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Facebook divorce

By PEARL LEE February 09, 2009 Categories: News



Acceptable: Syariah lawyers say that it's perfectly all right to use Facebook

Syariah lawyers said that it's perfectly all right for a Muslim to divorce their spouse on Facebook or any other social networking website as long as it is in line with *hukum syarak*.

They were commenting on the curious case of Neil Brady, a 39-year-old Briton who ended his six-year marriage to his wife Emma, 35, and announced it on Facebook last week, making it the first Facebook divorce ever recorded. (see *accompanying story*)

Syariah lawyer Muhamad Burok said it does not matter how the declaration of divorce is made as long as it is communicated to the spouse.

"A declaration of divorce among Muslims that follows the *hukum syarak* is a communication between parties, in this case between a husband and his wife.

"This includes putting down words in writing and sending it to the spouse. It does not matter what medium was used; be it email or SMS; as long as it's later verified in the (Syariah) court."

Muhamad also said that the issue of time lapse does not arise in this case. If one makes the declaration of divorce against his spouse today on Facebook and the spouse only learns of it a week later, the effective date is still on the day the posting was made.

Although he has not yet heard of a similar case here, another Syariah lawyer, Zulkifli Che Yong, said: "It is merely a new way of declaring your intentions. In the old days, people used to send letters, telegrams and faxes, but with the advent of technology, it's becoming easier. It does not matter what medium you use as long as the intent is clear."



MUHAMAD: Does not matter how the declaration of divorce is made as long as it is communicated to the spouse

Zulkifli said that as long as the words used were clear and conclusive (*soreh*), then the declaration of divorce accepted. He said another type of declaration is known as *kinayah*. This is not as clear as the first type of declaration and needs to be coupled with intent and would have to be verified later by the Syariah court.

He also added that the words used must not leave any doubts as to intent, such as "I hereby divorce you with talak satu".

However, if the statement reads: "I want you out of my house from now on", then the Syariah court would have to find out what the husband's intention was at the time he made that statement.

The lawyers also said that it did not matter if the declaration of divorce on Facebook was not made known to a spouse directly as it could also be communicated via a third party.

"A divorce has taken place as soon as the individual finishes writing and as long as there is intent," Zulkifli added.

Meanwhile, lawyer Surjan Singh said divorce declarations made on Facebook would not apply to non-Muslim couples who will have to get their marriages annulled by the courts.

Neil makes history

Neil Brady, a 39-year-old Briton ended his six-year marriage by making an announcement on Facebook last week – making it the world's first Facebook divorce.

Foreign news reports had said that Emma Brady, 35, only found out about her husband's intentions when he changed his Facebook status to read, "Neil Brady has ended his marriage to Emma Brady". Emma only found out after a friend in Denmark called her up to see how she was coping.

Emma, a mother of one who works as a conference organiser, was shocked by her husband's actions. This was disclosed during a magistrate's court hearing in Blackburn at Neil's sentencing hearing for allegedly assaulting Emma at their home in nearby Accrington.

The *Daily Mail* had also reported that Emma only joined Facebook because the girls at work said it was good fun.

"What upset me the most was not the fact that Neil had written he had ended our marriage, but the comment from a girl in Canada who said: 'You are better off out of it'. It hurt me that he had been speaking to someone else about it," Emma told the *Daily Mail*.

Emma alleges that even after Neil posted that message, he still didn't tell her for a while that he wanted a divorce.

"He acted like everything was fine, so we carried on as normal," she said.

Neil Brady said he did tell his wife about wanting to leave her, stating, "I'd had enough of her."

Neil now lives with his mother.

Recent divorce declarations made via SMS

2006: Singer Noraniza Idris claimed to have received an SMS from then husband Fauzi Mohd Tajuddin (or better known as Fareez) seeking a divorce.

October 2008: Actor Nasrizal Ngasri, 28, better known as Bell, sent an SMS at 3pm on Oct 22, 2008, to his wife Nur Farhana Mahamad Fauri or Sasha. In it, he had stated: "Aku ceraikan kau (I divorce you). Thank you. Selamat berjaya (All the best)." Bell later stated that the statement was made without malice.

Nov 18, 2008: Renowned painter Raja Azhar Raja Lop Idris sent an SMS divorcing his then wife Charmaine Winifred Idris.

Nov 25, 2008: Dino Rais, son of Foreign Minister Datuk Seri Dr Rais Yatim, divorced his then wife Riza Ainurin Ramlan through an SMS.

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