



مجمع علماء كئلاله

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**POSITION PAPER # 23**

**Divorce & Islam**

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## **ABOUT THE MAJLIS UL ULAMAA (MAJLISTT)**

The Majlis ul Ulamaa is a forum to facilitate the collaboration of Islamic Scholars resident and active within Trinidad and Tobago. It seeks to define the authentic Islamic position as it relates to Islam and the Muslim community of the country, considering the various scholastic positions and schools of law. To this end, it deliberates on issues of importance, and defines the Islamic position. The due process is meticulous, spanning the issuing of a draft position paper, inviting stakeholders and public comment and consultations before a final position is issued.

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*Allahumma salli alaa sayyidinaa Muhammadin wa baarik wa sallim*

## **DIVORCE & ISLAM**

### **Contents**

<b>DIVORCE &amp; ISLAM</b> .....	3
1. <b>OVERVIEW</b> .....	4
2. <b>DEFINITION</b> .....	4
3. <b>ROLE OF DIVORCE</b> .....	4
4. <b>DIVORCE SOCIAL TRENDS</b> .....	5
5. <b>REASONS FOR DIVORCE</b> .....	5
6. <b>THE DIVORCE PROCESS</b> .....	6
7. <b>TYPES OF DIVORCE</b> .....	8
8. <b>MATTERS SURROUNDING THE ISSUE OF DIVORCE</b> .....	9
9. <b>FREQUENT CONFLICTS AS A RESULT OF THE DIVORCE</b> .....	12
10. <b>SUPPORTING INSTITUTIONS AND SERVICES</b> .....	12
11. <b>TO THOSE WHO ARE CONTEMPLATING DIVORCE, OR UNDERGOING DIVORCE PROCEEDINGS OR ARE</b> .....	15
12. <b>CONCLUSION</b> .....	18

## 1. OVERVIEW

Marriage is a sacred institution in Islam, and by one narration is seeking to compete 'half of faith'. In contemporary society it has been subject to declining rates, and concurrently divorce rates are increasing – at varying rates in different countries throughout the world.

MajlisTT recognizes that the effects of divorce can take a toll on the physical, spiritual and mental wellbeing of anyone going through the process, and examines the issues surrounding divorce from an Islamic perspective.

We frame in the treatment in its theoretical foundation, but the intent is not an academic study or treatment, but rather building towards addressing real issues, and positing real solutions, in real-time, to help minimize the instances of divorce in our community, and abate the negative effects and fallout from the divorce process.

## 2. DEFINITION

Divorce is defined as the legal dissolution of a marriage either according to Islamic theology and/or national law. (See MajlisTT paper – Marriage in Islam, Section 8).

## 3. ROLE OF DIVORCE

Divorce – i.e. the termination of a marriage contract – may prove to be a necessary course of action in situations where marriages lead to, result in or perpetuate unhealthy, dangerous or toxic relationships, and/or endanger the physical, mental and/or emotional health of an individual party in the marriage agreement.

MajlisTT notes that in some situations, divorce is a humane and merciful option to the victims or those on the receiving end of instances such as abuse or negligence. Numerous studies<sup>i</sup> have linked negative relationships and unhappy marriages to negative health effects, including heightened instances of cardiovascular diseases, low self-esteem and life satisfaction, and psychological distress<sup>ii</sup>. It needs to be noted that these findings are in stark contrast to studies that suggest (happily) married people tend to live longer and be happier in their lives compared to divorced, widowed or those who never married.<sup>iii,iv</sup>

In Islam, divorce is permissible but disliked. It is in fact seen as the most disliked permissible act in the sight of Allah (swt).

In a hadith reported by Ibn Umar (r.a.) the Holy Prophet (peace be on him) is reported to have said "With Allah, the most detestable of all things permitted is divorce." [Abu Dawood]

In this regard, we recognize that there will always be the situation where persons may not agree on a matter, or persons have different values, belief systems, priorities or influences that conflict with those held by a spouse. As Muslims, divorce should be (and usually is) considered to be the **last available option** after all attempts are made to resolve differences and challenges that affect marriages.

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#### 4. DIVORCE SOCIAL TRENDS

Reports from other countries indicate that the divorce rate is increasing among the Muslim population.<sup>v</sup> In Trinidad and Tobago<sup>1</sup>, the divorce rate averaged 30% of marriages – approximately 3 in 10 marriages result in divorce.

MajlisTT notes as well that the national rate of divorce is a function of the marriage rate in the general population – which itself has been declining over the periods of study, while the rate of cohabitation has ‘risen exponentially’ and the rate of never-married women aged 45-49 is second highest in the world in the composite Latin American and Caribbean region.<sup>vi</sup>

#### 5. REASONS FOR DIVORCE

MajlisTT notes that people in our society may ask for divorce for a number of general reasons. Research presents some triggers for, or recurring factors that lead to, divorce, including the following:

- Instances of abuse and/or violence by 1 spouse to the other – including domestic, verbal, emotional, substance, etc.
- Instances of addiction by 1 party (including alcohol, narcotics, pornography, social media, gaming, etc.)
- Interference by (or accusations of loyalty to) the families and/or friends of 1 spouse at the expense of the other
- Medical & behavioural conditions (for e.g. impotence; sexual dysfunction or perversion)
- Lack or loss of attraction
- Changes of behaviours or change of religion after marriage
- Unfaithfulness by one or both persons in the marriage
- Objection by the first wife when men take other women as wives
- Work and social media relationships, maintaining alternate identities or restricted access to certain devices or accounts give rise to suspicion and mistrust (at the least) if not outright encouraging haram conduct that disrupts a marriage.
- 1 spouse is, or accuses the other (rightfully or not) of being, too controlling, jealous, or restrictive of their actions, or accusing or of being involved in immoral conduct where that person is required to interact with members of the opposite sex, etc.
- 1 spouse (typically the men) harbour resentment against their spouse (typically their wives) who are more successful (financially or in their careers) than them.
- Incompatibility of persons getting married, who marry for a number of reasons
- Changes in circumstances (for e.g. men being unable to provide for their wives and/or households)
- Lack or loss of communication between the spouses.

In light of these, it is useful to remind Muslims of their responsibilities as a spouse to their marriage partner, as elaborated in the MajlisTT’s Marriage in Islam paper – included for reference following:

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<sup>1</sup> Based on the available data for the years for which data is available.

Islam tells us "...They (wives) are a garment for you (husbands) and you (husbands) are a garment for them (wives)..." [Quran 2:187]. The role of garments is acknowledged to include:

- Protection from the environment
- Guard and protect a person's modesty
- Adornment to beautify a person

Husbands and wives should perform these functions in relation to each other.

We are instructed to live with each other on a footing of kindness and equity, and not treat each other with harshness [Quran 4:19]

Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. [Quran 4:34]

Both should strive to maintain love and affection amongst themselves.

Righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. [Quran 4:34]

Contrary to the dominant culture in some parts of the world, women are allowed to work and earn income (subject to the agreement between the husband and wife), but there is no obligation on the part of the woman to maintain the household from her personal income.

The relationship between both husband and wife should be based on justice, and each person must be familiar with their rights and duties to each other. It must be understood that both parties in a marriage have equal rights to each other, referenced in the Quran [2:228].

## 6. THE DIVORCE PROCESS

MajlisTT notes that divorce in Islam is a broad subject with considerable aspects that are treated with across many schools of Fiqh.

The Quran and Ahadith give explicit guidance on the conditions that apply for divorces to be considered valid. From the Qur'an we are told:

*(2:229) Divorce can be pronounced twice: then, either honourable retention or kindly release should follow.*

*(2:230) Then, if he divorces her (for the third time, after having pronounced the divorce twice), she shall not be lawful to him unless she first takes another man for a husband, and he divorces her. There is no blame upon them if both of them return to one another thereafter, provided they think that they will be able to keep within the bounds set by Allah. These are the bounds of Allah which He makes clear to a people who have knowledge (of the consequences of violating those bounds).*

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*(2:231) And so, when you divorce women and they reach the end of their waiting term, then either retain them in a fair manner or let them go in a fair manner. And do not retain them to their hurt or by way of transgression; whosoever will do that will indeed wrong himself.*

*(2:241) For divorced women Maintenance (should be provided) on a reasonable (scale). This is a duty on the righteous.*

We can also find numerous ahadith dedicated to the topic of divorce – see for instance: Sahih Muslim Book 9, Chapter 4 (3498 – 3506); Sahih Muslim Book 9, Chapter 1 (3473 - 3490); Sahih Muslim, 3557

Muslims are cautioned that divorce is not something that should be taken lightly or done thoughtlessly, on a whim, in a spur-of-the-moment emotional state, in jest or as an empty threat. Rather it should be a definitive step after other attempts are made at a resolution. Even if talaq is done in jest or in a state of anger or otherwise, or intoxicated where he loses his sense of judgement, it remains valid.

As iterated previously, divorce should therefore be seen as the last available option after other methods to salvage a marriage agreement are explored. These actions can span the following:

- **Preventative Measures:** By ensuring marriage is done in accordance with Islamic teachings – see MajlisTT Marriage in Islam, section 2 ‘Why Marry’ and 3 ‘Who We Can Marry’.
- **Corrective Measures:** When couples are experiencing marriage problems, attempts should be made to reconcile. For example, the Quran instructs us on how to treat with misbehaviour in the marriage, or, if these are unsuccessful, then to appoint two arbiters – one from either family of the couple, who should work together to help resolve the problems.

*“Men are in charge of women by [right of] what Allāh has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allāh would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them [lightly].<sup>4</sup> But if they obey you [once more], seek no means against them. Indeed, Allāh is ever Exalted and Grand.” (Qur’an 4:35)*

*“And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things].” (Qur’an 4:35)*

- **Definitive Measures:** If a divorce is being pursued and there is no success in corrective measures, Muslims are reminded that divorce should not be with enmity, hatred and spite. The Quran says, “...[the parties should] separate with kindness.” [Quran 2:229]

We reiterate at this point that there are some instances where divorce is the humane and merciful option that a person can pursue. As such, MajlisTT is of the view, and urges that the community should not look down on divorced persons, nor treat them as second-class or dishonourable, as is the practice in some cultures.

## 7. TYPES OF DIVORCE

There are a number of ways that divorce can be effected in Islam, and different conditions are applicable to effect a valid divorce in Islam.

**7.1 *Khul'a***, or divorce sought by the wife for which the man accepts

**7.2 *Talaq***, or divorce pronounced by the husband. There are different types of talaq within Islam.

**7.2.1** Given verbally (*Saureeh* - explicit) which, even if said as a joke, is applicable. According to Ibn Kathir the two witnesses are needed if the divorce *iddah* is completed and the husband wants her back. Then a new *nikah* is to be performed with the presence of two just witnesses. However *Assadi* said the two witnesses are needed in both divorce and after completion of the *iddah*. [From Dr. Musa]

7.2.1.a *Talaq Raj'ee* – revokable divorce, which, if the man gives, he is allowed to take her back (he says either once or twice 'you are divorced' or any type of wording that is on the same scale of divorce (*Qur'an* 2:229)).

7.2.1.b *Talaq Mughallaz* – irrevocable divorce. This itself is of 2 types:

- i. Done through *sunnah* where 3 *talaq* is given (one every month, given when she is not witnessing her monthly cycle.)
- ii. Done by giving 1 *talaq* at a time for a total of 3 *talaq* given over any period of time

7.2.1.c *Talaq* done in *bid'ah* way – person gives 3 *talaq* at once / in one sitting

**7.2.2** Through implication (implicit or conditional divorce). In this instance, a person saying certain words can make the *talaq* valid. It may be necessary to clarify intention in these cases – since the use of certain words for which there is no alternative interpretation could be considered as a *talaq*. Persons have to be careful in what they are saying.

**7.2.3** *Talaq* granted by a court - *Faskh*. *Talaq* that is decided by a judge – which renders the marriage dissolved. This can be driven by situations where, for example, the man is absent or the woman is abandoned, or where the husband is declared dead.

**7.2.4** *Tafweeth* – the man has given the woman the rights of divorce, she is authorized to divorce her husband whenever she wants.



It should be noted that, according to some schools of Fiqh but not all, if a woman is in her menstrual period, the man should not give talaq.

A central concept to note within divorce in Islam is that of ‘Iddah – a period of abstinence. The duration of the ‘iddah is ninety days or three menstrual cycles or three lunar months. If revokable talaq raj’ee is given and the couple resumes cohabitation or intimacy within the period of ‘iddah, the pronouncement of divorce is treated as having been revoked.

Conversely, if there is no resumption of cohabitation or intimacy during the period of ‘iddah, then the divorce becomes final and irrevocable, after the expiry of the ‘iddah period. It is considered irrevocable – the couple is forbidden to resume marital relationship after expiry of the ‘iddah period, unless they contract a fresh ‘nikah’ (marriage), with a fresh ‘mahr’. Note these are applicable where 1 or 2 talaq are given. If all 3 talaq are given, the 2 individuals cannot get married to each other again, unless certain other obligations are fulfilled. (Qur’an 2:230)

We remind all persons that once a divorce is conducted in accordance with Islamic theology, it is valid in Islam – whether or not the national legal proceedings have been initiated or completed, or not. We reiterate that persons should not pronounce talaq in haste, since the implications for subsequent reconciliation are profound.

## **8. MATTERS SURROUNDING THE ISSUE OF DIVORCE**

### **8.1 The process through which a woman can apply for khul’a**

A woman can apply to a Qadi to be given a divorce (Faskh). MajlisTT recognizes that this requires the presence of such an institution – with persons who would bear the responsibility of any investigations and information gathering which may prove necessary. We note, also, that the dedicated divorce institutions within the community would feature as the divorce councils, and where a woman applies to the divorce council, it is like faskh, and it would be considered as faskh.

If the case in context is not a registered marriage but a valid Islamic marriage, MajlisTT notes that although the divorce council may not be able to process the case in legal channels, the organisation can appoint a divorce committee who can treat with the case from the Islamic context, and act accordingly. It is the onus of the organisation to ensure such measures are in place.

MajlisTT notes that there is a recurring concern that women are not represented on local divorce councils or divorce committees aforementioned. The councils and committees should ensure effective representation – particularly in instances like divorce where there may be very sensitive and personal issues that feature. We strongly recommend a female presence on these councils or committees to accommodate the divide. It is the onus of the organisation to ensure such measures are in place.

### **8.2 The Rights of a Woman When Divorced**

MajlisTT sees the need to highlight to Muslims that when a woman is divorced, the rights that Islam confers to her. We are guided by the Qur’an 33:28; 33:49; 2:236; 66:1.

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Where children are involved in cases of divorce, men are required to maintain the children. If the wife is nursing, she has to be maintained for the period of nursing. We are told in the Qur'an:

*Lodge them<sup>1</sup> [in a section] of where you dwell out of your means and do not harm them in order to oppress them.<sup>2</sup> And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for him [i.e., the father] another woman. (Quran 65:6)*

They also are required to maintain the wife during the period of iddah. (See more in section 9 following). It is reported that it is often the case where women return to the home of their parents, siblings or relatives. According to Islam, the woman is not obligated to do this, and should be maintained in the home of her marriage for the required time. While the iddah is ongoing she has the right to be maintained by the husband. If she leaves the house before the iddah period is completed, there is no obligation for him to maintain her. If he puts her out, he is still obligated to maintain her. The man is also not obligated to maintain the woman if the divorce took place because she committed transgression in the marriage (for example if she leaves Islam, or commits adultery, etc.).

### **8.3 Questionable Approaches and Liberal Attitudes to Marriage and Divorce**

MajlisTT has been availed to situations where a liberal attitude to divorce in particular is perpetuated – within some segments of Muslim Society. Reports are that there is the accommodation, if not encouragement, of persons marrying with the intention to divorce at some point, either to satisfy more immediate intimacy urges or to facilitate the re-marrying of persons divorced after 3 talaq are pronounced.

This is appalling and abhorrent and not in keeping with the institution of marriage in Islam. Persons promoting such lax attitudes and misinterpretations are misrepresenting Islam and should desist from this type of behaviour. Persons being subjected or witness to such behaviours should avoid such persons, and all should know that these are inconsistent with Islamic view of divorce as the most hated of permissible things.

### **8.4 Selection and Capacity Development of Marriage and Divorce Officers**

The roles of marriage and divorce officers, even Imams require a range of key skills to effectively facilitate the marriage and divorce process. Skills such as cultural and behavioral sensitivity and assessment, communication, decision-making, mediation and negotiation are some of the competencies that are required, underpinned by personal integrity.

- **Training Needs:** It has been reported that a gap exists for marriage and divorce officers relative to these skills. The traditional mode of the 'village elder' and community 'religious leader' is insufficient in an evolving society. A clear, transparent and consistent logic applicable to all would set the standard for all parties to the process to be satisfied, or at least be assured, that just decisions were the outcomes of the process.

The appointments of officers being made by organisations places the onus on those institutions to ensure those in the positions are sufficiently trained on an ongoing basis, and those being appointed are suitably trained. MajlisTT recognizes that technological tools

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such as a knowledge management platform would auger to the benefit of the officers, directly, and the general community by extension, in issues such as policy positions, training resources, case management approaches and logs of transactional details, with all supporting documentation.

- **Revenue Stream:** There has been the expressed position by persons involved in the process that the divorce office exists as a revenue stream for the parent organisation. The allegations are that persons can simply pay the requisite fees and have the divorce enacted. If and where this is practiced, this is not in keeping with the Islamic approach, in which divorce should be the last available option. Offices approaching such matters as a source of revenue should revisit that position – each one of us will be held accountable to Almighty Allah for our conduct.
- **Professionalism & Misconduct:** It is also the report that the officers of the councils are not professional in their conduct – some in terms of their punctuality and attendance at events within the processes; others in terms of their manners of speech and comments made in the face of emotionally charged and sensitive situations; yet others in taking advantage of situations, and people, for their own benefit or desires. None of these are acceptable.

Where performance of officers are substandard, relative to such issues as punctuality or speech, the organisation should take the requisite measures to ensure that officers and their reporting officers are sufficiently trained, and that performance is governed. All customers of these officers should have a separate, independent channel through which to log or escalate any complaints they may have of the process and its effectiveness.

In situations where it is proven that persons took advantage of a situation and persons involved, these persons should be removed from office, banned from any role of leadership or influence within the community, for life, and have charges laid where applicable. It is the onus of the organisation to take suitable action to ensure compliance with Islam.

### 8.5 Service Maturity and Consistency within the Muslim Community

- **Fatwa Shopping:** Some persons seek Shariah validation for their actions, and when dissatisfied with the pronouncement from their scholar or leader, they shop around by other scholars or leaders to seek a fatwa that is more in line with their expectations or gives the answer they are seeking. This, in the context of different groups and differing interpretations of Islam and Islamic source references, is unfortunate yet unavoidable – and overall can raise doubts in the minds of persons about the integrity of Islamic Shariah.

The ideal is a consistent position that requires standardization of fatawa – a reality that can only be achieved if the offices and officers of the various organisations elect to collaborate and coordinate should they choose. That there are different positions on key elements means such a reality would take commitment and effort to realise. Persons are encouraged to follow the advice given by their community leaders, and let Allah guide them through the process. We are reminded that the Qur'an tells us:

*“And it may be that you dislike a thing which is good for you and that you like a thing which is bad for you. Allah knows but you do not know.” (Qur’an 2:216)*

## 9. FREQUENT CONFLICTS AS A RESULT OF THE DIVORCE

MajlisTT recognises that there are a number of issues that can feature when a divorce is being considered or the process is in progress. These include:

- **Character assassination:** Muslims are reminded that ill-speaking the other party can be classified as backbiting and slander, etc. and this is haraam in Islam.
- **Children’s loyalty:** There are situations where one or both parties in a divorce use children as pawns, or 1 parent tries to justify the divorce by vilifying the other – children are expected to pick sides, send messages or put down the other party; this is haraam in Islam.
- **Custody and related rights:** There are also issues regarding custody, visitation and maintenance obligations. Majlistt notes there is specific Islamic Jurisprudence regarding these issues, and both parties are expected to be guided accordingly.
  - The husband supposed to provide for the wife who is suckling a child, for a period of 2 years (Quran 2:233; 65:6).
  - The wife retains custody of a boy until the age of 7-8 (when he can think or process thoughts on his own – a situation that has to be looked at individually), then the father gets custody. Custody of girls is retained by the wife until puberty, then the father is entitled to gain custody.
  - In Islam, if the mother remarries, the custody goes to the biological father immediately.
- **Settlements:** There can be the tendency for one or both parties in a divorce to try to get as much as they can in settlements. We wish to remind the Muslims that the Quran says: “...let them forgive and overlook, do you not wish that Allah should forgive you? For Allah is Oft-Forgiving, Most Merciful.” [Quran 24:22]

## 10. SUPPORTING INSTITUTIONS AND SERVICES

Divorce, as a function of marriage, is the result of persons terminating the agreement to live together, for whatever reasons. Usually, such decisions are material ones with deep, often negative effects on the persons involved, mentally, emotionally, financially, maybe even physically.

Because of these generally negative effects, as a community and a society, the ideal would be not having to deal with instances of divorce, or where they do manifest, they are cordial and based on mutual consent. Reality paints a different picture, however, and therefore as a community there is need to ensure the right support is in place within the community to achieve key outcomes:

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1. help prevent or correct problems that lead to divorce, or, where those don't work,
2. help to facilitate a cordial and amicable divorce, or, where these are unattainable,
3. help support persons having gone through divorce to recover and stave off lingering ill-effects.

Evidently, achieving success in healthy, happy sustainable marriages becomes part of a much broader social agenda, which may require a number of support programs. For instance, where 1 person in a marriage is afflicted with substance abuse, corrective action has to address both the causes and symptoms of that abuse, in order that the marriage would work. Similarly, if one person in a marriage is predisposed to promiscuity, or violence, then these predispositions would have to be treated and resolved for both parties to enjoy a sustainable marriage.

This narrative is ultimately all-compassing, addressing areas that need to be considered throughout the development cycle of a person in their lives.

- ➔ If the ideal sustainable marriage is a function of persons who are emotionally stable and mature, gainfully occupied and working together as a cohesive unit, then that is the result of
- ➔ individuals who are emotionally stable and mature, gainfully occupied, open to communication, and who are – themselves or with help – capable of selecting the right partner.
- ➔ Having persons who are emotionally stable, mature and gainfully employed may itself be the result of a sound upbringing, or where absent, an intervening and reorientation program (such as a jamaat outreach or dawah program).

We see the issue of divorce in context, with the drivers and the support required, in Fig. 1: Divorce in Context – A Macro View.

Directly towards addressing these issues, we can identify some specific programs that, if achieved, would augur to the benefit of married couples and the community within which they live and function. These include:

10.1. Effectively trained personnel along with support programs at the national, Muslim community and jamaat levels – to be aware of the issues, risks and effects, and be able to identify and mitigate risks of divorce and factors leading to divorce.

10.1.1. Personnel would include marriage officers and divorce council members, Imams of the various jamaats within and throughout the community, as well as persons of influence within the Muslim community and social circles.

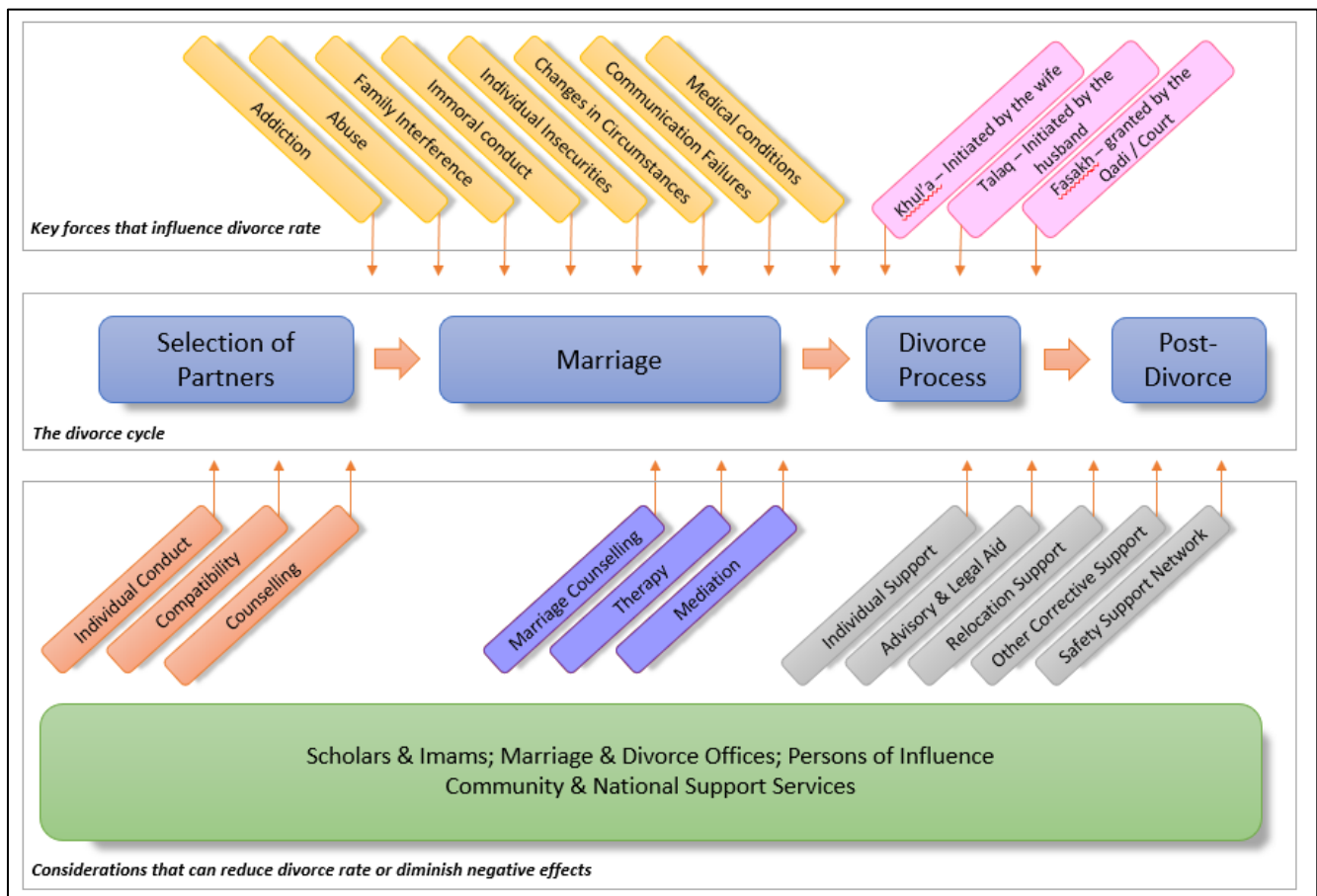
10.1.2. Support programs can include: Mediation; Counselling; Personal development.

10.2. Services and outreach programs at the national, Muslim community and jamaat levels to help members of the community achieve greater maturity, stability and gainful occupation, including:

10.2.1. Addiction prevention / correction (alcohol, narcotics, gambling, pornography, social media, gaming, etc.)

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- 10.2.2. Abuse prevention / correction (substance, domestic violence, emotional)  
 10.2.3. Mental, emotional and physical health programs (including anger management, and relationship management, depression, behavioral disorders, etc.)  
 10.2.4. Effective communication skills and emotional intelligence training



1: Divorce in Context - A Macro View

10.3. Preventative and corrective services specifically targeting marriage and married couples, including:

- 10.3.1. Pre-marital counselling / appropriate match-making  
 10.3.2. Couples therapy appropriately timed to nip issues in the bud  
 10.3.3. Mediation and reconciliation services to treat with issues as required

10.4. Support services for persons going through ill-effects of a divorce, which may feature any or a combination of a number of programs, as applicable:

- 10.4.1. Emotional support and healing  
 10.4.2. Divorce advisory services and/or legal representation  
 10.4.3. Relocation support (bridge financing, accommodation, new employment)  
 10.4.4. Other corrective support (for e.g. plastic surgery for victims of physical abuse)



#### 10.4.5. Safety support network where persons are harassed or tormented by the other party

MajlisTT notes that none of these ideas or even programs are new or ground-breaking – they have been identified and provided before, with varying degrees of uptake throughout the community, and for a number of reasons.

- We acknowledge the efforts of the Islamic organisations which have provided marriage and divorce offices to serve the community over decades. These offices have undertaken to provide an essential service, and would need to ensure their service profiles are in line with evolution in society,
- We acknowledge the efforts in particular of FISCAL/NICS over the past decades to provide these capacity-building and training initiatives, and expertise support, to the communities whom they serve.
- We also note the often-unheralded commitment to help address these issues by the various Maulanas, Imams and jamaat executives in particular – many times thrust into situations they were not directly trained to deal with, and maybe having to preserve confidentiality at considerable effort and costs to their reputations and pockets.

As MajlisTT we hold firm to the belief and assertion that living in accordance with Islamic principles and practices are the best way to ensure success in this life and the hereafter.

So for example:

- ➔ A person adjusting their life schedule to observe salaah in its specified times may prove the trigger to that person
- ➔ achieving enhanced productivity, and thereby becoming more gainfully employed, and,
- ➔ alongside the mental discipline and lifestyle practices that conform to the performance of salaah (that can condition a person to be more mature and emotionally stable) would
- ➔ help them to be a better version of themselves to themselves, their partners and to society at large.

But this is one example, far easier said than achieved, takes time to realize, and can require the involvement of other persons or institutions to make happen – it takes a village to raise a child becomes the encompassing logic – all hands onboard pushing in the same direction.

## **11. TO THOSE WHO ARE CONTEMPLATING DIVORCE, OR UNDERGOING DIVORCE PROCEEDINGS OR ARE EXPERIENCING THE ILL-EFFECTS OF A DIVORCE**

While every situation is unique, there are a few things that might prove useful to consider for anyone experiencing difficulty in their relationship, its termination through divorce or are struggling to deal with a divorce:

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### 11.1 Exercising the Divorce Option

As said previously, divorce is the most hated of permissible things in the sight of Allah. If there is any way that reconciliation can happen, then please consider these options before making the decision to initiate a divorce. We recognize that divorce can also be a merciful option depending on the situation, so that if divorce is the only option, and other avenues for reconciliation are not available or were unsuccessful, then please do not feel guilt about initiating the divorce.

It is also common to think of what others may say, or what they may think of you as a divorcee. This is immaterial – your primary focus as a Muslim is with Allah, and He will look at you based on your intention. So, we would advise that you focus on your relationship with Him, and your intentions, and leave the rest to Him. Even Prophet Muhammad (peace be on him) was subject to harsh and unjustified treatment in Makkah before his migration, and experienced the change in people towards him after this. May Allah guide us all to what is best.

If your actions or behaviours were the cause of divorce, and/or you have come to recognize mistakes or wrongdoing on your part in the marriage, seek forgiveness abundantly, and know that Allah is Most Forgiving, Most Merciful. He tells us this in the Holy Qur'an explicitly:

“Say, "O My servants who have transgressed against themselves [by sinning], do not despair of the mercy of Allah. Indeed, Allah forgives all sins. Indeed, it is He who is the Forgiving, the Merciful." (Qur'an 39:53)

### 11.2 Facing Difficulties

We remind all Muslims that we are told in the Quran that we will face trials in this life:

Do people think once they say, “We believe,” that they will be left without being put to the test? (Quran 29:2)

We will certainly test you with a touch of fear and famine and loss of property, life, and crops. (Quran 2:155)

In the same way Almighty Allah tells us we will be tested, He also gives us a number of assurances, a social contract, if you will, in writing, in the Quran. And these help us to frame our psychology and thoughts in facing difficulties:

- We are told in the Quran for example we will not be given more than we can bear (2:286)
- And we are told in a Hadith: When Allah wants to give you more, He tests you (Bukhari)



- In another Hadith we are told: Those whose religious commitment is strong, will be tested more severely, and the trials to the Prophets were strongest (Al-Tirmidhi)
- But as for a human, whenever his Sustainer tests him by His generosity and by letting him enjoy a life of ease, he says, “My Sustainer has been generous towards me”; whereas, whenever He tests him by tightening his means of livelihood, he says, “My Sustainer has disgraced me!” But nay.” (Quran 89:15-17)
- “Never a believer is stricken with a discomfort, an illness, an anxiety, a grief or mental worry or even the pricking of a thorn but Allah will expiate some of his sins on account of his patience.” [Al-Bukhari and Muslim].

In fact, we are told in the Quran “For indeed, with hardship [will be] ease. Indeed, with hardship [will be] ease.” (Qur’an 94: 5–6).

### 11.3 Coping Mechanisms

11.3.1. Pray to Him. You depend only on Allah and He will show you the way; and He will never let you down. He tells us that in the Quran:

I respond to the invocation of the supplicant when he calls upon Me (Qur’an 2:186)

Indeed Allah provides to whom He wills with no limit! (Quran 3:37)

But, even if you are alone and everyone is against you, we are told in a Hadith Qudsi, “Whoever comes to Me walking, I will come to him running. Whoever meets Me with enough sins to fill the earth, not associating any partners with Me, I will meet him with as much forgiveness.” (Muslim)

11.3.2. In times of difficulty, we need to exercise patience:

Allah is with those who are patient in adversity (Quran 2:153)

“O you who have believed, seek help through patience and prayer. Indeed, Allah is with the patient.” (2:153)

We are consoled it might happen to make us stronger. Allah tells us in the Holy Quran “...it may be that you hate something when it is good for you and it may be that you love something when it is bad for you. Allah knows and you do not know.” (Qur’an, 2:216)

11.3.3. Relatedly, we have to make the first move to improve our lot. We are told in the Quran and Ahadith:

God does not change the condition of a people unless they change what is in themselves (Qur’an 13:11)

Let one of you ask his Lord for his needs, all of them, even for a shoestring when his breaks. (Al-Tirmidhi)

Call upon your Lord with humility and in private. Verily, He does not love transgressors. (Quran 7:55)

What can prove helpful for example is immersing yourself in a community of like-minded persons who would cheer each other on, and understand what the reality of the situation is or has been.

11.3.4. And at all times, we are commanded as Muslims to have faith in Allah.

“Whoever puts his trust in Allah; He will be enough for Him.” (Quran 65:3)

“And for those who fear Allah, He (ever) prepares a way out. And He provides for him from (sources) he never could imagine” (65:2-3).

“And if any one puts his trust in Allah, sufficient is (Allah) for him. For Allah will surely accomplish his purpose. Verily, for all things has Allah appointed a due proportion” (Quran 65:3)

“Verily in the remembrance of Allah do hearts find rest” Quran (13:28)

“If anyone continually asks forgiveness from Allah, Allah will appoint for him a way out of every distress, and a relief from every anxiety, and will provide for him from where he did not reckon.” (Hadith)

“Whoever Allah wants good for him, He puts them to the test. He puts them through difficulties; like a diamond or gold that has to be burnt after which anything bad from it is removed so that what you have is pure diamond or pure gold.” (Hadith)

## 12. CONCLUSION

We pray that Almighty Allah preserves and strengthens the institution of marriage in the Muslim community, helps us to foster stronger, sustainable marriages, and where divorce is the necessary option, that it serves to strengthen our deen and relationship with Him. Ameen.

<sup>i</sup> <https://www.theguardian.com/lifeandstyle/2018/jul/16/a-bad-marriage-is-as-unhealthy-as-smoking-or-drinking-say-scientists>

<sup>ii</sup> <https://academic.oup.com/sf/article/84/1/451/2235003>

<sup>iii</sup> <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1741-3737.2010.00728.x>

<sup>iv</sup> <https://iarr.org/resources.html>

<sup>v</sup> <https://www.farooqihusain.com/oakbrook-terrace-lawyers/understanding-divorce-rates-in-muslim-communities>

<sup>vi</sup> *Regional Factsheet, Latin America and the Caribbean, Families in a Changing World, 2019-2020, Progress of World's Women, UN Women*