

The Talaq Phenomenon In The Digital Era: An Analysis Of Divorce Law Through Social Media In The Perspective Of Fiqh And Indonesian Laws

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Article received: 01 November 2025, Review process: 11 November 2025

Article Accepted: 25 Desember 2025, Article published: 01 Januari 2026

ABSTRACT

The phenomenon of divorce (talaq) in the digital era has become an increasingly complex issue alongside the rapid development of communication technology, particularly the use of social media as a medium for pronouncing divorce. This research is significant because it addresses the discrepancy between Islamic jurisprudence, in which some scholars consider talaq via digital media valid if it fulfills the requirements of fiqh, and Indonesian positive law, which mandates that divorce must be carried out through the Religious Court to obtain legal certainty. This study employs a qualitative method with a library research approach, analyzing literature from scholarly journals, books, and relevant legal regulations. The findings indicate that online talaq may result in unregistered divorce without legal recognition, which affects the rights of wives, children, and the family's administrative status. Moreover, the gap between fiqh and state law creates vulnerabilities to the misuse of digital platforms in family law practices. The study suggests the need for clearer legal regulations, improvement of legal and digital literacy, and stronger collaboration between scholars, academics, and policymakers to address the challenges of digital divorce in Indonesia.

Keywords: talaq online, digital divorce, fiqh, positive law Indonesia

ABSTRAK

Fenomena talaq di era digital menjadi isu yang semakin kompleks seiring berkembangnya teknologi komunikasi, khususnya penggunaan media sosial sebagai sarana penyampaian talak. Penelitian ini penting dilakukan karena munculnya perbedaan pandangan antara fiqh Islam yang pada sebagian ulama menganggap sah talak melalui media digital apabila memenuhi syarat fiqh, dan hukum positif Indonesia yang mewajibkan perceraian melalui Pengadilan Agama agar memiliki kepastian hukum. Metode penelitian yang digunakan adalah kualitatif dengan pendekatan studi pustaka, melalui penelusuran literatur dari jurnal, buku, dan peraturan perundang-undangan yang relevan. Hasil kajian menunjukkan bahwa talaq online berpotensi menimbulkan talak liar atau perceraian tanpa kepastian hukum, yang berdampak pada hak-hak istri, anak, serta status administrasi keluarga. Selain itu, ketidaksesuaian antara fiqh dan hukum positif menimbulkan kerentanan penyalahgunaan media digital dalam ranah hukum keluarga. Penelitian ini menyarankan perlunya regulasi hukum yang lebih jelas, peningkatan literasi hukum dan digital, serta sinergi antara ulama, akademisi, dan pembuat kebijakan untuk menjawab tantangan perceraian digital di Indonesia."

Kata Kunci : talaq online, perceraian digital, fiqh, hukum positif Indonesia

INTRODUCTION

The development of information and communication technology has brought about a major transformation in almost all aspects of life, including in social relations and family law. One of the phenomena that is increasingly emerging is the practice of online talaq or divorce which is carried out through social media, text messages, emails, or other digital communication applications. This practice raises many questions regarding its legal validity, both according to Islamic fiqh and positive legal regulations in Indonesia. This condition is important to study because it is directly related to family rights, justice, and legal certainty in marriage and divorce. This phenomenon is not only concerned with the issue of formal legality from a legal point of view, but also reflects the shift in social and cultural values in the midst of a modern Muslim society that is increasingly dependent on digital technology. Therefore, research on online talaq cannot be separated from the socio-religious context and changes in the communication patterns of Muslims in the digital era.

From the perspective of Islamic fiqh, talaq traditionally requires clear utterances or statements of talaq (sighah), mahramah (husband to wife), in front of witnesses, and in a manner that can be understood by the party being rejected. However, the presence of social media as a means of non-verbal or semi-verbal communication (text messages, video calls) brings new challenges: whether such media devices meet the requirements of fiqh, and what contemporary scholars think of them. For example, in the journal The Validity of Talak Through Social Media Islamic Law Perspective by M. Irfan Syaifuddin (Surakarta State Islamic Religious Institute), it is discussed that there are different views of scholars on talaq through written messages: some declare it invalid, while others consider it valid/mubah, depending on the context and elements of the sighah (Syaifuddin, 2020). This difference shows the flexibility of Islamic fiqh in responding to the times, but also opens up a space for debate related to legal authority in a digital context that does not yet have a clear standard in society.

Meanwhile, in the context of Indonesian legal regulation, the Marriage and Compilation of Islamic Law (KHI) Law provides a formal legal framework that regulates divorce through the Religious Courts. The imposition of talaq outside the court or through media that is not officially recognized can cause legal uncertainty. For example, the journal Empirical Factors of Takliq Talaq Through Electronic Media in View of Positive Law And Islamic Law highlights that according to Article 65 of Law No. 7 of 1989 junto Article 115 of the KHI, divorce can only be carried out in front of a judge in a Religious Court hearing, so talaq via electronic media needs to be reviewed for its validity in positive law (Hidayah et al., 2023). This condition shows that there is tension between the development of communication technology and the national legal system which is still based on conventional legal principles. In practice, many people do not understand that talaq through digital messages does not have legal force without going through the judicial process, so it has the potential to cause complex social and administrative impacts for both parties.

Thus, the study of online talaq becomes very relevant to be discussed comprehensively in the context of Islamic law and national legislation. This phenomenon is not just a technical problem of communication, but reflects a fundamental change in the way Muslims interpret and practice religious teachings in the digital age. On the one hand, technology makes it easier to convey messages and speed up interactions; But on the other hand, it also causes legal confusion and potential abuse in the husband-wife relationship. Therefore, this study is important to analyze the validity of talaq through social media in depth with a positive approach to fiqh and Indonesian law, as well as assess the extent to which the practice can be accommodated in the national legal system without ignoring the principles of justice, benefit, and protection of the rights of women and children as the most affected parties from digital divorce.

METHODS

This research uses a type of qualitative research with a literature study approach or literature review. Based on Burhan Bungin, qualitative research allows researchers to understand social phenomena in depth through texts and documents (books, journals, regulations, scientific papers), not through mere numerical measurement; Literature study is one of the variants of qualitative methods that is very relevant if the object of study is law, fiqh, and written regulations (Bungin, 2001). Sugiyono also said that documentation studies or literature studies are primary and secondary data sources in qualitative research to collect theoretical material, variable definitions, and relevant previous research results (Sugiyono, 2013). The issues to be examined include: the validity of taliq/talaq posted through social media from the perspective of Islamic fiqh; how positive legal regulations in Indonesia regulate divorce (talaq) in the context of digital/social media; and the extent to which there is a gap or regulatory gap for the online talaq phenomenon. The research targets are written-literature, namely: classical and contemporary fiqh books, scientific journals of Islamic law in Indonesia, laws & KHI, fatwas of scholars if any, as well as previous research articles (thesis, thesis) that discuss talaq, digital divorce, Islamic family law.

Data collection techniques are carried out with literature documentation: identifying and collecting relevant written sources (books, journals, legal documents), using literature sampling techniques (purposive) to select the most appropriate literature; literature is reviewed based on completeness, relevance, and up-to-date theory or data."That is why. Data analysis techniques use content analysis and comparative: critically reading the literature, categorizing the content based on the main themes (fiqh, regulation, implications), comparing fiqh views with positive legal regulations, identifying similarities and differences, compiling synthesis and drawing conclusions based on theoretical understanding of the literature. This research also considers historical and contextual aspects in the literature, namely how fiqh norms about talaq and positive Indonesian legal regulations have developed from time to time to face the challenges of the digital era. For example, in the study "The Problems of Islamic Family Law in the Digital Era and Its Relevance to Renewal of the Compilation of Islamic Law" by Ita Musarrofa et al., it was

concluded that the phenomenon of talaq through digital media is one of the problems of Islamic family law that requires material renewal in the Compilation of Islamic Law (KHI) and related laws to remain relevant to the reality of digital communication (Musrarifa et al., 2024). Therefore, the literature review is not only on classical texts but also on recent articles that discuss the implications of the digital era on family law. Furthermore, this study specifically includes literature that contains empirical or normative analysis of online talaq. For example, the article "Analysis Of Divorce Law Through Electronic Media In The Perspective Of Positive Law And Islamic Fiqh" by Ahdiyatul Hidayah et al., reviews the validity of talaq through electronic media from the perspective of positive law in Indonesia and Islamic fiqh, using a literature study with a qualitative descriptive method. Furthermore, this study specifically includes literature that contains empirical or normative analysis of online talaq. For example, the article "Analysis Of Divorce Law Through Electronic Media In The Perspective Of Positive Law And Islamic Fiqh" by Ahdiyatul Hidayah et al., reviews the validity of talaq through electronic media from the perspective of positive law in Indonesia and Islamic fiqh, using a literature study with a qualitative descriptive method (Hidayah, 2024). Thus, the literature data collection technique in this study also sets inclusion criteria which include: (a) direct relevance to the theme of digital talaq, (b) it has been published in peer-reviewed journals, and (c) it contains an analysis of fiqh and positive Indonesian law. The selected literature is then analyzed with content analysis and comparative techniques as mentioned earlier.

RESULTS AND DISCUSSION

Fenomena Talaq by Era Digital

The rapid development of information and communication technology, especially the widespread use of instant messaging applications and social media, has changed the pattern of interaction in families. One form of change is the emergence of divorce practices that are announced or imposed through digital platforms commonly called online talaq or talaq via social media in the form of text messages, voice notes, public status, and video calls. This phenomenon raises new questions about the boundaries between personal communication and legal actions that have implications for marital status (Asmaret, 2018)

The forms of digital talaq themselves are very diverse: from short messages that state talaq, voice notes that record divorce speeches, to declarative status uploads. This diversity of formats challenges classical interpretations of fiqh that deal more with spoken and official writings; Similarly, it creates practical uncertainty for spouses and legal institutions because digital evidence can be easily misunderstood, manipulated, or spread out of context. Various case studies in Indonesia illustrate how short messages or WA are sometimes considered as the imposition of talaq by certain parties, while others question their intention and context (Anugrah, 2024).

In addition, empirically, a number of local studies show a correlation between the intensity of social media use and the increase in domestic conflicts that lead to divorce. Social media acts as a trigger for jealousy, infidelity exposure, or the escalation of disputes that previously might have been suppressed through face-to-

face communication; As a result, extreme decisions such as imposing talaq through messages are easier to occur. The results of field research and case studies in several regions of Indonesia record this pattern as one of the driving factors for the rise of the digital divorce phenomenon (Baidowi, 2025).

Then for example, in the Online study Talak In The Dawabith Fiqhiyyah Perspective and Its Application In Marriage Law In Indonesia shows that husbands use digital media (SMS, email, video call) to impose talaq, so fiqh law and positive law Indonesia need to examine its validity more deeply, especially in terms of dawabith fiqhiyyah (Ali Faisal & Hidayat, 2025). The previous study also discussed "The Validity of Talak Through Social Media From the Perspective of Islamic Law" by M. Irfan Syaifuddin who used a literature study to examine the pros and cons of the validity of talaq through social media, which some scholars consider valid as long as the requirements of fiqh are met, and some state that it is invalid if the elements are incomplete (Syaifuddin, 2020).

Apart from the perspective of fiqh, this phenomenon is also motivated by social and technological factors such as the ease of digital communication, fast interaction, and the pressure of social media. A Study on the Impact of Technology and Social Media on Divorce Rates in the Digital Age: A Case Study on Millennial Couples found that social media is a risk factor in domestic relationships, triggering jealousy, misunderstandings, and conflicts that if left unaddressed can lead to divorce (Abdullah Pakarti, 2023). At the local level, research in Pangkep Regency also indicates that the increasing use of social media and communication through gadgets without direct interaction has an impact on household harmony, so social media contributes to the increase in divorce rates (Azman, 2020).

From the perspective of positive Indonesian law, formal rules regarding divorce place the divorce process in the realm of the court (Religious Court) in accordance with the Law and KHI; Thus, the imposition of talaq outside the court mechanism is often not recognized procedurally and raises problems of legal certainty. Some legal articles conclude that although online talaq may have religious implications for certain parties, administratively and legally the recognition of divorce still requires a judgment to be issued through a judicial process (Afifi, 2020).

The social implications of digital talaq are also very prominent: in addition to creating uncertainty about the legal status of the couple, it can negatively impact the socio-economic rights of the wife and children (e.g. alimony, custody, divorce documentation), as well as create public stigma if the divorce is widely announced on social media. Local studies show the need for legal protection and digital literacy for families so that impulsive actions through digital platforms do not harm vulnerable parties (Kurniawan & SDW, 2022).

Considering the uncertainty of fiqh and positive law, family law researchers and practitioners recommend three approaches: (1) increasing legal literacy and media ethics among couples and society, (2) clarifying fatwas or institutional guidelines that bridge contemporary fiqh with digital practices, and (3) affirming the administrative procedures for divorce in court so that the rights of the parties are legally protected. Recent academic studies encourage synergy between scholars, academics, and policymakers to formulate contextual guidelines without ignoring

sharia principles and state legal certainty (Anggreni et al., 2013). The talaq phenomenon in the digital era is a manifestation of how technology turns the private realm into a realm of legal and social risk. Therefore, further studies including analysis of court rulings, quantitative empirical research on prevalence, as well as comparative analysis of fatwas are needed to formulate effective legal policies and education to face this new reality. Follow-up research is expected to provide a stronger basis for regulatory recommendations and literacy programs that protect family rights in the digital age.

Online Talaq According to the Perspective of Fiqh Law

The Qur'an explains the rules about divorce clearly, especially in the Qur'an. At-Thalaq [65]:1:

يَأَيُّهَا النَّبِيُّ إِذَا طَلَقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعِدَّتِهِنَّ وَاحْصُوا الْعِدَّةَ وَإِنْفَوْا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبِينَةٍ وَتَلَقَّحُوْدُ اللَّهُ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَنْرِي لَعْلَ اللَّهُ يُحِدِّثُ بَعْدَ ذَلِكَ أَمْرًا

"O Prophet, if you divorce your wives, then divorce them when they are able to face their normal iddah..."

This verse emphasizes that divorce should be done in the right manner, paying attention to the period of iddah, and done consciously, not hastily or playfully. This shows that divorce, including talaq in any form, must refer to sharia rules that guarantee clarity of the legal status of husband and wife. Another verse, QS. Al-Baqarah [2]:229, emphasizes that talaq can only be imposed twice, then the husband must choose between referring in a good way or releasing it in a good way. This context underlines the importance of clarity and seriousness in imposing talaq, including when it is done through digital media (Kemenag RI, 2015).

In addition to the Qur'an, the hadith of the Prophet PBUH also emphasizes talaq. In a hadith narrated by Abu Dawud it is stated: "Three matters that are serious are considered serious and jokes are also considered serious, namely marriage, talaq, and referral." (HR. Abu Dawud, no. 2194). This hadith shows that talaq is still valid under sharia law even though it is pronounced in a playful state, as long as the pronunciation is clear. Thus, in the digital context, if talaq is conveyed through text messages, social media, or video calls with a firm sighah and a definite intention, then fiqh scholars debate about its validity whether it can be equated with oral talaq or writing that has been known since classical times (Sunan Abu Dawud, no. 2194).

Online talaq or talaq through electronic media (text messages, chat applications, video calls) has become a new phenomenon that has caused debate among Islamic scholars about its validity. Based on the research *on the Validity of Talak Through Social Media from the Perspective of Islamic Law* by M. Irfan Syaifuddin, two main views were found: some scholars state that talaq through written messages or digital communication is valid/permissible, especially if it meets conditions such as the existence of intentions, clear expressions of talaq (sighah), and the person who is talak understands its meaning; but on the other hand, there are scholars who reject the validity of digital talaq if the elements does not meet the principles of classical

fiqh which demand the existence of an event or clarity of direct delivery (Syaifuddin, 2020).

Furthermore, the *Online Talak In The Dawabith Fiqhiyyah Perspective and Its Application In Marriage Law In Indonesia* research expands the framework by discussing *dawabit fiqhiyyah* (shari'i limits in fiqh) as a benchmark for the validity of online talaq. In this study, it is explained that digital media can be *qiyyas*, (analogized) with written writing as long as it fulfills the *dawabit*, namely: clarity of talaq speech, the existence of intention, the interlocutor understands the meaning of talaq, and there is no element of ambiguity in communication (Baidowi, 2025).

In addition, the article *Analysis of Islamic Law and National Law on the Imposition of Talak through Social Media* also states that from the perspective of fiqh, talaq through social media can be considered valid if it contains the element of *sighah*, which is a clear expression of talaq (both directly and implicitly) and accompanied by the intention of the husband. However, many fuqaha also state that clarity of communication is very important so that there is no misunderstanding about the meaning or intent of talaq, just as fiqh prioritizes clarity ('adl al-lafz) so that there is no slander or loss on the part of the wife. A study by Rini Rahman in *the Sharia Scientific Journal* reinforces this by emphasizing that digital talaq requires caution so as not to be misused in household practice (Hidayah, 2024).

However, there are also opinions that emphasize that although fiqh recognizes the possibility of digital talaq as valid under certain conditions, there are still additional conditions that must be met so that the procedures and their impact do not violate the sharia *maqashid*, such as: communication that does not cause elements of psychological violence, respect for women's rights, and the presence of witnesses or documentary evidence in the event of a dispute. The *Study of Divorce through Electronic Media (SMS) in the Perspective of Positive Law and Islamic Fiqh* underlines that the use of electronic media must pay attention to that the talaq message is written or spoken clearly and verifiable for authenticity so that the validity of the fiqh is stronger (Kamaluddin, 2019).

Along with the increasing practice of digital communication in family relations, religious justice institutions face new challenges in handling divorces initiated or filed through social media. For example, the study "The Effectiveness of Online Mediation on Divorce Cases in the Medan Religious Court in the Era of the Covid-19 Pandemic" shows that the use of digital channels (online mediation) more or less changes the dynamics of the divorce process, but does not eliminate the need for an official decision by the judge to legalize the process (Matsum et al., 2022). Thus, although online talaq or digital communication may be considered the first step in the divorce process, formal legal stages are still needed to provide certainty for the wives/children, especially in the aspects of alimony, custody, and division of joint property.

On the other hand, the phenomenon of talaq through social media also opens up the potential for abuse, such as reciting talaq impulsively or without a correct understanding of the consequences according to sharia and state law. The research "*Divorce through electronic media (SMS) in the perspective of positive law and Islamic fiqh*" identifies that talaq through electronic media in fiqh can be considered valid if certain

conditions are met, but legally positive in Indonesia is considered invalid if it does not go through the court process (Hidayah, 2024). This misalignment between digital mechanisms and formal legal procedures illustrates the urgent regulatory gap to be reviewed in order to support justice for all parties.

Furthermore, the analysis of dawābit fiqhiyyah in the study "*Online Talak In The Dawabith Fiqhiyyah Perspective and Its Application In Marriage Law In Indonesia*" emphasizes that digital media can be qiyased with writing or speech in talak as long as it meets the elements of clarity (sighah), intention, and the party who understands the meaning (Ali Faisal & Hidayat, 2025). However, the implementation of national regulations (e.g. Law No. 1 of 1974 and KHI) still requires the presence of a court hearing as a formal prerequisite. Therefore, this study underscores the importance of family law reform that takes into account technological developments without ignoring the principles of justice, accountability, and protection of the rights of women and children.

Online Talaq in the Perspective of Indonesian Legislation

On the positive legal side of Indonesia, the framework of marriage and divorce rules is regulated in Law Number 1 of 1974 concerning Marriage, which requires the registration of marriages and provides a legal framework for the status of marriage; This law is the basis for population administration related to changes in family status. In addition, the Compilation of Islamic Law (KHI), which has been used as a reference for the settlement of marriage cases in the Religious Court, expressly stipulates that divorce can only be carried out in front of the Religious Court session after mediation/reconciliation efforts have not been successful (Articles related to divorce in the KHI). With these two bases, the practice of breaking the marriage bond that is carried out completely outside the court mechanism, for example through text messages or social media uploads, has the potential to not be recognized for its legal certainty until it is vowed/determined by the court (REPUBLIK INDONESIA, 1974).

Several legal studies affirm the duality of this position: from the juridical perspective of the state, talaq that is only conveyed through electronic media does not provide legal certainty because it has not gone through the judicial process and recording, thus giving rise to what is often called "wild talaq" or unofficial in the practice of population administration, while fiqh literature and some contemporary fuqaha discuss the possibility of the formal validity of talaq utterances through digital media if it meets the requirements the requirements of fiqh (sighah, intention, understanding of the rejected party). Literature studies and scientific articles that examine the phenomenon of talaq via SMS/WhatsApp and social media show that the incompatibility between the recognition of fiqh and the legal certainty of the country is a source of legal and social complexity that needs to be resolved through legal clarification and verification mechanisms in court.

The practical consequences of this disagreement include the uncertainty of marital status (which impacts the rights of wives and children related to alimony, inheritance, and custody), administrative record-keeping issues, as well as the potential practice of abusing electronic communications to break up marriages

without legal procedures that protect the more vulnerable parties. Therefore, the literature suggests solutions that are twofold: (1) strengthening legal education and digital literacy so that the public understands the correct divorce procedure; and (2) clarify procedural rules in the realm of positive law as an example of guidelines for verification of electronic evidence in the Religious Court or decisions/rules that regulate the status of "imposition of talaq" through electronic media) so that there is legal certainty and protection for all parties. Verified empirical and juridical studies that address these themes can be found in Islamic law journals and national civil journals that have examined the relationship between fiqh and positive law related to digital divorce (Mahkamah Agung RI, 1991).

Other research such as the article The Imposition of Talak Through WhatsApp Media in Review of Islamic Family Law Reform delves deeper into the implications of national law on digital talaq. The author concludes that although the digital method can be qiyased with writing in fiqh (as a written form), in practice in Indonesia it is still necessary to have a court decision so that the divorce receives administrative recognition and protection of the rights of the parties or children (Putri & Khairani, 2024). Thus, the state and judicial institutions are faced with a dilemma: whether digital talaq should be immediately regulated explicitly in regulations or left through fiqh interpretations and diverse judicial practices.

In the context of protecting the rights of more vulnerable parties, wives and children, the uncertainty of the status of digital talaq results has a major impact. A Study of the Influence of Social Media on Divorce: A Family Law Perspective in Indonesia shows that social media is a significant trigger for divorce, and when talaq is filed digitally without a formal process, wives often face difficulties in claiming alimony, child custody, or property division (Abidin, 2025). Therefore, the literature suggests the need for regulatory reform that specifically includes electronic evidence and digital talaq mechanisms so that family rights are fairly protected.

Comparative Analysis and Implications of Legal Reform

First, in muqāh fiqārān, classical scholars give a variety of views on non-verbal talaq, especially through writing. The Hanafiyah school emphasizes that written talaq is still valid even if it is not spoken orally, as long as the intention is clear (Al Kasani, 1909). The Malikiyah school is stricter, only acknowledging oral talaq in front of the right party, so writing without confirmation is considered invalid. Meanwhile, the Shafi'iyah and Hanabilah schools take a moderate position, namely that written talaq is valid if it is accompanied by the intention and understanding of the intended party (Annawawi, 2009). This difference shows that Islamic fiqh actually provides a flexible framework for assessing the validity of talaq that is not directly spoken.

Second, contemporary scholars provide a more contextual interpretation by relating the phenomenon of digital communication. Wahbah al-Zuhaili in *al-Fiqh al-Islāmī wa Adillatuh* emphasized that modern means such as SMS, email, or messaging applications can be qiyas, with classical writing if they meet the requirements of sighah (firm pronunciation) and intention (Az-Zuhaili, 2021). Yusuf al-Qaradawi also tends to allow digital talaq, but notes the need for verification mechanisms and the existence of witnesses so as not to cause mafṣadah. Thus,

contemporary fiqh opens up space to accept technological developments, but remains within the limits of shari'i that maintains maqāṣid al-shari'ah.

Third, in the context of positive Indonesian law, divorce is only valid if it is carried out through the Religious Court (Law No. 1 of 1974 Article 39 and KHI Article 115). Thus, talaq imposed through digital media does not have legal certainty even though it may be considered valid in fiqh. Consequently, the practice of online talaq creates tension between the shari'i aspect and the formal juridical aspect, which has direct implications for the status of wives, children, and population administration. Therefore, regulations in Indonesia tend to take a preventive position, namely closing the space for digital talaq recognition outside the court in order to maintain legal certainty.

Fourth, based on this analysis, the author argues that family law reform in Indonesia does not absolutely have to be through the revision of the law, but rather reinterpretation and renewal through court decisions and technical regulations. Digital talaq should not be immediately considered valid outside of court, but can be accepted as preliminary evidence that supports the divorce process in court. In this way, positive law remains consistent in maintaining judicial authority, while contemporary fiqh is accommodated through a space of proof relevant to the development of communication technology.

Fifth, the novelty of this research lies in the offer of compromise between fiqh muqāran and positive Indonesian law. If classical fiqh opens up differences of opinion, and contemporary fiqh tends to be adaptive, then Indonesia's positive law must be responsive without losing the principle of legal certainty. The contribution of this research is the affirmation that the modernization of family law needs to consider the integration between sharia flexibility and the rigidity of formal law, so that regulations remain relevant to digital reality while still protecting family rights. Thus, this research provides an academic foothold that can enrich the discourse on family law reform in Indonesia.

CONCLUSION

The phenomenon of online talaq emerging alongside the development of digital technology has introduced new challenges in Islamic family law and Indonesia's positive legal framework. The practice of pronouncing divorce through social media, messaging platforms, or other digital means raises complex questions since it is not explicitly addressed in classical fiqh literature, resulting in differing scholarly opinions and legal uncertainty. Some classical jurists regard written or digital talaq as valid if accompanied by clear intention, while others insist on the necessity of a physical session to avoid misunderstanding. Contemporary scholars such as Yusuf al-Qaradawi and Wahbah al-Zuhaili propose a more adaptive stance, accepting digital talaq under certain conditions provided that verification and witnesses are present to prevent harm. Conversely, Indonesia's Law No. 1 of 1974 and the Compilation of Islamic Law mandate that divorce is only legitimate when decided before the Religious Court, rendering digital talaq invalid outside this judicial framework. This tension between the interpretive flexibility of fiqh and the procedural rigidity of state law significantly affects family status, women's and

children's rights, and administrative certainty. Therefore, a middle-ground approach is essential, positioning digital talaq as admissible preliminary evidence rather than a direct dissolution of marriage. The novelty of this study lies in integrating fiqh muqāran with Indonesian positive law, emphasizing an epistemological synthesis that promotes legal responsiveness and justice in the digital era. This integration reflects the necessity for reinterpretation and regulatory innovation so that Islamic family law can remain dynamic, equitable, and relevant amid evolving technological and social contexts.

LIST OF REFERENCES

Abdullah Pakarti, M. H. . dkk. (2023). Dampak Teknologi dan Media Sosial Terhadap Tingkat Perceraian di Era Digital (Studi Kasus pada Pasangan Milenia). *As-Sakinah Jurnal Hukum Keluarga Islam*, 1(2), 2023.

Abidin, K. K. & Z. (2025). Pengaruh Media Sosial Terhadap Perceraian: Perspektif Hukum Keluarga di Indonesia. *Kiies* 5.0, 4, 618-621.

Afifi, M. N. (2020). Keabsahan Perceraian Melalui Media Elektronik Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Hukum Islam. *Jurnal Ilmiah Ilmu Hukum*, 26, 277-294.

Al Kasani, A. B. M. (1909). *Kitab Bada'i 'al-sana'i fi tartib 'al-shara'i*. Sirkat al-Matbu'at al-Ilmiyah. <https://books.google.co.id/books?id=BUH6vgEACAAJ>

Ali Faisal, & Hidayat, A. (2025). Online Talak in the Dawabith Fiqhiyyah Perspective and Its Application in Marriage Law in Indonesia. *JURNAL INOVASI DAN KREATIVITAS (JIKA)*, 5(1), 1-17.

Anggreni, I., Muhammadiyah, U., & Barat, S. (2013). KEABSAHAN TALAK MELALUI MEDIA SOSIAL DALAM PUTUSAN NOMOR 101/Pdt.G/2013/PAJB: ANALISIS YURIDIS DALAM PERSPEKTIF FIKIH KONTEMPORER. *Jurnal Hukum Islam Dan Humaniora*, 4(1), 712-726.

Annawawi, I. (2009). *Al-Majmu: Syarah al Muhadzdzab*. Pustaka Azzam. <https://books.google.co.id/books?id=YvRIAQAAQAAJ>

Anugrah, P. (2024). TALAK MELALUI PESAN TEKS ONLINE MENURUT HUKUM ISLAM SKRIPSI. *Universitas MUHAMMADIYAH MAKASSAR*, 4(1), 9-15.

Asmaret, D. (2018). PERCERAIAN MELALUI MEDIA SOSIAL (MEDSOS. *Menara Ilmu*, XII(6), 64-76.

Az-Zuhaili, P. D. W. (2021). *Fiqih Islam wa Adilatuhu Jilid 9: Pernikahan; Talak; Khuluu`; Illaa`; Li`aan; Zhihar; Masa Iddah*. <https://books.google.co.id/books?id=ZVU0EAAAQBAJ>

Azman, A. (2020). Tren Media Sosial terhadap Pengaruh Tingginya Perceraian di Kabupaten Pangkep. *Al Qadau*, 21(1), 1-9. <https://www.golder.com/insights/block-caving-a-viable-alternative/>

Baidowi, A. D. (2025). PERCERAIAN DIGITAL: PERAN MEDIA SOSIAL DALAM RETAKNYA RUMAH TANGGA DI ERA TEKNOLOGI. *Jurnal Ilmu Hukum*, 3, 167-186.

Bungin, B. (2001). *Metodologi Penelitian Kualitatif: Aktualisasi Metodologis ke Arah Ragam Varian Kontemporer*. Rajawali press.

Hidayah, A. (2024). Analysis Of Divorce Law Through Electronic Media In The Perspective Of Positive Law And Islamic Fiqh. *Ijtihad Jurnal Hukum Islam Dan Pranata Sosial*, 40(2), 1.

Hidayah, A., Syafruddin, R., Faralita, E., Fahrozi, F., & Rifani, A. (2023). Empirical Factors of Takliq Talaq Through Electronic Media in View of Positive Law and Islamic Law. *Syariah: Jurnal Hukum Dan Pemikiran*, 23(2), 177-190. <https://doi.org/10.18592/sjhp.v23i2.12255>

Kamaluddin, I. (2019). Perceraian Melalui Media Elektronik (Sms) Dalam Prespektif Hukum Positif Dan Fiqh Islam. *Ijtihad : Jurnal Hukum Dan Ekonomi Islam*, 13(1), 11. <https://doi.org/10.21111/ijtihad.v13i1.3228>

Kemenag RI. (2015). *Al Qur'an*.

Kurniawan, H., & SDW, Y. P. (2022). Talak Online Dalam Tinjauan Fiqh Munakahat Dan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan pengaruh kemajuan teknologi yang telah berkembang . *Jurnal Hukum, Politik Dan Ilmu Sosial (Jhpis)*, 1(1).

Mahkamah Agung RI. (1991). Instruksi Presiden No 1 Tahun 1991 Tentang Kompilasi Hukum Islam (KHI). In *Mahkamah Agung RI*.

Matsum, H., Siregar, R. S., & SyahriMarpaung, R. A. (2022). Efektivitas Mediasi Online Terhadap Perkara Perceraian di Pengadilan Agama Medan Pada Era Pandemi Covid -19. *Hukum Islam Dan Pranata Sosial Islam*, 1(2), 437-454. <https://doi.org/10.30868/am.v10i02.2603>

Musarrofa, I., Muttaqin, H., & Amaliyah, R. (2024). Problems of Islamic Family Law in the Digital Era Its Relevance to Renewal of the Compilation of Islamic Law . *Jurnal Hukum Islam*, 22(1), 89-124.

Putri, I. A., & Khairani. (2024). Ahkamul Usrah: Jurnal Hukum Keluarga dan Peradilan Islam PENJATUHAN TALAK MELALUI MEDIA WHATSAPP DALAM TINJAUAN PEMBAHARUAN HUKUM KELUARGA ISLAM Intan Amelia Putri ¹ , Khairani ¹Universitas Islam Negeri Ar-Raniry Banda Aceh Ahkamul Usrah : Jurnal Hukum. *Ahkamul Usrah*, 4(1), 97-116.

REPUBLIK INDONESIA. (1974). UNDANG-UNDANGREPUBLIKINDONESIA NOMOR1TAHUN1974 TENTANG PERKAWINAN. In *PRESIDEN REPUBLIK INDONESIA* (Vols. s2-IX, Issue 215, p. 112). <https://doi.org/10.1093/nq/s2-ix.215.112a>

Sugiyono. (2013). *METODE PENELITIAN KUANTITATIF, KUALITATIF, DAN R&D*.

Sunan Abu Dawud. (n.d.). *Sunan Abu Dawud*. Sunnah.com.

Syaifuddin, M. I. (2020). Keabsahan Talak Melalui Media Sosial Perspektif Hukum Islam. *Jurnal Hukum Keluarga Islam*, 5(2), 141-153. <https://www.test.journal.unipdu.ac.id/index.php/jhki/article/view/2369/1216>