

LEGISLATIVE AND SOCIAL MEASURES TO REDUCE DIVORCE RATES IN HAIL, SAUDI ARABIA: AN ISLAMIC AND LEGAL STUDY

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Abstract:

The overall divorce rate in the Kingdom of Saudi Arabia continues to witness successive increases both in the past and present. According to the latest statistics and reports issued by the General Authority for Statistics, the overall divorce rate among Saudis rose by 13.8% in 2020 compared to the previous year. The Hail region ranked second among the thirteen regions of the Kingdom in terms of the highest increase in the overall divorce rate and ranked third in the number of divorce certificates issued. Without a doubt, this trend indicates a social issue that must be addressed through analysis and remedy.

In 2022, the Kingdom of Saudi Arabia issued the Family Law (Personal Status Law) with the aim of addressing many negative societal phenomena, including the increasing divorce rates in Saudi society. The law included a set of significant measures to combat the rise in divorce rates across the regions of the Kingdom.

Among the most important of these measures is the adoption of more lenient religious opinions and juristic interpretations regarding the calculation of the number of divorces a husband possesses under Islamic law, and the adoption of the view that divorce does not take effect in many cases, in order to preserve the family unit and avoid strict juristic positions on these matters.

The law also included measures such as the prohibition and criminalization of child marriage in Saudi Arabia, as well as the prohibition of forcing girls into marriage. These measures undoubtedly contribute to curbing the phenomenon of divorce in society, as reports have shown that many divorce cases were caused by allowing child marriage and forcing girls into marriage.

This study aims to shed light on the legislative measures adopted by the Saudi Family Law to reduce divorce rates in society and to highlight the role of Saudi institutions in ensuring the success of these measures.

Keywords: Overall Divorce Rate – Saudi Family – Personal Status Law – Hail Region – Islamic Jurisprudence.

1. INTRODUCTION:

Although divorce is permissible in Islam, it is considered the most disliked of all permissible acts, as Prophet Muhammad said: "The most hated permissible act to Allah is divorce" (Abi Dawud, Hadith No. 2178). Divorce is discouraged in Islam due to its consequences, including the breakdown of families, the separation of family members, and the negative psychological and behavioral effects it has on both the divorced spouses and their children.

There is no doubt that the negative effects of divorce extend to impact society as a whole. The disintegration of families caused by divorce leads to increased crime rates, decreased productivity, higher living expenses, and greater financial burdens on social welfare programs (Mortelmans, 2020). Additionally, divorced women and children suffer from various social, psychological, and health-related challenges (Almutairi, et al, 2024).

For these reasons, the rising divorce rate has become one of the most pressing social issues that governments and

policymakers worldwide are concerned with, from statistical monitoring and tracking to direct intervention and policy implementation.

In Saudi Arabia, the General Authority for Statistics (GAS), in collaboration with the Ministry of Justice and other relevant government entities, publishes periodic reports on divorce rates and trends across different regions of the Kingdom. These reports aim to support decision-makers, policymakers, and researchers in studying, analyzing, addressing the issue, and formulating future plans.

Official reports and statistics over the past few years have shown a significant increase in divorce rates among Saudis, indicating a clear dysfunction in the family structure and a social problem that requires urgent solutions.

Calculating the General Divorce Rate in Saudi Arabia:

The general divorce rate for Saudis is calculated using the following formula: (No. of Saudi Divorce Deeds / Estimate of Mid-Year Saudi Population for the Age Group 15 and Older) × 1000 (Saudi Arabia, GAS, Marriage and Divorce Statistics Methodology).

According to this indicator and the latest statistics issued by the General Authority for Statistics in Saudi Arabia, the general divorce rate among Saudi nationals increased by (13.8%) in 2020 compared to 2019. Hail was among the regions with the highest divorce rates, ranking second after Al-Jouf, surpassing Riyadh, Makkah, and other regions of the Kingdom.

In 2020, the general divorce rate in Al-Jouf was recorded at 5.07%, followed by Hail at (4.47%), then the Northern Borders Region at (4.42%), Riyadh at (4.22%), and Makkah at (3.86%). Meanwhile, the lowest divorce rate among Saudis was recorded in Jazan, with a rate of (2.5%) (Saudi Arabia, GAS, Marriage and Divorce Statistics 2020).

1.1 Study problem:

Hail is a relatively small region in terms of population compared to Riyadh. According to the latest official statistics published in 2022, the total population of Hail was (746,406), of which (527,885) were Saudi nationals. In contrast, the total population of Riyadh was (8,591,748), with (4,439,210) of them being Saudi nationals (Saudi Arabia, GAS, Population Estimates by Gender, Nationality, and Region for the Period 2010 to 2022). Despite its smaller population, Hail recorded a higher divorce rate than Riyadh, a phenomenon that requires intervention at both the legislative and social levels.

Official Divorce Deeds Statistics:

According to the latest official reports and statistics, the total number of official divorce deeds issued by the Saudi Ministry of Justice across all regions of the Kingdom in 2020 was (57,595), averaging 157 divorce deeds per day. This marked an increase of 12.6% compared to 2019 (Saudi Arabia, GAS, Marriage and Divorce Statistics 2020). Among the regions, Hail ranked third in terms of the highest increase in divorce deeds compared to 2019, following Al-Baha and Riyadh. The recorded increase in divorce deeds was:

Al-Baha: 36% increase

Riyadh: 21.7% increase

Hail: 19.2% increase (Saudi Arabia, GAS, Marriage and Divorce Statistics 2020).

These numbers only account for officially documented divorces, as recorded in government registries. However, they do not reflect the prevalence of unofficial divorces or emotional separation between spouses, which remain undocumented despite their high occurrence (Al-Shahrani H, Hammad M, 2023). There is no doubt that these rising divorce rates indicate a societal dysfunction that must be addressed.

1.2 Study questions:

The study seeks to answer a number of questions:

1. What is the system of divorce in Islam in general, and in Saudi society in particular?
2. What is the role of juristic reasoning (ijtihad) in determining whether a divorce is valid or not? What is the impact of differing juristic opinions on the rise in divorce rates? And how did the Saudi legislator address this issue?
3. Has the Kingdom of Saudi Arabia undertaken actual reforms to address the issue of increasing divorce rates in society? What are the most prominent of these reforms?
4. What is the role of civil society in the Hail region in ensuring the success of the legislative reforms adopted by Saudi Arabia to curb the rise in divorce rates?

1.3 Study Objective:

Saudi legislators have sought to address this issue through a series of important measures outlined in the Family Law (Personal Status Law), which was recently enacted in Saudi Arabia to tackle such social problems. This study aims to highlight the legislative reforms and government actions undertaken by Saudi Arabia to combat the rising divorce rates across the Kingdom. It also seeks to examine the role of civil society organizations, educational institutions, and awareness programs in Hail in ensuring the success of these corrective measures and reshaping public awareness regarding family-related social issues.

2. Divorce and Marriage Dissolution in Islam:

Divorce and the dissolution of marriage in Islam are considered exceptional legal measures that are only permitted in cases of necessity and dire need. Islam has regarded divorce as one of the most disliked permissible actions, as

mentioned in the previous Prophet's hadith. Nevertheless, Islamic law has defined three methods for dissolving a marriage:

- 1- Divorce by the husband's unilateral will.
- 2- Divorce granted by the court at the wife's request (dissolution due to harm).
- 3- Khul' (mutual divorce initiated by the wife).

2.1. - The First Method: Divorce by the Husband's Unilateral Will:

Islamic law grants the husband the right to unilaterally terminate the marriage whenever he wishes. All that is required of him in such a case is to utter the word "divorce" explicitly, saying to his wife: "You are divorced" or "I have divorced my wife." Once pronounced, the divorce takes effect (Thanvi, 2009, P. 395).

This ruling is explicitly stated in the Qur'an, where Allah says: "When you divorce women and they have 'almost' reached the end of their waiting period, either retain them honourably or let them go honourably. But do not retain them 'only' to harm them 'or' to take advantage of them" (The Noble Quran, Surah Al-Baqarah: 231). Here, Allah addresses men rather than women regarding the pronouncement of divorce, indicating that divorce is a right granted to the husband rather than the wife (Ibn Kathir, 2003, P. 644).

To preserve the marital bond, Islamic law does not limit divorce to a single pronouncement, which would immediately sever the marital relationship. Instead, the Qur'an mandates that divorce be issued in stages, with a maximum of three pronouncements, each occurring separately.

First Divorce: The husband explicitly states, "You are divorced." The divorce takes effect, but the husband retains the right to reconcile and restore the marriage during the waiting period ('iddah), which lasts for three menstrual cycles if the wife menstruates or three months if she does not. During this period, the woman is considered a revocably divorced wife (mutallaqah raj'iyah), and the divorce is called "revocable divorce" (talaq raj'i) because the husband has the right to reconcile with her without her consent, as she is still legally his wife. If the waiting period ('iddah) ends, the husband cannot take her back except through a new marriage contract with her consent.

Second Divorce: The same rules apply as in the first divorce. **Third Divorce:** The husband completely loses the right to reconcile with the wife, whether during or after the waiting period. The only way for them to remarry is if the wife marries another man, and that marriage ends either through divorce or the husband's death. Only then can she return to her first husband through a new marriage contract after completing her waiting period. (Thanvi, 2009, P. 395, 396; Badawi, 2007, P. 436, 437). These provisions are mentioned in explicit texts in the Holy Qur'an. The Qur'an said: "Divorce can be pronounced two times; in which case wives may be retained with correctness and courtesy or released with good will" (The Noble Quran, 2:229) and said after that: "But if a man divorces his wife a third time, she is not lawful for him until she has married another husband" (The Noble Quran, 2:230). This text clearly confirms that someone who divorces his wife once or twice can take her back. After the third divorce, she is not then lawful to him until she has married another man. Scholars agree that this is a firm ruling of the Qur'an about whose interpretation there is no disagreement. (Al-Qurtubī, 1975, Vol. 2, P. 457:460).

Islam has clarified the correct method for a husband to issue a divorce. If a husband wishes to divorce his wife, he must pronounce divorce once during a period of purity (tuhr) in which he has not had intercourse with her and then leave her until her waiting period ('iddah) ends. This method is referred to by Islamic jurists as "talāq Sunni" (Sunnah-compliant divorce), meaning it aligns with the practice of Prophet Muhammad (peace be upon him). This type of divorce is considered in accordance with the Sunnah for two reasons:

- 1). It follows the Sunnah in the number of pronouncements—because the husband issues only one divorce, rather than three divorces in a single statement.
- 2). It follows the Sunnah in the timing of the divorce—because the husband divorces his wife during a period of purity in which he has not had intercourse with her. (Al-Fawzan, 2016, Vol. 2, P. 433). This method of divorce is derived from the Quran and the Sunnah. Allah says: "Prophet! 'Instruct the believers:' when you 'intend to' divorce women, then divorce them with concern for their waiting period." (The Noble Quran, 65:1). In the meaning of this verse, Ibn Abbas said: "Divorce them at their Iddah means that he doesn't divorce her while she is on her menses nor while she is pure if he has had sexual intercourse during that (purity). Rather, he leaves her until she has her menses and after the menses ends, then he divorces her once". (Ibn Kathir, 2003, Vol. 10, P. 34). In the Prophetic tradition (Sunnah), it is reported that Abdullah ibn Umar divorced his wife while she was menstruating. When his father, Umar ibn Al-Khattab, informed the Prophet about this, Allah's Messenger (ﷺ) said: "Order him (your son) to take her back and keep her till she is clean and then to wait till she gets her next period and becomes clean again, whereupon, if he wishes to keep her, he can do so, and if he wishes to divorce her he can divorce her before having sexual intercourse with her; and that is the prescribed period which Allah has fixed for the women meant to be divorced." (Al-Bukhari, Hadith No. 5251).

Additionally, When the Prophet Muhammad was informed about a man who had divorced his wife with all three pronouncements (without any interval between them), he stood up in anger and said, 'Is Allah's Book being played with while I am among you?' (An-Nasa'i, Hadith No. 3401).

The reason Islam commands this specific method of divorce is that it leaves room for reconciliation if the husband wishes to restore the marital relationship. After the first and second divorce, the husband can reconcile with his

wife during her waiting period ('iddah) without needing a new marriage contract. Even after the waiting period ends, he can remarry her with a new marriage contract.

However, if the husband does not follow this prescribed method and issues divorce in a different manner, he will have committed something prohibited (ḥarām), such as:

- Pronouncing three divorces in a single statement (e.g., saying: "You are divorced three times").
- Divorcing his wife while she is menstruating.
- Divorcing her during a period of purity (ṭuhr) in which he has had intercourse with her.

All of these are forbidden in Islam and are referred to as "ṭalāq bid'ī" (innovated divorce) because they contradict the Sunnah. (Al-Fawzan, 2016, Vol. 2, P. 434).

The aforementioned rulings are unanimously agreed upon by Muslim scholars, as they are explicitly stated in the texts of the Qur'an and the Sunnah. However, Muslim jurists have differed on many detailed issues related to divorce where no explicit texts exist.

For example, they have disagreed on the issue of whether a divorce is valid if the husband does not follow the prescribed method and instead issues a "ṭalāq bid'ī" (innovated divorce). That is, if a man divorces his wife while she is menstruating or during a period of purity (ṭuhr) in which he has had intercourse with her, does the divorce take effect or not? There is a significant difference of opinion among Islamic jurists on this matter.

Similarly, there is also disagreement regarding cases where a man pronounces three divorces in a single statement, such as saying to his wife: "You are divorced three times", or repeating the divorce statement multiple times in one sitting, saying: "You are divorced, divorced, divorced." In this case, is the divorce counted as three divorces, or is it considered as only one divorce? There is a major difference of opinion among Islamic scholars on this issue as well. It is important to note that considering this as one divorce allows the husband to reconcile with his wife and restore the marital relationship. However, if it is counted as three divorces, the husband can never reconcile with his wife unless she marries another man and is subsequently divorced or widowed.

Additionally, scholars have differed on other detailed matters, such as the divorce of a drunken man if his intoxication was caused by something prohibited in Islam. For instance, if a man consumes alcohol knowingly, despite its prohibition in Islam, and then divorces his wife while under the influence of intoxication, does this divorce take effect or not? Again, there is a dispute among jurists. Such differences of opinion extend to many other issues related to divorce in Islamic jurisprudence.

2.2 - The second method: Divorce granted by the court at the wife's request (dissolution due to harm).

Although Islamic law has granted the right of divorce to the husband, this does not mean that a wife can never end the marriage without her husband's consent. It is possible that a woman may suffer harm from her husband and may not wish to continue the marriage due to the harm inflicted upon her, while the husband refuses to divorce her. In such a case, has Islam provided a way for her to end the marriage unilaterally, without the husband's consent?

A group of Muslim jurists, such as the Mālikīs, hold that if a woman is harmed by her husband and cannot continue living with him due to unbearable harm, and the husband refuses to divorce her, she may take her case to court and request the judge to dissolve the marriage due to the severe harm she is experiencing. If the judge verifies that the harm is indeed severe, he may annul the marriage at the wife's request, without the husband's consent. Examples of unbearable harm include: The husband's failure to provide financial support, His refusal to have marital relations with her for more than four months, His absence with no known whereabouts or contact, His affliction with a contagious disease and Domestic violence or any other form of severe harm. (Ibn Rushd, Vol. 2, P. 58, Sabiq, 1977, Vol. 2, P. 289, 290).

2.3 - The Third Method: Dissolution of Marriage through Khul':

Islamic scholars define Khul' as "a transaction in which compensation is paid by the wife obtaining her divorce." (Ibn Rushd, Vol. 2, P. 79). It can also be defined as "the wife's separation from her husband in return for remuneration paid to the husband" (Al-Fawzan, 2016, Vol. 2, P. 421).

Khul' in Islamic law is a means by which a woman can dissolve the marital bond if she dislikes her husband and does not wish to continue the marriage, even if he has not harmed or mistreated her. Just as Islamic law grants the husband the right to divorce if he does not wish to continue with his wife, it grants the wife the right to seek Khul' if she does not wish to remain with her husband, by returning to him the dowry and financial gifts she received from him in order to terminate the marriage. (Ibn Rushd, Vol. 2, P. 81, Sabiq, 1977, Vol. 2, P. 294).

The evidence for Khul' in the Quran is found in the verse: {There is no blame on either of them if the wife compensates the husband to obtain divorce.} [Surah Al-Baqarah: 229]. Additionally, in the Sunnah, Ibn Abbas reported that: The wife of Thabit b. Qais came to the Prophet and said, "Messenger of God, I do not reproach Thabit b. Qais in respect of character or religion, but I do not want to be guilty of infidelity regarding Islam." God's Messenger asked her if she would give him back his garden, and when she replied that she would, he told him to accept the garden and make one declaration of divorce. (Al-Bukhari, Hadith No. 5275).

The fundamental principle of Khul' is that it occurs by mutual agreement between the spouses. If both agree that the wife will give the husband the dowry he paid in exchange for Khul', and the husband accepts and says to her,

"I have left you", then the marriage is terminated, and the husband can no longer take her back after that (Thanvi, 2009, P. 405).

3. Divorce in the Kingdom of Saudi Arabia:

3.1 Divorce in the Kingdom of Saudi Arabia before the Enactment of the Personal Status Law:

Before the enactment of the Personal Status Law, Saudi Arabia did not have a unified law or regulatory framework that comprehensively addressed all issues related to divorce in detail as it does today. Divorce cases were presented before the Sharia courts, which followed traditional procedures based on Islamic legal texts and the jurisprudential interpretations of scholars, particularly those of the Hanbali school of thought. The Hanbali School is the predominant legal school in the Kingdom regarding personal status and family law matters. (Mallat, 2017). The Basic Law of Governance in Saudi Arabia states that the system of governance is based on Islamic law, the Quran, and the Sunnah of the Prophet, and that these serve as the supreme authority over all laws of the state. (Saudi Arabia, 1992, Basic Law of Governance, Articles No. 1, 7).

Accordingly, judges in Sharia courts would adjudicate cases based on Islamic legal evidence and the principles of Sharia law without being strictly bound to a particular school of thought. However, later judicial directives mandated that judges adhere to the Hanbali School of jurisprudence and not depart from it in favor of other schools except for valid legal reasons.

This granted Saudi courts broad discretionary authority in applying rulings to cases, as many cases do not have explicit and definitive texts in the Quran and Sunnah. As a result, courts needed to refer to the jurisprudential interpretations and opinions of Islamic schools of thought. It is well known that Islamic jurisprudence consists of four main schools—Hanafi, Maliki, Shafi'i, and Hanbali—that provide different interpretations and varying opinions on the same jurisprudential issue. Even within the Hanbali School alone, which judges were required to follow, multiple jurisprudential opinions exist on the same issue. This led to differences in rulings on the same case across different courts, depending on the discretionary authority and the legal opinion adopted by each court. (Yakar, 2019).

In divorce cases, the judge would make a decision based on their assessment of the case and the jurisprudential opinion they found most convincing. The judge would determine whether the divorce was revocable or irrevocable according to the legal school they followed. As previously mentioned, a revocable divorce allows the husband to take his wife back without a new contract, whereas an irrevocable divorce requires a new contract for reconciliation. In such cases, one judge might rule that a divorce was irrevocable, while another judge in a similar case might rule it was revocable, based on the jurisprudential opinion each judge adopted. This meant that divorce cases were handled on a case-by-case basis.

For these reasons, Saudi authorities saw the need to unify judicial rulings in personal status matters and regulate divorce procedures through the issuance of a unified Personal Status Law.

3.2 Divorce in Saudi Arabia after the Enactment of the Personal Status Law:

In February 2021, Crown Prince Mohammed bin Salman announced a series of legislative reforms aimed at "preserving rights, promoting the principles of justice, enforcing transparency, protecting human rights, and achieving comprehensive and sustainable development." The Crown Prince noted that "the absence of applicable legislation led to inconsistencies in rulings and a lack of clarity regarding the principles governing facts and practices." (Saudi Press Agency, 2021).

Among the laws he referred to was the Personal Status Law, which had been significantly delayed compared to other Islamic and Arab countries, where family laws had been enacted much earlier. (Niami, et al, 2023).

The law was issued and came into effect on June 18, 2022. Upon its adoption, Crown Prince Mohammed bin Salman praised it as "a major qualitative leap in preserving and protecting human rights, maintaining family stability, and regulating judicial discretion to minimize discrepancies in court rulings." He emphasized that the law was comprehensive, addressing all the challenges faced by families and women. (Saudi Press Agency, 2022). One of the most pressing social issues the law sought to address was the rising divorce rates in Saudi society. It aimed to combat harmful practices such as instant divorce and triple divorce, which men had previously practiced. The law also followed the most lenient jurisprudential interpretations regarding the counting of divorce pronouncements and adopted facilitating legal opinions on disputed matters related to divorce, all with the goal of preserving family stability as much as possible. (Niami, et al, 2023).

4. Legislative Procedures in the Personal Status Law to Reduce Rising Divorce Rates:

Previously, divorce cases were handled in courts based on the judge's personal discretion and independent reasoning in each case. However, the Personal Status Law introduced clear and explicit legal provisions, requiring all judges across Saudi courts to adhere to them when addressing divorce cases. The law carefully selected jurisprudential opinions and interpretations that prioritize family stability and minimize the occurrence of divorce as much as possible. Among these measures are the following:

4.1 Divorce Accompanied by a Number Counts as a Single Pronouncement:

One of the significant legislative measures introduced by the Saudi Personal Status Law to curb rising divorce rates is the restriction on multiple pronouncements of divorce in a single instance. According to the law, if a husband issues a divorce accompanied by a specific number, it is counted as only one pronouncement.

For example, if a husband says to his wife in a single phrase: "You are divorced three times", or if he repeats the divorce three times in the same sitting by saying: "You are divorced, divorced, divorced", the divorce will be counted as only one pronouncement, not three.

Article 83 of the law explicitly states: "If a divorce is expressed in numbers either verbally or by a sign or if such expression is repeated in the same session, it shall be counted as a single divorce" (Saudi Arabia, 2022, Family Law).

The purpose of this provision in the law is to address the mistake made by some husbands when they divorce their wives three times at once, in a way that destroys the family and eliminates the possibility of restoring the marital bond. Therefore, the law stipulates that such a divorce counts as only one revocable pronouncement, allowing the husband to reconcile with his wife and continue the marriage.

Here, it is notable that the law, in this matter, deviated from the opinion of the majority of scholars and the four main schools of jurisprudence and instead adopted the view of the Hanbali scholar Ibn Taymiyyah (1263–1328 CE) and the scholar Ibn Hazm (994–1064 CE), among others who opposed the majority in this issue. The Andalusian jurist Ibn Rushd (1126–1198 CE) states: "The majority favored strictness in divorce as a precautionary measure, but their opinion contradicts the leniency intended in Allah's words: {Perhaps Allah will bring about a change 'of heart' later.} [Surah At-Talaq: 1]." (Ibn Rushd, Vol. 2, P. 73, 74).

4.2 Irregular (Bid'ī) Divorce Does Not Take Effect:

As previously explained, the correct method for a husband to initiate divorce is the method in accordance with the Sunnah of the Prophet Muhammad, known in Islam as *ṭalāq al-sunnī* (Sunnah-compliant divorce). In summary, if a husband wishes to divorce his wife, he must pronounce the divorce once during a period of purity (*tuhr*) in which he has not had intercourse with her.

However, if he deviates from this method and issues a *ṭalāq bid'ī* (an irregular or non-Sunnah-compliant divorce)—such as divorcing his wife while she is menstruating, during postpartum bleeding (*nifās*), or during a period of purity in which he had intercourse with her—Muslim jurists have differed on whether this form of divorce takes effect.

The majority of jurists have held that the divorce is valid and takes effect despite its opposition to the Sunnah. However, some jurists have argued that such a divorce does not take effect because it contradicts the Sunnah, citing the Prophet's statement: "Whoever does an action that is not in accordance with our matter, it is to be rejected" (Muslim, Hadith No. 1718), and since this type of divorce contradicts the Sunnah, it must therefore be deemed invalid. (Ibn Rushd, Vol. 2, P. 77).

It is notable here that the law diverged from the view of the majority of jurists on this issue and instead adopted the opinion that such a divorce does not take effect, in order to protect the family and minimize divorce as much as possible. Article 80 of the law states: "Divorce does not take effect in the following cases: ... 4- If the wife is in a state of menstruation, postpartum bleeding, or a period of purity during which intercourse occurred, and the husband is aware of her condition." (Saudi Arabia, 2022, Family Law).

4.3 Divorce Issued by an Intoxicated Person Does Not Take Effect:

Among the issues over which Muslim jurists have disagreed is the matter of a man who divorces his wife while intoxicated, if his intoxication was intentional—that is, he knowingly consumed alcohol despite knowing its prohibition in Islam, became intoxicated, and during his state of intoxication uttered the words of divorce without being conscious of what he was saying. Does such a divorce take effect or not?

A group of jurists held that the divorce does not take effect, because the intoxicated person is unaware of what he says due to the absence of his mental capacity. However, the majority of jurists stated that such a divorce does take effect, on the basis that the loss of his mental capacity was caused by a sinful act, and the divorce is enforced as a punishment for that sin. (Ibn Qayyim, 2010, P. 763, Ibn Rushd, Vol. 2, P. 98).

On this issue as well, the law departed from the view of the majority and adopted the opposing opinion that the divorce does not take effect, in order to preserve the family and reduce the occurrence of divorce in society as much as possible. Article 80 of the law states: "Divorce does not take effect in the following cases: ... 2- The divorce of one whose mental capacity has been lost voluntarily, even through a prohibited act." (Saudi Arabia, 2022, Family Law).

4.4: Divorce by an Angry Man Does Not Take Effect:

Muslim jurists agree that divorce is only valid if pronounced by a sane man; if one's mental capacity is impaired due to madness or illness, the divorce does not take effect. One situation in which mental capacity is absent is intense anger that prevents a man from controlling his words. Therefore, scholars have stated that if a man divorces in a state of severe anger that impairs his reasoning, such a divorce is invalid. Imam Ibn Qayyim (1292–1350 J. C.) mentioned different types of anger, saying: "When anger makes one unaware of what he is saying, a divorce

is invalid without argument" (Ibn Qayyim, 2010, P. 766). Jurists base this ruling on the hadith reported by Aisha, in which she heard the Prophet say: "No divorce should be pronounced in a state of anger" (Ibn Majah, Hadith No. 2046).

In accordance with this ruling, Article 80 of the law stipulates: "Divorce does not take effect in the following cases: ... 3- A divorce pronounced by one whose anger has overwhelmed him to the extent that he loses control of his words" (Saudi Arabia, 2022, Family Law).

4.5: Divorce by the Coerced Does Not Take Effect:

The coerced is one who is forced to pronounce divorce while not wishing to initiate it. The majority of jurists have stated that in such a case the divorce does not take effect, because the words of the coerced in Islamic law are considered vain and are not counted, as they are uttered without free will (Ibn Qayyim, 2010, P. 760, Ibn Rushd, Vol. 2, P. 98). In this regard, the Prophet Muhammad said: "Allah pardons my people when they are mistaken, forgetful, or coerced." (Ibn Majah, Hadith No. 2045).

Article 80 also adopted this ruling, stipulating that: "Divorce does not take effect in the following cases: 1- Divorce of one who is not of sound mind or not choosing." (Saudi Arabia, 2022, Family Law).

4.6: An Oath of Divorce Is Only Valid with the Intention of Divorce:

Sometimes a man uses the term "divorce" in an oath with the intent to encourage the performance or refrain from a particular action. For example, he might say, "I will divorce you if such and such happens." Does the divorce take effect if the oath is not carried out?

The majority of jurists hold that the divorce does take effect because the use of the word "divorce" in this formulation is intentional. However, a group of jurists argues that the divorce does not take effect in this case, because the man did not intend to effect a divorce but merely intended to deter the performance of a specific action. The Saudi law adopts this latter opinion in order to preserve the continuation of the family and minimize the occurrence of divorce as much as possible. Article 81/2 of the law stipulates: "Divorce does not take effect due to breaking an oath of divorce or an oath by prohibition unless divorce was intended." (Saudi Arabia, 2022, Family Law).

Additionally, Article 81/1 states: "A conditional divorce based on doing or refraining from doing something takes effect, unless the condition was stated with the intent of exhortation, prevention, affirmation, or denial, and was not accompanied by an intention to effect a divorce." (Saudi Arabia, 2022, Family Law).

5. Preventive Measures in the Personal Status Law to Curb the Rise in Divorce Rates:

In addition to the aforementioned provisions, the Personal Status Law has introduced a set of preventive measures aimed at preserving the institution of the family and reducing the phenomenon of divorce in society. Among these measures are the following:

5.1: Requiring the Woman's Consent to Marriage and Documenting the Consent of Both Spouses in the Marriage Contract:

The Personal Status Law in the Kingdom of Saudi Arabia addressed one of the most significant social problems previously faced by young women, namely the issue of forcing a girl into marriage without her permission and consent. In the past, it was possible for a guardian to marry off a girl without consulting her about the marriage or the man she would marry. In some cases, familial pressure was exerted on the girl to accept the marriage. This practice was a major contributing factor to the rise in divorce rates in society (Selim and Al-luhayan, 2020).

One of the important measures stipulated by the law to address this issue is the requirement to include proof of the woman's consent to the marriage within the contract itself. Article (17/3) states: "A guardian — even if he is the father — may not marry off his ward without her consent, and the marriage contract must include what proves her consent" (Saudi Arabia, 2022, Family Law).

This is achieved through the woman's electronic signature on the marriage contract. Every adult woman in the Kingdom of Saudi Arabia possesses a digital account on the Saudi digital platform. Through this electronic platform, a woman can access the marriage contract using her personal account as one of the parties to the contract, review all the data and conditions contained in the contract, edit any information she wishes to modify, and then approve the contract. This approval is considered equivalent to signing and consenting to the contract.

It is worth noting here that the Kingdom of Saudi Arabia, through this platform, aimed to combat fraud that could sometimes occur with traditional written signatures. In the past, marriage contracts were written manually between the parties, and since women often did not attend the contract session due to customs and traditions, the written contract would be sent to the woman for her signature. At that point, it was possible for someone else to sign on her behalf. However, with the current digital signature system, forging a signature has become extremely difficult. To ensure with absolute certainty that the marriage took place with the woman's consent and approval, Saudi law obligated the parties to the marriage contract to document and register the contract on the digital platform designated for recording marriage contracts in the Kingdom. The law granted both the woman and the man the right to access the platform to document the contract. Article (8) of the law states: "1- The marriage contract must be documented, and either or both spouses must document it, in accordance with the applicable regulations. 2-

Any interested party may request to establish proof of an undocumented marriage contract" (Saudi Arabia, 2022, Family Law).

5.2: Prohibition of Minor Marriages:

The law also addressed another social issue that was a major factor in the rising divorce rates in Saudi regions—namely, the marriage of children below the age of eighteen. In some areas, families had become accustomed to marrying off girls and boys as soon as they reached puberty, regardless of surpassing the globally determined threshold of childhood set at the age of eighteen by international conventions and agreements, and irrespective of these minors' readiness for marriage and the resulting burdens and obligations. This practice has adversely affected the stability of Saudi families formed under such circumstances.

To counter this, the law established the minimum age for marriage for both men and women at eighteen years. The law prohibits the documentation of a marriage contract for anyone below this age, except if the court decides to waive this condition for both the male and the female provided that they are considered adults, and the court finds that the marriage would serve the public interest. In such cases, an exception to this general condition may be granted. (Saudi Arabia, 2022, Family Law, Article No. 9)

This measure in Saudi law is regarded as a significant step toward enhancing and supporting the rights of Saudi women, particularly their right to choose their spouse and form a family based on consent and freedom, without coercion from others. It is also a serious step toward combating traditions and customs that encourage the marriage of minors, as such practices may subject the involved parties to the penalties stipulated in the Saudi law for child protection (Child Protection Law, 2014).

6. The Role of Civil Society in the Hail Province in the Success of Legislative Measures to Reduce Divorce Rates:

These measures adopted by the Saudi legislator cannot succeed without accompanying societal initiatives, educational seminars, and awareness and instructional programs. This is because some families may still find ways to circumvent the provisions of the law due to their adherence to traditional customs and inherited cultural practices. In addition, there continue to be some religious opinions and jurisprudential interpretations that oppose the legal views adopted by the law. For example, some religious opinions still promote the idea of "compulsory guardianship" in Islamic jurisprudence, under which Hanbali jurists permit a father to marry off a minor girl without her consent, and some still insist that "setting a marriage age" is an incorrect view—citing, for instance, the marriage of the Prophet ﷺ to Lady Aisha—among other opinions that remain entrenched in the minds of many without an understanding of the correct and accepted views.

It should be noted that there is no text in Islam that commands or prefers the marriage of minors over the marriage of adults. At best, the texts indicate that it is permissible for a father to arrange such a marriage if he sees a benefit for the minor, and that in Islamic law, what is permissible is a matter in which both action and inaction are equal—neither praising the actor nor condemning the abstainer. One of the principles of Islamic jurisprudence is: "The ruler may restrict what is permissible according to the interest."

It is also known that there are authentic religious texts in which the Prophet ruled the annulment of a marriage contract whenever it was reported that a woman had been forced into marriage without her consent, thereby granting the woman the right to choose whether to enforce or annul the marriage contract. For instance, Abu Dawood narrates from Ibn Abbas: "A virgin woman came to the Prophet and said: 'My father married me off—even though I was reluctant'—so the Prophet annulled her marriage." In Bukhari, it was narrated from Khansa' bint Khidam that her father married her off against her wishes, she went to the Messenger of Allah and he annulled the marriage. (Albokhari, Hadith No. 6969).

Some people still adhere to the opinion of the majority of jurists that it is permissible for a father to marry off his minor son or daughter if he sees a benefit in doing so, with the implementation of the marriage contract being postponed until after they reach adulthood. This is the view of the Hanafi, Maliki, Shafi'i, and Hanbali scholars, who do not understand the rationale behind this ruling or the reasons for permitting a marriage contract in such cases. Such marriages occurred frequently in ancient Arab and non-Arab societies and even took place in Islam during the time of the Prophet and his companions, following the prevailing global custom of that era. We have learned that a number of the Prophet's companions married off their minor daughters. Here, the marriage refers only to the contract; it is considered valid because all of its conditions and elements are fulfilled, although the effects of the contract in establishing a marital relationship do not take effect until after reaching adulthood. This is how cases of minor marriages occurred in early Islam in accordance with the global custom prevalent during those times. Therefore, jurists stated: if a father were to contract a marriage for his minor daughter or son, the contract would be valid, though they did not claim that such a marriage is preferable or compulsory or better than the marriage of adults; rather, they simply said that if such a contract occurs from the father, it is valid without giving it any preference.

Conversely, other jurisprudential opinions from some early scholars prohibited the validity of such a marriage altogether, ruling that a marriage contract may not be concluded except after reaching adulthood. They argued for

that on the basis of these words of Allah: ({Test the competence of the orphans until they reach a marriageable age. Then if you feel they are capable of sound judgment, return their wealth to them.} [Surah An-Nisa: 6], for the phrase {Reach a marriageable age.} indicates that marriage is linked to reaching adulthood, and that there is no marriage except upon reaching adulthood.

These matters necessitate an awareness campaign by the religious and educational institutions in the province to reshape people's understanding of these issues.

7. RESULTS:

We arrived at a number of findings in this study, which are as follows:

1. Islamic jurists differed on many of the detailed issues related to divorce due to the absence of definitive and explicit texts on these matters. As a result, they were subject to juristic reasoning and the diversity of opinions.
2. Prior to the issuance of the Family Law in Saudi Arabia, divorce cases between spouses were brought before Sharia courts, and judges would select the appropriate juristic opinion for each case. This led to inconsistencies in judicial rulings on similar cases, depending on the discretion of each court and the perspective of each judge.
3. The Saudi Family Law was issued in 2022 to obligate courts to rule in accordance with the provisions of the law and to reduce discrepancies among courts and judges.
4. The law addressed many of the causes that previously contributed to the rise in divorce rates.
5. Among the issues the law addressed was the prohibition of child marriage, and the punishment of parents if they engaged in such practices with minors. In the past, child marriage was one of the causes of the rise in divorce rates.
6. Another issue addressed by the law was the requirement of the wife's consent to the marriage contract, after previously being forced into marriage by her guardian—something that was also a contributing factor to rising divorce rates.
7. One of the measures taken by the law to reduce the divorce rate in society was the adoption of lenient juristic schools in counting the number of divorces, in order to preserve family stability.
8. The law adopted the juristic opinion that a divorce pronounced with a number (i.e., multiple counts of divorce in one statement) is counted as a single divorce; that innovative or irregular (*bid'ī*) divorces do not take effect; and that divorces pronounced under coercion, intoxication, or extreme anger do not take effect—all with the aim of minimizing the occurrence of divorce as much as possible.

8. RECOMMENDATIONS:

The study concludes that the legislative measures and procedures adopted by the law cannot succeed without the cooperation of civil society institutions. Therefore, the study recommends the following:

1. The branch of the Ministry of Islamic Affairs in the Hail region should instruct preachers to educate people about the importance of the legislative measures adopted by the Saudi legislator to reduce the rising divorce rates, and the impact of these measures on decreasing divorce cases in the region.
2. Preachers also bear the responsibility of reshaping societal awareness and confronting inherited traditional customs related to child marriage and the forced marriage of girls.
3. Hail University, through its faculty members in the fields of Sharia and Law, should play the same awareness-raising role by organizing educational seminars for all male and female students.

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