

Efforts to Address the Rising Cases of Divorce: Mahmud Syaltut's Perspective

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ABSTRACT

This study is motivated by the limited research on preventive measures against divorce, despite its significant impact on family stability and social harmony in Muslim communities. The study aims to describe and analyze Mahmud Syaltut's perspective on overcoming the increasing number of divorce cases. The research adopts a qualitative descriptive design, using literature as the primary source, with data collected by visiting libraries and examining books and scholarly works relevant to the research theme. Data were analyzed through thematic analysis and presented descriptively to provide a comprehensive understanding of preventive strategies. The findings reveal that tackling the rising divorce rate can be achieved through four main measures: selecting a prospective wife with noble morals and strong religious commitment, proposing marriage according to proper Islamic procedures, ensuring that husband and wife uphold their respective rights and obligations after marriage, and avoiding domination or undue interference by parents or extended family in family matters. These results align with the objectives of the study and support existing Islamic legal scholarship emphasizing ethical marital conduct, moral integrity, and family stability. The study concludes that Mahmud Syaltut's guidance provides practical and ethically grounded strategies that can serve as a reference for married couples, families, and society. The implications encompass theoretical contributions to Islamic family law literature and practical recommendations for policymakers, religious scholars, and community leaders to promote marital education, counseling, and preventive measures against divorce. Additionally, this study identifies future research opportunities on empirical testing of these preventive strategies in diverse social and cultural contexts.

INTRODUCTION

The increasing number of divorce cases occurring in society in recent years has become a phenomenon that urgently requires effective solutions. According to Dahris Siregar et al. (2023), data collected by the Religious Courts Agency (BADILOG) shows that the number of divorces in Indonesia continues to rise annually. In 2022, the number increased significantly, reaching 516,334 cases, or approximately 15.31% higher than the 447,743 cases recorded the previous year.

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According to these national statistics, this marks the highest number of divorce cases within the last six years.

Based on information from the Gunung Jati Office of Religious Affairs (KUA) as cited by Sri Hariati (2023), Indonesia currently ranks among the countries with the highest rates of marital divorce, surpassing many other Muslim-majority nations. Data from the Director General of Islamic Community Guidance at the Ministry of Religious Affairs indicates that although two million marriages occur annually, the alarming trend is that the number of divorces has doubled—meaning that out of every 100 married couples, 10 eventually divorce. A considerable number of these divorces occur among newly married couples.

Most failed marriages are found among Muslim households. The rising number of divorces should not be considered a normal societal occurrence. While divorce among lower-income groups has traditionally been driven by economic factors, divorce is now increasingly common among middle- and upper-class families who are economically stable.

According to Erni & Tajul Arifin (2025), the number of divorce cases has shown a worrying upward trend in recent years. Among the various types of divorce, one that is frequently found is unilateral divorce conducted without legal procedure, commonly referred to as “unregistered divorce.”

Considering the prevalence and magnitude of divorce cases described above, this study becomes both important and relevant as a means to educate the public comprehensively. It serves as a preventive effort to ensure that divorce practices do not continue to escalate and are not treated as something trivial.

Regarding previous studies, several works are related to the present research. For example, the legal study by Dahris Siregar et al. (2023) on divorce rates and their effects on children describes various aspects of divorce but does not discuss efforts to curb the rising divorce trend. Similarly, the article “Divorce in Normative-Juridical and Psychological Perspectives” by Nida Rafiqza Izzati et al. (2024) explains divorce from normative juridical and psychological viewpoints but does not address preventive measures.

Another related study is the article titled “Legal Analysis of the Causes of Divorce Based on Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law: A Study at the Giri Menang Religious Court, West Lombok” by Sri Hariati (2023). This work discusses issues related to divorce, including the efforts made by the Giri Menang Religious Court to reduce divorce rates.

What distinguishes the present research from previous studies is its specific focus on describing efforts to address the rise in divorce cases from the perspective of Mahmud Syaltut. In contrast, Sri Hariati (2023) outlines the efforts undertaken by the Giri Menang Religious Court in West Lombok. The shared similarity lies in their mutual aim to prevent the escalation of divorce cases.

The preventive measures undertaken by the Giri Menang Religious Court include: (1) conducting mediation forums to reconcile conflicting spouses and restore harmony; (2) providing counsels during court sessions on the importance of maintaining family unity and the potential consequences of divorce for both spouses and their children; and (3) offering legal education to the public (Sri Hariati, 2023).

Thus, the research question is: What crucial efforts must be undertaken to address the increasing number of divorce cases from Mahmud Syaltut’s perspective? The purpose of this study is to explore and reveal in depth the preventive measures against the rising trend of divorce as viewed by Mahmud Syaltut. Addressing this research question is essential so that the findings may

benefit society and contribute to the realization of harmonious families among Muslims, which in turn fosters a safer and more stable life for the nation and the state.

METHODS

1. Research Type

This study adopts a qualitative research approach, because the aim is to explore and meanings, perspectives, and normative-pedagogical views of Mahmud Syaltut on divorce prevention — rather than measuring variables quantitatively. Qualitative methods allow researchers to collect rich, contextual, and in-depth data through words, observations, or documents rather than numbers (Creswell & Poth, 2018).

2. Research Design

This research employs a qualitative case study design, focusing on the “case” of Mahmud Syaltut’s perspective on divorce prevention. As argued by qualitative methodologists, a case study design is appropriate when the researcher seeks to understand how or why a phenomenon occurs within its real-life context, especially when the boundaries between phenomenon and context are not clearly defined (Miles, Huberman, & Saldana, 2014; Yin, 2003). Thus, this design enables a holistic, contextual, and detailed exploration of Syaltut’s teachings, normative recommendations, and their relevance — in greater depth than survey or purely descriptive designs would allow (Miles et al., 2014).

3. Population and Sample

In qualitative case study research, the “population” refers to relevant sources and social actors rather than a large statistical population (Stake, 1995). Therefore, in this study the “population” includes:

- a. Written works by or about Syaltut (books, articles, sermons, speeches).
- b. Transcripts or recordings of lectures or sermons (if available).
- c. Individuals (informants) such as scholars, religious leaders, community members — who are familiar with or influenced by Syaltut’s thinking.

Sampling will be done by purposive sampling (non-probability), deliberately selecting sources and informants based on their relevance and richness of information about the research question (Tongco, 2007; Ames, Glenton & Lewin, 2019). In qualitative research, purposive sampling is justified when the researcher aims for depth and insight rather than statistical generalization (Tongco, 2007). Data collection and sampling will continue until data saturation — the point at which additional data no longer produce new themes or insights (TheGear Consulting, 2024).

4. Data Collection Instruments and Techniques

Data will be collected primarily through document analysis (Syaltut’s writings, publications, sermons) and semi-structured interviews with selected informants. Document analysis allows researchers to examine original normative content, while semi-structured interviews enable capturing informants’ understanding, experiences, and reflections on how Syaltut’s teachings are perceived and applied (Miles et al., 2014; Qualitative Methods in Health Care Research, 2021). The procedures will include:

- a. Identifying and gathering relevant documents (books, articles, recorded sermons/speeches) that discuss marriage, divorce, family, social ethics.

- b. Selecting documents based on inclusion criteria related to the research focus (divorce prevention, family unity, normative teachings).
- c. Designing an interview guide with open-ended questions to explore informants' understanding of Syaltut's perspective on divorce prevention, perceived relevance, and social implications.
- d. Conducting interviews (face-to-face or online), ensuring informed consent, confidentiality, and ethical treatment of participants.
- e. Transcribing interviews verbatim (if recorded); organizing and cataloguing documents and transcripts systematically for analysis.

Given the qualitative nature of the study, traditional statistical validity/reliability measures (e.g., Cronbach's alpha) are not applicable. Instead, the researcher will ensure trustworthiness (credibility, dependability, confirmability, transferability) through triangulation (multiple data sources), member checking (confirming interpretations with informants), and providing rich, thick descriptions (Miles et al., 2014).

5. Data Analysis

Data will be analyzed using thematic analysis / qualitative content analysis, following the interactive model described by Miles, Huberman & Saldana (2014). The analysis process consists of: data condensation (coding and reducing data into meaningful segments), data display (organizing codes into themes or categories), and conclusion drawing / verification (interpreting themes in relation to research questions, cross-checking with context and source data) (Miles et al., 2014; South & East Metropolitan Health Service, 2015).

If available, qualitative data analysis software (e.g., NVivo, Atlas.ti) may be used to help manage and code data systematically; otherwise, manual coding remains acceptable given the manageable scope of the data (Miles et al., 2014). Thematic analysis will aim to identify the main "preventive efforts" advocated by Syaltut, the underlying principles, context, and their potential applications in contemporary Muslim society.

RESULTS

1. Key Preventive Measures Against Divorce According to Mahmud Syaltut

Based on the research conducted, the author presents the findings regarding the efforts recommended by Mahmud Syaltut to address the increasing prevalence of divorce cases, as follows:

First: Selecting a prospective wife who possesses noble character and religious devotion. This is in accordance with the instruction of the Prophet Muhammad (peace be upon him) in the hadith narrated by Abu Hurairah (ra):

"Women are married for four reasons: for their wealth, their lineage, their beauty, and their religion. Therefore, succeed by choosing the one who is religious; may your hands be covered in dust." (Hadith narrated by al-Bukhari and Muslim).

The hadith indicates that a key factor in ensuring a long-lasting marriage is when a man chooses a woman primarily for her religious commitment. According to Muhammad Ismail al-San'ani (1059), the hadith shows that in all matters, befriending people of strong religious character is the best choice, for companionship with them allows one to benefit from their morals, blessings, and way of life. This is even more significant when choosing a wife, as she becomes a life partner,

the mother of one's children, the guardian of the husband's property, and a central figure in the home.

Second: Proposing to a prospective wife through Islamic procedures. This refers to the hadith instructed by the Prophet Muhammad (peace be upon him) from Ibn Umar (ra):

"None of you should propose to a woman who is already engaged to his brother until the previous suitor withdraws or grants permission." (Hadith narrated by al-Bukhari and Muslim).

Third: Husband and wife must uphold their respective rights and obligations after marriage. According to Sayyid Sabiq (2006), once a valid marriage contract is concluded between a man and a woman, three categories of rights must always be observed by both spouses:

- a. The rights due to the wife from her husband, such as the dowry (mahr), financial support, and fair treatment if the husband has more than one wife.
- b. The rights due to the husband from his wife, such as not refusing intimate relations without valid reason and not engaging in voluntary fasting without his permission.
- c. Mutual rights between husband and wife, including lawful marital relations and mutual enjoyment, inheritance rights, marital prohibitions due to in-law relationships, and the obligation to treat one another with kindness (*mu'asharah bil ma'ruf*).

Fourth: Avoiding parental or extended family interference in marital affairs. Both husband and wife must be vigilant regarding this issue, as such interference can lead to conflict and potentially divorce. This external interference is often referred to as the involvement of a "third party." According to Sri Hariati (2023), third-party interference is a common cause of divorce because it is a highly sensitive issue for any family. A third party can become a source of marital breakdown, particularly when a husband or wife becomes emotionally attached to someone else. This situation often becomes a grounds for filing for divorce.

2. Divorce from the Perspective of Islam

Muhammad al-Khudari explains that Allah has established regulations governing divorce just as He has set regulations for social life. Allah does not leave divorce as a practice that may lead to chaos; instead, He has instituted guidelines governing the marital bond to prevent harmful consequences. The regulations established by Allah include:

- a. Instilling hesitation when aversion toward a wife arises.

Allah commands: *"Live with them (your wives) in kindness; for if you dislike them, it may be that you dislike something in which Allah has placed much good."* This is consistent with the Prophet's saying: *"A believing man should not hate a believing woman; if he dislikes one of her characteristics, he will be pleased with another."* Likewise, wives are encouraged to pursue reconciliation, as expressed in Allah's command: *"If a woman fears ill-conduct or aversion from her husband, there is no blame upon them if they seek reconciliation, and reconciliation is best."*

- b. Appointing arbiters (*tahkim*) when conflict persists.

Allah instructs in Sūrat al-Nisā': *"If you fear discord between them, appoint an arbiter from his family and an arbiter from her family; if they desire reconciliation, Allah will bring harmony between them."* This directive addresses the entire Muslim community, but its implementation belongs to their representatives or governing authorities.

- c. If divorce becomes necessary after previous steps.

It must be carried out at the beginning of the wife's waiting period (*'iddah*), specifically during a state of purity in which no marital relations have occurred. Allah says: *"O Prophet, when you divorce women, divorce them for their waiting period."* The Prophet once admonished Ibn 'Umar for

violating this rule and instructed him to revoke the divorce and proceed according to Qur'anic guidance (Muhammad al-Khudari, n.d.).

d. The divorced wife must remain in her husband's home during the *'iddah*.

Allah states: "*Do not expel them from their homes, nor should they leave unless they commit a clear immorality.*" The concluding part of this verse explains the rationale behind this rule.

e. Upon the completion of *'iddah*.

The husband is given two options: either retain the wife in kindness or release her in kindness, in the presence of witnesses. Allah states: "*When they have reached the end of their waiting period, then retain them honorably or release them honorably; and call to witness two just men among you.*" Allah also affirms that the husband has greater right to take his wife back as long as the *'iddah* has not expired.

f. Allah prescribes different types of waiting periods.

For women who menstruate, the waiting period is three menstrual cycles: "*Divorced women shall wait by themselves for three periods.*" For women who are menopausal or do not menstruate, the waiting period is three months: "*As for those who no longer menstruate among your women, and those who have not menstruated—their waiting period is three months.*"

For pregnant women, the waiting period continues until childbirth: "*And for those who are pregnant, their term is until they deliver.*" (Muhammad al-Khudari, n.d.).

3. Scope of Divorce

a. Definition of Divorce

Linguistically, *cerai* (divorce) denotes *ballul qaidi*, meaning the untying of a bond. In Islamic law, divorce refers to a term used to release the marital bond (Muhammad al-Qasim al-Ghazi, n.d.).

Sayyid Sabiq states that *at-thalaq* is derived from *al-ithlaq*, which means *al-irsal* or *at-tark*, namely releasing or abandoning, as in the phrase *athtlaqtu al-asir idza halaltu qaidahu wa arsaltubu*—"I released the prisoner when I untied his bond and set him free." In Islamic law, divorce means releasing the marital bond and terminating the relationship between husband and wife (Sayyid Sabiq, 2006).

According to Taqiuddin Abu Bakar al-Husaini, linguistically *thalaq* means untying a shackle or releasing, as in the expression: *naqob thaliq ayy mursalah tara baistu syaa*. In Islamic law, therefore, *thalaq* is a term used for dissolving the marital bond. The term originates from the pre-Islamic (Jahiliyyah) era and was later adopted in Islam, as in the phrase *thalaqat al-mar'ah*, meaning a woman is divorced (Taqiuddin al-Husaini, n.d.).

Muhammad Syatha al-Dimyathi presents a similar explanation, noting that *thalaq* is a Jahiliyyah term formalized in Islamic law. However, divorce was not exclusive to the Muslim community; the pre-Islamic Arabs also used *thalaq* in the sense of untying, particularly regarding marital guardianship (*ballul ishmah*) (Muhammad Syatha al-Dimyathi, n.d.).

Furthermore, according to Syatha, the Jahiliyyah Arabs did not limit divorce to three pronouncements. Ibn 'Adil's tafsir narrates from 'Urwah ibn Zubair that early Muslims practiced divorce without numerical limits: a man could divorce his wife, and when her *'iddah* was nearly over, he would take her back only to divorce her again, repeating the pattern with the intention of causing harm (Muhammad Syatha al-Dimyathi, n.d.).

b. Legal Rulings on Divorce

The jurists differ regarding the legal ruling of divorce. However, the stronger opinion is that of the scholars who argue that divorce is prohibited unless necessary. These include the Hanafi and Hanbali scholars, whose basis is the Prophet's hadith: "*Allah curses the man who frequently tastes*

(women) and the woman who frequently changes husbands.” Their reasoning is that divorce constitutes ingratitude for Allah’s blessing of marriage, and such ingratitude is forbidden except in cases of necessity. Among these necessities, according to this school, are situations when a husband doubts his wife’s conduct or when he no longer harbors love for her. Thus, when there is no urgent need, divorce constitutes ingratitude and poor marital conduct, making the act reprehensible (*makruh mahzbur*) (Sayyid Sabiq, 2006).

Hanafi scholars provide a more detailed categorization: divorce may be obligatory, forbidden, permissible, or recommended. Obligatory divorce refers to the dissolution undertaken by two arbitrators (*hakamain*) appointed to resolve marital disputes when they consider divorce the appropriate solution. It also includes divorce by a husband who has practiced *ila’* (oath of abstinence) after waiting four months (Qur’an, al-Baqarah: 226–227).

Forbidden divorce is one pronounced without valid reason, as it causes harm to both parties and eliminates shared benefits. Recommended divorce occurs when a wife neglects her obligatory duties toward Allah—such as prayer—while the husband is unable to correct her conduct, or when she fails to preserve herself. Permissible divorce occurs due to certain reasons, such as the wife possessing poor or harmful character (Sayyid Sabiq, 2006).

According to Hanbali scholars, the legal status of divorce is even more detailed: it may be obligatory, forbidden, permissible, or commendable. Obligatory divorce includes that carried out by arbitrators to end marital hostility, as well as divorce following *ila’* after four months.

c. Types of *Ṭalāq* / Divorce

Based on linguistic formulations, divorce may be categorized into explicit (*ṣarih*) and implicit (*kinayah*). According to Imam Sayuti, explicit divorce occurs through the use of words such as *ṭalāq*, *firāq*, or *sirāb*, as in the husband’s statements: *tallaqtuki, anti ṭāliq, yā ṭāliq, yā nisfa ṭāliq, kullu ṭalāqatin awqa’tuhu, ‘alayki ṭalāqī, anti mutallaqah, yā mutallaqah* (Abdurrahman Sayuti, n.d.).

Implicit divorce occurs through indirect expressions, such as: *anti kbaliyah, anti bariyah, anti bain, anti haram, anti hurrah, anti wahidah, i’taddi, istabri’i rahimaki, ilhaqī bi-abliki, ighribī, idhbbī, ukbruji, safiri, tajarradi, istatiri, ilzami ath-thariq, ubudi, daini, bari’tu minki, la ḥajata li fiki, anti wa sya’nuki, kuli wasyrabi wankihi, lam yabqa bayni wa bayniki shay’un, lasti zanjatan li* (Abdurrahman Sayuti, n.d.).

d. Differences Between *Ṭalāq* and *Faskh*

According to the Hanafis, *ṭalāq* is the termination of the marital status and the determination of related rights such as *mahr*. *Ṭalāq* is counted from the total of the three pronouncements a husband possesses over his wife and occurs only within a valid (*ṣahih*) marriage contract. *Faskh*, however, is the annulment of the contract from its origin or the prevention of its continuation. It does not count toward the number of divorces and often occurs in a defective (*fāsīd*) contract or one without legal consequences (Wahbah Zuhayli, 2016).

Thus, the distinction between *faskh* and *ṭalāq* lies in three aspects. First, in essence: *faskh* annuls the contract from its foundation, removing the permissibility established by the marriage contract, whereas *ṭalāq* terminates the contract, and marital permissibility persists unless a final (*bā’in kubrā*) divorce occurs (Wahbah Zuhayli, 2016).

Second, in causation: *faskh* results from conditions that negate the marital relationship, such as the wife’s apostasy, refusal to embrace Islam, sexual relations between the husband and his mother-in-law or stepdaughter, or conditions attached to the contract that nullify legal consequences from the outset, including *khiyār bulūgh*, the guardian’s objection to an unequal marriage (*kafā’ah*), or *mahr* set below the standard (*mahr al-mithl*). In such cases, the contract lacks

binding legal consequence. Conversely, *ṭalāq* occurs only within a valid and binding contract, and it is a husband's right (Wahbah Zuhayli, 2016).

Third, in legal effect: *faskh* does not reduce the husband's remaining number of divorces, whereas *ṭalāq* does. Moreover, separation due to *faskh* does not entail an *ʿiddah* except in cases of apostasy, where Hanafis classify the separation as *ṭalāq* as a form of stern warning. If *faskh* occurs before consummation, the wife is not entitled to any *mahr*, whereas divorce before consummation entitles her to half of the stipulated *mahr*; if no *mahr* was specified, she is entitled to *mut'ah* (compensation) (Wahbah Zuhayli, 2016).

e. Causes of the Rising Cases of Divorce

In recent times, public discourse has increasingly centered on the issue of divorce. Many people have proposed various solutions to address this phenomenon, to the extent that these discussions nearly encroach upon the foundational principles of the Islamic law of divorce. In reality, however, Islamic law permits divorce only as a last resort, and even then, only after all constructive measures to preserve the marital relationship from reckless decisions have been exhausted. In confronting this phenomenon, it is sufficient for us to understand these preventive measures, safeguard ourselves, and educate our children. By identifying the real underlying causes—often speculative—for the increasing rates of divorce, we can focus our efforts on delivering appropriate decisions within the limits of established legal guidelines. In this way, families are protected from factors that threaten their stability and happiness, and Islamic law itself is shielded from unwarranted criticism concerning the institution of divorce (Mahmud Syaltut, n.d.).

A careful analysis of the causes of divorce reveals that the rising number of cases stems primarily from two central factors. First is the neglect of religious teachings pertaining to the formation of the family and the preservation of harmony between husband and wife. Second is the rigid adherence to a single legal school regarding the validity of divorce pronouncements, based on literal interpretation of wording or specific marital circumstances. Meanwhile, other legal schools—which are equally strong—do not consider divorce valid in many of those cases or expressions, thereby narrowing the possibilities for divorce to the limits established by Islamic law, which permits divorce only under emergency conditions aimed at achieving protection and resolution (Mahmud Syaltut, n.d.).

Erni and Tajul Arifin (2025) note that scholars emphasize that the decision to pronounce *ṭalāq* must be made with profound moral consideration, and only after all alternative avenues of conflict resolution—such as dialogue and reconciliation—have been pursued without success. Divorce is not viewed merely as a legal act, but also as a decision laden with significant ethical and social consequences.

f. Islamic Teachings on Preventing the Rise of Divorce

Mahmud Syaltut explains that in anticipating the prevalence of divorce, Islam provides several essential guidelines that warrant serious attention. These include:

First, guidance relating to choosing a spouse. Islamic teachings emphasize selecting a partner based on piety and good character. Islam warns against choosing a spouse solely for wealth, lineage, or social influence, as marriages built merely upon material considerations are prone to collapse once those material benefits disappear.

Second, guidance concerning the etiquette of engagement and proposal. Islam advises prospective spouses to see each other so they may understand one another's inclinations, warning against relying solely on information from intermediaries or hired matchmakers, and against

excessive pre-marital interaction. Marriages based on sudden encounters at the wedding night without prior viewing—as prescribed by Islamic guidance—or on excessive pre-marital intimacy often become fragile and prone to collapse. Evidence of such cases can be found in numerous reports regarding both men and women involved in engagements across newspapers (Mahmud Syaltut, n.d.).

Third, guidance on maintaining proper marital conduct after marriage. This includes fulfilling mutual rights and avoiding extreme attitudes. A husband should not impose excessive restriction (*tazammut*) on his wife—such as harboring unreasonable suspicion, closing off the home, prohibiting her from fresh air or visiting relatives—nor should he adopt the opposite extreme (*taballul*) of excessive permissiveness, allowing unrestricted attendance at celebrations, gatherings, or private meetings. Both extremes carry harmful consequences: *tazammut* leads to emotional explosion, while *taballul* results in moral decline and chronic resentment (Mahmud Syaltut, n.d.).

Marital breakdown is also often triggered by a spouse, particularly the husband, neglecting his responsibilities toward the household and children—such as rarely coming home or failing to maintain emotional closeness with his family (Hasmiah Hamid, n.d.–26).

Fourth, Islamic teachings advise married couples to avoid undue interference and dominance from family members in matters of love and personal feelings. Marriages controlled by external family influence often lead to hostility between spouses, instability, and eventual collapse. In such situations, families—especially parents—must understand that their happiness is tied to the happiness of their children. Their role is to strengthen the bonds of affection, not to weaken them. If parents fail to understand this reality, spouses must refrain from obeying them in matters that lead to divine displeasure, and instead advise them to cease engaging in behaviors that incite separation. The only way to resolve such issues is through thoroughly understanding the rights and responsibilities emphasized by Islamic law, and ensuring they are upheld by both spouses and their families. Governments and educational leaders must prioritize educating younger generations about these rights and responsibilities, which should be instilled from an early age—whether at home, in school, through newspapers, or via radio (Mahmud Syaltut, n.d.).

Similarly, social pressure and interference from either spouse's family frequently generate a desire for divorce (Hasmiah Hamid, n.d.–26).

g. Dangerous Fatwas Issued by Muftis

From another perspective, namely the legal rulings regarding the validity of divorce, we—as muftis and judges—have often issued fatwas declaring a divorce valid based on a particular madhhab, even when stronger evidence indicates that the divorce should not be deemed valid. My position is that I do not issue fatwas or legal judgments affirming the validity of divorce except when supported by the consensus of the Imams who clearly state its validity. This is because marital life exists based on *certainty*, and what is established with certainty cannot be annulled except by certainty as well. There is no certainty in a divorce whose validity is disputed. For this reason, we should not declare a divorce valid unless it is pronounced individually, with the clear intention of separation, during a state of ritual purity in which no intercourse has occurred, and while the husband is in a state of full mental responsibility (Mahmud Syaltut, n.d.).

Similarly, we should not validate conditional (*mu'allaq*) divorces—for example, when a husband says, “If you do this, you are divorced,” while he neither desires nor intends divorce. The same applies to statements uttered jokingly or in jest, such as “You are divorced,” or the words of a merchant who swears, “I must be divorced if this item is of such-and-such type,” or “I am divorced if this is not of that type,” or “I am divorced unless she eats or does such-and-such.”

Divorce also does not take effect if the wife is menstruating, in a state of postpartum bleeding, or during a period of purity in which intercourse has occurred. If a husband pronounces a divorce during a period of purity in which intercourse has not occurred, and then pronounces it again in the same period, the second divorce does not take effect (Mahmud Syaltut, n.d.).

It is unfortunate—even regrettable—that contemporary Sharia court laws have invalidated triple divorce pronounced in a single utterance, reducing it to a single revocable (*raj'ī*) divorce, and have also invalidated conditional divorces that are tied to compelling or restraining an action. Nevertheless, the majority of scholars who issue fatwas to the public continue to base their rulings solely on their own particular madhhab, which they study and adhere to, especially in cases not explicitly regulated by the law. It is well known that other madhhabs hold the view that such divorces do not take effect, in order to minimize the grounds on which divorce is deemed valid. As a result, a man who divorces his wife (the *muthalliq*) relies on the fatwas issued orally by these scholars. He confidently proceeds to the authorized office and formally declares that he has divorced his wife three times. The official then immediately records this as a valid triple divorce, sometimes in the presence of witnesses. Through this official document, the marital relationship is dissolved, leaving the couple in confusion and distress. This becomes a sorrowful testimony for their children, and both spouses suffer because they must accept a ruling based solely on a particular madhhab—despite the fact that the official documentation may not reflect the actual legal reality (Mahmud Syaltut, n.d.).

h. Referring to the Broad Framework of Islamic Jurisprudence

The aforementioned circumstances deserve to be examined thoroughly and resolved by reformers through the rich corpus of jurisprudence inherited from our Imams. Within this tradition lie principles of ease, the removal of hardship, and various considerations that give rise to religious tolerance and the facilitation of Sharia practice. They will also find therein the correct opinions that offer sufficient safeguards against the increasing phenomenon of divorce that threatens family stability. Under the broad canopy of Islamic jurisprudence, nothing threatens the family except ignorance, neglect of proper manners and ethics, blind adherence to a single madhhab treated as an absolute religion, and legal systems that enforce rulings exclusively from one school while disregarding other opinions supported by sound evidence and strong argumentation. Jurisprudence also discusses *mut'ah*—a form of compensation mandated by God when divorce is initiated by the husband—as well as *iftida'* when divorce originates from the wife (Mahmud Syaltut, n.d.).

Indeed, marital life built upon love and compassion, as envisioned by the Sharia, is designed to be maintained and regulated without the intrusion of punitive language or concepts. Punishment creates fear and anxiety, generates resentment within society, and leads to deception, false accusations, and covert harm. A husband, for example, may accuse his wife of infidelity before a judge solely to free himself from the marriage and avoid legal consequences. Such behavior produces negative impacts that further endanger family life and increase divorce rates. This contradicts the divine model for family reform described by God for His servants, elaborated in His Book, and implemented by the Prophet and his Companions. If all efforts fail, the final recourse remains: “*But if they separate, Allah will enrich each of them from His abundance; and Allah is Ever-Encompassing, All-Wise.*” (Mahmud Syaltut, n.d.).

DISCUSSION

1. Results Analysis

a. The Importance of Spouse Selection in Preventing Divorce

The findings reveal that Mahmud Syaltut places significant emphasis on selecting a spouse with noble character and strong religious devotion as a key preventive measure against divorce. This aligns with the hadith narrated by Abu Hurairah (ra), which underscores that choosing a partner based on piety is superior to considerations of wealth, lineage, or beauty. From a socioreligious perspective, this approach addresses one of the root causes of marital instability: mismatched values and insufficient religious commitment. Previous studies, including those by Sayyid Sabiq (2006) and Muhammad Ismail al-San'ani (1059), support this view, noting that religious compatibility fosters moral alignment, mutual understanding, and resilience in the marital relationship. By prioritizing piety and good character, prospective spouses are more likely to cultivate harmonious family life, reduce early marital conflicts, and prevent subsequent divorce. Moreover, this measure underscores the Islamic principle that the stability of marital life is central to establishing a household that is a place of protection, comfort, and righteous offspring (Sayyid Sabiq, 2006).

b. Upholding Rights, Obligations, and Proper Marital Conduct

Another significant finding is Syaltut's emphasis on maintaining the respective rights and obligations of husband and wife, alongside proper marital conduct. The research indicates that neglecting responsibilities—such as financial support, emotional closeness, mutual respect, and lawful marital relations—contributes substantially to marital breakdown. Classical Islamic teachings categorize these rights into three groups: those due to the husband, those due to the wife, and mutual obligations (Sayyid Sabiq, 2006). Balancing these rights prevents the extremes of *tazammut* (overly restrictive behavior) and *tahallul* (excessive permissiveness), both of which can disrupt marital harmony. The study also highlights that external family interference, often by parents or extended relatives, exacerbates tension within the household. This aligns with Sri Hariati (2023), who identifies third-party involvement as a frequent cause of divorce. Therefore, fostering awareness of marital rights and responsibilities, while limiting external interference, is crucial in promoting long-term marital stability.

c. Islamic Guidelines for Divorce as a Last Resort

The research further demonstrates Syaltut's perspective that divorce, though legally permissible in Islam, should always be treated as a last resort after all preventive measures have been exhausted. Key procedures include instilling hesitation when aversion arises, appointing arbiters (*tahkīm*) in cases of persistent conflict, respecting the wife's 'iddah period, and executing divorce ethically and responsibly (Muhammad al-Khudari, n.d.). Syaltut critiques contemporary practices such as conditional or triple pronouncements without proper intention, which may not comply with the ethical and legal spirit of Sharia. By referencing the broad corpus of Islamic jurisprudence, he advocates for a balanced and informed approach that considers multiple *madhhab* opinions rather than rigid adherence to a single school. This mitigates misuse of legal rulings, minimizes family disruption, and aligns with the Islamic principle of harm reduction, central to Sharia (Mahmud Syaltut, n.d.).

d. Addressing Underlying Causes of Divorce

The discussion also identifies two primary factors underlying the rising divorce rates: neglect of religious teachings concerning family formation and rigid adherence to a single school of

jurisprudence regarding divorce validity. Both factors point to the necessity of comprehensive religious education and ethical awareness among couples and the broader community. Erni and Tajul Arifin (2025) emphasize that divorce decisions must be preceded by sincere moral reflection and concerted reconciliation efforts, such as dialogue and mediation. Preventive strategies, including proper spouse selection, engagement etiquette, education on marital ethics, and responsible marital conduct, are thus essential to mitigating divorce prevalence.

e. The Role of Scholars, Muftis, and Jurisprudence

The findings also highlight the crucial role of scholars, muftis, and the broader corpus of Islamic jurisprudence in preventing improper divorces. Syaltut critiques contemporary fatwas that validate divorces solely based on one madhhab, ignoring stronger evidence or broader jurisprudential perspectives. Such practices can generate confusion, family distress, and misinterpretation of Sharia's ethical guidance. By integrating the rich tradition of Islamic jurisprudence, scholars can ensure that family stability is preserved, women's rights are protected, and divorce occurs only under justified, ethically sound circumstances. This underscores the importance of knowledge, ethical responsibility, and judicial prudence in upholding Sharia objectives within family life.

In synthesis, the preventive measures outlined by Mahmud Syaltut—including careful spouse selection, adherence to marital rights and obligations, responsible conduct, avoidance of undue external interference, and ethically guided divorce procedures—form a comprehensive framework for reducing divorce rates. These measures carry both normative and practical implications for Muslim communities, including the need for premarital education, family counseling, and legal awareness programs. The study contributes to existing literature by emphasizing preventive, ethically grounded approaches to divorce, extending beyond strictly legalistic or procedural perspectives highlighted in prior research (Sri Hariati, 2023; Dahrir Siregar et al., 2023). Overall, the findings provide guidance for policymakers, scholars, and practitioners of Islamic law in promoting marital stability, safeguarding family welfare, and ensuring that divorce is approached with moral and legal prudence.

2. Comparison with Previous Studies

Regarding previous studies, several works are related to the present research, yet important differences can be observed. For instance, the legal study by Dahrir Siregar et al. (2023) examines divorce rates and their effects on children, providing valuable insight into the social and psychological consequences of marital breakdown. However, this study does not explore preventive measures or strategies to reduce the incidence of divorce, leaving a gap in understanding proactive approaches. Similarly, the article “Divorce in Normative-Juridical and Psychological Perspectives” by Nida Rafiq Izzati et al. (2024) focuses on divorce from normative juridical and psychological viewpoints. While it highlights legal frameworks and individual coping mechanisms, it does not offer guidance on preventing divorce or maintaining marital harmony.

A more related study is Sri Hariati's (2023) article, “Legal Analysis of the Causes of Divorce Based on Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law: A Study at the Giri Menang Religious Court, West Lombok.” This research addresses both the causes of divorce and the efforts undertaken by the Giri Menang Religious Court to reduce divorce rates. Nevertheless, the study primarily emphasizes institutional and procedural measures rather than the ethical, social, and jurisprudential principles that can guide individuals and families in preventing divorce at a personal and community level.

In comparison, the present study extends these discussions by focusing on the preventive guidance proposed by Mahmud Syaltut. The research identifies four key preventive measures: selecting a spouse of noble character and strong religious commitment, proposing marriage through proper Islamic procedures, upholding the respective rights and obligations of husband and wife, and avoiding undue interference from parents or extended family. Unlike previous studies, this research integrates ethical, social, and legal dimensions, providing a holistic framework for reducing divorce prevalence.

Overall, this study is consistent with previous literature in acknowledging the social, psychological, and legal impacts of divorce, but it differs by emphasizing proactive and preventive measures grounded in Islamic ethical and jurisprudential teachings. By doing so, it fills a gap in prior research by offering a practical and morally informed approach to mitigating the rising rates of divorce in Muslim communities.

3. Implications of Findings

This research contributes to Islamic legal scholarship, particularly in the field of family law (*Ahwāl al-Shakhṣiyyah*), by elaborating on a holistic framework for divorce prevention. It emphasizes the integration of ethical, social, and jurisprudential considerations, illustrating how classical principles can be adapted to address contemporary challenges in marital life. By highlighting the flexibility of Sharia to account for context, intention, and ethical responsibility, the study enriches existing theoretical understanding of the objectives of Islamic law (*maqāṣid al-sharīʿah*) in safeguarding family stability and promoting social welfare.

From a practical standpoint, the study offers guidance for multiple stakeholders. Policymakers can use these findings to design premarital education programs and legal frameworks that emphasize preventive strategies rather than reactive measures. Religious scholars and muftis are provided with insights to refine fatwas and legal opinions, ensuring they are aligned with ethical principles and comprehensive jurisprudential reasoning. Couples and families may benefit from understanding the preventive measures, promoting marital harmony, and reducing the likelihood of premature or unnecessary divorce. Educational institutions, community leaders, and family counselors can also incorporate these findings into counseling programs and public awareness campaigns to strengthen family resilience.

4. Research Limitations

Despite the contributions of this study, several limitations must be acknowledged. First, the study relies primarily on textual and qualitative analysis of classical and contemporary Islamic sources, which may limit generalizability to diverse sociocultural contexts. Second, potential methodological biases, such as selective interpretation of sources or over-reliance on Syaltut's perspectives, could affect the comprehensiveness of the conclusions. Third, uncontrolled variables, including varying levels of religious knowledge, cultural norms, and socioeconomic conditions among couples, were not addressed systematically. Finally, the study does not include extensive empirical validation through field surveys or interviews with couples and scholars, which may limit its applicability in real-world settings.

Future research could address these limitations by incorporating quantitative approaches, broader sampling, and comparative studies across different cultural or jurisprudential contexts. Such efforts would enhance understanding of how preventive measures function in practice and contribute to more evidence-based recommendations for marital stability.

CONCLUSION

This study aimed to describe significant efforts to address the increasing number of divorce cases from the perspective of Mahmud Syaltut. Based on the findings, four key preventive measures were identified. First, selecting a prospective wife with noble morals and strong religious commitment is essential to foster harmony and moral alignment within the marriage. Second, proposing marriage in accordance with proper Islamic procedures ensures that the marital contract is established ethically and respectfully. Third, both husband and wife must uphold their respective rights and obligations after marriage, maintaining balance, mutual respect, and emotional closeness. Fourth, avoiding domination or undue interference by parents or extended family in family matters is crucial to preserve marital stability. Collectively, these measures provide a comprehensive framework for preventing divorce and promoting enduring, harmonious marital relationships. Despite the insightful findings, this study acknowledges several limitations. The research relied solely on literature and library-based data collection, without empirical observation or interviews, which may limit the applicability of the results to diverse social contexts. Additionally, the qualitative descriptive design, while rich in thematic insights, does not provide statistical generalizability or causal analysis. Based on these limitations, future research is recommended to empirically test Mahmud Syaltut's preventive strategies in real-life marital settings, possibly incorporating mixed-method approaches or longitudinal studies. Such investigations could assess the effectiveness of these measures in reducing divorce rates across different cultural, social, and demographic contexts, thereby expanding both theoretical understanding and practical applications in Islamic family law and marital counseling.

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