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Husband's Infatuity Through Social Media as a Reason for Divorce According to the Perspective of Islamic Law, Marriage Law and Protection of Women's Rights

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ABSTRACT

Advances in information technology and social media have brought about changes in the patterns of social relationships within society, including in family life. One of the resulting impacts is an increase in cases of infidelity committed through social media, which often leads to divorce. Digital infidelity not only causes conflict and marital breakdown but also raises legal issues regarding its status as grounds for divorce and the use of electronic evidence in court proceedings. This study aims to analyze the status of a husband's infidelity via social media as grounds for divorce from the perspectives of Islamic law and Indonesian marriage law, as well as to examine the probative value of electronic evidence and the forms of legal protection available to women as victims of infidelity. The research method employed is normative legal research using a statutory approach, a conceptual approach, and a case-based approach. The legal sources used consist of primary, secondary, and tertiary sources, which were analyzed qualitatively. The results of the study indicate that infidelity via social media constitutes a violation of the principle of fidelity in marriage, which is contrary to Islamic law and the purpose of marriage. Under Indonesian marriage law, digital infidelity can be grounds for divorce if it causes continuous disputes and arguments. Electronic evidence is considered admissible under the Law on Information and Electronic Transactions and may be used in divorce cases provided it meets the requirements for admissibility. Women who are victims of infidelity are entitled to legal protection in the form of the right to file for divorce, alimony, child custody, and protection of their economic and psychological rights

INTRODUCTION

Marriage is a very important institution in human life because it serves as a means to form a harmonious family, continue the family line, and create peace and well-being for the husband, wife, and children. From the perspective of Islamic law, marriage is not merely a civil relationship between a man and a woman, but rather a form of worship and a binding covenant (*mitsaqan ghalizhan*) that entails rights and obligations that must be fulfilled by each party. The purpose of marriage is to establish a family characterized by *sakinah*, *mawaddah*, and *rahmah*, as mandated in the Qur'an and various provisions of Islamic family law.

Under national law, marriage is also viewed as a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and enduring family based on belief in the One and Only God. These provisions have been amended by Law No. 16 of 2019. Thus, both Islamic law and national law regard marriage as an institution whose continuity must be upheld through mutual respect, mutual love, and fidelity.

However, in real-life situations, not all households are able to maintain the desired harmony. Various factors can lead to domestic conflicts, such as a lack of communication, disharmonious relationships, and infidelity. Among these factors, infidelity is one of the main causes of marital breakdown, which often leads to divorce.

Advances in information and communication technology in the digital age have brought about major changes in the way people interact. The presence of social media platforms such as WhatsApp, Facebook, Instagram, Telegram, TikTok, and various other digital platforms has made it easier for people to communicate without the constraints of time and space. On the one hand, these technological advances offer significant benefits in social and economic life. However, on the other hand, social media also has various negative impacts, one of which is the rise in cases of infidelity carried out through electronic media.

Advances in information and communication technology have brought significant changes to

people's lives, including in marital relationships. The emergence of various social media platforms such as WhatsApp, Facebook, Instagram, Telegram, TikTok, and other communication apps has made it easier to interact with others. However, on the other hand, social media has also become a tool frequently used to form extramarital relationships, which have the potential to undermine the integrity of a marriage.

Infidelity via social media is a phenomenon increasingly found in modern family life. Infidelity is no longer limited to direct physical contact but can occur through private, romantic, and emotional digital communication with someone outside the marriage. Such infidelity can take the form of intimate conversations via instant messaging apps, the exchange of personal photos or videos, video calls with romantic undertones, or secret emotional relationships conducted without the knowledge of the legal spouse.

The phenomenon of infidelity via social media is on the rise as the use of digital technology becomes more widespread. Infidelity no longer has to manifest in a physical relationship; it can begin with intensive communication, the exchange of romantic messages, the sharing of personal photos, video calls, or emotional relationships that violate marital commitments. This situation often leads to domestic conflicts.

The phenomenon of digital infidelity is a complex issue because it is often difficult to prove directly. Unlike conventional infidelity, which may be detected through the physical presence of the parties involved, infidelity via social media takes place in secret and leaves a digital trail that can only be detected through specific electronic devices. As a result, many wives face difficulties proving the existence of a special relationship between their husbands and another woman when filing for divorce.

On the other hand, developments in Indonesian law have recognized electronic information and electronic documents as valid evidence. Under Law No. 11 of 2008 on Electronic Information and Transactions, as amended by Law No. 19 of 2016,

evidence in the form of digital conversations, electronic photos, videos, emails, voice recordings, and various other forms of electronic information may be used in the evidentiary process in court. This recognition provides an opportunity for women who are victims of infidelity to seek justice through available legal mechanisms.

In the practice of religious courts in Indonesia, evidence in the form of screenshots of conversations, recordings of electronic communications, photos, videos, and various other forms of electronic information is increasingly being submitted as evidence to support divorce cases. This raises questions regarding the status of electronic evidence under Islamic law and Indonesian positive law.

Under Islamic law, infidelity via social media poses a distinct problem because, although it does not always meet the elements of physical adultery (*zina*), such conduct can be categorized as an act approaching adultery (*taqrib ila al-zina*). Islam prohibits any form of behavior that could open the door to illicit relationships between men and women who are not *mahrams*. Therefore, emotional relationships secretly cultivated through social media can be viewed as a violation of the principle of marital fidelity and as contrary to the objectives of Islamic law in preserving honor, lineage, and family unity.

From the perspective of Islamic law, adultery is an act that contradicts the objectives of marriage (*maqashid al-syari'ah*), namely to create a family characterized by *sakinah*, *mawaddah*, and *rahmah*. Meanwhile, from the perspective of Indonesian marriage law, adultery can be categorized as a breach of spousal obligations that may constitute grounds for divorce.

Furthermore, women—who are often the victims of infidelity—are entitled to legal protection against the psychological, social, and economic harm resulting from their husbands' actions. Therefore, a comprehensive study is needed on infidelity via social media as grounds for divorce, examined from the perspectives of Islamic law, national marriage law, and women's protection.

In addition to raising legal issues, infidelity also has a profound impact on women, who are often the victims. Infidelity can cause psychological distress in the form of stress, trauma, depression, loss of self-confidence, and even mental health disorders. It is also not uncommon for infidelity to result in the neglect of a wife's economic rights because her husband's attention and resources shift to a third party. Under such circumstances, women require adequate legal protection to ensure their rights remain safeguarded both during marriage and after divorce.

Based on the above discussion, it is crucial to conduct a study on a husband's infidelity via social media as grounds for divorce. This study not only discusses aspects of Islamic law and national marriage law but also examines the evidentiary weight of electronic evidence and the forms of legal protection that can be provided to women as victims of infidelity. Thus, this research is expected to contribute to the development of family law in Indonesia, particularly in addressing the challenges arising from the advancement of digital technology.

METHODS

This study is a normative legal research project that examines legal norms found in legislation, legal doctrine, court decisions, and literature related to infidelity via social media as grounds for divorce, the use of electronic evidence in divorce cases, and legal protection for women as victims of infidelity. This study employs several approaches, including: 1. The Statute Approach, which involves analyzing various laws and regulations related to the research subject, such as: Law No. 1 of 1974 on Marriage, Law No. 16 of 2019 Amending Law No. 1 of 1974 on Marriage, Law No. 11 of 2008 on Electronic Information and Transactions, Law No. 19 of 2016 Amending Law No. 11 of 2008 on Electronic Information and Transactions, and others; 2. Conceptual Approach: The conceptual approach is used to examine legal concepts related to marriage, adultery, electronic evidence, and others; 3. Case Approach: The case approach involves analyzing Religious Court rulings related to divorce due to adultery and the use of electronic evidence in the

evidentiary process to understand the application of the law in judicial practice.

The sources of legal materials in this study are as follows: 1. Primary legal sources, which are legally binding, such as the Qur'an and Hadith, the 1945 Constitution, Law No. 1 of 1974 on Marriage, Law No. 16 of 2019, and others; 2. Secondary legal sources, which consist of various books such as those on Islamic law, marriage law, and the law of evidence, as well as scientific journals and articles relevant to this study; 3. Tertiary legal sources, which include legal dictionaries, the Great Dictionary of the Indonesian Language, legal encyclopedias, and others. The legal materials were collected through library research, which involved gathering, reading, reviewing, and cataloging various primary, secondary, and tertiary legal materials related to the research subject. The collected legal materials were analyzed using qualitative analysis methods.

RESULTS AND DISCUSSION

The Status of a Husband's Infidelity via Social Media as Grounds for Divorce Under Islamic Law and Indonesian Marriage Law

Advances in information technology have given rise to various new forms of social relationships that were previously unknown in society. One such phenomenon is the emergence of infidelity via social media committed by married couples. Such infidelity does not always manifest as direct sexual relations but can take the form of emotional connections, romantic communication, the exchange of private messages, the sharing of photos or videos, or other forms of digital interaction indicating a special relationship with a third party.

This phenomenon raises legal issues because the concept of infidelity in modern society has expanded in meaning. Whereas infidelity was previously more closely associated with physical relationships outside of marriage, emotional relationships conducted secretly through social media are now also viewed as a form of disloyalty that can undermine trust and the harmony of a marriage.

From the perspective of Islamic law, marriage is a bond founded on honesty, fidelity, and responsibility. Therefore, it is necessary to analyze to what extent infidelity via social media can be categorized as a violation of the principles of Islamic Sharia. This study is important because Islamic law not only prohibits adultery but also prohibits any act that may lead to adultery. Thus, it is necessary to examine whether emotional relationships conducted in secret via social media can be considered a form of betrayal of the marriage contract and whether such actions can serve as grounds for a wife to file for divorce.

Islam views marriage as a sacred bond intended to foster peace, love, and the continuity of the family line. Therefore, any behavior that could undermine the purpose of marriage is prohibited by Islamic law. Allah SWT states in Surah Al-Isra', verse 32, which means: "And do not even approach adultery; indeed, adultery is an abominable act and an evil path." This verse indicates that Islam not only prohibits adultery but also any actions that lead to it. Extramarital affairs via social media—characterized by romantic communication, the exchange of private photos, or emotional relationships that cross boundaries—can be categorized as acts that border on adultery. From a fiqh perspective, maintaining fidelity is a moral and legal obligation for both husbands and wives. Infidelity is a form of betrayal of the marriage contract, which the Qur'an refers to as *mitsaqan ghalizhan*, or a strong covenant.

Under Islamic law, *nusyuz* can be committed not only by a wife but also by a husband. When a husband engages in a relationship with another woman through social media and neglects his obligations toward his family, such actions can be categorized as marital disobedience on the part of the husband. The consequences of such *nusyuz* include: the loss of domestic harmony, psychological suffering for the wife, reduced attention toward the children, and the neglect of financial and emotional support obligations. Such circumstances can serve as valid grounds for the wife to file for divorce through the judicial divorce process.

According to Article 39 of Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, a divorce may only be granted in a court hearing after the court has attempted to reconcile the two parties. Article 19 of Government Regulation No. 9 of 1975 states that a divorce may be granted if one party commits adultery or if there are persistent disputes and quarrels. Meanwhile, Article 116 of the Compilation of Islamic Law explains that divorce may be caused by: one party committing adultery, the occurrence of continuous disputes and quarrels, and the absence of any hope of living in harmony again. In the practice of religious courts, proving adultery directly is very difficult. Therefore, many divorce cases resulting from infidelity are granted on the grounds of prolonged disputes arising from such illicit relationships.

Infidelity via social media demonstrates that technological advancements have given rise to forms of breach of fidelity previously unknown in classical family law. Consequently, judges are required to interpret the law progressively in order to provide protection to the aggrieved party. In this context, digital communication evidence can serve as the basis for a judge to assess whether a marital relationship can still be maintained or not.

1. The Evidentiary Weight of Electronic Evidence in Divorce Cases and Legal Protection for Women Who Are Victims of Infidelity

Advances in information technology have driven changes in the evidentiary system under Indonesian law. Through Law No. 11 of 2008 on Electronic Information and Transactions, as amended by Law No. 19 of 2016, electronic information and electronic documents are recognized as valid legal evidence. Article 5(1) of the Electronic Information and Transactions Law states that: “Electronic information and/or electronic documents and/or their printed copies constitute valid legal evidence.” This provision provides a legal basis for wives to use digital evidence when filing for divorce.

Some forms of electronic evidence frequently used in divorce cases include: screenshots of WhatsApp conversations, Facebook and Messenger chats, Instagram messages, video call recordings,

photos with the cheating partner, audio recordings, evidence of money transfers to third parties, and personal emails. This evidence can demonstrate the existence of a special relationship between the husband and another woman.

In divorce cases, judges not only assess the existence of electronic evidence but also evaluate its authenticity, relevance to the case, consistency with other evidence, and supporting witness testimony. The more pieces of evidence that corroborate one another, the greater the likelihood that the judge will accept the plaintiff's claims.

One of the biggest challenges in divorce cases resulting from infidelity via social media is the issue of proof. Unlike infidelity that occurs in person and can be detected through the physical presence of the parties or the testimony of neighbors, digital infidelity generally takes place in secret and leaves only traces in the form of electronic data. Therefore, the success of proving a case in divorce proceedings depends heavily on the aggrieved party's ability to present electronic evidence that can convince the judge of the existence of an improper relationship between the husband and a third party.

Advances in information technology have given rise to various new forms of evidence previously unknown in the traditional legal system of evidence. Today, WhatsApp conversations, Facebook messages, Instagram direct messages, emails, audio recordings, video recordings, digital photos, electronic transfer records, and various other forms of electronic information are frequently used as evidence in divorce cases. The existence of such evidence is crucial because it can reveal patterns of communication, emotional closeness, and special relationships between those involved in an affair.

However, the use of electronic evidence in judicial proceedings also raises various legal issues. One issue that frequently arises concerns the authenticity and validity of such electronic evidence. Screenshots of conversations, for example, can be easily manipulated using certain technologies, so mechanisms are needed to ensure that the evidence submitted is truly authentic and reliable. Although classical Islamic law did not yet recognize digital

technology, the concept of evidence in Islam allows for the use of various forms of circumstantial evidence (qarinah) that can help judges uncover the truth.

Infidelity not only causes emotional harm to women but can also result in economic and social losses. Therefore, the law provides a number of protections for women. A wife has the right to dissolve the marriage through the Religious Court if there is no longer harmony in the household. Madhiyah alimony—the support that a husband is required to provide during the marriage—remains unpaid. Idda maintenance is provided to the former wife during the waiting period following the divorce. Mut'ah is a mandatory payment that the husband must provide to his former wife as a form of respect and consolation after the divorce. In Islamic law and religious court practice, the best interests of the child are the primary consideration in determining custody. Victims of infidelity are entitled to psychological support, family counseling, and legal assistance to help them recover from the mental distress caused by the domestic conflict they have experienced.

CONCLUSION

Based on the above discussion, the following conclusions can be drawn:

A husband's infidelity via social media constitutes a breach of marital fidelity that contradicts the principles of Islamic law and the purpose of marriage.

1. Under Indonesian marriage law, infidelity via social media can be grounds for divorce if it leads to constant disputes and arguments, rendering the marriage unsustainable.
2. Electronic evidence such as WhatsApp conversations, social media messages, photos, videos, and digital recordings have legal standing as valid evidence in divorce cases, provided they meet the applicable evidentiary requirements. Women who are victims of infidelity are entitled to legal protection in the form of the right to file for divorce, alimony,

child custody, and protection of their economic and psychological rights.

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