



MADDIKA

JOURNAL OF ISLAMIC FAMILY LAW

BETWEEN EMOTION AND LEGAL CERTAINTY: AN ANALYSIS OF EXPLICIT (*SHARIH*) AND IMPLICIT (*KINAYAH*) EXPRESSIONS IN DIVORCE FROM AN ISLAMIC FAMILY LAW PERSPECTIVE

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Abstract

Domestic conflicts triggered by emotional outbursts often lead to the utterance of statements that may have legal consequences for the continuity and stability of marriage. In Islamic law, divorce pronouncements (*talāq*) are classified into *ṣarīḥ* (explicit) and *kināyah* (implicit) expressions, each carrying distinct legal implications. A *ṣarīḥ* expression is understood as an explicit declaration that unequivocally indicates divorce and therefore does not require the presence of intention (*niyyah*) for its legal validity. In contrast, a *kināyah* expression consists of indirect or ambiguous wording whose legal effect depends on the existence of the speaker's intention to divorce. The legal issue arises when such expressions are uttered in a state of anger or emotional distress, raising questions regarding their validity and legal force. This study aims to analyze the concepts of *ṣarīḥ* and *kināyah* expressions in Islamic family law, examine the role of intention in determining the validity of divorce, and explore their relevance in contemporary family practices. This research employs a normative legal approach using jurisprudential, juridical, and conceptual perspectives. The data are analyzed descriptively and qualitatively based on the sources of Islamic law, statutory regulations, and relevant scholarly literature. The findings demonstrate that the distinction between *ṣarīḥ* and *kināyah* expressions serves as an important instrument in maintaining a balance between legal certainty and substantive justice in divorce cases. Furthermore, an emotional state does not automatically invalidate the legal consequences of a divorce pronouncement; rather, its legal effect should be assessed based on the level of awareness, the surrounding context, and the speaker's intention. Therefore, a comprehensive understanding of divorce expressions is essential to ensure that the determination of marital status is not based solely on the formal wording of the pronouncement but also takes into account psychological, social, and family welfare considerations.

Keywords: *Syariah; kinayah; talaq; Islamic Family Law; divorce.*

Article history: Received: April 14, 2026, Revised: May 18, 2026; Accepted: June 27, 2026

Published: July 27, 2026

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Abstrak

Konflik rumah tangga yang dipicu oleh luapan emosi sering kali menimbulkan penyampaian ucapan-ucapan yang berpotensi menimbulkan konsekuensi hukum terhadap keberlangsungan dan ketahanan perkawinan. Dalam hukum Islam, ucapan talak dibedakan menjadi lafaz *syarih* dan lafaz *kinayah* yang masing-masing memiliki makna hukum yang berbeda. Lafaz *syarih* dipahami sebagai ucapan yang secara tegas menunjukkan perceraian sehingga tidak memerlukan niat sebagai syarat keabsahan, sedangkan lafaz *kinayah* merupakan ucapan sindiran atau ambigu yang keberlakuannya bergantung pada adanya niat dari pihak yang menyalinnya. Permasalahan muncul ketika ucapan tersebut disampaikan dalam kondisi marah atau emosional sehingga timbul mengenai validitas dan kekuatan hukumnya. Penelitian ini bertujuan untuk menganalisis konsep lafaz *syariah* dan *kinayah* dalam hukum keluarga Islam, mengkaji kedudukan niat dalam penentuan sahnya talak, serta menelaah relevansinya dalam praktik rumah tangga kontemporer. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan fikih, yuridis, dan konsepsi yang dianalisis secara deskriptif-kualitatif melalui sumber hukum Islam, peraturan perundang-undangan, serta literatur ilmiah terkait. Hasil penelitian menunjukkan bahwa pembedaan antara lafaz *syariah* dan *kinayah* menjadi instrumen penting dalam menjaga keseimbangan antara kepastian hukum dan keadilan substantif dalam perkara perceraian. Selain itu, kondisi emosional tidak serta-merta dihapus akibat hukum suatu ucapan, namun harus dilihat berdasarkan tingkat kesadaran, konteks, dan niat pihak yang mengucapkannya. Oleh karena itu, pemahaman yang komprehensif terhadap lafaz talak diperlukan agar penentuan status perkawinan tidak hanya terfokus pada formalitas ucapan, tetapi juga mempertimbangkan aspek psikologis, sosial, dan kemaslahatan keluarga.

Kata kunci: Lafaz Syarih; Lafaz Kinayah; Talak; Hukum Keluarga Islam; Perceraian.

INTRODUCTION

Domestic life is inherently constructed upon the principles and aspirations of *sakinah* (tranquility), *mawaddah* (love), and *rahmah* (mercy), as prescribed in Islamic family law. However, contemporary practices reveal that marital conflicts have become increasingly complex. This complexity stems from multifaceted issues, including economic instability, communication breakdown, infidelity, social pressure, and the couples' inability to manage emotions during conflicts (Halim et al., 2024). Emotionally driven conflicts often trigger spontaneous utterances from either spouse, which frequently culminate in threats of separation or divorce. Under such circumstances, these statements do not necessarily originate from rational consideration; instead, they serve as immediate expressions of anger that can severely jeopardize the continuity of the marriage (Birditt et al., 2010).

Within the social reality of Muslim communities, domestic altercations are frequently accompanied by statements such as “we are finished,” “just go back to your parents’ house,” or even “I divorce you.” These declarations generate legal complications when examined under the Islamic concept of *talaq* (divorce). Not all verbal expressions of divorce entail identical legal consequences, as Islamic jurisprudence distinguishes between explicit expressions (*lafaz sharih*) and implicit expressions (*lafaz kinayah*) (Lutfi, 2025). Explicit expressions (*lafaz sharih*) refer to utterances that unequivocally signify divorce, thereby requiring no further clarification regarding the speaker's intent. Conversely, implicit expressions (*lafaz kinayah*) comprise ambiguous or indirect statements whose legal implications strictly depend on the speaker's underlying intention. This distinction demonstrates that Islamic law evaluates

not only the literal form of an utterance but also the contextual framework and the legal intent behind a declaration (Idfi, 2024).

The issue becomes increasingly intricate when *talaq* (divorce) is pronounced in a state of anger or emotional instability. Within community practices, a misconception persists that any utterance carrying a tone of divorce automatically terminates the marriage. In contrast, Islamic scholars engage in a profound discourse regarding the correlation between an individual's psychological state and the legal validity of their pronounced *talaq*. One perspective posits that the divorce remains legally binding as long as the speaker retains consciousness of their words. Conversely, another argument takes into account the intensity of anger, which may impair an individual's capacity to control their volition (Lutfi, 2025). These differing perspectives highlight a tension between human emotional aspects and the necessity for legal certainty in determining marital status.

The distinction between explicit (*sharih*) and implicit (*kinayah*) expressions is paramount, as it directly pertains to the preservation of family integrity and the legal certainty of the parties involved. In implicit expressions, the element of intention occupies a central position; ambiguous utterances cannot automatically be construed as *talaq* without a clear volition from the speaker. This underscores that Islamic law fundamentally provides a framework of caution, ensuring that divorce is not determined solely based on transient emotions or unilateral interpretations. Consequently, the assessment of intention serves as a critical instrument in balancing the principles of substantive justice and legal certainty within domestic matters (Haq et al., 2024).

Beyond its legal ramifications, divorce arising from emotional conflicts also inflicts social and psychological consequences on both the spouses and the children within the family. Repeatedly pronounced divorces can trigger emotional instability, erode the sense of security within the household, and ultimately lead to a permanent fracture in family relationships. Within the context of modern society, this issue gains heightened relevance as communication no longer transpires exclusively face-to-face, but also through digital media such as short messages, social media, and other communication applications. Consequently, the manifestations of both implicit (*kinayah*) and explicit (*sharih*) expressions have become increasingly diverse, posing novel challenges to contemporary Islamic family law practices (Noor, 2025).

Within modern religious practices, the issue concerning the pronunciation of *talaq* (divorce) is not evaluated merely through the textual utterance itself; rather, it encompasses a comprehensive consideration of context, evidentiary tools, and the intentions of the parties involved. This demonstrates that Islamic family law continuously undergoes dynamics in responding to societal and social developments. Therefore, a study on explicit (*sharih*) and implicit (*kinayah*) expressions is paramount to understanding how Islamic law proportionally positions human emotion, intention, and legal certainty in determining the fate of a marriage. Based on this background, this study focuses on analyzing explicit and implicit expressions from an Islamic family law

perspective, alongside their relevance to contemporary domestic practices and religious understanding (Islam et al., 2025).

LITERATURE REVIEW

Research on emotional divorce can be found, for instance, in the work of Nur Adelia Salmi, Rustam Koly, and Sirajuddin, which examines the standards for the legal validity of explicit divorce expressions (*lafaz sharih*) from the perspective of the four major schools of Islamic jurisprudence (*madhabs*). Their study highlights the divergent views among Islamic scholars concerning the validity of *talaq* pronounced under psychological distress or intense emotion, particularly regarding the consciousness level of the husband who issues the divorce. The focus of that research places greater emphasis on the legal validity of explicit expressions based on classical jurisprudential perspectives (Salmi et al., 2025).

Furthermore, a study on implicit expressions (*lafaz kinayah*) was conducted by Mahfuzah Abdul Shukor and Zaini Nasohah, focusing on the assessment of explicit and implicit expressions in the confirmation of *talaq* within the Sharia Court. Their research examines how the Sharia Court evaluates the forms of divorce utterances and their standing within the legal institution of divorce. The findings indicate that the element of intention constitutes a pivotal factor in determining the legal validity of implicit expressions due to their ambiguous and multi-interpretable nature. However, that study primarily focuses on court dispute resolutions and has not extensively integrated psychological aspects or emotional communication within modern households (Shukor & Nasohah, 2018).

Meanwhile, extensive research on contemporary Islamic family law highlights social transformations and modern challenges within divorce practices. Muhammad Nasir, Aulia Rizki, and M. Anzaikhan argue that the reform of Islamic family law has become a vital necessity due to the emergence of novel issues in modern society that cannot be entirely addressed by classical jurisprudential approaches (Nasir et al., 2022). Another study by Saini on the transformation of *talaq* and the deconstruction of *fiqh* demonstrates that divorce practices in the digital era generate tensions between classical legal texts and contemporary social realities, such as *talaq* pronounced via social media or electronic messaging. That study emphasizes the critical importance of reinterpreting Islamic family law based on *maqasid al-shari'ah* (the objectives of Islamic law) and substantive justice (Saini, 2024).

Previous literature also indicates a tendency for discussions on *talaq* to remain inclined toward formal legal aspects, divorce procedures, and divergent sectarian views regarding its validity. These studies have not profoundly examined the correlation between an individual's emotional state and the interpretation of divorce expressions, particularly in distinguishing between explicit (*sharih*) and implicit (*kinayah*) expressions during domestic conflicts. In fact, within modern family dynamics, conversations about divorce often arise amidst emotional conflicts, which generate serious complications regarding intention, legal consciousness, and the certainty of marital status.

Against this backdrop, this article offers novelty by transcending the purely normative aspects of *talaq*; it specifically elucidates the correlation between emotional states and textual interpretation in determining the legal consequences of divorce. Furthermore, this study contextualizes explicit (*sharih*) and implicit (*kinayah*) expressions within contemporary domestic communication, incorporating psychological dynamics, digital media utilization, and the imperative balance between legal certainty and substantive justice in Islamic family law. Consequently, this research is expected to provide a fresh perspective on the vital importance of comprehensively understanding intention, emotional context, and textual nuance when determining the fate of a marriage.

METHODS

This study employs a normative legal research method, which conceptualizes law as applicable norms or rules within society and examines them through literature or secondary data. Normative legal research is utilized to analyze the concepts of explicit (*sharih*) and implicit (*kinayah*) expressions in Islamic family law, particularly concerning the determination of the validity of *talaq* from the perspectives of both classical jurisprudence (*fiqh*) and positive law in Indonesia. This research type was selected because the object of study strictly focuses on legal norms, jurisprudential doctrines, and statutory provisions regulating divorce and Islamic family law.

The approaches utilized in this study encompass a jurisprudential approach (*pendekatan fikih*), a juridical approach, and a contextual approach. The jurisprudential approach is employed to examine the views of various *madhab* scholars regarding explicit and implicit expressions, alongside the role of intention in pronouncing divorce. The juridical approach is used to elucidate positive law provisions related to divorce, specifically those regulated under the Compilation of Islamic Law (KHI), Law Number 1 of 1974 concerning Marriage, and the judicial practices of Sharia court decisions in Indonesia. Furthermore, the contextual approach is applied to understand legal concepts regarding emotion, legal intent, and the interpretation of expressions in contemporary Islamic family law through doctrines and legal expert opinions.

The data sources for this study consist of primary legal materials and secondary legal materials. Primary legal materials comprise the Quran, Hadith, the Compilation of Islamic Law, Law Number 1 of 1974 concerning Marriage, and relevant Sharia court decisions concerning divorce and *talaq* cases. Meanwhile, secondary legal materials are obtained from academic articles, judicial websites, and publications concerning both classical and contemporary jurisprudential topics.

The data analysis technique employed is a descriptive-qualitative analysis. This analysis is conducted by systematically elaborating, examining, and interpreting various legal provisions, scholars' opinions, and legal practices concerning explicit and implicit expressions. Subsequently, the data are analyzed to identify the correlation between emotional states, intention, and the determination of the legal consequences of divorce from an Islamic family law perspective. Through this method, this study is

expected to provide an objective and profound understanding of the dynamics surrounding the application of divorce expressions.

RESULT AND DISCUSSION

The Standing of Explicit Expressions (Lafaz Sharih) in the Determination of Talaq

Within Islamic family law, explicit expressions (*lafaz sharih*) occupy a paramount position in the determination of *talaq*, as they are recognized as utterances that unequivocally and distinctly manifest the intent to divorce. An explicit expression constitutes an utterance that leaves no room for any interpretation other than divorce. Consequently, when pronounced by a husband to his wife, the *talaq* is legally deemed effective without requiring further interpretation. Examples of explicit expressions include statements such as “I divorce you,” “You are divorced,” or “I disappoint you.” The clarity of meaning inherent in these expressions prompts Islamic law to afford substantial legal force to explicit declarations within divorce proceedings (Lutfi, 2025).

The Quran utilizes the root word *talaq* (طَلَقَ) in a direct and explicit manner to denote the dissolution of the marital bond, with Surah At-Talaq verse 1 serving as the most definitive reference. The terms *thallaqtum* and *fathalliquhunna* are derived from this identical root word. Under jurisprudential maxims (*qawaid fikhariyyah*), if a husband addresses his wife using this root word (e.g., “I issue a *talaq* upon you”), its meaning becomes unalterable and cannot be shifted to any alternative interpretation. Consequently, the *talaq* is rendered instantly effective, regardless of the husband's underlying intention.

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ ۚ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيِّنَةٍ ۚ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

Translation:

“O Prophet! When you (believers) divorce women, divorce them for their [prescribed] waiting-period (*iddah*), and calculate the waiting-period accurately. And fear Allah, your Lord. Do not drive them out of their houses, nor should they leave themselves, unless they commit a clear immorality. These are the bounds set by Allah. And whoever transgresses the bounds of Allah has certainly wronged himself. You know not; perhaps Allah will bring about thereafter a different matter.” (*Surah al-Thalaq* (65): 1) (Kementerian Agama RI, 2019)

The legal force of explicit expressions (*lafaz sharih*) is grounded in the principle that an utterance with a clear meaning requires no further evidentiary proof of an underlying intent. Scholars unanimously agree that expressions explicitly denoting divorce are sufficient to enforce *talaq*, as the legal substance is inherently evident within the literal wording itself (Yusran et al., 2025). Jurisprudential literature dictates that *talaq* pronounced through explicit expressions remains legally binding even if uttered without intention or in jest, provided that the speaker is conscious and comprehends their words. This rule is predicated on the Hadith of Prophet Muhammad (peace be

upon him), which stipulates that marriage, divorce, and revocation (*ruju'*) are deemed legally valid whether they are pronounced in seriousness or in jest (Salmi & Koly, 2025).

Perspectives on explicit expressions (*lafaz sharih*) are further elucidated by various schools of Islamic jurisprudence (*madhabs*). The Shafi'i and Hanafi schools posit that explicit expressions require no underlying intention, as their meanings directly indicate divorce. According to their views, the clarity of the utterance is sufficient to establish the legal ruling without the need to investigate the speaker's internal intent. Meanwhile, the Maliki school contends that explicit expressions are strictly confined to specific words explicitly mentioned in the Sharia, whereas any other utterances fall under the category of implicit expressions (*kinayah*). Similarly, the Hanbali school tends to positions clear expressions as the basis for the effectiveness of *talaq*, without requiring additional intent as a prerequisite. These differences demonstrate that despite variations in defining the precise forms of explicit expressions, the majority of scholars concur on their binding legal force (Salmi & Koly, 2025).

The primary rationale for the absence of intent requirement in explicit expressions (*lafaz sharih*) is that such utterances possess a singular meaning that eliminates ambiguity. Within the principles of Islamic jurisprudence (*usul al-fiqh*), a clear expression is understood based on its literal meaning (*zahir*) without requiring supplementary explanation. Therefore, when a husband consciously pronounces an explicit divorce expression, the law immediately enforces the legal consequences of divorce. This approach aims to prevent manipulation or denial after the *talaq* has been uttered. If the intention behind every explicit expression still had to be proven, it would engender legal instability and create opportunities for certain parties to evade legal responsibility for their own words (Idfi, 2024).

When a husband utters such a sentence to his wife, the *talaq* is rendered effective despite being pronounced in jest or without intention. This is in accordance with a Hadith narrated by Abu Hurairah (may Allah be pleased with him), wherein the Messenger of Allah (peace be upon him) stated:

ثَلَاثٌ جِدُّهُنَّ جِدٌّ وَهَزْلُهُنَّ جِدٌّ: النِّكَاحُ وَالطَّلَاقُ وَالرَّجْعَةُ

“There are three matters which are considered serious whether they are spoken seriously or in jest: marriage (nikah), divorce (talaq), and the revocation of divorce (ruju').” (Ghaliil et al., n.d.)

The standing of explicit expressions (*lafaz sharih*) also holds profound relevance to legal certainty within Islamic family law. Legal certainty is imperative to prevent marital status from remaining in a state of limbo due to ambiguity surrounding the speaker's intent. By utilizing explicit expressions as the basis for the effectiveness of *talaq*, Islamic law endeavors to provide a clear boundary regarding when a marriage is officially deemed terminated. Within the context of modern religious courts, this principle assists judges in objectively assessing the validity of a pronounced *talaq* based on the specific form of the utterance used. Nevertheless, the aspects of consciousness, psychological state, and the context of pronunciation remain critical considerations to

ensure that the application of law does not disregard substantive justice for the involved parties.

Implicit Expressions (Lafaz Kinayah) and the Evidentiary Burden of Intent

Within Islamic family law, implicit expressions (*lafaz kinayah*) constitute divorce utterances that are non-explicit or carry potential meanings other than divorce. Unlike explicit expressions (*lafaz sharih*), which directly manifest the intent to divorce, implicit expressions are inherently ambiguous, rendering their legal consequences heavily dependent upon the speaker's intention. Statements such as “go back to your parents' house,” “we are finished here,” or “seek your own life” can be interpreted either as ordinary emotional expressions or as a form of divorce, contingent upon the context and the speaker's intent. This ambiguity makes implicit expressions one of the most complex issues in the law of *talaq*, as it demands a more profound assessment of the circumstances and conditions existing at the moment the utterance was pronounced (Shukor & Nasohah, 2018).

The Quran employs the term *tasrih* (تَسْرِیْحٌ), which literally signifies releasing or letting go. This word is utilized as a subtle metaphor for divorce, with Surah Al-Baqarah verse 229 serving as the most definitive textual reference. Originally, *tasrih* denotes the act of releasing (such as untethering livestock into a pasture). Due to its broad semantic spectrum, this term is applied in everyday language as an implicit expression (*lafaz kinayah*). Consequently, if a husband uses loanwords or translations derived from this term—such as “As of today, I release you” or “You are free now”—the statement necessitates a clarification of intent. If his intention is divorce, the *talaq* becomes effective; however, if his objective is merely to relieve his wife from domestic duties or to vent a transient anger, the *talaq* is not legally established.

الطَّلَاقُ مَرَّتَيْنِ ۖ فَاِمْسَاكِ بِمَعْرُوفٍ ۙ اَوْ تَسْرِیْحٍ بِاِحْسَانٍ ۚ وَلَا یَحِلُّ لَكُمۡ اَنْ تَاْخُذُوْا مِمَّا اَتَيْتُمُوْهُنَّ شَیْئًا اِلَّا اَنْ یَّخَافَاۤ اَلَّا یُقِیْمَا حُدُوْدَ اللّٰهِ ۚ فَاِنْ خِفْتُمْ اَلَّا یُقِیْمَا حُدُوْدَ اللّٰهِ ۙ فَلَا جُنَاحَ عَلَیْهِمَا فِیْمَا افْتَدَتْ بِهٖ ۚ تِلْكَ حُدُوْدُ اللّٰهِ ۚ فَلَا تَعْتَدُوْهَا ۚ وَمَنْ یَّتَعَدَّ حُدُوْدَ اللّٰهِ فَاُولٰٓئِکَ هُمُ الظَّالِمُوْنَ

Translation:

“Divorce is twice. Then, either keep (her) in an acceptable manner or release (her) with kindness. And it is not lawful for you to take back anything of what you have given them unless both fear that they will not be able to keep [within] the limits of Allah. But if you fear that they will not keep [within] the limits of Allah, then there is no blame upon either of them concerning that by which she ransoms herself. These are the limits of Allah, so do not transgress them. And whoever transgresses the limits of Allah—it is those who are the wrongdoers.” (Surah al-Baqarah (2): 229) (Kementerian Agama RI, 2019)

The semantic ambiguity inherent in implicit expressions (*lafaz kinayah*) demonstrates that Islamic law evaluates not only the literal sound of an utterance but also takes into account the underlying communicative context. Within domestic

practices, a statement may arise due to anger, disappointment, emotional threats, or even as a mere spontaneous expression that is not intended to terminate the marriage. Consequently, context becomes paramount in determining whether an implicit expression is genuinely intended as *talaq*. Islamic scholars assert that implicit expressions cannot automatically render a divorce effective without a clear indication of intent from the husband. This underscores that Islamic family law endeavors to maintain a balance between legal certainty and the preservation of household integrity, ensuring that divorce does not transpire solely due to transient emotional utterances (Fatimah et al., 2025).

In determining the existence of intent in implicit expressions (*lafaz kinayah*), Islamic scholars utilize several indicators that can demonstrate the speaker's legal intent. These indicators include an ongoing domestic altercation, the confession of the party making the statement, the presence of witnesses, and a sequence of communication that indicates a desire to separate. For instance, if an implicit expression is pronounced within the context of a severe domestic conflict and accompanied by previous threats of divorce, it can serve as an indication of the intent to issue a *talaq*. Conversely, if the statement is uttered in a playful context, amid transient emotion, or without full consciousness, the existence of intent becomes doubtful. Consequently, intention in implicit expressions is not understood merely as an internal psychological state; rather, it can be elucidated through external indicators manifested in the behavior and communication of the parties involved (Yusran et al., 2025).

The evidentiary burden of proving intent becomes increasingly challenging within modern legal practices, as domestic communication is no longer confined to face-to-face interactions. Currently, messages hinting at divorce are frequently transmitted via text messages, digital chats, social media, emails, or voice notes. In several instances, messages such as "let us just separate," "I no longer wish to live with you," or the removal of relationship statuses on social media are utilized as grounds to claim the occurrence of *talaq*. These conditions pose novel challenges to Islamic family law, as judges must evaluate whether such digital communication genuinely embodies the intent to divorce or merely serves as a manifestation of emotional outburst within a domestic conflict (Saputra, 2025).

In the practice of modern religious law, the evidentiary proof of implicit expressions (*lafaz kinayah*) via digital media necessitates utmost caution, as it directly pertains to the validity of electronic evidence and the interpretation of the speaker's intent. Divorce chat logs, voice recordings, screenshots of conversations, and social media posts are frequently presented as corroborative evidence in domestic cases. Nevertheless, such electronic materials cannot automatically verify the existence of the intent to issue a *talaq* unless they are firmly corroborated by a confession, the communicative context, or other factual indicators that reinforce the intention to divorce. This framework underscores that proving implicit expressions is far more complex than explicit expressions (*lafaz sharih*); it requires judges to evaluate not only the literal form of an utterance but also comprehensively decipher the psychological,

emotional, and social dimensions encompassing the parties' relationship (Fithoroini, 2025).

The advancement of communication technology has ultimately expanded the manifestations of implicit expressions (*lafaz kinayah*) within modern society. While in the classical era, implicit expressions generally occurred through direct face-to-face utterances, in the contemporary context, they can manifest through symbols, text, emojis, voice recordings, or digital posts that carry implicit meanings regarding separation. Consequently, the interpretation of implicit expressions in Islamic family law necessitates a more contextual and adaptive approach toward societal and social developments. Thus, determining the legal validity of *talaq* should not merely be oriented toward the formalistic aspect of an utterance; rather, it must carefully consider the underlying intention, the communication medium, and the accompanying emotional states (Saini, 2024).

The Dimension of Emotion in Pronouncing Talaq

Emotion constitutes one of the most prevalent factors underlying the pronunciation of *talaq* within domestic life. Marital altercations fueled by anger often drive a husband to utter words directed toward divorce without considering the subsequent legal or psychological impacts. Within community practices, *talaq* pronounced in a state of anger frequently generates legal uncertainties regarding the validity of the divorce. One perspective holds that any divorce utterance emerging from the husband's lips automatically terminates the marriage. Conversely, another viewpoint posits that certain emotional states can impair an individual's consciousness and legal intent, thereby necessitating further consideration. This issue demonstrates that the correlation between emotion and law in *talaq* cases remains a pivotal theme within Islamic family law (Lutfi, 2025).

Within jurisprudential studies, scholars categorize the degrees of anger that influence the legal validity of *talaq* into three distinct levels. The first level is mild anger, a condition in which an individual retains the ability to control their utterances and comprehend the consequences of their words. Under this condition, the vast majority of scholars assert that the *talaq* remains legally binding, as the speaker maintains full consciousness of their actions. The second level is moderate anger, a state where emotions begin to affect self-control, yet the individual still understands what they are pronouncing. At this level, divergent opinions emerge among scholars regarding the validity of the *talaq*, contingent upon the extent to which the anger impairs the speaker's volition. Meanwhile, the third level is severe anger that impairs consciousness or the capacity to think normally. Under this extreme condition, the consensus among most scholars posits that the *talaq* is legally invalid, as such utterances are equated with those of an individual who has lost their sanity or fails to comprehend their own actions (Amirullah & Hilman, 2023).

The debate regarding *talaq* pronounced in a state of anger fundamentally revolves around the question of whether emotion can eradicate an individual's legal consciousness. Within Islamic law, consciousness and the capacity to comprehend the

consequences of an utterance constitute essential prerequisites for establishing legal accountability. Therefore, if the anger remains within normal boundaries and the individual remains fully aware of what they are pronouncing, the *talaq* is deemed to retain its legal consequences. Conversely, if the anger reaches an extreme level that causes a complete loss of self-control, their legal intent becomes defective. This concept demonstrates that Islamic law does not merely evaluate the literal sound of an utterance; rather, it meticulously considers the speaker's psychological condition in determining the validity of *talaq* (Lutfi, 2025).

Classical Islamic scholars generally assert that *talaq* pronounced in a state of anger remains legally valid as long as the speaker retains consciousness of their words. The Hanafi, Maliki, Shafi'i, and Hanbali schools predominantly argue that anger does not invalidate the legal efficacy of *talaq* unless it induces a complete loss of sanity or consciousness. This consensus is grounded in the principle that individuals are inherently accountable for utterances made while conscious, notwithstanding the underlying emotional drive. Nevertheless, scholars such as Ibn Qayyim al-Jawziyyah offer a more contextual perspective by differentiating the degrees of an individual's anger. According to his view, extreme anger that obliterates the capacity for rational thinking serves as grounds for the invalidity of *talaq*, as the element of complete legal volition remains unfulfilled (Salmi et al., 2025).

Within the contemporary context, the discourse on *talaq* pronounced in a state of anger gains heightened relevance due to the increasing awareness of psychological aspects within family relationships. Several modern Islamic family law scholars argue that emotional conditions must be evaluated more proportionally in divorce proceedings, ensuring that the law is not merely fixated on the formalistic aspect of an utterance. This approach emerges because numerous divorce cases are triggered by transient emotional outbursts, which are not genuinely accompanied by a serious intent to dissolve the marriage, yet inflict psychological burdens and impacts on family members, particularly children. Consequently, several contemporary thinkers advocate for the necessity of a more substantive approach that thoroughly considers mental states, psychological distress, and the broader context of domestic conflict prior to establishing the legal validity of *talaq* (Noor, 2025).

Furthermore, advancements in modern communication technology have further expanded the complexities of emotional *talaq*. Divorce declarations are no longer solely delivered face-to-face; instead, they are frequently transmitted via text messages, social media, or voice recordings, which are often sent in a state of anger. These conditions pose novel challenges to Islamic family law practices, as judges must evaluate whether such utterances truly originate from a conscious volition or merely represent a transient emotional outburst. Consequently, emotion in divorce utterances cannot be understood merely as a psychological issue; rather, it constitutes a legal factor that significantly influences the determination of marital status and the legal certainty of the parties involved (Fithoroini, 2025).

Under jurisprudence (*fiqh*), the impact of emotion or anger (*ghadhab*) on the validity of *talaq* (encompassing both explicit and implicit expressions) is categorized into several levels based on the husband's psychological state at the moment of pronouncement. The following explains the legal consequences derived from the two previously mentioned verses :

1. The Impact of Anger on Explicit Expressions (Surah Al-Thalaq: 1)

When a husband pronounces an explicit expression such as “I issue a *talaq* upon you” in a state of anger, the legal ruling is categorized into three distinct conditions of anger:

a. Low-Level Anger (Retained Consciousness): The husband feels annoyed or emotional, yet he maintains full consciousness, understands what he is pronouncing, and comprehends its consequences. The legal ruling dictates that the *talaq* remains legally binding. The rationale is that emotional states do not invalidate *talaq*, given that divorces generally transpire amidst altercations or anger.

b. High-Level Anger (Loss of Sanity / *Matang*): The husband is so deeply enraged that his cognitive capacity is entirely obscured. He rages unconsciously, fails to comprehend his own words, and cannot recall the incident once he calms down (resembling a state of temporary insanity). The legal ruling establishes that the *talaq* is not effective. This is predicated on the Hadith of Prophet Muhammad (peace be upon him), which stipulates that there is no *talaq* in a state of *ighlaq* (a condition where intellect is completely closed off by anger or coercion).

c. Mid-Level Anger (Intermediate State): The husband is intensely enraged and loses self-control, yet he remains aware of his utterances, although he immediately regrets them once the anger subsides. Regarding the legal consequences, a divergence of opinion exists among Islamic scholars. The majority of scholars (the four major *madhabs*) assert that the *talaq* remains effective. Conversely, other scholars (such as Ibn Taymiyyah and Ibn Qayyim) evaluate that the *talaq* is not effective, as the intense anger has severely impaired his free will. (Akbar et al., 2026)

2. The Impact of Anger on Implicit Expressions (Surah Al-Baqarah: 229)

When a husband utilizes metaphorical statements such as “go back to your parents' house” or “I release you” in a state of anger, the legal regulations are considerably stricter; an implicit expression (*lafaz kinayah*) fundamentally must be accompanied by an internal intent to divorce within the husband's heart at the exact moment the words are uttered. If the statement is pronounced during a severe altercation, the state of anger can serve as a strong indication (*qarinah*) that the husband indeed intended to issue a divorce. Despite the circumstances heavily supporting the occurrence of a divorce, the *talaq* is not legally established if the husband swears under oath that his intention amidst anger was merely to instruct his wife to calm down, rather than to dissolve the marriage. Islamic law fundamentally relegates the determination of these ambiguous statements to the internal conscience of the speaker.

Relevance within Contemporary Religious Court Practices

Within contemporary religious practices, the issue of divorce utterances is no longer understood merely as a private matter between husband and wife; rather, it has become integrated into legal mechanisms that must be processed through judicial institutions. In Indonesia, divorce for Muslims can only be declared legally valid if it is performed before a Sharia court hearing after the judge has endeavored to reconcile both parties. This provision demonstrates that positive law seeks to position divorce as a legal action with serious consequences, ensuring it cannot be executed arbitrarily based solely on emotional utterances. Consequently, assessing divorce utterances within religious court practices necessitates utmost caution to prevent legal violations or injustices for the parties involved (Tama, 2022).

Judges in divorce proceedings generally evaluate the pronunciation of *talaq* based on the textual form of the expression, the context of pronunciation, the conditions of the parties, and the evidence presented during court proceedings. Regarding explicit expressions (*lafaz sharih*), judges tend to find it more straightforward to assess the intent to divorce, as the utterance possesses an explicit meaning that directly indicates separation. However, in implicit expressions (*lafaz kinayah*), judges must conduct a more profound evaluation of the speaker's intent, the domestic conflict situation, and the correlation between the utterance and the actual legal intent. This assessment is crucial because not all statements carrying a tone of separation can be immediately construed as a legally valid *talaq*. Consequently, judges hold a central role in interpreting divorce utterances objectively and proportionally. Furthermore, a divorce can only occur through a court proceeding at the Religious Court, as regulated under Article 115 of the Compilation of Islamic Law (Kompilasi Hukum Islam, 2019).

The paramountcy of evidentiary proof in *talaq* cases constitutes a fundamental aspect of modern religious court practices. Evidence is requisite to establish that the divorce utterance genuinely occurred, was pronounced by an authorized party, and embodied a clear legal intent. Within the practice of court proceedings, judges may consider various forms of evidence, including witness testimony, the parties' confession, written documents, and electronic evidence such as text messages, voice recordings, or social media conversations. Advancements in communication technology have led to the increasingly frequent utilization of digital evidence in domestic disputes, particularly when a divorce utterance is transmitted via electronic media. Nevertheless, judges must strictly evaluate the authenticity, context, and relevance of such evidence to avert any misjudgment or misinterpretation regarding the actual intent behind the utterance (Arpani, 2026).

Beyond its function in law enforcement, religious court practices also bear the responsibility to protect the rights of both husband and wife in a balanced manner. In divorce proceedings, determining the legal validity of *talaq* directly affects the civil rights of the parties involved, such as maintenance (*nafaqah*), consolatory gifts (*mut'ah*), child custody (*hadhanah*), and the legal status of the marriage. Therefore, judicial caution in evaluating divorce utterances is paramount to ensure that neither party is disadvantaged by a decision predicated on transient emotions or insufficient evidence.

This legal protection demonstrates that Islamic family law is not merely oriented toward the formalistic aspect of an expression; rather, it aims to preserve public interest (*maslahah*) and justice within family relationships (Saini, 2024).

Within the contemporary context, judges are also confronted with the necessity to balance the application of legal norms and the psychological conditions of the parties involved. Numerous divorce cases occur due to emotional outbursts, mental stress, or prolonged conflicts that severely affect the psychological stability of both husband and wife. Consequently, an overly formalistic approach toward divorce utterances potentially disregards the humanitarian aspects and social realities underlying domestic conflicts. A number of contemporary Islamic family law studies emphasize the importance of a substantive approach that considers psychological elements, intention, and the social context in determining the legal consequences of divorce. This approach aims to ensure that court decisions reflect not only legal certainty but also a sense of justice and the preservation of family continuity (Ropiah, 2026).

The relevance of discussing explicit (*sharih*) and implicit (*kinayah*) expressions within modern religious court practices demonstrates that Islamic family law continuously undergoes dynamics in responding to societal developments. Judges are no longer confronted solely with face-to-face divorce utterances; instead, they must navigate various forms of digital communication and emotional expressions developing in modern life. Consequently, understanding divorce expressions necessitates a more comprehensive approach to ensure that law enforcement remains capable of maintaining a balance among legal certainty, the protection of the parties' rights, and the psychological conditions of the conflicting family (Syuhada, 2022).

Critical Analysis

Social advancements and modern communication technology demonstrate that the interpretation of divorce expressions (*lafaz talaq*) within Islamic family law can no longer be understood merely in a textual manner. In the classical era, divorce expressions were generally pronounced face-to-face within the private sphere of the household, rendering the context, expression, and the speaker's intent relatively straightforward to comprehend. However, in the modern context, forms of communication have undergone significant transformations through text messages, social media, voice recordings, and various other digital platforms. This condition causes the forms of both explicit (*sharih*) and implicit (*kinayah*) expressions to become increasingly broad and complex, thereby necessitating a more contextual legal reinterpretation so that Islamic family law remains relevant to contemporary societal dynamics. Such reinterpretation is vital to ensure that the evaluation of divorce utterances does not solely rely on the literal form of the expression, but also carefully considers the intention, the communication medium, and the underlying psychological situation of the utterance (Armansyah, 2025).

The necessity for reinterpretation also pertains to the rising risk of utilizing divorce utterances as a mechanism to vent emotions during domestic conflicts. Within social practices, threats of *talaq* are frequently deployed as a form of psychological

pressure during altercations between husband and wife. Expressions such as “it is better for us to separate,” “I no longer wish to live with you,” or other implicit forms (*kinayah*) often arise amidst unstable emotional situations. If every such utterance is construed absolutely as *talaq* without considering its emotional context, the law potentially engenders injustice and accelerates the breakdown of the household. Conversely, if emotion is utilized as a justification to nullify all legal consequences of a divorce utterance, it could create legal loopholes and manipulation. Therefore, a balance is required between the preservation of family stability and legal certainty in evaluating divorce utterances (Qonita, 2026).

Another crucial aspect of concern is the low level of family law literacy within the community. Many married couples do not yet comprehend the distinction between explicit (*sharih*) and implicit (*kinayah*) expressions, the prerequisites for a valid *talaq*, or the legal consequences of divorce utterances pronounced in a state of anger. Consequently, a considerable portion of the community assumes that any statement carrying a tone of separation automatically results in the effectiveness of *talaq*, whereas others trivialized divorce utterances as mere ordinary threats devoid of legal consequences. This lack of comprehension can engender confusion regarding marital status, prolonged conflicts, and ambiguity surrounding the rights and obligations of the parties following a domestic conflict. Therefore, enhancing Islamic family law literacy constitutes a vital necessity to ensure that the community can comprehend legal boundaries and maintain domestic communication more wisely (Husain et al., 2024).

In addition to enhancing legal literacy, pre-divorce mediation also holds paramount urgency in resolving domestic conflicts. Within Islamic law, divorce fundamentally serves as a last resort, permissible only after all attempts at *ishlah* (reconciliation) have been entirely exhausted. This principle aligns seamlessly with religious law provisions in Indonesia, which mandate judges to first prioritize reconciliation efforts before proceeding with the examination of a divorce case. Mediation functions as a crucial instrument to alleviate emotional tensions, facilitate spaces for open dialogue, and avert divorces arising from transient anger. Through the mediation process, married couples are afforded an opportunity to re-evaluate their domestic grievances rationally prior to executing a permanent legal decision. (Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 on Mediation Procedures in Court, 2016)

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domestic grievances rationally prior to executing a permanent legal decision (Tama, 2022).

Consequently, the reinterpretation of divorce expressions (*lafaz talaq*) within the modern context must be directed toward balancing legal texts, emotional states, communication technology advancements, and the protection of the parties' rights. Such an approach is vital to ensure that Islamic family law remains responsive to social transformations without compromising the fundamental principles of Sharia regarding justice, legal certainty, and family welfare (*maslahah*).

CONCLUSION

Explicit expressions (*lafaz sharih*) and implicit expressions (*lafaz kinayah*) possess fundamental distinctions in the legal determination of *talaq* (divorce) within Islamic family law. An explicit expression constitutes an utterance that unequivocally and directly indicates divorce, thereby rendering its legal consequences immediately effective without requiring further interpretation regarding the speaker's intent. Conversely, an implicit expression comprises an indirect, ambiguous, or multi-interpretable statement whose legal ruling heavily relies upon the existence of intention from the party who pronounces it. These distinctions demonstrate that Islamic law evaluates not only the textual form of an expression but also meticulously considers the contextual framework and the legal intent behind an utterance.

Within implicit expressions (*lafaz kinayah*), the element of intention occupies a paramount position, as it serves as the primary determinant for the validity of *talaq*. The semantic ambiguity inherent in implicit expressions prevents the law from automatically enforcing the legal consequences of divorce without a clear indication of volition. Consequently, the assessment of intention is conducted by thoroughly considering the conflict context, psychological conditions, evidentiary materials, and the behavior of the parties within the marital relationship. This underscores that Islamic family law fundamentally prioritizes the principle of caution, ensuring that divorce does not transpire solely due to emotional utterances or unilateral interpretations.

This study also indicates that emotion does not invariably nullify the legal consequences of an utterance. In the view of the vast majority of scholars, *talaq* pronounced in a state of anger remains legally valid as long as the speaker retains consciousness and comprehends the consequences of their words. However, if the anger reaches a level that obliterates sanity or the capacity for normal rational thinking, the validity of the *talaq* becomes a subject of dispute. Consequently, emotional states must be evaluated proportionally, as not every degree of anger can serve as a justification to absolve the legal consequences of *talaq*.

Furthermore, the advancement of modern communication via digital media has continuously expanded the manifestations of divorce expressions within contemporary society. Therefore, utmost caution is required regarding domestic communication, whether conducted face-to-face or through electronic media, as any utterance pertaining to divorce can inflict legal, social, and psychological impacts on the parties

involved. Awareness of the critical importance of wise communication, family law literacy, and conflict resolution through mediation constitutes an essential step in preserving family integrity and preventing divorces arising from transient emotional outbursts.

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