

DIVORCE STATEMENT MODEL IN RELIGIOUS COURTS**Maria Rosalina¹, Elyani², Noviyanti Saragih³**^{1,3} Universitas Islam Sumatera Utara² Universitas Tjut Nyak Dhiene-mail: maria.rosalina@fh.uisu.ac.id

ABSTRACT

For Muslims, one of the reasons for breaking a bond marriage is the existence of a decision from the Religious Court based on a lawsuit filed by an interested party. This lawsuit can be in the form of an application for divorce submitted by the husband as the applicant, or a lawsuit for divorce filed by the wife as the plaintiff. After the application for divorce is submitted, the husband (applicant) is obliged to pronounce the divorce in front of the Religious Court. In practice, the implementation of this divorce oath has several different models caused by various problems that arise. This is what drives the writer to examine the divorce oath model in the Religious Court and the legal consequences if the husband does not pronounce the divorce. This research aims to identify the implementation models of the divorce oath in the Religious Court and analyze the legal consequences if the divorce oath is not pronounced. This research uses a normative legal study method, with a normative analysis approach to the law, positive law, as well as using secondary data. For completing secondary data, interviews were conducted with legal practitioners such as judges, notaries, and advocates. The results of the study show that there are various models of divorce oaths in the Religious Court, and if the husband (applicant) does not pronounce talaq within the specified time, then the husband's divorce is not pronounced and the bond marriage remains valid. In conclusion, there are various implementation models of the divorce oath in the Religious Court, which is influenced by problems between the parties.

Keywords : Vow Of Divorce, Model, Consequences Law .**Journal History**

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*Copyright ©2022 NLR. All rights reserved.***INTRODUCTION**

Article 1 of the Law Number 1 of 1974 concerning Provision Main Point Marriage, which has been changed with Constitution Number 16 of 2019 (hereinafter called the Marriage Law), in essence arranges that marriage is a bond between a man and a woman as husband and wife, who aims to build a family (home).

ladder) which is happy and lasting , based on principle Belief in the one and only God . Temporary that , Article 2 of the Compilation of Islamic Law (hereinafter called KHI), the essence explain in perspective Islamic law , marriage is A very strong contract " (*miitsaqan ghalidhan*)" and carried out For carry out God's command , which is basically is worship. Marriage is the " *sunnatullah* " that applies for all over His creatures , including humans . However , Allah SWT give provision for man For fulfil need sexuality , reaching peace (*sakinah*), and channeling love Darling to partner his life through institution marriage that has been determined by Allah.¹ Marriage is not just contract civil ordinary , but also become means For to justify connection physique between husband and wife as distributor desire sexual human , so that make it as form of worship. Bond This arrange rights and obligations between men and women , for reach objective marriage.²

The purpose of its implementation marriage , in Article 3 of the KHI states For realize life House the stairs that are " *sakinah* " (calm) or peaceful) , " *mawaddah* " (love) love) and " *rahmah* " (love dear). Therefore that , mutual feeling appreciate and complement between partner must always There is in life House stairs . Remembering objective marriage this , no should connection marriage destroyed by problems small . In realizing life House the steps of " *sakinah* " , " *mawaddah* " , and " *rahmah* " , Islam teaches that before marriage contract , second bride , good man and also women , must each other know with good . Get to know here No only limited to knowing , but also understanding and comprehending each person's personality . This is very important Because both of them will to tie up self in A marriage with purpose For to form eternal family , without existence divorce.³

Every partner husband wife Of course crave House a harmonious , happy and full ladder peace (*sakina h*) until end life . In reality , no all marriage walk smooth , and not seldom end in the middle road . In society , divorce often happen due to all something that can damage harmony House stairs , which are not liked by Allah for example hooked emotion Because problem trivial , lack of each other understanding, comprehension and appreciation between husband and wife . Divorce meaningful termination connection marriage between husband and wife doing based on decision court or decision competent authority, either in context law

¹ Mohamad Rana, dan Usep Saepullah, Prinsip-Prinsip Perkawinan (Analisis Filosofis Implementasi dalam Meminimalisir Angka Perceraian), *Mahkamah: Jurnal Kajian Hukum Islam* 119 Vol. 6. No 1, Juni 2021 E-ISSN 2502-6593, p. 119.

² Yayan Sopyan, Islam Negara, *Transformasi Hukum Perkawinan Islam dalam Hukum Nasional*, Cetakan 1. (Jakarta: UIN Syarif Hidayatullah, 2012), p. 127

³ Mohammad R. Hasan, Kajian Prinsip Perkawinan Menurut UU No. 1 Tahun 1974 Dalam Perspektif Hukum Islam, *Jurnal Lex Administratum*, Vol. IV/No 3/Mar/2016, tersedia pada <http://sejournal.unsrat.ac.id/v3/index.php/administratum/article/view/1151611119>.p 166.

civil and religion.⁴ Divorce become a things that are lawful but are very hated by Him, as It is stated : From Ibn Umar, that In fact, the Prophet SAW said , " Halal things are most hated by Allah 'Azza wa Jalla is *talaq* ". [HR. Abu Dawud and Ibn Majah].⁵

In the Explanation of Article 39 (2) of Law Number 1 of 1974 and Article 19 of Government Regulation Number 9 of 1975, it is explained that divorce can occur for the following reasons:

- a. One party commits adultery or becomes a drunkard, drug addict, gambler and so on which is difficult to cure;
- b. One party leaves the other for 2 (two) consecutive years without the permission of the other party or without a valid reason or for other reasons beyond his/her ability;
- c. One party receives a sentence of 5 years or a heavier sentence after the marriage takes place;
- d. One party commits cruelty or serious abuse that endangers the other party;
- e. One party gets a physical disability or illness that results in being unable to carry out his/her obligations as husband/wife;
- f. There are continuous disputes and quarrels between husband and wife and there is no hope of living together in the household again.

Divorce , only can done with sufficient reason , one of them when between husband and wife Keep going continuously dispute and quarrel , so No There is hope Again For life harmonious in House stairs , as called in Article 116 letter (f) KHI. In the condition certain , divorce Possible become the solution that must be taken For end the ongoing quarrel to be continued.⁶

In Article 39 of the Marriage Law explained that divorce between husband and wife only can done in front hearing court , after court try and not succeed For reconcile the parties , and the same thing was also mentioned Article 115 of the KHI and Article 65 of the Law Number 7 of 1989 concerning Religious Courts in conjunction with Law Number 3 of 2006 concerning Change on Law no. 7 of 1989 concerning Religious Courts , in conjunction with Law No. 50 of 2009 concerning Change Second on Law no. 7 of 1989 concerning Religious Courts (hereinafter called the Religious Courts Act).

⁴ Abdul Manan, *Hukum Keluarga Indonesia*, (Jakarta: Rineka Cipta,2009), p. 199-200.

⁵ Idris Siregar, Nur Tasya Hariany Sitorus, Tari Nur Fajri, *Talaq Menurut Perspektif Hukum dan Sosial dalam Konteks Islam*, *Mandub: Jurnal Politik, Sosial, Hukum dan Humaniora*, Vol. 2 No. 3 September 2024, e-ISSN: 2988-2273, p-ISSN: 2988-2281,p.163-172, <https://doi.org/10.59059/mandub.v2i3.1367>.

⁶ Satria Effendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer Analisis Yurisprudensi dengan Pendekatan Ushuliyah*, (Jakarta: Prenada Media,2004),p. 49-50.

Article 114 of the KHI states break up marriage Because divorce in religious court can happen in 2 (two) ways that is divorce filed by the husband normal called with *application the vow of talaq* and divorce proposed by the wife , is called with sue divorce . In case application *vow of divorce* , when inspection main case has finished carried out by the panel of judges, then decision read and after decision powerful law still (*in progress*) , then The applicant (husband) said *pledge the divorce* to The respondent (wife) in front religious court . Pronunciation *vow of divorce* the can done with various models , as regulated in regulation legislation .

METHOD

The writing method used is approach law normative , namely a law - focused approach written or set up in regulation applicable laws and regulations . Law in view This understood as a system the norm that regulates connection between individual in public.⁷ Data used is secondary data which includes material primary law , material law secondary and materials law tertiary . As secondary data support done interview to practitioner law namely judges, notaries and advocates . The data obtained in study This will analyzed in a way qualitative . Analysis qualitative is a approach research used For dig understanding deep about phenomenon social or culture with prioritize analysis to descriptive data , such as interviews , observations , and documentation . In this approach this , researcher No focus on numbers or statistics , but rather on the meaning contained in the data obtained from subject study.⁸ Legal theory in study This is theory law positive that is analyze How rule applicable law in arrange pronouncement *vow of divorce* on the system Islamic Law in Indonesia.⁹

DISCUSSION

Divorce Reviewed From the Legislation

The Religious Court as a representative of Indonesian Law is tasked with protecting society from harming each other so that there is no arbitrariness between individuals or groups. Regarding the vow of divorce made in court, it will not be implemented immediately except through several stages determined by the Court or if the reason for the divorce is considered invalid, then the trial cannot be continued because such cases can still be resolved.

According to language, "talaq" comes from the word "athlaqa, yuthliq, ithlaqan" which means to release and leave.¹⁰ Talaq" as a form of divorce in Islam,

⁷ Soerjono Soekanto, *Pengantar Sosiologi Hukum*, (Jakarta: Rajawali Pers, 2017), p.45.

⁸ Hilman Hadikusuma, *Metode Penelitian Hukum*, (Bandung: Mandar Maju, 2003), p. 62

⁹ Soerjono Soekanto, *Pengantar Sosiologi Hukum*, (Jakarta: Rajawali Pers., 2009), p.145.

¹⁰ Kahar Mansyur, *Fiqh Sunnah Talak dan Mengasuh Anak*, Kalam Mulia, Jakarta, 1990), p.1

which comes from the word “Itlaq” which means to release or decide or free.¹¹ Referring to KBBI, talak is a divorce between husband and wife, the release of the bonds of marriage.¹² In terms of “syarak” it is a term applied to the release of the bonds of marriage.¹³ Ikrar in KBBI is a solemn promise, a confession.¹⁴ So the Ikrar “talaq” refers to a statement or confession of “talaq” or divorce uttered by a husband to his wife before a court hearing.¹⁵ The Ikrar talaq in its implementation is often referred to as an oath or act to end the bonds of marriage above the will or desire of the husband with the words “talaq” or the like where with the oath or words in front of the court panel the marriage between husband or wife is declared terminated legally and by the state.

In the perspective of Islamic teachings, the pillars of "talaq" refer to the basic elements that must be present in the "talaq" process, and the validity of the "talaq" depends on the existence and completeness of these elements.¹⁶ There are 4 (four) pillars of "talaq" that are agreed upon by scholars, namely: 1). Husband. The husband is the party who has the right to pronounce "talaq" and has the right to impose it. The requirements for the validity of "talaq" attached to the husband are 3 (three), namely first being sane, which means not crazy or losing his mind or damaged due to illness, second being "baligh" or adult and third of his own free will, meaning there is no coercion from any party.¹⁷ 2). Wife. This shows that "talaq" is not valid if imposed on a woman who is not his wife.¹⁸ The argument for the invalidity of "talaq" imposed on a woman who is not his wife is a hadith of the Prophet SAW which comes from Amru bin Syu'aib, which means: And there is no "talaq" on something that one does not have (HR. at-Tirmidhi).¹⁹ 3) “Sighat Talaq”. The majority of scholars are of the opinion that "talaq" occurs when the husband says certain words which indicate that his wife has separated from the marriage bond. In other words, if the husband only intends or has the desire to divorce, but has not said anything, then "talaq" is not considered to have occurred.²⁰

¹¹ Muhammad Quraish Shihab, *Hukum Perkawinan Islam*, (Jakarta: PT. Lentera Hati, 2008),p 45-46.

¹² KBBI On Line, tersedia pada <https://kbbi.web.id/talak>, diakses pada 05 Januari 2025.

¹³ Ali Imam Taqiyuddin Abu Bakar Al-Husaini, *Terjemahan Kifayatul Akhyar 2*, (Surabaya: PT Bina Ilmu, 2020),p. 466.

¹⁴ KBBI On Line, tersedia pada <https://kbbi.web.id/ikrar>, diakses pada 05 Januari 2025.

¹⁵ H. Zainul Mu'ien Husni, Tinjauan Fikih Terhadap Ketentuan Ikrar Talak Di Hadapan Pengadilan Agama Dalam UU No. 1/1974, *Jurnal Hakam*, Volume 01 Nomor 02, Desember 2017, tersedia pada <https://download.garuda.kemdikbud.go.id/article.php>, diakses pada 05 Januari 2025.

¹⁶ Tim Al-Manar, *Fikih Nikah*, (Bandung: Syamai, 2003), p. 130.

¹⁷ Abdur Rahman Ghazali, *Fiqh Munakahat*, Cet 3, (Jakarta: Kencana, 2008), p. 201-202.

¹⁸ Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia*, (Jakarta: Kencana, 2020), p, 207.

¹⁹ Muhammad Nashiruddin Al-Bani, *Shahih Sunan at-Tirmidzi Jilid 1*, Maktabah al-Ma'arif, Beirut, 1997,p.123.

²⁰ Ibid

4). "Qasad". "Qasad" or will, namely the saying "talaq" is intended by the person who says it for "talaq" and not for anyone else. Therefore, mispronunciations that are not intended to mean "talaq" are considered not to have occurred.²¹ This pillar of "qasad" is in line with the rule of fiqh, which states "Every matter depends on its aim and purpose".²² However, there are scholars who exclude that if "talaq" is said for fun or joking, then according to them "talaq" like that is still "talaq". This is based on the hadith of the Prophet SAW which means: "There are three things that really become serious and jokes become serious: marriage, "talaq", and reconciliation."²³

Furthermore, the requirement for "talaq" is considered valid according to the Shari'ah if it fulfills the requirements, namely a. The conditions for the husband include: 1. Husband must be sensible. The "talaq" uttered by the husband is not valid if the husband is not sensible like a madman. A husband must recite "talaq" to his wife if she is in good spiritual health. 2. Husband is conscious. What this means is that when the husband pronounces divorce, he is not asleep or in a state of apoplexy. 3. Husband has "grown to maturity". A husband who "mentalaq" his wife must have "baligh" (adult) according to Islamic law. 4. Intention to divorce. What this means is that if a husband gives "talaq" to his wife but uses sarcastic pronunciation or "kinayah" then there needs to be an intention from the husband as to what he means by saying that, a more accurate explanation is needed. b. Requirements for a wife to be "talaqed", namely that the wife whose husband will be "talaqed" must be his legal wife according to Islamic law. c. Conditions related to the "talaq phrase". "Talaq phrase" must be clearly understood, with a clear and directed purpose only for divorce.²⁴ Another condition of "talaq" which is an administrative requirement that must be complied with by citizens is "talaq" which is witnessed or carried out in front of a religious court.

Based on the type, there are several types of "talaq", namely: 1) "Talaq raj'i" is a "talaq" where the husband still has the right to refer to his ex-wife without having to enter into a new marriage, as long as the wife is still in the iddah period. 2) "Talaq ba'in" is "talaq" where the husband is not allowed to refer to his ex-wife, except by entering into a new marriage, after his ex-wife married someone else. Then, her new husband had sex with her and then divorced her. 3) "Talaq bid'i", is "talaq" which is carried out by a husband when his wife is menstruating or

²¹ Abdur Rahman Ghazali, *Fiqh Munakahat*, Cet 3, (Jakarta: Kencana 2008), p, 201-202.

²² Imam Musbikin, *Qawa'id al-Fiqhiyah*, (Jakarta: PT. RajaGrafindo Persada, 2001), p, 39.

²³ Muhammad nashiruddin al Bani, *Op Cit.* p.,123

²⁴ Abdul Hadi Ismail, *Pernikahan dan Syarat Sah Talak*, *Intiqad: Jurnal Agama Dan Pendidikan Islam*, ISSN 1979-9950 (print), ISSN 2598-0033 (online), Vol. 11, No. 1 Juni 2019, DOI: <https://doi.org/10.30596/intiqad.v11i1.3131>, diakses pada 06 Januari 2025

postpartum, or in a state of purity where he has sexual intercourse with his wife and it is not clear whether the pregnancy is. 4) "Sunni talaq", is when the husband "mentalaq" his wife who is not intimate, who is pure, and is not pregnant, not a woman who is still a child or a woman who no longer menstruates (menopause).²⁵

In Indonesia, the divorce pledge is valid based on Article 39 paragraphs (1) and (2) of the Marriage Law, Article 65 to Article 70 of the Religious Courts Law, and Article 115 of the KHI, namely in Indonesia, a valid divorce is carried out in a Religious Court if the Court decides that the parties can no longer reconcile and there are sufficient reasons. After the court determines that the request of the husband or his legal representative has been accepted and the decision is final (*inkraacht*), the court sets a date for the hearing to witness the divorce vow by summoning the husband and wife or their legal representatives. During the trial, the husband or his legal representative is empowered with an authentic letter to pronounce the vow of divorce witnessed by the wife or his legal representative, and if the wife has received the proper summons, but neither herself nor her representative is present, then the husband or his representative can pronounce the vow of divorce in the presence or without the presence of the wife or his representative.²⁶

Based on article 117 of the KHI, divorce is a husband's oath made before a Religious Court hearing which is one of the reasons for the dissolution of marriage in the manner referred to in KHI articles 129, 130, and 131. The oath of divorce is one part of the trial process in the Religious Court, the reading of the oath in practice is pronounced by the husband who is called the applicant and is only carried out in front of the Religious Court hearing.

The oath of divorce pronounced in Court is official evidence that will be obtained and has permanent legal force so that it will guarantee a wife to obtain her rights as a result of the divorce such as maintenance during the *iddah* period and will make it easier for the ex-wife to remarry a new man. In addition, the oath of divorce that must be pronounced in front of a court hearing is an effort to complicate the termination of the marriage relationship so that a husband who wants to divorce must first submit an application for an oath of divorce to the Court. Because before the oath of divorce is issued, the husband and wife are advised to reconcile first so

²⁵ Abdul Muhaimin As'ad, *Risalah Nikah Penuntut Perkawinan*, (Surabaya: PT. Bintang Terang, 1993), p.3.

²⁶ Mahkamah Agung RI, *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Serta Pengertian Dalam Pembahasannya*, Perpustakaan Nasional RI : Data Katalog Dalam Terbitan, vol. 1, 2011.

that the husband is not arbitrary in pronouncing the oath of divorce anytime and anywhere.²⁷

Model and Legal Consequences of an Unspoken Talaq Pledge

As for what becomes base the law of " *talaq*" found in the Koran and hadith, including in the Koran : 1) . QS." *Ath -Talaq*" [65]:1, meaning : " When You divorce your wives , then should You divorce they are at the time they can (face) his " *idah* " (which is natural). 2). QS." *Al -Baqarah*" [2]:227, meaning : "And if they determined heart want to divorce , then truly Allah is great hear Again omniscient ." 3). QS." *Al -Baqarah*" [2]:231, meaning : " If You divorce (your) wife , until (almost) the end of her " *idah* " *period* , endure (reconcile) them with the proper way or divorce they with the proper way (too). In hadith include : 1)." The marriage that Allah hates most is *divorce* ." (HR. Abu Dawud). This hadith show that *divorce* is something hated by God , though allowed in Islam. Therefore that , *talaq* should used as road final after all effort For finish problem House ladder No successful . 2). " *Divorce* That happened at the time angry , then if He angry and say *talaq* , that No counted ." (HR. Abu Dawud). 3). "It is not halal for a husband For withhold his wife with intention hurt him , because that 's why That is sin big ." (HR. Bukhari and Muslim).

Based on theory law positive that is a approach in the law that considers that law That is regulations set by a legitimate authority in a country or system law certain , basic law in pronunciation of " *talaq*" for people of diverse Islam can sourced from the Quran and Hadith.²⁸

Article 131 paragraph (3) of the KHI states : " After decision have strength law still , husband to pledge *talaq* in front hearing religious court , attended by the wife or power ." The same meaning is also stated in Article 70 paragraph (3) of the Religious Courts Law, namely: after determination court to obtain strength law still , court set timetable hearing For witnessing the " *vow of talaq*" , with call husband and wife or his representative For present at the hearing said . If viewed from theory law positive meaning of 2nd article this is pronunciation of the " *pledge of talaq*" by the husband to wife , can done in front hearing court must after decision court powerful law still . Then after decision the powerful law still , chairman the panel of judges determined One day trial witnessing the " *pledge of talaq*" by the husband to his wife .

In pronouncing the " *pledge*" *talaq*" in the religious court can done with Some models include :

²⁷ Amin Iskandar dan Ahmad Zaeni, "Ikrar Talak di Pengadilan Perspektif Ma ' anil Hadis," Ad-Tadabbur, n.d.

²⁸ Sudikno Mertokusumo, *Teori Hukum*, (Yogyakarta: Liberty,2009), p. 44-50.

- 1). Model of pronunciation of "*pledge of talaq*" attended husband (applicant) and wife (respondent). Provisions Article 70 paragraph (3) of the Religious Courts Law and Article 131 paragraph (3) of the KHI state: hearing court witnessing the "*talaq vow*" attended by the parties applicant and respondent .
- 2). Pronunciation model "*Talaq pledge*" by the husband (applicant) without presence wife and/ or power the law . If wife has called in a way proper and legitimate , but wife No come (present) and not represented power the law , then No obstruct he did hearing witnessing or the pronunciation of the "*pledge of talaq*" by the husband (applicant) and the pronunciation of the "*pledge of talaq*" valid and valuable , as meant Article 70 paragraph (5) of the Religious Courts Law .
- 3). Pronunciation model "*vow talaq*" by husband (applicant), without present wife (respondent) will but attended by power of attorney the law . This is as stated in Article 70 paragraph (3) of the Religious Courts Law and Article 131 paragraph (3) of the KHI.
- 4). Pronunciation model "*divorce vow*" without attended by the husband (applicant) will but attended by power of attorney the law and attended wife (respondent) and/ or power the law , as stated in Article 70 paragraph (4) of the Religious Courts Law . In this case This power the law that represents husband (applicant) was given power special in a deed authentic For say the "*pledge of talaq*".
- 5). Model of pronunciation of "*pledge of talaq*" without attended by the husband (applicant) and wife (respondent) will but attended by power of attorney law husband (applicant) and attorney law wife (respondent). This is means Good husband and also wife No present at the hearing pronunciation of "*talaq vow*" said , will but presence they represented by power of attorney law both , as intended sound Article 70 paragraph (4) of the Religious Courts Law .

From the description above , reviewed from theory law positive , based on Article 70 paragraph (3), (4), (5) of the Religious Courts Law and Article 131 paragraph (3) of the KHI model for pronouncing the "*talaq oath*" for people of diverse Islamic faiths in religious courts , it can implemented with direct model spoken personally by the husband (applicant) in front trial and also can represented by power of attorney the law with direct attended by the wife (respondent) or power the law . If pronunciation of "*talaq vow*" The husband (applicant) is represented by a power of attorney the law , then power the must made in form letter power special / special in a deed authentic For say the "*pledge of talaq*". Power of attorney special / special in form deed authentic the made by the parties and legalized by a notary as authorized official . With Thus , a power law That have quality For uttering the "*talaq*".²⁹ The same thing was also conveyed by advocate

²⁹ Wawancara dengan notaris Dina Mary,SH.,M.Kn.,CPM, pada Senin 30 Desember 2024.

Emy Eliamega Saragih and Muslim as chairman Bandung Religious Court through interview, in the practice used letter power special, for represent husband (applicant) who does not present at the pronouncement of the "pledge of talaq". In the letter power special / special the must in a way firm listed that giving power For say "pledge of talaq", if element the No fulfilled, resulting in power No authorized say the "pledge of talaq". Power of Attorney for wife (respondent), good For absence his presence at the trial main case and also absence presence at the pronouncement of the "pledge of talaq", Enough based on on letter power special normal.³⁰ Muslim as chairman The Bandung Religious Court added that the pronouncement of the "talaq oath" is series from settlement possible things represented to power law or someone else. It's just that in power the the words *talaq* are included husband said. The words *talaq* That in Islamic jurisprudence is called *talaq kitabiyah*, namely talaq by law written. In relation to and prioritizing principle justice fast, simple and cost effective cheap, letter power on absence presence husband (applicant) in pronouncement of "talaq vow" Actually Enough with letter power special No need letter power special.³¹

6). Pronunciation model "divorce vow" through trial electronic with video conference (*video conference*). Trial in a way electronic is a series of processes of examining and adjudicating cases carried out by the court with support technology information and communication, thus mentioned Article 1 number 7 of Perma Number 7 of 2022 concerning Amendment to Perma Number 1 of 2019 Concerning Administration Cases and Trials in Court In general Electronics. Trial in a way electronic This including implementation the trial that can done through *video conferencing*, *e-filing*, and *e-court*. Trial electronic This is trial distance far as possible make it easier party in expedite the trial process, and as receptacle give service public in field justice, and as form from existence principle justice fast, easy, and cost effective light. Trial electronic through *video conference* done only For facilitate wife (respondent), for the purpose of give his rights in fulfil calling relax trial. Parties wife (respondent) does not Can come For attend hearing Because constrained distance, cost, and busyness Work but wife still want to attend trial, then trial through *video conference* becomes one of alternative for religious court for facilitate society (wife) in look for justice.³²

³⁰ Wawancara dengan Advokat Emy Eliamega Saragih, S.Ag., S.H., M.H, pada Senin 30 Desember 2024

³¹ Wawancara dengan Ketua Pengadilan Agama Bandung, Dr. Muslim, S.H., M.A, pada Senin 30 Desember 2024

³² Rizka dan Farika Danis Sholehah Tinjauan Yuridis Pelaksanaan Ikrar Talak Secara Teleconference (Studi Kasus Pengadilan Agama Ngawi Putusan No 730/Pdt.G/2023/Pa. Ngw), *Jurnal Gagasan Hukum*, Vol.5, No. 02, Desember 2023, p. 85.

If you look at it from theory law positive , trial in a way electronic through *video conference* This also applies to husband (applicant) who will say the " *pledge of talaq*" to wife (respondent) , will but the wife No Can present in a way direct Because height cost travel , busy and constrained long distance , and domicile law wife No be in the environment competence absolute domicile religious court husband (applicant) . Wife (respondent) remains can attend hearing pronouncement of " *talaq vow* " with request help court Where place domicile wife (applicant) at the time This be in place , in order to facilitate trial in a way *video conference* , so that hearing can walk with attended second split parties and created principle justice fast , simple and cost effective light . The same thing was also conveyed by respondents through interview , that trial in a way electronic as one of the method For carry out principle justice fast , simple and cost effective light , simplifying the trial process and providing service for public in look for justice.³³

Consequences of the Law of Vows Unspoken *Talaq* .

Article 131 paragraph (4) of the KHI states: if husband No say " *pledge of talaq* " in term period of 6 (six) months , counted since decision religious courts that provide permission for him say the " *pledge of talaq*" powerful law still , then right husband For say " *talaq*" considered fall and marriage still valid . Then Article 70 paragraph (6) of the Religious Courts Law states: if husband , in 6 (six) months time since the determination day hearing For witnessing vow of divorce, no present in a way direct or No send a representative even though has accept valid call or in accordance procedure , then determination the will lost strength the law , and divorce No can submitted return with same reason .

Reviewed from theory law positive , based on Article 131 paragraph (4) KHI and Article 70 paragraph (6) of the Religious Courts Law , if husband (applicant) is good in a way direct and also through power the law No to pronounce *vow of divorce* to his wife (respondent) in 6 (six) months time counted since decision religious courts have strength law still , then right husband (applicant) for say the " *pledge of talaq*" become fall and as consequence the law marriage between husband (applicant) and wife (respondent) remain intact .

CONCLUSION

Talaq or the vow of divorce is often found in the judicial process, especially in relation to divorce. In the Religious Court, the Compilation of Islamic Law is a guideline for how the process of pronouncing talaq for a wife is carried out. In

³³ Wawancara dengan Ketua Pengadilan Agama Bandung, Dr. Muslim, S.H., M.A, pada Senin 30 Desember 2024

principle, talaq can be pronounced when the divorce has received a court decision that has permanent legal force.

The pronouncement of the "vote of talaq" by the husband (applicant) to the wife (respondent) can be done in several models, it can be done alone or directly by the husband (applicant) or through his attorney in the presence of the wife or her attorney. and if it is not pronounced within a period of 6 months, the husband's (applicant's) right to pronounce the "vote of talaq" is forfeited and as a legal consequence the marriage between the husband (applicant) and wife (respondent) remains intact.

REFERENCES

- Al-Bani, Muhammad Nashiruddin *Shahih Sunan at-Tirmidzi Jilid 1*, Maktabah al-Ma'arif, Beirut, 1997
- As'ad, Abdul Muhaimin, *Risalah Nikah Penuntut Perkawinan*, Surabaya: PT. Bintang Terang, 1993.
- Ghozali, Abdur Rahman, *Fiqh Munakahat*, Cet 3, Jakarta: Kencana, 2008.
- Hadikusuma, Hilman, *Metode Penelitian Hukum*, Bandung: Mandar Maju, 2003.
- Hasan, Mohammad R., Kajian Prinsip Perkawinan Menurut UU No. 1 Tahun 1974 Dalam Perspektif Hukum Islam, *Jurnal Lex Administratum*, Vol. IV/No 3/Mar/2016, tersedia pada <http://sejournal.unsrat.ac.id/v3/index.php/administratum/article/view/1151611119>.
- Husaini, Ali Imam Taqiyuddin Abu Bakar Al- *Terjemahan Kifayatul Akhyar 2*, Surabaya: PT Bina Ilmu, 2020.
- Husni, H. Zainul Mu'ien, Tinjauan Fikih Terhadap Ketentuan Ikrar Talak Di Hadapan Pengadilan Agama Dalam UU No. 1/1974, *Jurnal Hakam*, Volume 01 Nomor 02, Desember 2017, tersedia pada <https://download.garuda.kemdikbud.go.id/article.php>, diakses pada 05 Januari 2025.
- Ismail, Abdul Hadi Pernikahan dan Syarat Sah Talak, *Intiqad: Jurnal Agama Dan Pendidikan Islam*, ISSN 1979-9950 (print), ISSN 2598-0033 (online), Vol. 11, No. 1 Juni 2019, DOI: <https://doi.org/10.30596/intiqad.v11i1.3131>, diakses pada 06 Januari 2025
- KBBI On Line, tersedia pada <https://kbbi.web.id/ikrar>, diakses pada 05 Januari 2025.
- KBBI On Line, tersedia pada <https://kbbi.web.id/talak>, diakses pada 05 Januari 2025.
- Manan, Abdul *Hukum Keluarga Indonesia*, Jakarta: Rineka Cipta, 2009.
- Manar, Tim Al, *Fikih Nikah*, Bandung: Syamai, 2003.
- Mansyur, Kahar *Fiqh Sunnah Talak dan Mengasuh Anak*, Jakarta: Kalam Mulia, 1990.

- Mertokusumo, Sudikno, *Teori Hukum*, Yogyakarta: Liberty, 2009.
- Musbikin, Imam, *Qawa'id al-Fiqhiyah*, Jakarta: , PT. RajaGrafindo Persada,, 2001.
- RI, Mahkamah Agung, *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Serta Pengertian Dalam Pembahasannya*, Perpustakaan Nasional RI : Data Katalog Dalam Terbitan, vol. 1, 2011.
- SaepullahMohamad Rana, dan Usep, Prinsip-Prinsip Perkawinan (Analisis Filosofis Implementasi dalam Meminimalisir Angka Perceraian), *Mahkamah: Jurnal Kajian Hukum Islam* 119 Vol. 6. No 1, Juni 2021 E-ISSN 2502-6593, hlm. 119, tersedia pada <httpsetheses.uinsgd.ac.id/401391Prinsip-Prinsip%20Perkawinan>, diakses pada 29 Desember 2024
- Shihab, Muhammad Quraish *Hukum Perkawinan Islam*, Jakarta: PT. Lentera Hati, 2008.
- Sholehah, Rizka dan Farika Danis, Tinjauan Yuridis Pelaksanaan Ikrar Talak Secara Teleconference (Studi Kasus Pengadilan Agama Ngawi Putusan No 730/Pdt.G/2023/Pa. Ngw), *Jurnal Gagasan Hukum*, Vol. 5, No. 02, Desember 2023.
- Siregar Idris, Nur Tasya Hariany Sitorus, Tari Nur Fajri, *Talaq Menurut Perspektif Hukum dan Sosial dalam Konteks Islam*, *Mandub: Jurnal Politik, Sosial, Hukum dan Humaniora*, Vol. 2 No. 3 September 2024, e-ISSN: 2988-2273, p-ISSN: 2988-2281, <https://doi.org/10.59059/mandub.v2i3.1367>.
- Soekanto, Soerjono *Pengantar Sosiologi Hukum*, Jakarta: Rajawali Pers, 2017.
- Sopyan, Yayan, *Islam Negara, Transformasi Hukum Perkawinan Islam dalam Hukum Nasional*, Cetakan 1. Jakarta: UIN Syarif Hidayatullah, 2012.
- Syarifuddin, Amir, *Hukum Perkawinan Islam di Indonesia*, Jakarta: Kencana, 2020
- Wawancara dengan Advokat Emy Eliamega Saragih,S.Ag.,S.H.,M.H, pada Senin 30 Desember 2024
- Wawancara dengan Ketua Pengadilan Agama Bandung, Dr. Muslim, S.H., M.A, pada Senin 30 Desember 2024
- Wawancara dengan Ketua Pengadilan Agama Bandung, Dr. Muslim, S.H., M.A, pada Senin 30 Desember 2024.
- Wawancara dengan notaris Dina Mary,SH.,M.Kn.,CPM, pada Senin 30 Desember 2024.
- Zaeni, Amin Iskandar dan Ahmad “Ikrar Talak di Pengadilan Perspektif Ma’ anil Hadis,” Ad-Tadabbur, n.d.
- Zein, Satria Effendi M., *Problematika Hukum Keluarga Islam Kontemporer Analisis Yurisprudensi dengan Pendekatan Ushuliyah*, Jakarta: Prenada Media, 2004.