

DIVORCE IN MALAYSIA

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ABSTRACT

People have always heard about the high divorce rate in foreign countries; however, many might not receive much information about divorce in Malaysia. In fact, it might due to complicated legal procedure in divorce because the legal process of divorce is complicated in Malaysia. Furthermore, causes and effects in divorce also merely study by many psychologists and counselors in Malaysia. This paper is, therefore, going to utilize two interesting reports from National Registration Department and Jabatan Kemajuan Islam Malaysia to analyze divorce situation in Malaysia. From these materials, researchers will try to find out in what situation the divorce was, in Malaysia? Besides, this paper is searching additional information in divorce to answer "Why couple divorce?" Besides, the paper is also going to search some impacts of divorce, and is there any prevention program to reduce divorce in Malaysia.

INTRODUCTION

Although many have believed that divorce was not a social norm or a common practice in Malaysia's traditional family, unfortunately, stepping into new millennium, this has seemed like a social trend to permeate Malaysia. In fact, the word divorce is also understood as "Dissolution of Marriage" in legal term because the activity cannot come without having a legal marriage. Therefore, under Malaysia Law Reform on Marriage and Divorce Act 1976, no one is allowed to marriage another person when a lawful married is still valid.

In Malaysia, if anyone else who cannot obtain a divorce because they have not been married for 24 months or more, they can only consider filing a Judicial Separation. However, judicial separation does not legally end a marriage, and during the period of separation, both parties cannot remarry. The only legal obligation for judicial separation is when the court grants a decree of judicial separation, the petitioner is no longer obliged to live with his/her spouse, but the petitioner still require to file a petition for divorce after a decree of separation is granted.

For those who marriage for at least 24 months and found their marriage has broken down irretrievably, a divorce is necessary to bring the relationship to a formal end. This action is provided when partner has committed adultery, behaved unreasonably in term of his or her behavior and how this has upset the counterpart and made it difficult for him or her to carry on living together, or one of the partner have been separated or deserted another for at least 2 years before started divorce proceedings.

When we look at all this complicated legal procedure, one thing is clear that divorce is, in fact, not only a matter between husband and wife, but it is also bearing legal responsibility. There is to say, when a man and a women have come to a situation to say "Good Bye", both of them need to understand at least some legal responsibilities. Unfortunately, each year, there are many couples tried to file divorce without having thorough understanding about their legal responsibility from their legal advisor, needless to say social responsibility or other side effects.

In this paper, we are, therefore, trying to search the answer about how divorce had happened in Malaysia, why divorce had happened, what are some impacts that will influence a family, and in what way can a community facilitates to prevent divorce.

RESEARCH OBJECTIVE

In this paper, we find it is interesting to know what kind of divorce situation in Malaysia. Very often, we received reports about some places like the United States, Canada, Australia, or even our neighbor countries discussing their divorce rate; nonetheless, how well does we know about Malaysia divorce situation and what factors contributed heavily in divorce?

Although it is not easy to interview every divorcee or distribute questionnaire to every divorcee, it is possible for us to get information from Malaysian National Registration Department about the figure of non-Muslim marriage and divorce. For Muslim, the information can be retrieved from Jabatan Kemajuan Islam Malaysia. With these pieces of information, it may guide the whole research toward in-depth finding about the causes and effects in divorce.

RESEARCH QUESTION

The first question that comes to our mind is how serious the divorce rate in Malaysia? Hopefully we can get an insight about the divorce rate in Malaysia from Malaysian National Registration Department and Jabatan Kemajuan Islam Malaysia.

The second question is "Why couple divorce?" Just wondering how many of us ever think about two lovers holding hand in hand and saying "I do" in front of their friends and relatives but suddenly filed a divorce after several years of marriage. What are some reasons that made them felt this marriage has broken down irretrievably?

The final question will be the causes and effects of divorce. After successfully divorce, what impacts in life will both divorcees receive? What types of impact a family will receive in divorce? In what way can a community facilitate to prevent or reduce divorce?

RESEARCH OUTCOME

Statistic Analysis

From Malaysian National Registration Department, we understand that the divorce rate between 2000 and 2005 was stayed between 2.6% to 7.19% among non-Muslim (as shown in Table 1 and 2):

Table 1: Total Number of Non-Muslim Marriages Couples by State, 2000-2005

State	2000	2001	2002	2003	2004	2005
Head Office	3,655	3,413	3,538	3,891	3,156	2,258
Johor	9,842	8,625	8,627	8,754	6,918	8,158
Kedah	2,736	2,800	2,674	2,710	2,458	2,511
Kelantan	376	429	400	380	276	378
Melaka	1,729	1,713	1,792	1,825	1,686	1,547
N.Sembilan	2,338	2,496	2,313	2,423	2,236	2,399
Pahang	1,527	1,526	1,472	1,655	1,428	1,319
Perak	6,990	7,127	7,557	7,952	5,927	5,991
Perlis	236	227	242	250	206	215
Pulau Pinang	5,385	5,088	6,603	6,535	4,827	4,342
Selangor	7,786	4,498	4,988	4,792	4,731	5,291
Terengganu	89	104	73	94	140	118
WP Kuala Lumpur	9,181	7,924	10,839	9,423	5,655	7,201
WP Labuan	89	107	111	121	79	116
Sabah	2,872	2,956	3,326	3,210	2,997	3,163
Sarawak	4,699	4,422	2,717	3,520	5,400	5,328

Foreign countries*	1,760	1,562	1,956	1,852	1,969	2,542
Total	61,290	55,017	59,228	59,387	50,089	52,877

Note:* Malaysian citizen (non-muslim) married in foreign countries

Table 2: Total number of Non-Muslim Couples Divorces by State, 2000-2005

State	2000	2001	2002	2003	2004	2005
Johor	25	29	321	309	3	85
Kedah	26	0	14	16	0	26
Kelantan	7	0	0	0	11	43
Melaka	60	0	2	2	16	29
N.Sembilan	51	0	30	28	56	48
Pahang	79	15	15	12	25	89
Perak	209	446	646	615	978	389
Perlis	74	0	0	0	0	2
Pulau Pinang	271	577	887	755	490	639
Selangor	320	0	620	418	728	261
Terengganu	34	97	48	3	0	0
WP Kuala Lumpur	196	1,810	810	694	707	1,630
WP Labuan	3	0	0	2	0	1
Sabah	105	68	68	175	135	197
Sarawak	144	196	286	238	139	312
Foreign countries*	9	0	46	51	3	53
Total	1,613	3,238	3,793	3,318	3,291	3,804

The divorce situation among Muslim is high compare to non-Muslim. The rate was between 14.4% and 15.5% (as shown in Table 3):

Table 3: Total Number of Muslim Marriages Couples by State, 2000-2005

State	2000	2001	2002	2003	2004	2005
Perlis	1,710	1,275	1,390	1,351	2,153	1,615
Kedah	14,120	14,886	15,198	16,735	16,751	17,147
Pulau Pinang	4,431	3,764	4,034	3,226	3,368	3,488
Perak	8,840	9,124	8,571	8,247	9,337	10,522
Selangor	9,597	10,990	11,428	12,314	16,696	13,175
WP Kuala Lumpur	2,750	3,122	4,172	4,531	3,616	4,230
N.Sembilan	3,345	3,491	3,584	3,488	4,157	4,206
Melaka	2,057	2,251	2,930	3,067	3,182	3,210
Johor	10,222	6,289	9,687	10,510	13,751	14,747
Pahang	6,247	6,323	7,009	7,521	5,116	6,120
Terengganu	6,194	6,641	6,877	5,965	7,746	7,731
Kelantan	12,471	12,389	12,366	13,205	13,334	13,943
Sarawak	4,093	4,804	4,556	4,333	4,374	5,015
Sabah	5,660	5,528	3,261	7,112	8,083	5,514
WP Labuan	253	244	218	237	280	288
Total	91,990	91,121	95,281	101,842	111,944	110,951

Table 4: Total Number of Muslim Divorces Couples by State, 2000-2005

State	2000	2001	2002	2003	2004	2005
Perlis	188	186	226	253	164	228
Kedah	1,168	1,549	1,133	1,085	1,474	1,737
Pulau Pinang	647	717	911	925	916	875
Perak	1,234	1,103	1,975	1,363	1,508	1,475
Selangor	2,075	1,878	1,977	3,158	3,136	3,029
WP Kuala Lumpur	499	721	798	885	1,296	1,250

N.Sembilan	625	564	629	684	638	807
Melaka	394	384	530	588	553	601
Johor	1,942	963	1,627	1,612	1,690	1,521
Pahang	1,016	1,042	894	917	616	1,048
Terengganu	1,005	1,046	813	897	1,172	1,285
Kelantan	1,784	2,042	1,472	1,926	1,952	1,900
Sarawak	486	602	634	652	826	820
Sabah	433	311	161	570	514	582
WP Labuan	40	79	61	28	54	54
Total	13,536	13,187	13,841	15,543	16,509	17,212

When combined non-Muslim and Muslim figures, the research found that the rate was grown progressively from 9.9% to 12.8% (as shown below).

Table 5: Divorce Rate in Malaysia, 2000-2005

Types	2000	2001	2002	2003	2004	2005
Non Muslim	2.63%	5.89%	6.40%	5.59%	6.57%	7.19%
Muslim	14.72%	14.47%	14.53%	15.26%	14.75%	15.51%
With Combined	9.88%	11.24%	11.41%	11.70%	12.22%	12.83%

From the research, we found that the divorce rate in Malaysia seem small when compare to some developed countries like the United States (51%, 1998), Australia (49%, 1996), Canada (48%, 1995), and Germany (44%, 1997). Nonetheless, the divorce rates in Malaysia still bothered most of researchers.

The reason to put into this statement was due to several factors. First of all, number of marriage for non-Muslim between 2000 and 2005 has dropped while the number of divorce remains steady. Second, the number of marriage and divorce within Muslim fairly stable, and the divorce rate was going according to the proportion. However, for non-Muslim, the divorce rate was increased.

Reasons of Divorce

All these have enhance our curiosity of why couple divorce. Although figures never tell the reason, from our common sense, we understand that people will not divorce without a reason. As in the research, there is the duty for us to take a close look on this issue.

From numerous foreign literatures concerning marriage and family, it stated that the top three common factors that influenced divorce were 1) infidelity, 2) no longer in love, and 3) emotional problem. Others included drugs problems, sexual problems, problem with in-law, communication problems, married too young, job conflict, and so on.

Of course, among all, top of the list is infidelity. For us, we have to understand that an infidelity means having sex with someone other than the marriage partner, or partner has committed adultery. In fact, the actual reason was not in the action of infidelity, but it has to deal with faith and respect. A general definition of "Marriage", by Sheri & Bob Stritof, is that it is a social contract between two individuals that unites their lives legally, economically and emotionally. That is to say, when it is a contract everybody has to respect. When dealing with emotion, married couple has to know how to maintain a healthy family together. It will be an alarming signal for the marriage if both parties in the family ignore it.

The second high reason for divorce is "No longer in love". In most cases, no longer in love was caused by marriage burnout. Some symptoms like with little emotional connection, disengaged relationship for partners to pay attention with. Nonetheless, people often stay married due to their children, their religious values, or for economic reasons.

The third reason for divorce is emotional problem. This has associated with violence. Very often, spouses attack each other verbally and physically, and the severe state involved domestic violence.

Some might question do all or any of these related to Malaysia perspective? Although we have no idea how many divorce cases really related to above reasons, we understand that even all top rank reasons in divorce might not stay alike in Malaysia, yet it will still have the opportunity act as the major factors.

Impacts and Preventions

The impact of divorce not only diminish our family value like the concept of fidelity, family dinner, feminism and so on, but it also created many numerous problems like family conflict and community stability. In fact, the strongest impact in divorce is children in the family, if any. In one hand, children with divorced parents always experience poorer scores in term of academic achievement. The reason as believed that both parents and teachers often underestimate the difficulties a child may be having in school or may not recognize the problems. Besides, it appears that children's difficulties with school may be caused more by their behavior than their intellectual abilities. Others impacts for children in divorced family included, separate anxiety, regressive behavior, and somatic complaint and so on.

For divorcee, some strongest impact included financial hardship, and become an overly involvement parent. In fact, when dealing with financial hardship, one upcoming question is how to finance two separate households from income and assets which previously provided for only one. Furthermore, during the period of filing divorce, a lot of parents become overly involve with their child activities. By a reason, most parents with over-involvement are not narcissistic but are struggling, often quite alone, with their own problems. Fortunately, in these couples of years; Malaysia government has strongly promoted Pre-Marital Educational Program throughout the whole country partnership with many associations and NGOs. The result is obvious.

If we look back the divorce rate between Muslim and non-Muslim, we found that the divorce rate among Muslim has become stable after government enforced Pre-Marital Educational Program, even though the rate still maintain between 14-15%. Nonetheless, for non-Muslim, due to the program is considering optional, the rate is escalated from 5.89% to 7.19%. That is to say, Pre-Marital Educational Program can account as one of the positive program to prevent divorce.

CONCLUSIONS

Of course, to prevent high divorce rate, another program called Family Enriched should put in consideration. As understand, even new couple may have gone through several lessons of Pre-Marital Educational Program, after many years of marriage, a lot of thing that had learned at that moment become out-of-date. Therefore, a Family Enriched program can act as a supporting system to provide more help to the family. If couple really felt that divorce is the only solution, than an awareness program for divorce might be necessary as to educate divorcee how to face their new life after divorce. In addition, it is also important for divorcee to recognize a new life only dealing with the self circus, but also included children and previous bonding.

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