includes, for instance, radios, laptops, tablets, smartphones, smart TVs, and so forth.

Industry Technology for Digital Images

The next area of digital technology is in the industry, following the field of communication. The industry is seeing rapid growth in digital technology, albeit not as much in the communication field. In fact, there is no denying that it is used to produce large quantities of products of superior quality. In the meantime, the industry uses digital technologies like cloud computing, artificial intelligence, big data, and so forth.

Technology of the Digital Economy

Digital technology is not limited to the fields of industry and communication; it is also widely used in the economy. These days, transactions between other tech users are becoming more and more simple. This undoubtedly helps a nation's money supply and rate of economic expansion. EDC machines, payment apps, digital wallets, and other similar devices are instances of digital technology in the economic sector.

Technology in Digital Education

Additionally, the field of education is fundamentally changing due to digital technology. Students and teachers can communicate more effectively and efficiently thanks to digital technology. Thus, it should come as no surprise that a large number of products designed to promote interaction are currently being developed using digital technology. Within this field, digital technology examples include applications for meetings and instruction that are based on the internet (Zandri, 2023).

The digital age makes it simple for a jealous or mistrustful spouse to look up details about their significant other's interactions. Whether or not suspicions are justified, finding something on a partner's Facebook account can make people feel uncomfortable in their relationships. This frequently results in heightened jealousy, conflict, and surveillance in a relationship. In fact, studies have shown that people report feelings of distrust and jealousy more when they monitor their partner's Facebook activity (Woods, O. 2019).

Regrettably, it is usually reasonable to have concerns regarding a partner's social media usage. Ten percent of adults acknowledge that they have kept posts and messages from their partner hidden. Adults in relationships admit to having secret accounts to the tune of 8%. Moreover, online affairs now account for one in three divorces. It's now easier than ever for unhappy couples to look for a new relationship, get in touch with an ex, or have a fling thanks to cellphones and social media apps. Thirty percent of Tinder users have a spouse. Over 130 million people visit Ashley Madison each month from all over the world, so these websites even cater to married people looking for extramarital affairs (Pauzi, 2018).

Broadly speaking, over the years, financial records, tax returns, bank statements, credit card data, and asset values have all been provided as part of the discovery process. Parties using several electronic devices such as computers, iPads, and smartphones that are connected to social media and digital communications have become more common in the digital age. The material that is currently deemed "discoverable" has altered due to technology. More individuals than ever are using digital media and equipment, according to statistics. Individuals have no problem posting about their emotions or disclosing their most private moments on the internet. When one side in a family law process is unhappy with their spouse, this might be especially illuminating (Widiantari et al., 2019).

The objectives for this project are to investigate the impact of online platforms and communication on marital relationships within the Muslim community in Malaysia. Then, to examine the social factors that contribute to divorce in the digital age within the Muslim community in Malaysia. Last, to identify the legal challenges that arise in divorce in the digital age among Muslims in Malaysia.

Literature Review

According to the study of trends in marriage and divorce in Peninsular Malaysia by Jones (2011), it started since 1957, the median age at which women in Peninsular Malaysia's three largest ethnic groups which are Malays, Chinese, and Indians marry has increased significantly. Malays and Indians have seen the biggest increase; in 1957, their median marriage age was just over 17. The rise of Malays and Indians was likely caused by many factors than only a lack of suitable husbands in the conventionally accepted ages; median age at marriage for men increased, while average age gaps between wives shrank. While there are still significant inter-state disparities, the historically very high divorce rates among Malays have dramatically decreased throughout the same time period.

On the other hand, according to the study of "The Complete Guide to Divorce and Social Media" by DAME Legal (2020), the purpose of this study is Even if you get along well with your ex, divorce can be a traumatic and life-changing experience. It was frowned upon in the past for someone to break their marriage vows, and those who did so faced criticism from others. These days, 40–50% of marriages terminate in divorce. In most cases, a divorce lawyer handles the process, which is neither as scandalous nor as damaging to one's reputation. Even with the current perspective on divorce, there are new reasons why couples are divorcing. Social media is one of them and it has a big impact on marriages. These days, one in seven divorces are the result of social media use. These platforms not only ruin marriages, but they also adversely impact divorce cases and make them weaker.

Besides that, Sell (2019) mentioned in "Effects of Social Media Use (and Misuse) on Marriages & Relationships" regarding the way we meet and communicate with one another has been altered by social

media. It offers a way to find out more about the people you hang out with. But using social media has also aggravated and contributed to issues in romantic relationships. An increasing body of research indicates that marriages and relationships have suffered as a result of increased social media use. Increased use of social media has been linked to an increase in marital issues, adultery, arguments, jealousy, and ultimately divorce. Conflict can arise from a person's actions on social media as well as from how much time they spend there. It has been demonstrated that spending too much time on social media has a negative effect on romantic relationships. A recent study compared per-capita Facebook accounts to state-by-state divorce rates, with the results published in "Computers in Human Behaviour". In all of the models examined, the study discovered a connection between social media use and lower marriage quality. It was also discovered that there was a 2.18% to 4.32% increase in divorce rates for every 20% annual increase in Facebook enrolment. According to the study's model based on the individual survey results, married individuals who do not use social media are 11% happier than those who do. Social media makes it simple for a suspicious or jealous spouse to look up details about their significant other's interactions. Whether or not suspicions are justified, finding something on a partner's Facebook account can make people feel uncomfortable in their relationships. This frequently results in heightened jealousy, conflict, and surveillance in a relationship. In fact, studies have shown that people report feelings of distrust and jealousy more when they monitor their partner's Facebook activity.

Furthermore, based on "Can Social Media Habits Lead to Divorce?" by Zandri (2023), he argued that due to social media has been identified as a primary factor contributing to marital discord that ultimately results in divorce. It can be as easy as everyone's attention being drawn to a smartphone or as complex as hidden identities, secret profiles, and so forth. Social media has a negative impact on marriages, but it can also lead to significant arguments in other types of relationships, including those between parents and children, co-workers and superiors, and friend groups. Since social media has become a vital component of both social and business interactions, finding solutions to these problems is difficult. Social media, on the one hand, enriches our lives with many advantages, such as keeping us in touch with people around the world and in different time zones. However, it can also disseminate false information and divert our attention from deeper "in real life" interactions.

Moreover, according to the study of "Social Media and Divorce: The Problems it Creates" by Tees Business (2022), it is unquestionably that social media has a significant impact on our daily lives some could even say an obsessive one. According to data, social media may now play a role in one out of every seven divorces, and a comparable proportion of people acknowledge that they search the internet for proof that their spouse has cheated on them. One in five couples have reported having daily arguments as a result of social media. Finding out who your partner was chatting to online was the most frequent reason to look into their social media accounts. Social media platforms, like dating apps, can sometimes make illicit behavior by one party easier to access, putting marriages at risk.

Lastly, Hollister (2023) mentioned in her article which is "Social Media and Divorce: The Connection Need You Know" that social media platforms play a crucial role in our lives in the connected world of today, impacting our interactions, communication, and sharing of experiences but even with all of social media's advantages and possibilities, there is a complicated web of drawbacks, particularly in terms of interpersonal relationships. They talk about the complex connection between social media and divorce, illuminating the ways in which internet platforms have both facilitated and exacerbated the breakdown of marriages. Then, explore the complex dynamics that social media brings into the divorce process, from increased jealousy and infidelity worries to evidence collection and its effects on court cases. Let's examine the specific areas where divorce and social media collide.

Methodology

The research design is the form of a qualitative study that is by using the content analysis method. The analytical study is made by collecting materials from primary and secondary sources obtained by using the library research method which is to find, collect, read and analyse materials that are related to the research to be done. The primary material for this study are legislation such as Selangor State Islamic Family Law Enactment 2003 and data gathered by Department Statistics in Malaysia. The secondary material are books, journals, thesis, articles and the others.

This study also uses the method of analyzing the data and materials obtained to ensure that this study can achieve the objectives of the study. This study also uses the approach by gathering information about the divorce among Muslims in the digital age as well as issues related to the topic of the study.

Results and Discussion

The research examines the social factors that contribute to divorce in the digital age within the Muslim community. In the first place, despite their diversity and differences, marriage and its problems have drawn a lot of attention from the media because of their significance and link to the conditions facing Muslim families that are currently suffering from the breakdown of marriage as a result of divorce cases in most societies. The broadcasting of real-life stories about the effects of divorce and its aftereffects on women and children, as well as the dissemination of various fatwas through these media and programmes and the hosting of elders, educators, psychiatrists, and behaviour therapists, demonstrate the media's role in either increasing or decreasing the number of divorce cases.

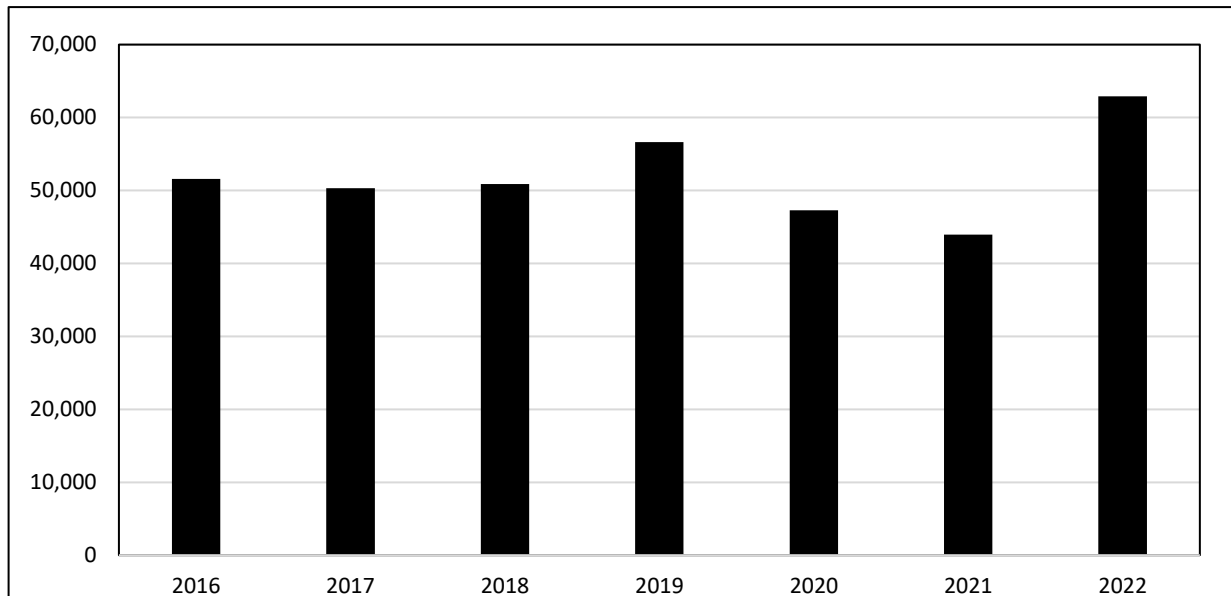
Furthermore, this research identify the legal challenges and implications that arise in divorce among Muslims in Malaysia. In detail, the researcher is focused on what is the legal challenges and implications arise the divorce among Muslims in Malaysia that influence from the digital era. The research focuses on the significance of linking financial in the implications and legal with larger social and ethical aims.

Then, the research project explores the impact of online platforms and communication on marital relationships within the Muslim community. Hence, the laws have their rules that also help the problems after divorce especially through the digital era. Understanding the impact of such to know how long the truth about it.

Divorce Trends in Malaysia

Generally, Malaysia has an interesting background when it comes to divorce. There have traditionally been well known and large variations in the divorce rates between Malays, Chinese, and Indians in Peninsular Malaysia similarly to Muslim and non-Muslim. According to Jones (2021), there were three methods to measure divorce which are measures based on the current marital status of the population, numbers of divorces registered in a given time period and cohort measures. Based on the Department of Statistics Malaysia (2022), a significant increase in divorce cases in Malaysia last year up from 43,936 in 2021 to 62,890 was primarily likely caused by the COVID-19 lockdown. Even so, one expert pointed out that there may be a silver lining to the surge in cases: it may indicate a greater awareness of the importance of mental health in relationships. The Department of Statistics Malaysia (DOSM) released data on Thursday, 23 November 2022, indicating that the number of divorce cases increased by 43.1% in 2022 compared to the previous year, with Muslim divorces accounting for the majority of these cases. 46,138 divorce cases involving Muslim couples were reported in 2022 out of 62,890 total divorce cases. According to the Department of Statistic in Malaysia, Chief Statistician Uzir Mahidin, this represents a 45.8% increase from the previous year (Experts Say, 2022).

Table 1. Number of Divorces in Malaysia between 2016 to 2022



The digitalisation has affected the trends shown in the graph. For example, before turning in for the night, a lot of people pore over their Instagram followers and Facebook news feeds. However, this might not be the best solution for a failing marriage. Researchers from Pontificia Universidad Católica de Chile and the University of Boston examined state-by-state divorce rates to per-capita Facebook accounts for their study, which was published in the journal, *Computers in Human Behaviour*. They discovered a clear link between social media use and lower marital quality. It is only a matter of time until divorce statistics begin to correlate with social media use. In a married relationship, excessive digital age use can breed jealousy and frequently result in serious communication problems. If social media use is unmonitored, it can lead to divorce. (Stevens, 2021)

Numerous studies indicate that infidelity or extramarital affairs, a lack of commitment, excessive conflict and arguing and a lack of physical intimacy are the four main reasons for divorce. Incompatibility between partners and a lack of common interests are the least frequent causes. These are the factors of most common reasons for divorces:

- i. Too much conflict, incessant arguing
- ii. Lack of commitment
- iii. Infidelity affairs
- iv. Lack of emotional stability
- v. Communications problem between partner
- vi. Domestic violence
- vii. Opposing values
- viii. Addiction: Alcohol, drug, gambling
- ix. Have relationships with others on social media.

There must be some factors and causes that contribute to a higher divorce rate among Muslim couples in Malaysia, based on the country's divorce statistics. Physical and emotional factors are two of the many reasons why a husband and wife separate, according to Datuk Setia Dr. Haji Mohd Naim bin Haji Mokhtar, the Director General of the Syariah Judiciary Department of Malaysia (JKSM). The primary reasons that have been found include infidelity, family interference, financial difficulties, and a lack of communication between partners. Divorce can also result from a number of different types of violence, such as emotional and physical abuse (Rodzi, 2022).

On the other hand, a husband's neglect of his responsibilities is the primary reason Muslim couples in Malaysia file for divorce. The husband has a duty to uphold his wife's rights as the head of the home. Proper fulfillment of this right will undoubtedly lead to happiness and peace in the household, as well as feelings of compassion and love for one another. The rights of a wife include dowry, good treatment, and external and internal alimony, which includes meeting basic needs like food, clothing, shelter, health care, and education, depending on the husband's capacity (Mohamad et al., 2021).

One of the reasons for divorce is poor communication and comprehension. Spoken language abuse, misinterpreting one's spouse, speaking a foreign language, and other problems are examples of communication problems. Successful and happy relationships depend on open communication (Jones, 2021).

By communicating openly and honestly, a married couple can show that they trust, respect, and are obliging to each other's opinions. Furthermore, good communication keeps a marriage strong while bad communication can turn a small disagreement or argument into a reason to file for divorce (Hollister, 2023).

Additionally, a lack of communication will make the couple's conflicts and related behaviours worse. Each side may start acting in ways that are meant to irritate and lay blame on the other. Ultimately, this leads to ongoing arguments that cannot be solved without good communication skills and, in turn, unfortunately leads to many problems, particularly divorce (JM Gottman, 2002).

Influence of Digitalisation on Divorce Among Muslims in Malaysia: Social and Implications

These days, the use of digitization has a significant impact on people's lives to the point where it contributes to divorce by shortening marriages. Some single people feel challenged, for instance, when they see their friends, favorite musicians, or family members sharing their wedding pictures on social media. Then, in an attempt to prove that he is also capable of marriage, the person looks for a mate and gets married right away. It is not consistent with the primary objective of marriage when the spouse's sole aim is to demonstrate to the digital world that he is also capable of doing so. Divorce requests are frequently made by people who are in a rush to find a mate and don't have time to get to know the next person's heart when something goes wrong. What's more concerning is that the person is proud to have announced his divorce on digital media. This amply demonstrates how a person's use of the digital age can impact various aspects of their life, such as the reason for marriage and divorce (Beryl Annette, 2021).

There are some of the factors that cause of divorce which are too much conflict and incessant arguing. Dr. Howard Markman, a psychologist, states that "the single most important predictor of whether your marriage will survive is how you handle conflict." (Howard Markman, 2019). Nobody considers bitter arguments, continual strife, and nightly arguments before bed to be signs of a happy marriage. In a healthy marriage, your partner serves as both your rock and your biggest supporter during difficult times. Your spouse is just as emotionally dangerous in a high-conflict marriage as an awful boss. If therapy or marriage counseling are not used to break this downward spiral, it will continue until divorce is the only option left. Your spouse is just as emotionally dangerous in a high-conflict marriage as an awful boss. If therapy or marriage counseling are not used to break this downward spiral, it will continue until divorce is the only option left.

Then, there is lack of commitment. Marriage requires commitment from both partners in order to be happy and healthy. Sadly, all it takes for a marriage to fail is for one partner to be uncommitted to the union. The marriage will eventually suffer if one partner isn't fully devoted to the other. Sometimes, the partner who is still devoted to the union feels that if they put in more effort, they can save the marriage on their own. After the initial shock and disbelief of their marriage's inevitable end wears off, their rage at being used and taken advantage of during the relationship may cause a very challenging divorce.

After that, the next factor is infidelity affairs. Being betrayed by someone who promised to be faithful to you forever is a terrible pill to swallow, and most people don't think it's an offence that can be forgiven. Although adultery doesn't always result in divorce, it does ruin your perception of your union.

Lastly, there is lack of emotional stability. Intimacy on both an emotional and physical level "greases the wheels" of a successful partnership. But when they leave, major problems in relationships frequently

replace them. Some of the most serious problems are communication breakdown, anger, resentment, sadness, loneliness, infidelity, and significantly low self-esteem. If these problems are not addressed, they can cause irreversible harm to a relationship and lead to divorce. Your sexual life will most likely suffer when there is little to no emotional intimacy. Your union may turn into a sexless one if you feel emotionally cut off from your partner. Try to recall the reasons you fell in love with your partner and deliberately try to see them through those glasses to rekindle the flame (Farveh Farivar, 2019).

The way people communicate has changed dramatically in the digital age. Technology makes communication quicker and easier, but it can also lead to misunderstandings and miscommunications, which can cause problems in relationships and even result in divorce.

Next, the popularity of online dating and the capacity to communicate with people everywhere may have an effect on the dynamics of traditional relationships. Online dating presents a distinct set of difficulties from more conventional forms of courtship because it allows couples to meet. Relationships can be affected by social media, either positively or negatively. Couples could struggle with issues like jealousy, privacy, or the effects of sharing private information online.

Then, work-life balance has also been impacted by the digital age, as people are frequently connected to their jobs via a variety of digital gadgets. This continual connectedness can cause stress, have an adverse effect on family dynamics, and possibly exacerbate marital problems. The internet's wealth of knowledge and exposure to many viewpoints can affect people's values and beliefs. This could exacerbate partner disagreements over beliefs and values, which could result in violence (Petersen, 2021).

It is noteworthy that divorce rates are also significantly influenced by economic conditions, legal frameworks, and societal and cultural factors. It would be essential to refer to recent research or official statistics from pertinent Malaysian authorities for precise and current information. Researchers, social scientists, and government organizations frequently carry out studies to comprehend the different factors influencing divorce rates in a particular area.

Divorce damages society by breaking up families and eroding support for the family as a fundamental social unit. For sociologists, the family is more than just a uniting force between people through marriage, blood, or adoption; it also offers its members the emotional, material, and educational support they require to succeed in society. Divorced adults and their kids become less useful social members when they lack this support because they are psychologically and physically weakened. In general, divorce causes people to question the value of starting a family (Stevens, 2021).

Digitalization can have an impact on relationships and divorce procedures in a number of ways, including before, during, and after the divorce. This is how each stage could be affected by digitalization:

Before Divorce

First, digital platforms' increased connectivity has the potential to change how people communicate. People may be exposed to new social circles or have interactions through social media, messaging apps, and online platforms that could strain their current relationships.

Second, digital platforms and apps play a significant role in how people meet and form relationships. While this can contribute to the beginning of relationships, it might also lead to challenges in existing marriages if one partner engages in online interactions that are perceived as inappropriate.

Lastly, due to the widespread use of digital devices, there is a chance that records of conversations, actions, or behaviours will be in digital format. This may come up during a divorce, as allegations of adultery, financial difficulties, or parental concerns may be supported by digital evidence.

During Divorce

First, legal procedures are using more and more digital tools. In order to facilitate communication between attorneys, clients, and the court during divorce proceedings, email, online document sharing, and digital communication platforms may be used.

Second, divorce cases may involve social media. Posts, images, and other online activity can be examined and utilised as proof in cases involving child custody, money problems, or the conduct of either partner.

Lastly, online support groups and forums have become more prevalent in the digital age, providing a platform for divorcing individuals to interact, exchange stories, and get guidance. These resources can offer emotional support when things are hard.

After Divorce

First, coordination and communication between divorced parents can be facilitated by digital tools made for co-parenting. These apps might have functions for managing expenses, scheduling, and exchanging vital child information.

Second, after a divorce, people may use online dating services to meet new people. The advent of digital technology has increased the opportunities for making new friends and establishing more committed relationships.

Third, financial management following a divorce may be impacted by the digitalization of financial procedures. The financial effects of divorce can be managed by using digital tools for online banking, financial planning, and budgeting.

Lastly, after a divorce, some people use social media as a platform for self-reinvention. They might present a polished picture of their post-divorce identity by showcasing new pursuits, successes, or life changes.

It is important to remember that, despite the many advantages and opportunities that come with digitalization, there are also new risks and things to think about, especially when it comes to security, privacy, and the possible effects of digital activity on legal issues. In order to successfully navigate the complexities of the digital era in the context of divorce, people going through a divorce should be aware of these dynamics and, when necessary, seek professional advice.

Influence of Digitalisation on Divorce Among Muslims in Muslims in Malaysia: Legal Challenges and Advantages

In terms of divorce by way of *talaq*, either party must file for divorce according to the respective State Enactments, for example section 47 of the Islamic Family Law (Federal Territories) Act 1984 (IFLA). The IFLA contains no explicit language regarding divorce via electronic means. Any *talaq* that is pronounced against the law or outside of court is covered by sections 55A and 124; a divorce that is pronounced outside of court carries a penalty. Therefore, if the divorce takes via email, WhatsApp, Skype, video conferencing and others is an offence and if the divorce is confirmed by the court, the husband will have to pay a fine. (Malaysia Federal legislation, 2023)

Furthermore, according to Ayub (2018) a fatwa published by Mufti Department of the Federal Territory listed the following:

- i. Written *talaq* that is addressed directly to the wife via email, fax, or SMS is a *kinayah* form of *talaq* and can be effective if combined with intention. The SMS divorce procedure will adhere to the Muslim jurists' interpretation of the written *talaq* principle.
- ii. Should this type of *talaq* be issued, the parties must submit it to the Syariah Court, which will determine its efficacy.
- iii. *Talaq* delivered via electronic means is a form of *talaq* that deviates from accepted Islamic ethics which is *adab*.

According to the Mufti Department of the Federal Territory, the divorce statement is included under *kinayah*. This coincides with the 59th Muzakarah decision of the Fatwa Committee of the National Council for Islamic Religious Affairs of Malaysia, divorce in the form of a clear written form from the husband addressed to his wife specifically such as via facsimile, SMS, e-mail and so on is divorce by way of abuse and it is valid if accompanied by intention. All divorces must be submitted to the syariah courts

to confirm the divorce. *Talaq* that is done using modern communication tools is a method of divorce that does not comply with the divorce etiquette outlined by Shariah.

Dar al-Ifta' al-Misriyyah states the same thing that divorce pronounced through a short message (SMS) or the like is included in divorce by *kinayah*. *Talaq* like this will not happen unless the husband really intends to divorce his wife. This is because, this brief message is included in the *khavar* (news) which may be true and may be false. When something like this happens, the husband will be asked about his intentions. If he really intends to divorce his wife, then it is counted (divorced). If otherwise, then it will not count (Ayub, 2018).

Therefore, according to the Mufti Department of the Federal Territory, divorce does not fall or take place if the husband does not intend to divorce his wife when he sends the order. In relation to enforcement in terms of alimony, especially child alimony, according to the Selangor State Law Enactment, Section 74 (1) like the court can at any time order a man to pay alimony for the benefit of any of his children. Whereas, Section 74 (2) like the court is also empowered to order a person who is responsible under Syaria law to pay or contribute towards the maintenance of a child if the court is satisfied that considering his ability it is reasonable for the court to order such. Meanwhile, Section 74 (3) that is, an order under subsection 1 or 2 can order that payment be made to the person who looks after or preserves the child or to the child's trustees. (Islamic Family Law (State of Selangor) Enactment 2003, 2019)

The Judicial Department of the Malaysian Syaria Court (JKSM) uses methods such as demanding contributions from the Employee Provident Fund (EPF) and from the ex-husband's bank account to pay alimony to the divorced wife, after being decided by the Syaria Court. The Family Support Division (BSK) of the department will give the husband a period of six months after the court decides, to pay the divorced wife's alimony.

There are several legal issues when it comes to how divorce among Muslims in Malaysia is impacted by digitization. Initially, there is a possibility that digital evidence, like emails or messages, will not be accepted as admissible, so there should be explicit legal guidelines regarding the acceptance and authentication of such evidence during divorce proceedings.

Because divorce proceedings are sensitive, there is a risk of unauthorized access and data breaches on digital platforms, which raises privacy concerns. It becomes critical to protect people's right to privacy, which calls for strong cybersecurity defenses and legislative protections to deal with these possible threats.

When parties to a divorce file online and live in different states, jurisdictional issues may occur. In the digital sphere, defining legal jurisdiction and enforcing rulings internationally become critical challenges.

On the plus side, more legal resources and information are accessible thanks to digitalization. Online resources can provide individuals seeking information about divorce procedures, rights, and responsibilities with guidance and possibly even a better understanding of the legal system.

Another benefit is the simplification of documentation procedures, as digital platforms facilitate the filing and handling of divorce-related documents. This can improve productivity, lessen the workload for administrative tasks, and make the legal system easier to access and use.

Furthermore, the possibility of online dispute resolution processes can offer a different way to settle disagreements. Platforms for virtual arbitration or mediation may provide effective and affordable solutions for parties looking to resolve disputes amicably.

For utterances issued through the digital age such as WhatsApp, Facebook, Instagram and so on, it is considered to be a dissolution of marriage if it is uttered with intention. However, specific laws to deal with issues concerning pronouncement of *talaq* online have not yet been implemented. (Norbert F. Schneider, 2021)

With this era of digitization, the law can deduct from the bank accounts of ex-husbands who do not want to pay child support. This proves that the era of digitization can to some extent help those responsible in ensuring that children get the rights that they deserve. The court can also monitor the ex-husband's bank account and find out how much the husband has spent on child support.

Conclusion

In conclusion, there is a need for clearer laws. For example, if the court procedure is still going on, certain people should not be allowed to post or issue any statement because this interferes with the court process. Restrictions like this have not yet been enforced on the case under Islamic family law in Malaysia. The current legislation can be amended to better suit the progression in the use of technology when it comes to issues relating to marital relationships. This includes a legal prohibition that if the court procedure is still going on, spouses and family members cannot post or issue any statement on the divorce proceedings. This is also to ensure that the privacy of the household and emotions of the children are protected. There should be an increase in efforts to make people aware of the impact of social media on the family institution.

References

- Alis, H. R. Y. (2023, November 13). 43% spike in Malaysia's divorce cases last year due to effects of COVID-19 lockdown, experts say. CNA. <https://www.channelnewsasia.com/asia/malaysia-divorce-cases-muslim-marriage-covid-pandemic-lockdown-polygamy-3943771>
- Alkhateeb, M., Al-Masalha, H., & Alsalti, M. (2023). The impact of divorce through media on Muslim society. *Journal of Namibian Studies: History Politics Culture*, 34, 752–769.
- Ayub, M. M. (2018, November 21). Al-Kafi #1014: Cerai menggunakan aplikasi WhatsApp. Pejabat Mufti Wilayah Persekutuan. <https://muftiwp.gov.my/ms/artikel/al-kafi-li-al-fatawi/2967-al-kafi-1014-cerai-menggunakan-aplikasi-whatsapp>
- Azmawaty Mohamad Nor, Aga, R., Mohd, F., & Ahmad, N. (2013). From nasty to healthy divorce: A marriage and family therapy model for working effectively with divorcing Malay-Muslim couples. *MOJPC: Malaysia Online Journal of Psychology & Counselling*, 1(1). <https://mjcs.um.edu.my/index.php/MOJPC/article/view/5561>
- Bunyan, J. (2022, November 25). Stats dept: Higher number of marriages, fewer divorces recorded in 2021. *Malay Mail*. <https://www.malaymail.com/news/malaysia/2022/11/25/stats-dept-higher-number-of-marriages-fewer-divorces-recorded-in-2021/41882>
- DAME Legal. (2020). 10 signs your spouse is having an affair | How to spot a cheating spouse. <https://damelegal.com/blog/signs-spouse-having-affair/>
- David. (2019). *Divorce in the digital age: How technology affects your settlement*. Sherer Law Offices. <https://shererlaw.com/divorce-in-the-digital-age-how-technology-affects-your-settlement/>
- Enderson, A. (2016, Mac 30). *Divorce in the digital age*. Southern Waters Legal. <https://www.southernwaters.com.au/2016/03/30/divorce-in-the-digital-age/>
- Endut, N. (2015). Reconstructing justice for women in the courts: An investigation of Syariah court processes in Malaysia. Dalam *Gendered Entanglements: Revisiting Gender in Rapidly Changing Asia* (hlm. 263–293). NIAS Press.
- Hollister, K. (2023). *Social media and divorce: The connection you need to know*. Marriage Advice - Expert Marriage Tips & Advice. <https://www.marriage.com/advice/divorce/social-media-and-divorce/>
- Jeffanderson. (2015). *Divorce in the digital age*. <https://www.jeffandersonfamilylaw.com/divorce-in-the-digital-age/>
- Jones, G. (2011). Trends in marriage and divorce in Peninsular Malaysia. *Population Studies*. <https://www.tandfonline.com/doi/abs/10.1080/00324728.1980.10410390>
- Jones, G. W. (2021). Divorce in Malaysia: Historical trends and contemporary issues. *International Journal of Interdisciplinary and Evolutionary Studies*. <https://ijie.um.edu.my/index.php/ijie/article/view/32749>
- Malaysia. (2003). *Enakmen Undang-Undang Keluarga Islam Negeri Selangor 2003* (Enakmen No. 2 Tahun 2003). Jabatan Kehakiman Syariah Selangor. <https://www.mais.gov.my/wp-content/uploads/2020/10/ENAKMEN-UNDANG-UNDANG-KELUARGA-ISLAM-NEGERI-SELANGOR-2003.pdf>
- Malaysia. (2019). *Islamic Family Law (State of Selangor) Enactment 2003*. Joshua Legal Art Gallery. <https://www.joshualegalartgallery.com/products/islamic-family-law-state-of-selangor-enactment-2003-and-rules-together-with-malay-version>
- Mohd, A. (2020). *Talaq through electronic medium under Islamic and Malaysian law: The impact on "Iddah and Ruju"* [Kertas kerja]. International Islamic University Malaysia.

- <http://irep.iium.edu.my/86281/1/Talaq%20Nscf2020.pdf>
- Pauzi, A. (2018, November 11). Wujud mekanisme khas bantu tuntutan nafkah. *Berita Harian*. <https://www.bharian.com.my/berita/nasional/2018/11/496848/wujud-mekanisme-khas-bantu-tuntutan-nafkah>
- Sell, L. (2023). *How social media affects marriage*. McKinley Irvin. <https://www.mckinleyirvin.com/resources/digital-divorce-a-guide-for-social-media-digital/how-social-media-affects-marriage/>
- Stevens, V. (2021). *What is an unstable emotional household in a divorce?* Law for Families. <https://www.lawforfamilies.com/12718035-what-is-an-unstable-emotional-household-in-a-divorce.html>
- Tees Business. (2022, Ogos 11). *Social media and divorce: The problems it creates*. <https://teesbusiness.co.uk/2022/08/11/social-media-and-divorce-the-problems-it-creates/>
- Widiantari, M. M., Pawito, Utari, P., & Nurhaeni, I. D. A. (2019). Social media effect on divorce. *AICOSH* 2019. <https://doi.org/10.2991/aicosh-19.2019.34>
- Woods, O. (2019). Mobilising dissent in a digital age: The curious case of Amos Yee. *Geopolitics*. <https://www.tandfonline.com/doi/abs/10.1080/14650045.2019.1611561>
- Zandri, P. (2023, April 19). *The short answer is yes - social media has been reported as a leading cause for marital rifts...* LinkedIn. <https://www.linkedin.com/pulse/can-social-media-habits-lead-divorce-paige-zandri>