



Marriage and Divorce: How the Two Manifest within the Banjarise Community in Indonesia

Masyithah Umar

Department of Fiqhi, Fakultas Syariah, Universitas Islam Negeri Antasari Banjarmasin, Indonesia

Abstract

Currently, divorce rate in most big cities of Indonesia display an alarming trajectory that warrants close examination of the factors leading to it. With Islamic religious courts presiding over most of the divorce cases, which account for the largest portion of all legal cases in the country, this study examines the causal factors of divorce particularly in Banjarmasin city in South Kalimantan province. The study uses a qualitative research method. Data was collected through interviews, observations, and documentation study techniques. Findings indicate that there is little and sometimes no public awareness and understanding of the legal procedure of settling marriage deputed as many skip other available services like the Marriage and Divorce Advisory Board and directly seek divorce rulings from religious courts. It has also been established that domestic violence, secret marriages (*Siri*), early marriages and infidelity among other factors, are the main causes of the divorce. It has been established most of the couples seeking divorce ignore or are either ignorant about the roles and existence of the Marriage and Divorce Advisory Board which is formality tasked with the role counseling marriages couples with varying disputes and grievances. It is concluded that public awareness of proper channels and procedures of settling marriage disputes, women empowerment, increasing and promoting girl child education, strengthening family incomes, legal counseling on marriage law and a brief orientation on the dangers / impacts of secret marriage and early marriages could in the long-run curb the rampant divorce rates in the country and of course in Banjarmasin.

Keywords: Domestic violence; Divorce; Legal services; Marriage; Society; Secrety and early marriages.



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1. Introduction

The rapid industrialization plus improved economic situation across Southeast Asia has had an impact on marriage and divorce practices in the region (Afrianty, 2016), affecting the existing social norms and system. The understanding of marriage in traditional Southeast Asian societies as both a civil and religious union has been increasingly challenged, along with changes in perceptions of self, family, and society (Afrianty, 2016). Such a situation is also faced by the Indonesian society, which is a majority Muslim country.

Though divorce is not encouraged in Islam, it has become unavoidable (Afrianty, 2016), especially within conflicting families. The dominant idea that marriage is a central component of Islam and a requirement for leading the life of a good Muslim now seems open to negotiation. While many see the rise in legal divorces as alarming, the fact is that in many cases divorces are just a formalisation of existing marriage failure, for example, where the wife and children are abandoned by the husband, an event common in Indonesia.

Divorce being as old as marriage itself is a classic matter that has been much discussed. In the Indonesian province of South Kalimantan, especially in the densely populated Banjarmasin City, the lower religious courts in the area note a significant increase in divorce cases with astounding numbers reaching more than a thousand cases each year, which is higher than other court cases. A brief survey by observers of legal issues in January 2013 indicates that divorce outside the judicial system is a result of secret marriages (*siri*) and early marriages. Early marriages in South Kalimantan are one of the factors that contribute to the low Human Development Index in the province which is in the 26th position out of 33 Provinces with marriages involving spouses of less than 14 years of age. According to the law governing religious marriages, the age of consent to marriage is a minimum 16 years for women and 19 years for men, people within this age limit are the ones eligible for marriage as per the Religious Courts regulation (UUP) Article 7 paragraph (1 & 2). Furthermore, the judiciary only handles marriages that are officially registered in the office of religious affairs (*Kantor Ursan Agama - KUA*). For some societies, the public only relates to religious courts during divorce or other family related legal matters, but many prefer to seek the opinion of the clergy outside the religious courts; these courts are often reduced to legalizing divorce, even if such marriages were not conducted within the stipulated legal framework in the first place. This is in an attempt to shield from any legal issues that may arise in future after the failed marriage. Disolution of marriages within the legal system in Banjarmasin's religious courts raises the question of the underlying factors of these rampant divorce cases. This study examines the divorce phenomenon in Banjarmasin and seeks to understand the underlying factors responsible for this divorce trend in the area.

2. Research Method

This study was conducted in Banjarmasin city in South Kalimantan province of Indonesia. Data was collected through interviews, by observation, and by documentation study. Documents about the divorce process were analyzed qualitatively. Interviews were conducted on court judges and litigants in the Banjarmasin religious courts. Observations were made at and during divorce trials. I attended purposively selected divorce sessions in a period of 1 year from January 2017 to January 2018. The cases brought up were almost similar which indicated rampant and growing disputes in marriages due to weak family values among others.

3. Findings and Discussion

3.1. Domestic Violence

The proceedings of divorce cases in Banjarmasin revealed shocking recounts of domestic violence. One spouse (a wife) claimed to have suffered injuries and inflicted by the husband who threatened her by putting his samurai sword at her neck during a quarrel. Although there are many factors causing divorce, women's reluctance to report threat of murder from their husbands is common here; if reported at all, such threats are revealed long after the incident. In case there are no divorce proceedings, such threats go unrevealed, which keeps women always in the threat of violence within their own households. Children in the household are often subjected to threats as well; in more brutal incidences, are children sexually assaulted in their households.

The reluctance to report domestic violence is due to women's fears that the accusations are put to the attention of their husbands who may inflict more violence to the women as revenge for speaking out. Tuanaya (2013), notes that this state of affairs is now a "trend" which if unattended to will become more dangerous. Women will not dare to report domestic violence they experience because of the fear of bringing it to the attention of their husbands who often perpetrate more revenge threats. The government of Indonesia has prioritized efforts to cater for the rights of victims of domestic violence, and the presence of the Law on the Elimination of Domestic Violence (Law No. 23 of 2004) that notes on the disclosure of cases of Domestic Violence and the protection of the rights of victims. In addition the protection of victims' witnesses is important and Law no. 23 of 2004 on the Elimination of Domestic Violence (PKDRT) caters for the protection of domestic violence victims' witness. Usually people are reluctant to report despite knowing the victims of domestic violence, because the household is still regarded as a high wall of family privacy, and the public does not want to be preoccupied with the problems of others, let alone deal with the police. In Indonesia there are two provisions of the law that provide for the protection to women and the family, namely: Law no. 35/2014 amendment to Law no. 23/2002, on Child Protection, and Law no. 23/2004 on the Elimination of Domestic Violence. Domestic violence is considered a private area where no one outside the home environment can enter it, until approximately four years since its endorsement in 2004. However, in the course of this law there are still some articles that are unfavorable to women victims of violence. Government regulation No. 4/2006 on is designated for the implementation process of the above law as stipulated in the mandate of this Act. Although this law is intended to deter the perpetrators of domestic violence, the punishment therein is in form of alternative punishment, penalties and fines that feel too light compared to the situation suffered by the victim. According to Article 1 of Law No. 23/2004 on the Elimination of Domestic Violence, Domestic Violence is any act against a person, especially a woman, resulting in misery or suffering physically, sexually, psychologically, and / or neglecting a household including threats to commit acts of coercion, or deprivation of liberty in a manner against the law within the scope of the household.

Data indicated by Perempuan (2008) indicates that in 2007, there were 25,522 cases of violence against women handled by 215 institutions, including law enforcement agencies, hospitals and community organizations providing various services. This was a tremendous increase in cases handled from 7,787 cases in 2003. This reflects an awareness of victims and the public to report and seek help and finding a way out of domestic violence.

In the last five years, domestic violence is the most frequent form of violence experienced by women from year to year. Since the passing of the law on the elimination of domestic violence in 2004, the number of cases handled has soared almost fourfold. The most heavily involved legal entity in cases of domestic violence is religious courts.

In addition to the unreported domestic violence, the above cases also provide guidance and justify data suggesting that 70% of divorces are filed by women. In 2009 divorce cases reached 250 thousand which was an increase compared to 2008 which was in the range of 200 thousand cases. The 2010 data from the Director General of Islamic Religious Affairs of the Ministry of Religious Affairs of Indonesia, indicates that 2 million people get married every year in Indonesia, and there are up to 285,184 divorce cases every year, which is astonishing. Such circumstances can be seen in the following reporting.

Table-1. Case Study Reporting

	2004	2005	2006	2007	Total
KTI	1.782	4.886	1.348	17.772	25.788
KTPA	251	421	552	469	1.693
KDP	321	635	816	776	2.548
Domestic Workers	71	87	73	236	467

Information

KTI: Violence Against Wife

KTPA: Violence Against Pediatric Women

KDP: Violence in Courtship

Domestic Workers: Violence against domestic workers

Source: National Commission on Violence Against Women (Women's Commission)

From the reports it can be seen that women are the most victims in cases of Domestic Violence accounting for 85% of the total victims. Girls are the third most victims, after boys; [Perempuan \(2008\)](#) a women's rights organization notes that in cases of violence with child victims, it has been found that the majority of the cases have women perpetrators often in their status as mothers.

According to Komnas Perlindungan Anak Indonesia's (child protection agency) observation, most of the mothers who become perpetrators of domestic violence are already victims of violence by their husbands, or are under economic pressure, and even many are under psychological pressure, continuous pressure and perpetual victims (Banjarasin psychiatric hospital).

Handling of domestic violence is a concern of many people in Indonesia. Data indicated by [Perempuan \(2008\)](#):13 indicates that since 1998 the number of service agencies has been increasing and spreading in various parts of Indonesia, whether formed by women's organizations or by the government. Currently, Komnas Perempuan writes that 41 Women Crisis Centers (WCCs) and 65 other related units exist; based on data in the hospitals, 36 of them are in hospitals spread all over Indonesia. To expound more on that, some institutions that provide services in cases of domestic violence include:

Women Crisis Centers (WCCs) provide at least eight known services, which include: hotlines, counseling services, support groups, legal assistance, provision of safe houses or shelters, psychological therapy, medical services and economic strengthening. Due to resource constraints, the number of cases, and the complexity of a case, WCCs have established cooperation with other entities both in government and in the private sector to participate in the handling of victims. This cooperation is usually institutionalized through a Memorandum of Understanding (MoU) or by using personal relationships.

Hospitals are another type of organizations that play an active role in providing services for women victims of violence. Komnas Perempuan initiated the Integrated Crisis Center in Jakarta in 2001. This initiative was later adopted in various other health institutions, such as the Police Hospital, and at TNI AL Mintohardjo Hospital, which are in service to date.

Furthermore, there was the development of the Integrated Crisis Center, an emergency center with its facility. Outside Jakarta, this initiative is also conducted by Panti Rapih Hospital in Yogyakarta under the name of Integrated Services Unit. Several other hospitals in several regions also have integrated services, such as hospitals Dr. Soetomo Hospital in Surabaya city, Mappa Oudang Hospital, Makassar Hospital and in 36 Hospital around Indonesia.

Women and Children Services Unit (UPPA) in the Police. UPPA is a special services desk established since 1999 as an independent initiative of the organization of former policewomen. After eight years of struggle for institutional recognition in order to be able to provide better services for women victims, the UPPA is now a separate unit within the police structure based on regulation Keppol. No. 10/2007. In providing services, UPPA works with local government agencies and women's organizations, as well as hospitals. UPPA members are specially trained to be gender sensitive and services often include counseling, assisted medical examinations, taking telephone complaints and operating safe houses for violated women.

3.2. Legal Services

There are law enforcement agencies that allocate funds regularly to handle cases of violence against women. This institution also integrates gender as one of the areas of education taught to its apparatus ([Perempuan, 2008](#)).

Such institutions not only reflect the increasing concern for the protection of women, but also open up greater opportunities for women to protect themselves. Reported violence makes the divorce process relatively quicker and more just and not gives women a longer impression as a victim, or even gender bias.

Not only is reluctance in reporting domestic violence to authorities an issue, it also turns out that divorce cases are reluctantly legally enforced in court. [Zulminarni \(2010\)](#) revealed that nine out of ten respondents in the court interviewed did not consider the bringing a divorce case to court a serious legal requirement in Indonesia. In one survey, only 11% of the surveyed litigants in religious courts and 8% in state courts chose to use the court as a legal requirement in Indonesia. While of the 1,655 litigants surveyed, 89% went to the religious courts, and 91% to state courts, but there are still many divorce settlements out of court, such as through family deliberations. Filing a divorce in court is usually when family deliberations fail, or because spouses choose to. This shows that divorce or other family issues are preferred resolved in the family. Settlement in the family does not mean canceled divorce but a divorce process carried out in the confines of kinship. When divorce proceedings are passed in court, it is more due to the need for an official court order for a particular purpose, for example, to remarry.

3.3. Role of the Marriage and Divorce Settlement Advisory Board (BP4)

The Marriage and Divorce Settlement Advisory Board (BP4) is under-empowered so the public is not familiar with BP4 institutions. So people household disputes are taken directly to court or settled in the family. The mediation process is often difficult when matters reach the divorce trial process, this could be different if the mediation was done in the beginning before getting to court. Less confidence in the BP4 is because people refer to their friends' experiences with the institution, which in their view did not settle the matter or even worsened their situation; this is the view of some people interviewed in December, who filed their cases with BP4. Most of the officials in this institution are women, the seekers of justice from there; especially men if they want a divorce will go directly to religious courts as they feel they cannot get a fair settlement from BP4. This institution is supposed to be considered to mediate reconciliation before going to court as an attempt to avoid direct divorce.

The court does not require a Petitioner to engage the BP4 before filing a divorce suit. Before being officially registering as a lawsuit, the court may encourage spouses to meet the Marriage and Divorce Advisory Board and

mediate their matter more personally. It would be better if mediation was part of the judicial process the notion of "winning" and "losing" but truth and justice. Katerina (2017), reveals that families involved in a process of divorce are in an embarrassing, painful, and depressing condition. According to him, the family in divorce should take action therapy against divorce, especially if they have children. Children consider a family relationship as a role model, so this makes the role of BP4 necessary.

Since 2011, the divorce rate in South Kalimantan is 4,276 cases, while the number of marriages in 2011 is 40,026 pairs making it 11.78% of the marriages. While for the whole of Indonesia, the divorce rate reached 70% in the period 2005-2011. While in the period 2012 to 2016, the dominant factor in divorce was marital disharmony, as opposed to economic factors (Nurhamida and Lavina Rosalinda, 2013). Often the underlying causes for marriage disharmony are other affairs or other reasons not mentioned in the Act (revealed in the hearing of December 19, 2013). The number of divorces compiled in a ten-year period until 2009 can be seen in the following number of cases.

Table-2. Number of Divorce Cases in Indonesia

Year	Religious courts	State courts
2000	145.609	3.539
2001	144.912	3.877
2002	143.890	3.842
2003	133.306	3.361
2004	141.240	2.514
2005	150.395	2.674
2006	148.890	2.606
2007	175.088	3.645
2008	193.189	4.404
2009	223.371	5.285

Source: (Zulminarni, 2010)

The important thing to mention here is that divorce cases in Religious court are the largest number of cases in the judicial system of Indonesia, covering 50% of all cases, followed by criminal cases with 33%. The religious courts ruled 98% and the state courts 2% of all divorce cases in Indonesia. This means that the religious courts now have a significant direct relationship with families in Indonesia. It should also be noted that women who file divorce cases are twice as many as men (Zulminarni, 2010). Does this indicate that women in Indonesia are more empowered or have high awareness to seek justice?

One thing that is quite encouraging from a different point of view is that women are more courageous when dealing with the courts. This shows that women have the awareness to seek legal redress. Moreover, it can be assumed that men consider divorce in court is unimportant because they believe that to remarry is not difficult even if they are not officially divorced under the applicable laws and regulations; taking advantage of a legal opportunity for polygamy.

In South Kalimantan, the dominant causal factors are low economic condition or poverty, and infidelity perpetrated by cheating partners both male and female.

Usually some cases culminate in the weakness of women in expressing themselves; as expressed by Aini (2001) that women in some cases are considered and treated as imperfect and weak beings, who are unable to control their emotions, therefore rendering them in a weak position in a divorce. The weakness of the woman can not fully relate to divorce. Ly *et al.* (2015), reveal that in general divorce in the United States is also related to women's employment status. Women with high working time tend to be more divorced, than men who are busy working. It shows that women who have good status at work are more divorced than men.

3.4. Uncertainty of the Society About the Divorce Process

The lawyers often exploit the community's inadequacy; so many people become victims, especially women. Some cases, take on a direction they shouldn't have taken but because of the advice of the lawyer just to fulfill a requirement. While some cases that are weak from the beginning are still given the opportunity to appeal, because of the parties' ability to pay. Sometimes, legal counsels do not deliberately communicate in detail about the weaknesses of their positions, in as much as the absence of such information is considered an opportunity for monetary gain on their part. Couples in such a position are powerless to control, organize, make decisions for (Smith and Douglas 1990) in Poerwandari (1997).

Another impression is to stall the time so that the divorce process becomes very long and profitable for the attorney. If the preparation of a two-month lawsuit and a ten-month trial process, the husband or wife who will file a divorce suit / appeal must be bound by a lawyer for at least one year. In other cases, it was also found that a trial that has received a ruling does not mean it has been completed because the Deed of Divorce has not been submitted by the attorney; the Divorce Deed is submitted after paying to the legal counsel.

Such events are also observed by the Shariah Court. One of the judges considered that there are a handful of lawyers utilizing the protracted judicial process for economic purposes. Such actions increase the cost of dealing with the courts and therefore making settling matter in courts less palatable to many. For the poor, the cost of cases and travel to the nearest courts is considered a tremendous challenge. Although in fact process may be free, the

public may not be aware of this fact as because it is not announced to the public, and not many common people know it.

AusAID (IALDF) AusAID (IALDF) Women's Studies (Zulminarni, 2010) reviews that the total average cost of a case in the Religious Courts for the respondents studied amounted to Rp. 789,666, - (USD 90), almost four times the per capita income per month of a person living below the Indonesian poverty line. The total average cost of a case in the District Court in 2008 was Rp. 2.050.000, - (USD 230), if the party is not using an advocate. This cost is equivalent to ten times the per capita income per month of a person living at the Indonesian poverty line.

In addition the cost of transportation to the court is also became one of the barriers for women to court. The cost depends on the distance a person resides from the court. The study also found that the average cost of transport from residence to attend court is Rp. 25.000, - (USD 2.50) for round trip, while those living outside town need an average of Rp. 92,000, - (USD 9) for a return trip to court, so this cost is almost equivalent to half the income per month of families living below the Indonesian poverty line. The higher the case costs, the less the poor are able to bring the family matters to court. These costs result in the poor not being able to file a family case to court in accordance with the provisions of the law in Indonesia. Thus, it is not surprising that many divorces are not legally conducted in courts. Women in a divorce that is not legalized by the court, for example, can not receive their *iddah* living expenses they are entitled to receive from their husbands. Another consequence is that children in such a matter will find it difficult to access one of their parents as such arrangements can only be guaranteed and enforced by a court order. Furthermore, women find it difficult to remarry officially as it requires an official dissolution of the marriage, which can only be provided by the courts.

As revealed by the results of the study Zulminarni (2010): Without a legal divorce it is impossible to remarry legally. Children from subsequent marriages if not preceded by a legal divorce will not obtain the father's name on the birth certificate. This is an obstacle for many Indonesian women to obtain birth certificates for their children. Judges and court officials in Indonesia as well as female heads of household living under the Indonesian poverty line agree that formal divorce through Indonesian courts is the only way to clarify legal responsibility for the maintenance and living costs of spouse and children of the marriage in question. Women have difficulty obtaining a family card identification card that lists them as head of the family without a legal divorce certificate. The document, which proves their role as female heads of households can help them access public services, especially those targeted at the poor, such as rice subsidy programs, free health care and direct cash assistance.

The facts provide clues that the courts should make the system more familiar with women, especially women from the poor. As already mentioned, universal / easy access to the court is one of the principles of justice. While there are still people who want to get justice, and can not access the courts for economic reasons or other reasons, it can be said that the state in general has not been fair to the whole society.

The Religious Court of Banjarmasin carried out religious court hearings around its entire area of jurisdiction, but lately it is rare yet cases on record are ever increasing. It is necessary to ease the access to the process of religious courts, so that all levels of society can access the courts easily.

3.5. Secrecy and Early Marriages

Marriage is a noble, sacred, sacred and meaningful act of worship in Islam, it is in line with the *sunnah* of the Prophet, and carried out on the basis of sincerity, responsibility following the applicable law, but the reality in society it is sometimes not the case. There are some peculiarities in marriage; one of them is what is known as *sirri* wedding (a marriage in secrecy), a term that is often heard, but rather difficult to trace as its practitioners tend to be silent about it, and perform it as an alternative in emergency religious and social cultural conditions. Socio-cultural because it is related to local customs; If a practice is common in the local community, then it is automatically covered by the law relating to *adat* (law recognizing customary procedure), thus publically, this *sirri* wedding issue is commonly referred to as a '*kemakluman*' a slang that has come to mean a 'public secret'.

Under the *Sirri* arrangement, marriages are held in secret, without inviting outsiders apart from the two families of the bride and groom. Then, it is not register with the Office of Religious Affairs as required by law in Indonesia for all marriages, so this kind of marriage does not have formal legality in Indonesia, as provided in the Marriage Law. In another explanation it is said that the marriage is only attended by parties privy to the marriage contract as per the requirements of Islamic sharia though the secrecy part isn't one of the requirements (the *wali*, two witnesses, the brides and groom), and none of them is allowed to disclose what transpired, and it is also not registered with the governments Religious Affairs office. In the third version of explanation of *Sirri* is that marriages are not officially registered to the Religious Affairs office and conducted in the presence of families and a limited number of invited people.

The phenomena of *sirri* marriage is practiced in various ways among Indonesian Islamic society as Zuhdi (1996) explains: First, the marriage which is held according to the Islamic Shari'ah, kept to only close family members, but without the usual Islamic or cultural ceremony and not registered with the government. This is in instances where the husband and wife have not lived together, because the wife is immature to consummate the marriage.

Secondly, a marriage conducted according to the Islamic Shari'ah and registered in government and obtained a marriage certificate, but held internally with only close family in attendance, without the usual marriage receptions. Here also Husband and wife may not be living together at that point in time.

Third, a marriage held according to the provisions of Islamic Shari'a and complies with the provisions of Indonesian law in marriage i.e. Act No. 1/74 or PP 10/1983 or PP No.45 /1990. The marriage is conducted in secrecy

to avoid resistance that may come from the first wife or to avoid criticism from a certain authority like an employer or business associate, and is usually carried out without the permission of the religious courts.

Taking into account the three phenomena above it can be observed that not all *sirri* marriage means involves under age parties, or not registering with the government Religious Affairs Office.

According to A. Gani Abdullah (1996: 25) in Umar and Nahrowi (2010), the term *sirri* as a benchmark in determining a form of marriage needs an anthropological explanation; "*sirri*" in Bugis language means shame, but in Banjar society, it may have a different local meaning or connotation, so there are obstacles to its meaning for the word to be generalized. According to A. Gani Abdullah, the word *sirri* is attributed to the three forms of marriage described earlier. There are three indicators that accompany marriage, their absence deems a marriage as having elements of *sirri*. The three indicators are: (1) family or legal subject of marriage contract consisting of the groom, bride, marriage guardian and two witnesses; (2) the government or the legal entity concerned with marriage, namely the presence of a government marriage registry employees and fulfills the "legal procedure" so that the birth of the marriage is legally recognized and therefore has legal consequences in the form of legal certainty. Then the spouses are given each a proof of marriage, a marriage certificate; (3) the presence of community members or *walimah al-nikah*, their presence as a requirement is to show to the public that between he two marriage candidates are being bound in a legitimate marriage. If there are parties who violate the marriage commitments, at least the public can provide moral sanctions to the violating party. This marriage of *sirri* is often the main factor of divorce.

Similarly with regard to Early marriage, Khairudin, Journal of Law and Judiciary, 2013: 11, considers that early marriage age can lead to an increase in divorce cases due to lack of awareness of the responsibilities in marital life for husband and wife.

There are other studies related to early marriage and its contribution to divorce. a) Antasari (2013), notes that from 15 cases of divorce investigated 9 cases involved women under 14 years of age and marriage. b) Research by Masyithah (2015) indicates that the rate of divorce in the previous 5 years increased sharply, the dominant reason being disharmony in the household. After digging deeper it turns out that the disharmonious couples were mostly very young couples.

Among the purposes of marriage are bearing good offspring and counseling a harmonious family (Baswedan *et al.*, 1998), so marriage of very young couples lacks adequate preparation, let alone the ability to safely bear offspring especially for the female party, the readiness of the uterus to conceive. A successful marriage is often characterized by the readiness of shouldering responsibility, accompanied by taking care of all the trusts arising from marriage i.e. livelihood, child education, protection, and good association. In a psychological perspective, emotional maturity is a very important aspect of maintaining the continuity and success of a marriage. The maturity of a mother is very influential on the development of children, because mature mothers are most likely better at controlling emotions than mothers who are too young; very young mothers may not be ready with adequate parenting skills; she may be more preoccupied by her youth than her motherhood (Hasil Penelitian Mahasiswa S2 Program Pasca Sarjana IAIN Antasari Banjarmasin, 2015); It is often the case that when young mothers give birth to children, the nurse is the baby's grandmother, it is common for such children to call their grandmother as 'mama'. Youthfulness in young mothers is characterized by: unstable emotions, not yet mature with the ability to resolve conflicts faced, and not yet having good ideas about the future, this may affect the child's psychosocial development (Daradjat, 1975).

Early marriages are also a bad influence to their children, especially with growth as children may want to follow the footsteps of their parents and may fall in an early marriage as well. Children born to teenage mothers have a lower intelligence compared with children born to older mothers (Abubakar, 1993).

Saraswati *et al.* (2012), reveals that there are 5 children's rights that are neglected with early marriage: first, the right to education, with early marriage schooling is usually forfeited, with little or no chance for attaining higher education; only 5.6% of children married at an early age continue their education after marriage. Second, the right of free expression as many are stressed up and psychologically affected by the marriage. Third, the rights to rest and take advantage of leisure time hang out with peers to play and be creative. Forth, the right to protection as children should be protected from early marriage that impact on their physical and mental development.

Furthermore, in early marriages and women are often subjected to violence by men: seduced, harassed, beaten or even divorced (Mas'udi, 2003). Moreover, data from the Indonesian National Planning Agency (Bappenas) in 2008, indicates that there are about 690,000 cases of divorce that are as a result of early marriage.

Divorce according to Islamic teachings is lawful under the necessary circumstances but highly discouraged with a series of stringent processes to fulfill before it can be granted.

4. Conclusion

In Indonesia, in this case South Kalimantan, divorce is a common case in the religious courts when compared to other cases. It is important to note that the causal factors of divorce are numerous, in many forms and perpetrated by either parties in a marriage, but those that stand out include: domestic violence, secret marriages dubbed *sisrri*, economic/financial issues, poverty, infidelity and early marriages. Couples are advised to seek mediation prior to the divorce, to seek the services of the the Marriage and Divorce Settlement Advisory Board (BP4) whose role is very vital in this regard. Because of the lack of awareness of the existence of the BP4 on the part of justice seekers, its services are not often sought out, before divorce matters are filed as divorce cases in religious courts. As a result there is a lot of divorce, and partly due to people's lack of understanding about the divorce process.

There is need for increasing empowerment programs and awareness creation activities related to family matters and intensive legal counseling on the impact of *siri*, early marriages and marriage law, and the protection and participation of girls. The synergy between the government, religious groups, society, parents, as well as other

related parties should take on a powerful stance in reducing or eradicating domestic violence, and early marriage coupled with awareness creation on marriage issues and procedures, the future generation marriage candidates can be more optimistic at the future.

Parents and families are expected to provide good guidance, supervision and exemplariness; to become good role models, to their children with much affection and positive attitude to nurture confident, informed and resourceful young people.

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