

DIVORCE AND ITS PRACTICES BEFORE A RELIGIOUS COURT: A PERSPECTIVE ANALYSIS OF ISLAMIC LEGAL



Rifqi Qowiyul Iman¹ , Joni² 

Correspondence :

Email:
rifqi1914@gmail.com

Authors Affiliation:

¹ Pengadilan Agama Tais
Bengkulu, Indonesia

² Universitas Islam Negeri
Fatmawati Soekarno
Bengkulu, Indonesia

Article History :

Submission: May 20, 2024
Revised: June 15, 2024
Accepted: June 11, 2024
Published : August 19, 2024

Keyword : Divorce,
Religious Court, Judge

Kata Kunci : Talak,
Pengadilan Agama, Hakim

Abstract

This study examines divorce in Islam, known as "talak." Articles 118 to 120 of the Compilation of Islamic Law regulate two types of talak: "talak raj'i" and "talak ba'in," each carrying different legal implications. The issue of talak in religious courts remains a topic of debate, particularly regarding the transfer of the right to pronounce talak from the husband to the religious court judge. This study explores this issue from the perspective of Islamic jurisprudence. The findings indicate that in jurisprudence, "talak" means the dissolution of the marital bond between husband and wife. Islam permits talak to be pronounced in front of the wife or others, although ideally, it is done directly. In the state context, however, the government views the implementation of divorce regulations as essential to maintain administrative order as long as they do not violate Islamic principles. These regulations aim to clarify divorce procedures in accordance with applicable law, including determining the location and conditions for divorce through religious courts. This is expected to provide legal certainty and social order for those seeking divorce and to support the achievement of justice in the divorce process.

Penelitian ini mengkaji perceraian dalam Islam, yang disebut sebagai "talak." Pasal 118 hingga 120 Kompilasi Hukum Islam mengatur dua jenis talak, yaitu "talak raj'i" dan "talak ba'in," yang masing-masing memiliki konsekuensi hukum berbeda. Persoalan talak dalam pengadilan agama masih menjadi perdebatan, terutama mengenai pelimpahan hak talak dari suami kepada hakim pengadilan agama. Kajian ini membahas isu tersebut dari perspektif yurisprudensi Islam. Hasilnya menunjukkan bahwa dalam yurisprudensi, "talak" berarti pemutusan ikatan perkawinan antara suami dan istri. Dalam pelaksanaannya, Islam membolehkan talak diucapkan di hadapan istri atau pihak lain, meski idealnya dilakukan secara langsung. Namun, dalam konteks negara, pemerintah memandang pentingnya penerapan aturan perceraian untuk menjaga ketertiban administratif selama tidak melanggar prinsip-prinsip syariat Islam. Aturan ini bertujuan mengatur prosedur perceraian agar lebih jelas dan sesuai hukum, termasuk penetapan tempat dan syarat perceraian melalui pengadilan agama. Hal ini diharapkan dapat memberikan kepastian hukum dan ketertiban sosial bagi para pihak yang ingin bercerai serta mendukung tercapainya tujuan keadilan dalam proses perceraian.

INTRODUCTION

The family unit holds an indispensable role as a core social institution tasked with the responsibility of upholding morality, ensuring the continuation of lineage, and fostering individual and societal well-being. Islamic teachings regard marriage as the foundation for a stable society, and divorce, though permitted, is approached with caution and viewed as a last resort. The act of divorce, referred to as *talak*, is not taken lightly in Islamic jurisprudence; it is structured to ensure that every measure is considered to protect the family structure before a marriage is dissolved. *Talak* is divided into two primary types based on their respective legal implications: *talak raj'i* (revocable divorce) and *talak ba'in*



(irrevocable divorce).¹ This classification reflects the intent to address diverse situations in a marriage, balancing the need for potential reconciliation with the necessity of a final separation in some cases. In Indonesia, these principles are codified in the Compilation of Islamic Law, which is grounded in the Shafi'i school of thought—an interpretation widely accepted by Indonesian society. Through this codification, Indonesian Islamic law reflects both the global Islamic principles on divorce and local values, ensuring that Islamic family law addresses the specific needs and cultural context of Indonesian Muslims.

Talak raj'i, as defined by Article 118 of the Compilation of Islamic Law, is applicable in the case of a first or second divorce and offers an opportunity for reconciliation, known as *rujuk*, within the waiting period, or *iddah*, of the wife. This period is a vital element in Islamic divorce laws, designed to give the couple time to reflect and reconsider their decision, with the option for the husband to reinstate the marriage without a new contract. During *iddah*, the marital relationship remains in a suspended state, and the husband can signal his intent to reconcile either verbally or through specific gestures that signify his willingness to restore marital harmony. The *iddah* period serves not only as a buffer against impulsive remarriage or finality but also underscores the Islamic emphasis on patience, consideration, and the potential for forgiveness and growth in a marital relationship. By allowing a period for reflection, *talak raj'i* promotes a balanced approach, urging both parties to reassess their commitment to each other, given the significant spiritual and social value of family cohesion.² The provisions within *talak raj'i* highlight the importance of viewing marital conflicts as challenges that may be overcome with time, rather than immediately severing the marital bond, allowing couples to pursue a path back to unity and stability if both parties are amenable.

Talak ba'in is addressed in Articles 119 and 120 of the Compilation, which provides for situations where the marriage is irrevocably dissolved. Article 119 defines *talak ba'in sughra*, an irrevocable form of divorce that does not permit reconciliation within the *iddah* period but allows for the possibility of remarrying the former spouse with a new contract if both parties wish to do so. This category of divorce includes situations where separation occurs before consummation, divorces granted as part of a compensation arrangement (*khulu'*),³ or divorces issued by the Religious Court for valid reasons. Meanwhile, *talak ba'in kubra*, as stated in Article 120, refers to the third and final divorce following two prior reconciliations.⁴ In cases of *talak ba'in kubra*, reconciliation and remarriage are prohibited unless the woman first marries another man, consummates that marriage, and subsequently completes her *iddah* period after a second divorce. This rule, reflecting the Shafi'i school's approach adopted in Indonesian Islamic law, discourages repeated divorces and underscores the importance of thoughtful and serious decision-making in marriage. By structuring *talak ba'in* with such specificity, the law promotes the values of respect, finality, and stability in marital relations. Both types of *talak ba'in* underscore that once a marital bond is severed repeatedly, it should not be re-established lightly,

¹ Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiah – Al-Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, Cet. II (Kuwait: Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiah – Al-Kuwait, 1983), jilid. 29, h. 26.

² Article 118 of the Compilation of Islamic Law

³ Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiah – Al-Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, jilid. 29, h. 5.

⁴ Article 119 of the Compilation of Islamic Law

emphasizing the responsibility both parties hold in sustaining or ending a marriage, with the well-being of the family as the ultimate consideration.

This research aims to deepen the understanding of *talak raj'i* and *talak ba'in* from a jurisprudential perspective, without intending to revise existing legal regulations but rather to explain these concepts within Islamic law. Issues surrounding divorce in religious court proceedings continue to be a topic of intellectual debate, as some scholars argue that current marriage laws introduce a problematic shift by transferring the right to pronounce *talak* from the husband to the court judge. This shift, they argue, deviates from traditional Islamic principles where the husband holds the exclusive right to issue *talak*, ensuring that the divorce process remains within the bounds of justice and respects the rights of both parties. While this discussion touches on broader themes in Islamic family law, this research provides a concise yet meaningful overview, offering insights that can serve as a foundation for future academic studies in this field. Through the exploration of the nuances of *talak raj'i*, *talak ba'in*, and legally mediated divorce, this research contributes to a deeper understanding of Islamic jurisprudence in marriage and divorce. This research aims to support informed discussions and academic advancements in Islamic family law by providing important insights into the practical and theoretical implications of divorce in contemporary Muslim society.

METHODS

The research method employs a descriptive – qualitative literature study, focusing on an in – depth exploration of *talak* within Islamic law. The primary data sources encompass a variety of fiqh books, tafsir (exegesis), relevant legal rules, and other pertinent literature that provide foundational insights into the subject. Additionally, secondary data is gathered from journals and articles available in both print and electronic media, which enrich the understanding of contemporary discussions surrounding *talak*. The study will begin by elaborating on the definition of *talak*, examining its various types and the associated legal consequences, and subsequently addressing the mechanisms of court – initiated divorces, as well as the practical application of *talak* during religious court hearings. Through this comprehensive framework, the research aims to highlight not only the theoretical aspects but also the real – world implications of divorce practices in the context of Islamic jurisprudence. The findings of this research will be synthesized and concluded through an analysis utilizing an inductive approach, allowing for a nuanced understanding of how the principles of *talak* are applied and interpreted within the legal landscape, ultimately contributing to the broader discourse on family law in Islam.

RESULT AND DISCUSSION

Definition of Talak and Its Division into Raj'i and Ba'in

Talak etymologically means releasing (*al-hillu*) and removing the bond (*raf'ul qaidi*). In terminology, *talak* means removing the marital bond, whether in the present or future, using specific wording or its equivalents. This is explained as follows: (1) "The marital bond" refers to a valid marriage; if the marriage is judged invalid (*fasid*),¹⁰ then *talak* is

¹⁰ A *fasid* marriage is a marriage that does not fulfill one of the conditions of marriage (deficient), while a *batil* marriage is one in which one of its pillars is not fulfilled. The legal status of both *batil* and *fasid* marriages is the same, namely, they are not valid, refer to Feity Meiryana, "Tinjauan Hukum Islam Terhadap Nikah Fasid Dan Dampaknya (Studi Terhadap Putusan Hakim di Pengadilan Agama Bengkulu)," *Qiyas : Jurnal Hukum Islam dan Peradilan* 3, no. 1 (1 April 2018): 43, <https://doi.org/10.29300/qys.v3i1.963>.

not valid but considered *mutarokah*¹¹ or *fasakh*. (2) "The present" refers to *talak ba'in* (3) "The future" refers to *talak raj'i*.¹² (4) "Specific wording" (*lafdzun makhsus*) means clear expressions like the word "*talak*", and indirect expressions like *ba'in* or prohibited or releasing, and the like.¹³ (5) "Its equivalent", includes writings or signals that can be understood, as well as statements similar to *talak*, such as *khulu'* and the judge's statement "I divorce (*farraqtu*)" in cases of separation due to the absence or imprisonment of the husband, or other reasons such as the husband's failure to provide sustenance or mistreatment of the wife.¹⁴

Based on the legal consequences that arise thereafter and the possibility of reconciliation for the husband and wife, *talak* is divided into two types: *talak raj'i* and *talak ba'in*.¹⁵ *Talak raj'i* is a divorce in which, if initiated by the husband, he is still allowed to reconcile with his wife during the *iddah* period without needing a new marriage contract, even if the wife is unwilling. This occurs after the pronouncement of the first and second *talak raj'i*, and reconciliation can occur before the end of the *iddah* period. However, if the *iddah* period has elapsed, *talak raj'i* becomes legally similar to *talak ba'in*, and the husband no longer has the right to reconcile with his divorced wife except through a new marriage contract.¹⁶ On the other hand, *talak ba'in* is a divorce that immediately severs the marital bond. *Talak ba'in* is further divided into two: *talak ba'in sughra* and *talak ba'in Kubra*. *Talak ba'in sughra* applies to a single *ba'in* divorce, as well as two consecutive *ba'in* divorces or two simultaneous *ba'in* divorces (*thalqatain ba'inatain*). However, if the third divorce is pronounced, it is considered an absolute *talak ba'in*, whether it is preceded by *talak raj'i* or *talak ba'in*.¹⁷

When a husband issues one or two *ba'in* divorces, he is allowed to reconcile with his wife during or after the *iddah* period, but not through reconciliation; instead, a new marriage contract is required.¹⁸ Examples of *talak ba'in* include: (1) divorce before consummation (*qobla dukhul*), (2) divorce with financial compensation (*iwadh*), (3) divorce through implied expressions (*kinayah*) according to the Hanafi jurists, and (4) divorce pronounced by a judge, but not due to the husband's failure to provide maintenance and

¹¹ Mutarokah in the Abu Hanifah school means the husband leaving his wife. In the Hanafi school, the termination of a deficient marriage is done through two methods: first, by a judge's decision, and second, by mutarokah. There is no *talak* in a deficient marriage, but mutarokah is performed when the husband expresses this to his wife (after they have engaged in marital relations) using phrases such as "I have left you (*Taaraktuka*)," or "I have abandoned her (*taaraktuha*)," or "I have let you go (*khollaitu sabilaka*)," and so on.

¹² *Talak ba'in* is declared with the narrative in the present (*fil hal*) because the termination of the marriage occurs at the time the *talak* is pronounced. On the other hand, *talak raj'i* is declared with a future timeframe (*fil ma'aal*) because the actual termination of the marital bond occurs only after the completion of the *'iddah* period. Refer to Wahbah Az-Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, Cet. III (Damaskus: Dar al-Fikr, 2013), jilid. 8, h. 344.

¹³ Wahbah Az-Zuhayli, jilid. 8, h. 344.

¹⁴ Wahbah Az-Zuhayli, jilid. 8, h. 344.

¹⁵ Wahbah Az-Zuhayli, jilid. 8, h. 407. Lihat juga Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiyah - Al-Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, jilid. 29, h. 26.

¹⁶ Wahbah Az-Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, jilid. 8, h. 413.

¹⁷ Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiyah - Al-Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, jilid. 29, h. 29.

¹⁸ Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiyah - Al-Kuwait, jilid. 29, h. 29.

not due to *ilaa*^{19,20} *Talak ba'in Kubra* is a divorce that prevents the husband (after pronouncing the divorce) from reconciling with the divorced wife unless the former wife marries another man in a valid marital relationship. The new husband must consummate the marriage genuinely (*dukhulan haqiqiy*).²¹ Subsequently, if the second husband divorces or dies, and the *iddah* period of the former wife from her second husband has ended, only then is she allowed to reconcile with the first husband.²² This provision is written in Surah Al-Baqarah, verse 230: "So if he divorces her (for the third time), she will not be lawful to him afterward until [after] she marries a husband other than him. And if the latter husband divorces her, there is no blame upon them if they return to each other if they think that they can keep within the limits of Allah. These are the limits of Allah, which He makes clear to people who know."²³

Is Every Divorce Pronounced by a Judge Considered Talak Ba'in

In the literature of Islamic jurisprudence, especially in the chapter on divorce, the term "*At-Tafriq Al-qadha'i*" is found. It refers to the action of a judge in adjudicating a divorce. This discourse indicates that the judicial institution has the authority recognized by Sharia to adjudicate marriages that are deemed no longer viable for the parties involved. "*At-Tafriq Al-qadha'i*"²⁴ is defined as "the dissolution of the marital bond between husband and wife through a judge's decision based on the request of one party due to reasons such as discord (*syiqaq*), harm (*dharar*), lack of financial support, or even without a request from either party but carried out to safeguard Sharia rights, such as when one party leaves the faith (*murtad*)."²⁵ Based on that definition, it can be concluded that the court, specifically the judge, has the authority to dissolve the marital bond (*tafriq*)

¹⁹ *Ilaa'* in Arabic means an oath. The definition of *ilaa* is the husband's oath not to engage in marital relations with his wife for four months or more, or a similar expression indicating an unspecified period, refer to Ibnu Rusyd Al-Hafid, *Bidayatul Mujthaid wa Nihayatul Muqtashid* (Kairo: Maktabah Ibn Taimiyah, 1994), vol. III, 187.

²⁰ Wahbah Az-Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, vol. VIII, 413.

²¹ The meaning is the entry of the male reproductive organ (*dzakar*) completely into the female reproductive organ (*farj*). There are two types of marital relations: actual relations (*al-dukhl al-haqiqi*) and legal relations (*al-dukhl al-hukmi*). The concept of "*dukhl*" referred to in the context of divorce is *al-dukhl al-haqiqi*. Imam Shafi'i stated that marital relations that require the waiting period (*iddah*) are those that are actual (*al-dukhl al-haqiqi*). If a husband pronounces *talak* to his wife after being alone together (*al-dukhl al-hukmi*), but the male reproductive organ has not entered the female reproductive organ, then the *talak* is considered *talak qobla al-dukhl*, refer to Fajri Ilhami, "Pemenuhan Hak-Hak Perempuan dan Anak Pasca Perceraian Dalam Putusan Verstek Perkara Permohonan Cerai Talak di Pengadilan Agama Tigaraksa Perspektif Maqhsid al-Syaro'ah Jasser Auda" (Master Thesis, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2023), 33, <https://repository.uinjkt.ac.id/dspace/handle/123456789/73532>.

²² Wahbah Az-Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, jilid. 8, h. 414.

²³ Ramadhani Ramadhani, Irvan Refliandi, and Syafriadi B, "The Transfer of Use of High Heirloom Property in Solok District in Maqashid Al-Syariah Review," *Hakamain: Journal of Sharia and Law Studies* 2, no. 2 (October 2024): 207–20, <https://doi.org/10.57255/hakamain.v2i2.328>.

²⁴ A. Zamakhsyari Baharuddin dan Rifqi Qowiyul Iman, "At-Tafriq Al-Qadha'i And The Religious Courts' Authority In Deciding A Divorce," *Syariah: Jurnal Hukum dan Pemikiran* 20, no. 1 (27 Juni 2020): 1–12, <https://doi.org/10.18592/sjhp.v20i1.3493>.

²⁵ Wizarat Al-Awqaf wa Asy-Syu'un Al-Islamiyah – Al-Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, jilid. 29, h. 6.

in several circumstances. These include: (1) when the husband fails to provide financial support to the wife (*'adam an-nafaqah*), (2) due to the presence of disgrace or defect (*'aib aw ilal*), (3) due to discord and harm (*as-syiqaq aw ad-dharar*), (4) due to the husband's absence without a valid reason (*ghoibat ar-zauj bila 'udzr*), and (5) because the husband is in detention (Habs).²⁶

There are other conditions in which the court has the authority to decide on divorce, but these conditions are still a subject of disagreement among some jurists who view them as *talak*. These conditions include: (1) *tafriq* with *khair bulugh*, (2) *tafriq* due to differences in religion, (3) *tafriq* due to *li'an* (accusation of adultery), (4) *tafriq* due to the invalidity of the marriage contract or the loss of desired qualities, (5) *tafriq* due to the prohibition caused by foster relationships (*rodho'ah*) and marital relationships (*mushahaharrah*), (6) *tafriq* due to insufficient dowry, and (7) *tafriq* due to the husband's disappearance (*faqd*).²⁷ Here are the types of divorce based on conditions where the court has the authority to decide on the marriage or divorce of husband and wife. The spouses apostatizes from Islam, a divorce occurs between them, not through *talak*, and no decision from a judge is necessary. Their marriage is annulled solely due to apostasy. In the widely accepted opinion in the Maliki school, divorce resulting from one spouse's apostasy is considered *talak*. However, the Shafi'i and Hanbali scholars argue that the annulment due to one party's apostasy depends on the completion of the *iddah* period. If the apostate party returns to Islam before the end of the *iddah*, they remain bound by the marriage. If, however, they do not return to Islam by the end of the *iddah*, the partners are considered separated since they follow different religions. The Ja'fari Shia school holds that the apostasy of one spouse before consummation leads to an immediate annulment (*fasakh*), but if apostasy occurs after consummation, the annulment waits until the end of the *iddah*.²⁸

Suppose a judge grants a divorce to a couple because the husband fails to fulfill his obligation to provide maintenance to his wife. In this case, according to the Maliki school, the *talak* pronounced by the judge is considered *talak raj'i*. The husband retains the right to reconcile with his wife during her *iddah* period if he becomes financially stable and is prepared to support her. This divorce arises from the husband's failure to meet his obligation to provide maintenance. Similar to the divorce between a husband who issues an *iilaa'* and his wife, it is regarded as a divorce if the husband refuses to redeem or pronounce *talak*. The Shafi'i and Hanbali schools state that divorce due to the absence of maintenance cannot be carried out except through a judge's decision.²⁹ This is because such divorce is a contested annulment, and a judge's decision is required, similar to annulment due to impotence. In this case, divorce by a judge should only be granted upon the wife's request because this divorce results from her rights being unfulfilled, and it cannot be initiated without her request, as in the case of annulment due to impotence.

²⁶ Wizarat Al – Awqaf wa Asy – Syu'un Al – Islamiyah – Al – Kuwait, jilid. 29, h. 77.

²⁷ Wizarat Al – Awqaf wa Asy – Syu'un Al – Islamiyah – Al – Kuwait, jilid. 29, h. 77.

²⁸ Wahbah Az – Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, jilid. 8, h. 587 – 588.

²⁹ A. Zamakhsyari Baharuddin dan Rifqi Qowiyul Iman, "Kompetensi Peradilan Agama Menangani Perkara Cerai Gugat Dalam Tinjauan Fikih Islam," *Al-Mizan (e-Journal)* 16, no. 2 (31 Desember 2020): 217, <https://doi.org/10.30603/am.v16i2.1875>.

If the wife requests it, and the judge grants the divorce, it is an annulment that the husband cannot contest.³⁰

The Hanafi and Maliki schools argue that this type of divorce is *talak ba'in*, reducing the number of *talak*. This is because the judge's action in divorcing is based on the husband, making it appear as if the husband himself divorced his wife. Since this is a divorce that occurs after a valid marriage, divorce by a judge in such a case (according to the Maliki school) is *talak* and not *fasakh*. This type of divorce is judged as *talak ba'in* to eliminate harm to the wife. If the husband were allowed to reconcile with his wife before the end of the *iddah*, there is a fear that the harm would recur. On the other hand, scholars from the Shafi'i and Hanbali schools argue that divorce by a judge due to defects is *fasakh*, not *talak*. Therefore, it does not reduce the number of *talak*. According to this perspective, the husband retains the right to reconcile with his wife through a new marriage ceremony, which must be attended by a guardian, two just witnesses, and a dowry. This process is considered a separation initiated by the wife, either through her request for separation or due to her defects.³¹ *Talak* issued by a judge due to disputes between spouses (*syiqaq*) is considered *talak ba'in* because the harm that arises cannot be eliminated except through *talak ba'in*. If *talak raj'i* were applied, the husband might have the possibility of reconciling with his wife during the *iddah*, allowing the harm to recur.³²

According to the predominant opinion of the Maliki school, a divorce issued by a judge in this case is considered *talak ba'in* because every divorce pronounced by a judge is classified as *talak ba'in*, except for divorces caused by *ilaa'* and lack of care. According to the Hanbali school, this type of divorce is called *fasakh*. *Fasakh* is different from *talak*, and it does not decrease the number of *talak*. This is because the wife initiates the divorce. In the Hanbali perspective, a divorce initiated by the wife is considered *fasakh*. This type of divorce can only occur with a judge's decision. A judge should not pronounce divorce unless the wife requests it because this divorce results from her right as a wife being unfulfilled, and it cannot be done without her request, similar to annulment due to the husband's impotence.³³ The majority of jurists do not permit divorce due to the husband's detention (*Habs*), captivity (*asr*), or arrest (*i'tiqal*) because there is no clear Sharia evidence regarding this. Additionally, according to the Hanbali school, the departure of someone in prison is considered a departure with an excuse (*'udzr*). However, the Maliki school allows the wife to seek divorce from a judge if her husband has been absent for more than one year, regardless of whether it is due to a legitimate excuse or not. If the period of absence exceeds one year, the wife can demand a divorce, and the judge can separate them without writing a letter to the husband or warning him. In such cases, divorce is considered *talak ba'in*.³⁴

³⁰ Wahbah Az – Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, vol. VIII, 490.

³¹ Wahbah Az – Zuhayli, vol. VIII, 499.; M. Zein Satria Effendi, *Problematika Hukum Keluarga Islam Kontemporer, Analisis Yurisprudensi Dengan Pendekatan Ushuliyah* (Jakarta: Kencana, 2004), 132.

³² Wahbah Az – Zuhayli, *Mausu'at Al-Fiqh Al-Islami Wa Al-Qadhaya Al-Mu'ashirah*, vol. 8, h. 504.; Wizarat Al – Awqaf wa Asy – Syu'un Al – Islamiyah – Al – Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, vol. 29, 56.

³³ Wahbah Az – Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, vol. 8, 509.

³⁴ Wahbah Az – Zuhayli, vol. 8, 511.

The Law of *Talak Raj'i* and *Talak Ba'in*

In the context of *talak raj'i* and *talak ba'in*, there is a consensus among scholars that the husband is obligated to provide financial support to the wife during the waiting period (*iddah*). This obligation includes essential needs such as housing and maintenance until the *iddah* period concludes.³⁵ This provision is based on the principle of ensuring the welfare and economic stability of the wife, even after the marital status has changed, thereby guaranteeing her rights despite the separation. The primary purpose of this rule is to protect the wife from economic hardships that may arise due to divorce, allowing her to reorganize her life in a stable environment without depending directly on the husband. This responsibility reflects a moral and social duty borne by the husband, aiming to prevent any difficulties the wife might face following the drastic shift in marital status. Moreover, this view highlights that although the formal marriage has ended, the social bond between husband and wife is not entirely severed, and the rights of the wife in Islam remain a priority, especially in a sensitive situation such as the post-divorce waiting period.

Regardless of the type of divorce issued, a child born during the waiting period is still considered the legitimate offspring of the husband who initiated the divorce. This rule plays an essential role in ensuring clarity of lineage, which is significant in Islamic law for inheritance and family identity.³⁶ The establishment of clear lineage guarantees that the child has access to inheritance rights from the father's side and other rights tied to their position in the family. In Islamic legal perspective, lineage has profound implications for broader social relations and familial responsibilities. Additionally, safeguarding lineage also protects the family's honor and reputation, as legitimate offspring provide legitimacy to legally recognized family ties. This aspect is crucial, as a clear lineage status ensures not only inheritance rights but also other entitlements that could impact the child's social, economic, and even political future. Thus, the regulation regarding lineage post-divorce reaffirms the father's responsibility toward the child, even if the relationship with the mother has changed due to divorce.

The effect on the divorce count may change if the divorced wife remarries another man and later returns to her first husband.³⁷ According to the Hanafi school and Abu Yusuf, such a remarriage resets the divorce count, regardless of the number of divorces previously issued. This means that when the wife returns to her first husband after remarrying, the husband is granted three new opportunities for divorce. However, some other scholars restrict this reset policy to cases where three divorces had previously taken place. In this scenario, if the wife marries another man and is later divorced or widowed, then when she returns to the first husband, they start a new marital relationship with three divorce rights renewed.³⁸ This perspective is intended to give the couple an opportunity to rebuild their relationship and strengthen the marital bond while preventing repeated

³⁵ Wahbah Az – Zuhayli, vol. 8, 419.

³⁶ Reconciliation (*rujuk*) can be done in two ways, namely through words and actions. Reconciliation through words means the husband expresses reconciliation to his divorced wife, for example, by saying, "I am reconciling with you" or "I am taking you back under my care," or other similar statements. As for reconciliation through actions, it is done through sexual intercourse (*jimak*) and actions performed before sexual intercourse. Refer to Wizarat Al – Awqaf wa Asy – Syu'un Al – Islamiyah – Al – Kuwait, *Al-Mausu'ah Al-Fiqhiyah*, jilid. 22, h. 109 – 110.

³⁷ Wahbah Az – Zuhayli, jilid. 8, h. 419.

³⁸ Wahbah Az – Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, jilid. 8, h. 420 – 421.

divorces, which could destabilize the family and social structure. On the other hand, the stricter view held by some scholars aims to uphold caution in marriage, ensuring that couples cannot easily reunite after three divorces without undergoing a new marital commitment.

In *talak raj'i*, the husband retains the right to reconcile with his wife within the waiting period, or *iddah*, which is a time of potential reconsideration before the marriage is fully dissolved.³⁹ During this period, the marital bond remains in a state of suspension rather than complete termination, allowing the husband to initiate reconciliation through verbal affirmation or, in some Islamic jurisprudence schools, through non-verbal gestures, such as approaching or interacting with his wife in a manner that signifies his intent to reunite. The Hanafi, Hanbali, and Maliki schools acknowledge that actions expressing reconciliation—like entering the wife's home or providing for her needs—can signify the husband's willingness to mend the marital relationship without necessarily requiring direct verbal confirmation.⁴⁰ However, once the *iddah* period concludes without reconciliation, the marriage dissolves entirely, and the husband no longer holds the right to reclaim the marital bond without a new marriage contract. This approach to *talak raj'i* emphasizes a balanced perspective between preserving the possibility of family unity and respecting the autonomy of each party, ensuring that reconciliation is an option but only within a structured and limited timeframe. The temporary nature of this waiting period thus creates a legal and emotional space for both husband and wife to reflect on their relationship and either pursue a renewal of their bond or accept the conclusion of their marriage as final.

Talak raj'i also introduces specific restrictions regarding physical intimacy and personal interaction between the husband and wife during the *iddah* period.⁴¹ In the Shafi'i and Maliki schools of thought,⁴² sexual relations are strictly prohibited, as is any form of interaction that might blur the boundaries between the divorced couple.⁴³ This includes restrictions on visual interaction; husbands are advised to avoid looking at their former wives, as it could lead to emotional complications or misunderstandings, given that the marital relationship is no longer fully intact. This position treats *talak raj'i* as a definitive separation, encouraging each party to maintain distance and to respect the boundaries that divorce implies. On the other hand, the Hanafi and Hanbali schools maintain that certain forms of interaction remain permissible, allowing the wife to beautify herself and dress in ways that might attract her husband's attention, thereby leaving the door open for reconciliation.⁴⁴ According to the Hanafi interpretation, the husband retains a form of limited ownership and legal marital rights during *iddah*, permitting acts that signify ongoing relational ties, even if formal reconciliation has not yet occurred. For instance,

³⁹ "Adzhar" is a term used to denote the preferred opinion among several opinions of Imam As-Syafi'i on a particular issue.

⁴⁰ It means that the husband is still allowed to reconcile (during the waiting period) or remarry (once the waiting period has ended) with his wife. This is different from the triple divorce, which nullifies ownership and legality for the husband.

⁴¹ As-Sayyid Sabiq, *Fiqh As-Sunnah*, Cet. I (Kairo: Dar Al-Hadits, 2004), h. 646.

⁴² "Talak firar" or "thalaq al-maridh maradhul maut" refers to a divorce (*talak bain*) carried out by a husband who is terminally ill or on the verge of death, with the intention of preventing his wife from inheriting from him, refer to Ali Kadarisman, "Kekerasan Dalam Rumah Tangga dan Sanksinya dalam Hukum Islam," *De Jure: Jurnal Hukum dan Syar'iah* 9, no. 2 (30 Desember 2017): 99, <https://doi.org/10.18860/j-fsh.v9i2.6905>.

⁴³ Wahbah Az-Zuhayli, *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*, jilid. 8, h. 442.

⁴⁴ Wahbah Az-Zuhayli, jilid. 8, h. 442.

the wife may wear perfume, adorn herself, or dress attractively in the husband's presence as a means of encouraging a possible reunion. Such allowances underline the concept that, in the Hanafi view, *talak raj'i* does not entirely revoke the husband's rights or the wife's role within the marriage until the waiting period expires.⁴⁵

Divorce in Front of the Religious Court in The Islamic Legal Perspective

Islam grants the right of divorce (*talak*) exclusively to the husband, as the husband's desire to continue the marital bond, which often involves significant financial sacrifices, is considered stronger. Considering this, and given that husbands are deemed to possess greater patience and reasoning abilities in dealing with unfavorable behaviors or attitudes from their wives, a husband is less likely to hastily decide on divorce due to anger or his wife's unpleasant traits. This situation gained special attention from the government in 1946, leading to the enactment of Law No. 22 of 1946 concerning Marriage Registration. As mentioned earlier, *talak* can be executed through various means, indicating the termination of the marital bond. This form of *talak* can be executed through spoken words, written messages addressed to the wife, gestures for a non-verbal person, or by sending a representative or guardian. It is important to note that *talak* is still considered valid even if conveyed through a messenger or representative to the wife in a different location. In such cases, the appointed messenger acts as the one initiating the *talak*; thus, it is deemed valid.⁶⁰

The right to pronounce *talak* lies with the husband. Therefore, a husband should not act arbitrarily towards his wife. Common misconceptions among the public often arise regarding the issue of pronouncing *talak* and its actual occurrence. Islamic jurisprudence (*fiqh*) explains that once a husband has pronounced *talak* to his wife, whether directly (*sharih*), which does not require a specific intention, it is considered effective.⁶¹ Divorce outside the court system places a burden on the former wife and children, as their rights are not guaranteed, and legal certainty is lacking. Additionally, the former wife faces difficulties in contracting a valid marriage according to prevailing laws. In contrast, divorce through the court system can ensure the rights of the former wife and children. Furthermore, the former wife can remarry legally according to applicable laws.⁶²

During the 28th NU Congress at Al-Munawwir Islamic Boarding School in Krapyak, Yogyakarta, held on 26–29 Rabiul Akhir 1410 H / 25–28 November 1989 M, the Nahdlatul Ulama (NU) formulated specific guidelines regarding divorce proceedings in court, clarifying several conditions surrounding the validity and recognition of a husband's divorce declaration (*talak*). Firstly, when a husband has not declared a *talak* outside the Religious Court, any *talak* he pronounces before a Religious Judge is considered as the initial or first *talak*, marking the start of the mandatory waiting period (*'iddah*) from that point forward. Conversely, if a husband has already pronounced a *talak* outside the Religious Court, any subsequent *talak* he pronounces before the Religious Judge is then

⁴⁵ Ahmad Rajafi, "Hukum Keluarga Islam di Indonesia: dari Orde Lama hingga Orde Reformasi," *Al-'Adalah* 14, no. 2 (2017): h. 311., <https://doi.org/10.24042/adalah.v14i2.2059>.

⁶⁰ Hepi Duri Jayanti, "Talak Tiga Di Luar Pengadilan Perspektif Hukum Islam Dan Hukum Positif Bagi Pegawai Negeri Sipil (Studi Analisis Putusan Pengadilan Agama Argamakmur Nomor 0207/Pdt.G/2015/PA.AGM)," *Qiyas : Jurnal Hukum Islam dan Peradilan* 3, no. 1 (1 April 2018): 94, <https://doi.org/10.29300/qys.v3i1.958>.

⁶¹ Sulaiman Rasjid, *Fiqh Islam* (Bandung: Sinar Baru Algesinda, 1994), h. 402.

⁶² Muhammad Syaifuddin, Sri Turat miyah, dan Annalisa Yahanan, *Hukum Perceraian* (Jakarta: Sinar Grafika, 2014), h. 2.

considered the second or successive talak if still within the waiting period, or 'iddah raj'iyah, with the counting of 'iddah beginning from the first talak and concluding after the last 'iddah, which is measured based on the most recent talak. Moreover, if the pronouncement of talak occurs before the Religious Judge but is made after the completion of the waiting period ('iddah) or during the period of 'iddah bain (an irrevocable waiting period), the declaration is deemed invalid and is disregarded by the court.⁶³

The position of divorce (*talak*), whether it occurs outside or in front of a court hearing, is the same. The legal validity is not different; what distinguishes them is that divorce conducted in front of a court hearing tends to produce more benefits for the wife and children, who often suffer the consequences of divorce. However, divorce in front of a court has legal consequences and rights for both parties guaranteed by the state, as it is carried out through an authorized institution. In this context, the pronouncement of divorce in front of the court aims to achieve benefits such as protecting the family institution and ensuring legal certainty, where marriage is not easily terminated. The termination must be based on a thorough examination of whether the reasons are fulfilled. Therefore, divorce pronounced in front of the court means that the reasons for divorce have been under scrutiny, which is examined through the legal process. Divorce conducted in court ensures compliance with Islamic guidelines regarding divorce, as before any decision, an investigation is conducted to determine whether there are strong enough reasons for divorce between husband and wife.

How does Islam view divorce in front of the religious court? First, it is essential to understand that there is no need to pit classical jurisprudence (*fiqh*) against existing legal regulations in examining this matter. Classical *fiqh* and existing laws do not necessarily conflict with or negate each other, such as declaring that divorce outside the court is invalid or concluding that current divorce laws conflict with *fiqh*. Both can coexist, as the issue does not necessitate such a binary opposition. Second, the mechanism of divorce in the Religious Court is classified into *talak* divorce and contested divorce. In short, *talak* divorce is a request for permission to divorce submitted by the husband. In contrast, a contested divorce is a divorce lawsuit filed by the wife to have the judge decide on the dissolution of the marriage by pronouncing *talak*. For the second classification, contested divorce, there seems to be no problem. As previously explained, if certain conditions are met, the wife can ask the judge to divorce her from her husband since the wife cannot divorce herself. The focus of many is on *talak* divorce, where the husband who wants to divorce his wife must do it in front of the Religious court. Third, in the case of divorce filed by the male party (*talak* divorce), the court never positions itself as the one pronouncing the *talak*. *Talak* divorce, which is usually filed by the husband, still considers the husband the sole owner of the *talak* right. However, the law restricts its legal use, so the husband can only divorce his wife in front of the religious court after the court attempts reconciliation and examines the reasons for divorce presented. Such a mechanism is in line with the principle of "taqyid al – mubah" (restriction on permissible matters). The term "taqyid al – mubah" consists of two words: "taqyid," meaning binding

⁶³ Yayasan DIA, "Kedudukan Thalaq Di Pengadilan Agama," <http://purl.org/dc/dcmitype/Text>, Kedudukan Thalaq di Pengadilan Agama (laduniid, 12 Oktober 2017), <https://www.laduni.id/post/read/30395/kedudukan-thalaq-di-pengadilan-agama.html>.

or limiting, and "al – mubah," meaning something permissible or allowed.⁶⁶ In this case, *talak* falls under the category of mubah (permissible). The hadith states that what is permissible but disliked by Allah is *talak*, where permissible also has the same meaning as allowed, permissible, or lawful (*mubah* or *ja'iz*).⁶⁷

According to *Dar al-Iftaa' al-Misriyyah*, the concept of "the government has the authority to restrict obligatory matters" is not explicitly mentioned in earlier books of fiqh principles. However, this concept is derived from the *istinbat* (deduction) of the concept of *maslahah* itself. In general, this principle implies that the government has the right to set conditions or limitations on matters originally considered obligatory according to Sharia, aiming to realize the general welfare. It is important to note that this concept does not mean legalising what is prohibited or prohibiting what Allah SWT allows. The principles of halal and haram as the absolute rights of Allah SWT are clear and unequivocal in Sharia and cannot be denied by anyone.⁶⁸ So, in the case of divorce as well, the state does not absolutely prohibit divorce; rather, divorce is limited to certain reasons and carried out through specific mechanisms as regulated in legal statutes, such as being conducted in front of a religious court. One of the considerations for obligating divorce in court is that divorce will undoubtedly have negative consequences for everyone involved with the divorced couple, whether from the side of the wife, husband, or the families of both parties. Moreover, the divorce will impact the child, especially when the divorce is done either outside the court or within the court. For a child, the separation (divorce) of their parents is something that can disturb their psychological condition. When the child was in a harmonious family environment, filled with love from both parents and living together with both a father and a mother figure, they suddenly found themselves in a family environment full of problems and eventually had to live with only one figure, either the mother or the father.⁶⁹ Divorce conducted outside the court can affect the child's psychological condition, as it often happens that the father does not provide regular and fixed financial support. Divorce conducted outside the court lacks legal force, so it cannot compel the father or mother to provide regular financial support, both in terms of the timing and the amount. If divorce is executed in a religious court, it will be determined by the court in accordance with Article 156 of the Compilation of Islamic Law (KHI).⁷⁰

CONCLUSION

Several discussion above can draw the following conclusions: Etymologically, "*talak*" means to release (al – hillu) and eliminate the bond (raf'ul qaidi). In terminology, "*talak*" means to dissolve the marital bond, either in the present or the future, using specific utterances or their equivalents. In terms of legal consequences and the possibility of reconciliation for the spouses, "*talak*" is divided into two categories: "*talak raj'i*" and "*talak ba'in*." "*Talak raj'i*" allows the husband to reconcile with his wife during the waiting period (*iddah*) without the need for a new marriage contract, even if the wife is unwilling. "*Talak*

⁶⁶ Abu Hamid Al – Ghazali, *Al-Mustasfa fi 'Ilmi Al-Ushul* (Riyadh: Daar Al – Maiman, t.t.), jilid. 2, h. 127.

⁶⁷ Abdul Aziz Dahlan, dkk, *Ensiklopedi hukum Islam* (Jakarta: Ichtisar Baru van Hoeve, 2001), h. 506.

⁶⁸ Luqman Tarmizi, "Irsyad Usul Fiqh Siri Ke – 50: Hak Pemerintah Untuk Mengehadkan Perkara Yang Harus (Taqqid Al – Mubah)," Pejabat Mufti Wilayah Persekutuan, 12 Maret 2020, [https://muftiwp.gov.my/artikel/irsyad – usul – fiqh/4312 – irsyad – usul – fiqh – siri – ke – 50 – hak – pemerintah – untuk – mengehadkan – perkara – yang – harus – taqqid – al – mubah](https://muftiwp.gov.my/artikel/irsyad-usul-fiqh/4312-irsyad-usul-fiqh-siri-ke-50-hak-pemerintah-untuk-mengehadkan-perkara-yang-harus-taqqid-al-mubah).

⁶⁹ Vivi Hayati, "Dampak Yuridis Perceraian Di Luar Pengadilan (Penelitian Di Kota Langsa)," *Jurnal Hukum Samudra Keadilan* 10, no. 2 (2015): 225.

⁷⁰ Wiwi Fauziah dan Muhammad Fathan Ansori, "Keharusan Perceraian di Pengadilan Agama," Pengadilan Agama Pulang Pisau, diakses 2 Agustus 2023, [https://pa – pulangpisau.go.id/berita/arsip – berita – pengadilan/149 – artikel/1711 – keharusan – perceraian – di – pengadilan – agama](https://pa-pulangpisau.go.id/berita/arsip-berita-pengadilan/149-artikel/1711-keharusan-perceraian-di-pengadilan-agama).

ba'in" immediately terminates the marital relationship. "*Talak ba'in*" further divides into "*ba'in sughra*" and "*ba'in kubra*." There are criteria to determine when "*talak*" is considered "*talak raj'i*" and when it is considered "*talak ba'in*." Islamic jurisprudence (fiqh) regulates the authority of judges to separate spouses, depending on the circumstances leading to the separation. Not all divorces issued by a judge are "*talak ba'in*"; it depends on the reasons for the separation between the spouses. Each "*talak raj'i*" and "*talak ba'in*" has legal consequences. In Islam, a husband can divorce his wife simply by expressing it in front of her or someone else. However, in a governed society, one must adhere to government regulations as long as they do not contradict Islamic law. Obeying the government is part of your obligation as a Muslim. The government establishes regulations on divorce to ensure administrative order, such as marriage registration and complicating divorce matters. This regulation establishment aligns with the legal principle in Islam, "*lil imam taqyid al-mubah*" (the ruler has the authority to limit permissible matters).

References

- Al – Ghazali, Abu Hamid. *Al-Mustasfa fi 'Ilmi Al-Ushul*. Riyadh: Daar Al – Maiman, n.d. Vol. 2, p. 127.
- Article 118 of the Compilation of Islamic Law.
- Az – Zuhayli, Wahbah. *Mausu'at Al-Fiqh Al-Islami wa Al-Qadhaya Al-Mu'ashirah*. 3rd ed. Damaskus: Dar al – Fikr, 2013. Vol. 8, p. 344.
- Baharuddin, A. Zamakhsyari, and Rifqi Qowiyul Iman. "At – Tafroq Al – Qadhwa'i And The Religious Courts' Authority In Deciding A Divorce." *Syariah: Jurnal Hukum dan Pemikiran* 20, no. 1 (June 27, 2020): 1 – 12. <https://doi.org/10.18592/sjhp.v20i1.3493>.
- Baharuddin, A. Zamakhsyari, and Rifqi Qowiyul Iman. "Kompetensi Peradilan Agama Menangani Perkara Cerai Gugat Dalam Tinjauan Fikih Islam." *Al-Mizan (e-Journal)* 16, no. 2 (December 31, 2020): 217. <https://doi.org/10.30603/am.v16i2.1875>.
- Dahlan, Abdul Aziz, et al. *Ensiklopedi Hukum Islam*. Jakarta: Ihtiar Baru van Hoeve, 2001.
- Effendi, M. Zein Satria. *Problematika Hukum Keluarga Islam Kontemporer, Analisis Yurisprudensi Dengan Pendekatan Ushuliyah*. Jakarta: Kencana, 2004.
- Fauziah, Wiwi, and Muhammad Fathan Ansori. "Keharusan Perceraian di Pengadilan Agama." *Pengadilan Agama Pulang Pisau*. Accessed August 2, 2023. <https://pa-pulangpisau.go.id/berita/arsip-berita-pengadilan/149-artikel/1711-keharusan-perceraian-di-pengadilan-agama>.
- Hayati, Vivi. "Dampak Yuridis Perceraian Di Luar Pengadilan (Penelitian Di Kota Langsa)." *Jurnal Hukum Samudra Keadilan* 10, no. 2 (2015): 225.
- Jayanti, Hepi Duri. "Talak Tiga Di Luar Pengadilan Perspektif Hukum Islam Dan Hukum Positif Bagi Pegawai Negeri Sipil (Studi Analisis Putusan Pengadilan Agama Argamakmur Nomor 0207/Pdt.G/2015/PA.AGM)." *Qiyas: Jurnal Hukum Islam dan Peradilan* 3, no. 1 (April 1, 2018): 94. <https://doi.org/10.29300/qys.v3i1.958>.
- Meiryana, Feity. "Tinjauan Hukum Islam Terhadap Nikah Fasid Dan Dampaknya (Studi Terhadap Putusan Hakim di Pengadilan Agama Bengkulu)." *Qiyas: Jurnal Hukum Islam dan Peradilan* 3, no. 1 (April 1, 2018): 43. <https://doi.org/10.29300/qys.v3i1.963>.
- Rajafi, Ahmad. "Hukum Keluarga Islam di Indonesia: dari Orde Lama hingga Orde Reformasi." *Al-Adalah* 14, no. 2 (2017): 311. <https://doi.org/10.24042/adalah.v14i2.2059>.
- Rasjid, Sulaiman. *Fiqih Islam*. Bandung: Sinar Baru Algesinda, 1994.

- Ramadhani, Ramadhani, Irvan Refliandi, and Syafriadi B. "The Transfer of Use of High Heirloom Property in Solok District in Maqashid Al – Syariah Review." *Hakamain: Journal of Sharia and Law Studies* 2, no. 2 (October 2024): 207 – 20. <https://doi.org/10.57255/hakamain.v2i2.328>.
- Sudarsono. *Pokok-Pokok Hukum Islam*. Jakarta: PT Raneka Cipta, 1992.
- Syaifuddin, Muhammad, Sri Turatmiyah, and Annalisa Yahanan. *Hukum Perceraian*. Jakarta: Sinar Grafika, 2014.
- Tarmizi, Luqman. "Irsyad Usul Fiqh Siri Ke – 50: Hak Pemerintah Untuk Mengehadkan Perkara Yang Harus (Taqyid Al – Mubah)." Pejabat Mufti Wilayah Persekutuan, March 12, 2020. [https://muftiwp.gov.my/artikel/irsyad – usul – fiqh/4312 – irsyad – usul – fiqh – siri – ke – 50 – hak – pemerintah – untuk – mengehadkan – perkara – yang – harus – taqyid – al – mubah](https://muftiwp.gov.my/artikel/irsyad-usul-fiqh/4312-irsyad-usul-fiqh-siri-ke-50-hak-pemerintah-untuk-mengehadkan-perkara-yang-harus-taqyid-al-mubah).
- Wizarat Al – Awqaf wa Asy – Syu'un Al – Islamiyah – Al – Kuwait. *Al-Mausu'ah Al-Fiqhiyah*. 2nd ed. Kuwait.
- Yayasan DIA. "Kedudukan Thalaq Di Pengadilan Agama." *Laduni.id*, October 12, 2017. [https://www.laduni.id/post/read/30395/kedudukan – thalaq – di – pengadilan – agama.html](https://www.laduni.id/post/read/30395/kedudukan-thalaq-di-pengadilan-agama.html).