

**THE LEGAL STATUS OF DIVORCE VIA SMS AMONG MUSLIMS IN
MALAYSIA AND OTHER COUNTRIES**

By

Syalia Ain Zainuddin (2006200826)

Sharifah Nurul Aini Sayed Abdollah (2006200814)

Submitted in Partial Fulfilment of the Requirements
for the Bachelor in Legal Studies (Hons)

**Universiti Teknologi MARA
Faculty of Law**

October 2008

The students/ authors confirm that the work submitted is their own and hat appropriate credit has been given where reference has been made to the work of others.

Acknowledgement

Firstly, we would like to thank the Almighty god, Allah s.w.t. for making this a possible project for us. Without Him, we would not have the passion, faith and courage to keep going.

We would also like to take this opportunity to thank our beloved parents, Encik Sayed Abdollah bin Sayed Hasan and Puan Ramlah Jantan, Encik Zainuddin Yaacob and Puan Mariatul Kabtiah Yahaya, as well as family for their support, morally and financially. Our appreciation also goes to our friends who have given us encouraging word each and everyday.

Secondly, we would like to express our sincere gratitude to our supervisor Associate Professor Dr. Mohd Amin Haji Abdul Rahman, Faculty of Law, UiTM Shah Alam for his time, support, guidance, passion, materials, facilities and assistant ever since the first day of meeting. Without him, this project paper will be impossible.

Thirdly, we would like to thank to our respondent from MAIS and CITU for their time and willingness to do the interview session. Without their help, the research would be incomplete.

Last but not least, we would like to thank everyone who has directly or indirectly contribute with this project paper.

Thank you.

Abstract

In our opinion, there is no research had been done to analysis the validity of the divorce by text message among Muslim community or society in Malaysia and other countries for instance Singapore, Indonesia, India and The United Arab Emirates. Even though in Malaysia, the fatwa had recognised this kind of divorce as a valid means of divorce, but we believed that there will be a lot of problem arises later. Therefore we want to compare the situation of SMS divorce in terms of law, punishment and effect in Malaysia and with other countries. Particularly, the aim of this research is to propose to the court to legislate a proper procedure for the husband to pronounce talaq via SMS thus the most debatable issue of doubtful and sincerity would not take place. It is also importance for the judges to have a new guiding principle in order to decide on the issue of the legality of the divorce pronounce outside the court.

TABLE OF CONTENT

Acknowledgment	ii
Abstract	iii
Contents	iv

CHAPTER ONE: INTRODUCTION

1.1	Introduction	1
1.2	Problem Statement	2
1.3	Objectives of the study	2
1.4	Literature Review	3
1.5	Methodology	5
1.6	Limitation	6
1.7	Significance of the Study	6
1.8	Provisional Plan of Research	7

CHAPTER TWO: SMS DIVORCE ACCORDING TO ISLAMIC FAMILY LAW IN MALAYSIA

2.1	Introduction	9
2.2	Traditional Divorce v Modern Divorce	9
2.3	Concept of Talaq or Divorce in Islam	11
2.4	Definition of SMS	13
2.5	Legal Perspective of SMS Divorce	15
2.6	Moral Perspective of SMS Divorce	18
2.7	Case "	20
2.8	Conclusion	20

CHAPTER THREE: SMS DIVORCE AMONG MUSLIM COMMUNITY IN OTHER COUNTRIES

3.1	Introduction	22
3.2	India	22
3.2.1	The Law on Divorce in India	22
3.2.2	SMS Divorce in India	25

3.3	The United Arab Emirates	27
	3.3.1 The Law on Divorce in United Arab Emirates	27
	3.3.2 SMS Divorce in The United Arab Emirates	29
	3.3.3 Case on SMS Divorce	31
3.4	Indonesia	32
	3.4.1 The Law on Divorce in Indonesia	32
	3.4.2 SMS Divorce in Indonesia	35
3.5	Singapore	36
	3.5.1 The law on Divorce in Singapore.	36
	3.5.2 SMS Divorce in Singapore	38
3.6	Conclusion	40

CHAPTER FOUR: COMPARISON OF SMS DIVORCE BETWEEN THE COUNTRIES

4.1	Introduction	41
4.2	Similarities and Differences	41
	4.2.1 Law and Procedure	41
	4.2.2 Punishment	43
	4.2.3 Effect	44
4.3	Conclusion	46

CHAPTER FIVE: CONCLUSION

5.1	Introduction	47
5.2	Suggestions	47
5.3	Conclusion	51

BIBLIOGRAPHY

APPENDICES