




# Phenomenology of Divorce Through Social Media in Muslim Societies

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## Abstract

Divorce in Muslim society has become a complex and concerning phenomenon. Advances in technology and the widespread use of social media have influenced the dynamics of divorce in this society. This study aims to understand the phenomenology of divorce through social media in Muslim society using a qualitative phenomenological approach. The results of the study indicate that social media plays an important role in the divorce process, both as a cause and as a consequence. Factors such as lack of communication, suspicion, and the influence of social media on household relationships are the main causes of divorce. In addition, social media is also used as a means to announce divorce, seek emotional support, and build post-divorce identity. Therefore, there is a need for awareness of the impact of social media on household relationships, the importance of effective communication and trust in the household and the need for support from family, society and religious institutions. Therefore, Muslim society must increase public awareness about the impact of social media, develop household education and counseling programs, and strengthen the role of religious institutions in supporting families.

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## INTRODUCTION

In this era of digitalization, the development of science and technology is growing rapidly according to the needs of society. Apart from discoveries in the fields of medicine, chemistry and physics, various new technologies have also mushroomed in the fields of construction, transportation and last but not least discoveries in the field of communication; for example, the internet, telephone, teleconference, cellphone, telegram, telegraph, pager, HT (Handy Talky) and fax (Mulyani & Haliza, 2021; Oktareza et al., 2024; Sudiantini et al., 2023).

Along with the sophistication of telecommunications facilities, various applications that offer various conveniences and advantages for the community have also flourished, such as Short Message Service (SMS), Facebook (FB), WhatsApp (WA), Instagram (IG), TikTok, Twitter. All of these communication media are currently very popular and heavily used in community life activities. Starting from social activities (friendship), news, buying and selling, agreements,

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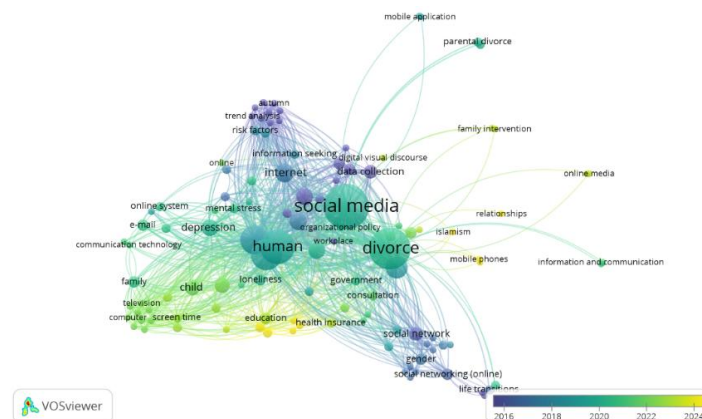
entertainment, and business. There are even some people who use it to do marriage contracts and also long-distance divorce (Pramana et al., 2023; Pratidina & Mitha, 2023; Ridjaludin et al., 2016).

In terms of practicality, all communication and transactions via these media are seen as more effective and efficient for those who are far apart. In addition to saving time, of course, it can also save transportation costs. However, on the other hand, especially the use of telecommunications media in the implementation of contracts (*ijab kabul*) in marriage and the termination of marital relations (divorce/*talaq*) is still under debate among fiqh ulama. Because communicating and transacting through social media is still considered not strong enough to be used as evidence of legal actions (Akbar, 2023; Pranata & Yunus, 2021).

The phenomenon of using various social media in various forms of applications, namely Short Message Service (SMS), Facebook, (FB), WhatsApp (WA), TikTok, Twitter, Line and Instagram. It has become part of the lifestyle and has a major impact on all community activities. The most interesting thing is, almost all forms of human activities and problems are magnetized into the vortex of social media or information media. It is not uncommon to cause controversial issues, including the issue of divorce using social media from a religious and ethical point of view (Eva et al., 2020; Hamama & Ngatikoh, 2022; Sohrah, 2020).

In the author's exploration of the phenomenon of divorce, there are two waves of thought that exist until now. First, the classical fiqh ulama (any school of fiqh), including Syi'ah Imamiyah, state that divorce, especially divorce, is the absolute right of a husband. He can use it anywhere and anytime even in any way (including through social media), and for that there is no need to notify let alone ask permission from anyone. Because divorce, like marriage, is a private matter and therefore does not need to be regulated by public provisions (Jamhuri & Zuhra, 2020).

Second, according to contemporary fiqh, especially those applicable in Indonesia, divorce must go through a religious court based on Law Number 1 of 1974 concerning Marriage. It stipulates that the pledge of divorce pronounced by the husband to his wife must have reasons, go through the divorce application process, be pronounced by the husband before a panel of judges and in the presence of witnesses. Of course, through social media, the divorce is not valid (Ramdania, 2020). Based on searching Scopus data related to the phenomenology of divorce through social media in Muslim communities using the keywords phenomenology, divorce, social media, muslim, 96 documents were found based on Scopus data from 2016-2024. As seen in the following figure.



**Fig 1. Vosviewer analysis based on Scopus data using keywords phenomenology, divorce, social media, muslims**

Based on the above problems, the author conducted this research to understand the phenomenology of divorce through social media in Muslim communities using a qualitative phenomenological approach.

## METHODS

This research uses a qualitative method with a phenomenological approach (Alhazmi & Kaufmann, 2022; Ardiningrum et al., 2021; Eberle, 2014; Engkizar et al., 2024; Khalid, 2023; Sarmiah & Rahman, 2023; Satrianis et al., 2021). Data sources are taken from various sources that can be used as research material related to the issues and problems being studied such as, hadith, kitab, Law and used as the main data source while supporting data sources can be fiqh munakahat ebooks, as well as previously published research articles related to this research (Engkizar et al., 2018; Langputeh et al., 2023; Renz et al., 2018; Sabrina et al., 2020). All data obtained is analyzed by describing the data that has been obtained from various using Milles & Hubberman's interactive analysis tool to analyze qualitative research data (Amiri & Ahmadi, 2023; Engkizar et al., 2023).

## RESULT AND DISCUSSION

### Cases of divorce via social media in Muslim societies

The controversy of divorce via social media in Indonesia is not yet very popular, even from feminists and women's organizations, we have not heard cases and complaints about this. However, social media as a trigger for the breakdown of household relationships has long occurred and is often the subject of discussion without meaningful solutions (Desminar et al., 2022; Syalwatyarsa & Abdullah, 2024). The following authors describe several cases of divorce via social media that have attracted public attention.

First, a man sent a *talak* statement to his wife via WhatsApp (WA). A 21-year-old woman reported her husband to the Indian Women's Protection Commission, because she was divorced only through the Whatsapp application. The Indian Express reported, Friday 9-10-2015, the woman said she had only been married for 10 days. The party at home was not completely over, her husband immediately left for work in Dubai, United Arab Emirates. Even more surprising, despite not feeling the honeymoon, the man actually sent a divorce statement via text message on WhatsApp upon arrival in Dubai. *"The man said he was tired of seeing his newly married wife, likening someone must not like having to eat apples every day,"* said a member of the Indian Women's Commission, Prameela Devi, imitating the victim's report (Desi, 2018).

The unnamed woman demanded that her husband return home if he had the guts to divorce her. She asked the Women's Commission to work with the Department of Labor to track down her husband's workplace in Dubai. In addition, the family of the young woman who was divorced via WhatsApp demanded that her dowry of 1 million rupees (equivalent to Rp 213 million) and 80 gold bars be returned by the groom's family.

This case, began to be widely reported and invited comments from Islamic Ulama in India. The head of the mass organization Nahdlatul Mujaddin, Abdullah Majeed, said *"men are prohibited from filing for divorce via social networks, be it via Facebook or Whatsapp. According to Islamic teachings, divorce is considered valid when pronounced in person, divorcing a wife through social networks is tantamount to playing with religious teachings,"* Majeed said. The head of an Islamic organization in Kerala, Abdul Aziz Moulavi, also condemned the actions of the husband who lightly divorced his wife via WhatsApp *"There is no guidance and it is not valid,"* he said.

Second, hearing that the wife was raped, the husband divorced her via Short Message Service (SMS). A 25-year-old woman from India said her husband divorced her via text message (SMS) after she admitted to being gang-raped by neighbors. The Daily Mail newspaper reported, Friday, July 27, 2011, that the woman claimed her husband sent text messages containing divorce three times. Her husband is a construction worker in Dubai.

Shortly after being divorced she was evicted from the house where she lived with her in-laws. Her four-year-old child is now being cared for by her in-laws. *"When I read the text I went numb. I couldn't believe what I was reading. Just three words: divorce. divorce. divorce,"* said the wife. Her five-year marriage ended tragically with a Short Message Service (SMS) from her husband. *"I feel hurt". I thought he would help me through this pain. But I was wrong. He took the cowardly way of divorcing via Short Message Service (SMS)"* (Salikin et al., 2018).

The woman also regretted her in-laws' actions. *"It only took five seconds to end a five-year marriage. And my mother-in-law, who had helped me through everything after being raped, suddenly changed her mind and defended her son"* (Ristiani & Santoso, 2021).

Third, changing one's mind after divorcing one's wife via text message (SMS). A court in Dubai, United Arab Emirates, handled a text message divorce case on Tuesday, June 26, 2001. The Gulf News newspaper reported that the couple came to the court to ask if they were really divorced after the husband sent his wife a text message containing the word divorce. *"Why did you come late? I divorce you,"* the husband told his wife in a text message, as quoted by ABC News television station (Effendi, 2020; Musadad et al., 2020; Salikin et al., 2018). According to Islamic law, a husband can divorce his wife if he has said divorce three times. Abdel Salam Muhammad Darwish, an advisor at the Family Harmony Institute, said the husband's declaration of divorce was valid but he later changed his mind and did not divorce his wife (Syarifah & Suadi, 2022).

Fourth, claiming jihad, Saudi man divorces wife via text message (SMS). A court in Jeddah City, Saudi Arabia in 2009 granted a divorce request via text message (SMS) for the first time. The Telegraph newspaper reported that in April 2009, the man who divorced his wife was in Iraq and sent a text message to his wife containing a three-time divorce. He then called two of his family members to inform them of the divorce (Desi, 2018). According to Arab News, the man claimed to be carrying out "*jihad*" in Iraq. A number of Saudis are known to have joined al-Qaidah militants to fight the Iraqi government and US forces (Bibi & Zaman, 2024).

Fifth, often arguing with his wife, Pakistani politician divorces his wife via text message. Pakistani politician Imran Khan earlier this month divorced his second wife through a text message containing three divorces. The Australian reported that earlier this month, the 62-year-old former cricketer and chairman of the Thereek-e-Insaf Party (PTI) divorced Reham Khan, 42, a former weather presenter on BBC television after being married for ten months (Zia, 2022).

Reham received the text message when she stepped off the plane at Birmingham Airport, England. Previously, the couple had frequent disagreements, including Reham's dislike of her husband's dog, which was often allowed into the room. In relation to divorce cases via Short Message Service (SMS) in Dubai, Abdul Salam Darwish, Head of the Department of Family Security at the Dubai court, stated that there are four requirements, namely first, the sender is the husband, second, he must have the intention / desire to divorce, third, the sentence spoken cannot be wrong and finally, the

wife must receive the message.

Shaykh Ahmad al-Haddad, Grand Mufti of the United Arab Emirates, in Dubai issued his latest fatwa. In this fatwa, he allows divorce through Short Message Service (SMS). Shaykh Ahmad said: *“This fatwa was issued from the Maliki school of thought, which believes that divorce is only valid when it is written down. The Shafi'i Ulama have their own explanation. The pronunciation of the shigat of divorce is obligatory and without saying it, divorce does not take place.”* He adds: *“In Shafi'i fiqh, divorce by writing can be valid under two conditions. First, when writing the shigat talak, it must be accompanied by the intention of divorcing the wife. Second, when writing the shigat talak, the husband should pronounce it with a clear voice and be known as a divorce utterance”* (Basit, 2020; Burhanuddin, 2018; Salikin et al., 2018).

Therefore, Shaykh Ahmad al-Haddad concluded that in accordance with the ruling mentioned in Shafi'i fiqh, *talak* via Short Message Service (SMS) is also valid. Of course, by fulfilling the two conditions above. The husband who wants to write the words of divorce on his cell phone intends to divorce his wife and he says the words out loud. In this way, the divorce becomes valid and there is no problem (Ropei & Sururie, 2021).

Although some Ulama have issued fatwas, using social media as a means or medium for *talak* is inhumane, unethical and uncivilized. This is because it is very contrary to the spirit and basic principles of sharia in the marriage bond (contract). As a result, over-simplifying the problem is a form of technological drunkenness and an attitude that is paradoxical and contradictory to the purpose and spirit of marriage.

### Islamic law on divorce through social media

Divorce through social media has become an urgent issue in contemporary Islamic family law. There are undoubtedly people who are asking for legal certainty, and there are also those who are urging that divorce by this means be considered invalid. This is because it is undignified, humiliating and demeans the Shari'ah of marriage. To clarify the legal status of the permissibility of husbands divorcing through social media, the author will present several ulama views (Daharis, 2024).

Wahbah al-Zuhaily considers that when viewed from Islamic law, sharing the phenomenon of divorce through social media above, the law can be drawn by analogizing to the law of divorce through writing an ordinary letter (*bil kitabah*). Because there are similarities, both are divorce messages through text that are not verbal (oral). According to the ulama of fiqh (*fuqaha*) agree that it is effective to fall divorce (Eva et al., 2020; Kurniawan & SDW, 2022).

The analogy of written *talak* is ruled like speech because writing is essentially a symbolization of language sounds that have meaning and can be understood by those who read them. Just as speech can be understood by the listener when it is spoken, writing can also be understood by the person who reads it. Therefore, in fact, writing represents speech so that the law of writing is the same as the law of speech (Razeki, 2019).

However, it is required that the writing that is valid as a divorce must be a clear writing. The meaning of clear writing is writing that leaves a sensory trace, such as writing on paper, wood, leather, stone, walls, soil, and so on. This includes all electronic writings such as SMS, email, Facebook, Twitter, and others. If the writing is not clear, meaning that it does not leave a sensory trace such as writing on air or water, or writing that is not legible, then the *talak* is not valid (Desi, 2018).

In divorce through social media, what is needed, as in the case of divorce by mail, is the accuracy of the address or number of the recipient and sender



and confirmation of the intention or intent of the *talak*. If it is proven to be true through checking the cell phone numbers of both parties and direct confirmation, then divorce is granted. This is actually effective even without going to court, so all the consequences must be fulfilled in a shar'i manner. The court process is only a confirmation and reconfirmation of the problem, in addition to administrative demands and the prevalence of positive legal provisions that apply (Desi, 2018; Qomariyah, 2023).

Some fiqh Ulama argue that if the *talak* is written, then there must be an intention. If there is no intention of *talak*, for example, writing the words of divorce as an exercise in beautiful writing, or writing quotes of other people's words and other similar intentions, then such writing does not make the *talak* fall (Ferdiana et al., 2024; Ropei & Sururie, 2021). Ibn Qudamah said:

إِذَا كَتَبَ الطَّلَاقَ ، فَإِنْ نَوَاهُ طَلَّقَتْ زَوْجَتُهُ وَهَذَا قَالَ الشَّعْبِيُّ ، وَالتَّحَمُّيُّ ، وَالزُّهْرِيُّ ، وَالْحَكَمُ ، وَأَبُو حَنِيفَةَ ، وَمَالِكٌ وَهُوَ الْمَنْصُوصُ عَنْ الشَّافِعِيِّ.

Meaning: "If the husband writes a divorce, if he intends it, the wife is divorced. This is the view of Ash-Shafi'ee, An-Nakha'ee, Az-Zuhry, Al-Hakam, Abu Haneefah, Maalik and the statement quoted from Ash-Shafi'ee"

Ibnu Mundzir emphasized,

أَجْمَعَ كُلٌّ مِنْ أَحْفَظَ عَنْهُ مِنْ أَهْلِ الْعِلْمِ عَلَى أَنَّ جَدَّ الطَّلَاقِ وَهَزْلَهُ سَوَاءٌ.

Meaning: "The Ulama that I know of are agreed that serious and non-serious *talak* are of the same status"

Imam al-Nawawi in Al-Majemuk states:

إذا كتب طلاق امرأته بلفظ صريح ولم ينو لم يقع الطلاق، لأن الكتابة تحمل إيقاع الطلاق وتحتل امتحان الخط، فلم يقع الطلاق بمجرد كتابتها، وإن نوى بما الطلاق ففيه قولان، قال في الإملاء: لا يقع به الطلاق لأنه فعل ممن يقدر على القول فلم يقع به الطلاق كإشارة، وقال في الأم هو طلاق وهو الصحيح.

Meaning: "If the husband writes the word divorce to his wife in an explicit manner but does not intend to *talak* her, the divorce does not take place. This is because the writing has the possibility of divorce and is just practicing writing, so *talak* does not occur just because of writing. If the intention is to *talak*, then there are two opinions. The correct opinion is that divorce occurs, as stated by Imam Shafi'i in al-Umm".

Furthermore, al-Nawawi in the book al-Raudaht al-Thalibin said, explaining the provisions for the validity of *talak* through the media as follows (Safrizal & Karimuddin, 2020). First, if he reads what he writes, and also says it either when or after writing, then the divorce falls. Second, if she does not pronounce what she writes, then if the husband when or after writing and reading does not intend *talak*, then the *talak* does not fall. If the husband did intend *talak* at the time of writing or after writing and reading, then there are several opinions, views and ways, the most obvious of which is that *talak* does occur. The second view is that *talak* does not occur. The third view is that if the wife is not in the husband's place, the divorce takes place, but if she is there, it does not.

The above opinion is reinforced in the Kitab I'anah al-Thalibiin as follows:

لو كتب صريح طلاق أو كناية ولم ينو إيقاع الطلاق فلفظ حالاً لكتابة وبعدها بصريح ما كتبه إن التلفظ بالمكتوب من غير نية يقع به الطلاق إذا كان صريحاً فإن كان كناية فلا بد مع التلفظ به من النية.

Meaning: *“If the husband writes a sarib divorce or a kinayah talak, but does not intend to talak, then it is useless if he does not say it at the time of writing or afterwards, with clear words according to what he wrote. If he utters what he wrote without intending to do so, the talak will still be pronounced, if he wrote it sarib, and if he wrote it kinayah, then he must have intended to do so when he wrote it”*.

There is no denying that SMS and other social media are treated like letters. Meanwhile, the Ulama emphasized that writing is equivalent to speech. Remembering one standard rule,

#### الكتابة تنزل منزلة القول

Meaning: *“Writing has the same status as speech”*

Based on this, the ulama agree that divorce by writing either on paper or through social media is valid. As stated in the Encyclopedia of Jurisprudence:

اتفق الفقهاء على وقوع الطلاق بالكتابة , لأن الكتابة حروف يفهم منها الطلاق , فأشبهت النطق ; ولأن الكتابة تقوم مقام قول الكاتب , بدليل أن النبي صلى الله عليه وسلم كان مأمورا بتبليغ الرسالة , فبلغ بالقول مرة , وبالكتابة أخرى.

Meaning: *“The Ulama agree that talak by writing is valid. Because writing consists of many letters that can be understood as divorce. So its value is the same as speech. In addition, writing represents the speech of the person who writes. The Prophet (peace and blessings of Allaah be upon him) was commanded to spread the message. And sometimes he conveyed it by speech and sometimes by writing letters”*.

Based on the explanation of the fiqh ulama, it can be concluded that writing through social media has the same status as a letter, so divorce through this media is ruled the same as *talak* through a letter. This means that the status is valid, and the law of *talak* applies (Syarifuddin, 2020).

#### Divorce according to the Compilation of Islamic Law

Although divorce through social media has been declared valid by classical fiqh ulama, this is not the case according to the legislation in force in several countries. In Indonesia, for example, the positive laws governing divorce are Law Number 1 of 1974 and Government Regulation Number 9 of 1975. Article 39 paragraph 1 of Law Number 1 of 1974 states that divorce can only be carried out in front of a court session. This provision also emphasizes that divorce through social media is not legally valid (Fikri et al., 2019; Nasution, 2018; Sudrajat & Amanita, 2020).

Divorce according to the Compilation of Islamic Law (Presidential Instruction Number 1 of 1990) has been found in article 117, namely: *“Talak is the husband's pledge before the session of the Religious Court which adjudicates one of the causes of the breakdown of marriage in the manner referred to in articles 129, 130, 131”* (Barmawi, 2016; Fitri, 2023).

In the Compilation of Islamic Law (KHI), matters concerning divorce have been regulated in articles 113 to 148 of the Compilation of Islamic Law (KHI). By looking at the contents of these articles, it can be seen that the procedure for divorce is not easy, because it must have strong reasons and these reasons must be strictly according to the law. This is emphasized in article 115 of the Compilation of Islamic Law (KHI) which states that *“Divorce can only be carried out in front of a Court session after the Court has tried and failed to reconcile the two parties”* (Nasution, 2018; Nurdin, 2018).

Based on the Compilation of Islamic Law (KHI) Article 115 as stated above, what is meant by divorce from the perspective of the Compilation of Islamic Law (KHI) is the process of pronouncing the pledge of divorce which

must be carried out in front of a trial and witnessed by the judges of the Religious Court. If the pronouncement of the pledge of divorce is done outside the trial, the divorce is a wild divorce which is considered invalid and has no binding legal force (Firdaus et al., 2024; Rahim et al., 2022).

Meanwhile, according to KH. Ahmad Azhar Basyir, divorce carried out in front of the court guarantees more conformity with Islamic guidelines on divorce, because before there is a decision, research is carried out on whether the reasons are strong enough for divorce between husband and wife. Except that it is possible if the court acts as a hakam before making a decision to divorce between husband and wife.

## CONCLUSION

The results show that social media plays an important role in the divorce process, both as a cause and an effect. Factors such as lack of communication, suspicion, and the influence of social media in domestic relationships are the main causes of divorce. In addition, social media is also used as a means to announce divorce, seek emotional support, and build post-divorce identities. Therefore, there is a need for awareness of the impact of social media on domestic relationships, the importance of effective communication and trust in the household and the need for support from family, community and religious institutions.

Islamic law related to divorce through social media, fiqh ulama, can be concluded that writing through social media has the same status as letters, so *talak* through these media is punished the same as divorce through letters. Based on the Compilation of Islamic Law (KHI), *talak* from the perspective of the Compilation of Islamic Law (KHI) is the process of pronouncing the pledge of *talak* which must be carried out in front of a trial and witnessed by the judges of the Religious Court. If the pronouncement of the pledge of *talak* is done outside the trial, the *talak* is a wild divorce which is considered invalid and has no binding legal force. Therefore, Muslim communities should raise public awareness about the impact of social media, develop household education and counseling programs, and strengthen the role of religious institutions in supporting families.

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