



ADMINISTRATION OF FASAKH JUDGMENTS IN THE DISSOLUTION OF MUSLIM MARRIAGES IN INDONESIA AND MALAYSIA: A COMPARATIVE STUDY OF LEGAL BASES, REGISTRATION PROCEDURES, AND THE ISSUANCE OF DIVORCE DOCUMENTS

ADMINISTRASI PUTUSAN FASAKH DALAM PEMBUBARAN PERKAWINAN MUSLIM DI INDONESIA DAN MALAYSIA: STUDI KOMPARATIF TENTANG DASAR HUKUM, PROSEDUR PENDAFTARAN, DAN PENERBITAN DOKUMEN PERCERAIAN

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Abstract

This study aims to analyse the administration of *fasakh* judgments in the dissolution of Muslim marriages in Indonesia and Malaysia, with specific attention to the legal bases, registration procedures, and issuance of divorce documents. This issue is significant because the dissolution of marriage does not end with a court judgment. It continues through administrative registration, which determines the legal status of the parties after divorce. This study adopts a qualitative approach with a documentation-based comparative case study design. Data were collected through an examination of statutory regulations, judicial technical guidelines, official service procedures, institutional documents, and administrative information applicable to the Religious Courts in Indonesia, as well as the Syariah Courts and State Islamic Religious Departments in Malaysia. This study does not involve interviews or participants because its focus is directed toward the objective mapping of applicable administrative procedures. The data were analysed using a comparative thematic approach by grouping the findings into three main themes: the legal basis of judicial authority, post-judgment registration procedures, and the forms of divorce documents issued. The findings show that Indonesia integrates the issuance of divorce certificates into the administration of the Religious Courts, whereas Malaysia places the issuance of Islamic divorce certificates within the institutional relationship between the Syariah Courts and the State Islamic Religious Departments. These findings affirm that *fasakh* is not merely a juristic concept or a ground for marital dissolution, but also forms part of the legal documentation system of Islamic family law. This study contributes to the development of comparative Islamic family law scholarship and provides a basis for mapping Muslim divorce administration policies in both countries.

Keywords : Judgment Administration, Fasakh, Dissolution of Marriage, Divorce Certificate, Islamic Divorce Certificate.



Abstrak

Penelitian ini diarahkan untuk mengkaji administrasi putusan fasakh dalam pembubaran perkawinan Muslim di Indonesia dan Malaysia, dengan menitikberatkan pada aspek dasar hukum, mekanisme pencatatan, serta penerbitan dokumen perceraian. Kajian ini penting karena berakhirnya perkawinan tidak hanya selesai pada tahap putusan pengadilan, tetapi juga memerlukan proses administratif yang berfungsi menetapkan dan membuktikan status hukum para pihak. Penelitian ini menggunakan pendekatan kualitatif dengan desain studi kasus komparatif berbasis studi dokumentasi. Data diperoleh melalui penelusuran terhadap peraturan perundang-undangan, pedoman teknis peradilan, prosedur layanan resmi, dokumen kelembagaan, serta informasi administratif yang berlaku pada Peradilan Agama di Indonesia dan pada Mahkamah Syariah beserta Jabatan Agama Islam Negeri di Malaysia. Penelitian ini tidak melibatkan wawancara maupun partisipan karena fokus analisis diarahkan pada pemetaan objektif terhadap prosedur dan administrasi yang berlaku. Data dianalisis secara tematik-komparatif dengan mengklasifikasikan temuan ke dalam tiga tema pokok, yaitu dasar kewenangan lembaga peradilan, alur pencatatan setelah putusan, dan bentuk dokumen perceraian yang diterbitkan. Hasil penelitian memperlihatkan bahwa Indonesia menempatkan penerbitan akta cerai sebagai bagian dari administrasi Peradilan Agama, sedangkan Malaysia mengatur penerbitan sijil perceraian Islam melalui keterhubungan antara Mahkamah Syariah dan Jabatan Agama Islam Negeri. Temuan ini menunjukkan bahwa fasakh tidak semata-mata dipahami sebagai konsep fikih atau dasar pembubaran perkawinan, tetapi juga menjadi bagian dari sistem dokumentasi hukum keluarga Islam. Penelitian ini memberi kontribusi terhadap penguatan kajian hukum keluarga Islam komparatif serta menyediakan dasar pemetaan kebijakan administrasi perceraian Muslim di Indonesia dan Malaysia.

Kata Kunci : Administrasi Putusan, Fasakh, Pembubaran Perkawinan, Akta Cerai, Sijil Perceraian Islam.

1. INTRODUCTION

The dissolution of Muslim marriages in modern legal systems can no longer be understood merely as a private matter between husband and wife. It has become part of state legal governance because it involves judicial institutions, registration officers, administrative systems, and official documents that determine the legal status of the parties after divorce. In the context of Islamic family law, *fasakh* is one mechanism for marital dissolution rooted in Islamic jurisprudence, yet it has undergone institutional development according to the legal system of each country. Saputra and Hussin show that *fasakh* in Indonesia and Malaysia shares closely related normative foundations, but develops through different legal structures, procedures, and institutional practices (Saputra & Hussin, 2025).

At the social and administrative levels, Muslim divorce has become an important issue because the number of cases continues to demand orderly and traceable family law services. Malaysia, for instance, publishes annual data on marriage, divorce, and reconciliation through the Department of Statistics Malaysia, including data on Muslim and non-Muslim divorces in its 2025 statistical report (Department of Statistics Malaysia, 2025). These data indicate that divorce is not only a normative issue, but also a matter of public service that requires a clear registration system. In Indonesia, divorce cases are also among the main types of cases handled within the Religious Courts. Therefore, post-judgment administration plays an important role in ensuring legal certainty regarding the status of the parties.

The main issue in divorce administration lies in the relationship between court judgments and post-judgment documents. A court judgment or order determines legal status through a judicial process. However, that status can only be used administratively after it has been registered and issued in the form of an official document. In Indonesia, this document takes the form of a divorce certificate, including an electronic divorce certificate under the policy of the Directorate General of the Religious Courts.



Decree of the Director General of the Religious Courts Number 932/DJA/SK.TI1.3.3/VII/2025 regulates the administration of electronic copies of judgments and electronic divorce certificates within the Religious Courts (Direktorat Jenderal Badan Peradilan Agama, 2025).

Malaysia follows a different pattern. The registration of Islamic divorce is conducted after the divorce has been confirmed by the Syariah Court. Afterward, the divorced parties register the divorce through the State Islamic Religious Department or the available registration system, including the Malaysian Islamic Marriage Management System. The MyGovernment portal explains that Islamic divorce registration can only be carried out after the divorce has been confirmed by the Syariah Court. Meanwhile, SPPIM is used to register an officially valid divorce so that the divorce certificate can be issued and lawfully recorded (MyGovernment Malaysia, n.d.-a, n.d.-b).

This issue deserves scholarly attention because divorce documents have legal, social, and administrative functions. A divorce certificate or Islamic divorce certificate serves as proof of a person's legal status after the marriage has ended. This document is required for civil administration, subsequent marriage registration, post-divorce rights management, and legal protection for the parties. Yuni and Haries assert that the protection of women's and children's rights after divorce has a normative basis, but its implementation still faces various challenges in judicial processes and post-judgment enforcement (Yuni & Haries, 2024). Therefore, the procedures for registration and issuance of divorce documents are closely related to post-judgment legal certainty.

Previous studies have extensively discussed *fasakh* from the perspectives of legal grounds, evidentiary requirements, women's rights, apostasy, violence, maintenance neglect, and *maqāṣid al-sharī'ah*. Studies on e-court systems and the digitalisation of judicial services have also begun to develop, particularly in relation to procedural efficiency and access to legal services (Shodikin et al., 2021). However, few studies have specifically positioned the administration of *fasakh* judgments as the main object of analysis, especially by comparing Indonesia and Malaysia through three aspects at once: legal bases, registration procedures, and the issuance of divorce documents. This gap is significant because terms, institutions, procedures, and documents that appear similar may hold different administrative positions within each legal system.

Based on this background, this study aims to analyse the administration of *fasakh* judgments in the dissolution of Muslim marriages in Indonesia and Malaysia through a comparative study of legal bases, registration procedures, and the issuance of divorce documents. The study focuses on how *fasakh* judgments or marital dissolution decisions obtain administrative recognition from the state, how post-judgment registration procedures operate, and how divorce documents are issued as authentic evidence. Theoretically, this study contributes to the development of comparative Islamic family law scholarship. Practically, it provides a procedural mapping for courts, Syariah Courts, registration officers, advocates, researchers, and members of the public who use Islamic family law services.

2. RESEARCH METHOD

This study employs a qualitative approach with a documentation-based comparative case study design. This design was selected because the study focuses on processes, procedural flows, institutional structures, and administrative patterns in the registration of *fasakh* judgments or the dissolution of Muslim marriages in Indonesia and Malaysia. A comparative case study is appropriate when a study seeks to understand a legal phenomenon within specific institutional contexts and to compare patterns that emerge across more than one legal system (Priya, 2021). The units of analysis in this study are the administrative procedures for judgments on the dissolution of Muslim marriages within the Religious Courts in Indonesia, as well as the Syariah Courts and State Islamic Religious Departments in Malaysia. This study does not involve participants, informants, or interviews because its focus is not on the subjective experiences of service users, but on the objective mapping of applicable administrative procedures.



The research data were collected through documentary study of legal materials and administrative documents. The data sources include statutory regulations, judicial technical guidelines, official service procedures, institutional documents, judgments or orders that are conceptually relevant, official service websites, and administrative provisions concerning the issuance of divorce certificates in Indonesia and Islamic divorce certificates in Malaysia. The documents were selected purposively because only documents directly related to legal bases, registration procedures, and the issuance of divorce documents were analysed. Purposive sampling in qualitative research can be used to select data sources that are most relevant to the focus of the study and capable of providing rich information on the research problem (Campbell et al., 2020). Data validation was carried out through source triangulation and document triangulation by comparing information from legal documents, technical guidelines, official websites, and academic literature. This strategy was used to maintain credibility, dependability, confirmability, and transferability in qualitative research (Ahmed, 2024).

The data were analysed using comparative thematic analysis. The analysis began with repeated reading of all documents, identification of key information, generation of initial codes, grouping of codes into categories, construction of main themes, and comparison of findings between Indonesia and Malaysia. The analysis was directed toward three main themes: legal bases and judicial authority, post-judgment registration procedures, and the forms and functions of divorce documents. Thematic analysis was selected because it enables qualitative data to be organised into systematic and accountable patterns of meaning (Ahmed et al., 2025). The results of the analysis are presented in a descriptive-comparative narrative in order to demonstrate the similarities, differences, and administrative consequences of each system without making a normative judgment on which system is superior.

3. RESULT AND DISCUSSION

The documentary analysis shows that *fasakh* occupies different administrative positions within the legal systems of Indonesia and Malaysia. In Malaysia, *fasakh* is recognised as one form of marital dissolution regulated within the framework of Islamic family law and processed through the Syariah Court. It is positioned as a mechanism for dissolving a marriage on grounds recognised by Islamic law and state Islamic family law statutes. In Indonesia, the term *fasakh* does not appear as an administrative category in divorce documents issued by the Religious Courts. Divorce administration more commonly uses the categories of husband-initiated divorce (*cerai talak*) and wife-initiated divorce (*cerai gugat*). This finding indicates that, in the Indonesian context, *fasakh* is closer to a legal ground or basis of claim, whereas in the Malaysian context, *fasakh* has a more explicit position as a form of marital dissolution (Saputra & Hussin, 2025).

The second finding shows that both countries place judicial institutions as the initial gateway for the legal recognition of Muslim marital dissolution. In Indonesia, a Religious Court judgment becomes the basis for issuing a divorce certificate after the case has obtained permanent legal force. Decree of the Director General of the Religious Courts Number 932/DJA/SK.TI1.3.3/VII/2025 explains the administrative mechanism for issuing electronic copies of judgments and electronic divorce certificates within the Religious Courts (Direktorat Jenderal Badan Peradilan Agama, 2025). In Malaysia, the Syariah Court first confirms the divorce, after which registration is carried out through the State Islamic Religious Department or the available system so that the Islamic divorce certificate can be issued (MyGovernment Malaysia, n.d.-a, n.d.-b). Thus, the court judgment or judicial confirmation serves as the legal basis, while the divorce document functions as post-judgment administrative evidence.

The third finding reveals an institutional difference in the issuance of divorce documents. Indonesia adopts an integrated judicial administration model because the Religious Court not only examines and decides divorce cases, but also issues divorce certificates. Under the electronic scheme, divorce data are processed through the judicial administration system, verified by the relevant officers,



and then issued in the form of an electronic document that can be digitally validated (Direktorat Jenderal Badan Peradilan Agama, 2025). Malaysia applies a layered administrative model. The Syariah Court plays a role in confirming the divorce, while the State Islamic Religious Department is responsible for registering the divorce and issuing the Islamic divorce certificate. This difference shows that the registration of Muslim divorces is strongly influenced by the institutional structure and distribution of authority in Islamic family law within each country.

The fourth finding shows that divorce documents function as proof of legal status. In Indonesia, the divorce certificate serves as official evidence that a marriage has been dissolved based on a court judgment. In the electronic divorce certificate system, the document contains the identities of the parties, case number, judgment date, type of divorce, and elements of digital verification. In Malaysia, the Islamic divorce certificate is issued after the divorce has been lawfully registered based on confirmation by the Syariah Court. The function of the document in both countries demonstrates a similar pattern, namely transforming a judicial judgment or confirmation into administrative evidence that can be used in subsequent legal matters. Therefore, divorce documents are not merely supplementary documents. They are important instruments in the recognition of post-divorce legal status.

The fifth finding concerns the digitalisation of divorce administration. Indonesia shows a clear transformation through the policy on electronic copies of judgments and electronic divorce certificates within the Religious Courts. This digitalisation is directed toward efficiency, document validation, and reduced dependence on physical documents. Malaysia also uses digital services through SPPIM for the registration of marriage, divorce, and reconciliation. However, the use of SPPIM does not apply in all states because Islamic family law in Malaysia is linked to state jurisdiction (MyGovernment Malaysia, n.d.-b). This finding shows that digitalisation exists in both countries, but the level of system integration differs. Indonesia tends to move toward a more centralised judicial administration system, whereas Malaysia reflects administrative variation in accordance with its federal structure and state authority.

From a theoretical perspective, these findings expand the field of comparative Islamic family law. Studies on *fasakh* have often focused on legal grounds, evidentiary requirements, the position of wives, or the consequences of divorce. This study offers a different focus by placing judgment administration as the main object of analysis. Accordingly, *fasakh* is not only understood as a juristic concept or a legal basis for marital dissolution, but also as part of the state's legal documentation process. This finding is consistent with Saputra and Hussin, who emphasise that *fasakh* in Indonesia and Malaysia should be examined through legal, procedural, and institutional dimensions (Saputra & Hussin, 2025). The administrative differences identified in this study demonstrate that similar legal concepts may produce different forms of registration because they are shaped by judicial structures and state administrative systems.

These findings are also related to the literature on access to justice and post-divorce administration. Yuni and Haries show that the protection of women's and children's rights after divorce requires adequate normative and administrative support (Yuni & Haries, 2024). This study does not directly discuss the implementation of post-divorce rights. However, its findings indicate that divorce documents hold an important position as an administrative basis after the marriage has ended. Without valid documents, the legal status of the parties is difficult to prove in matters of civil administration, subsequent marriage, and post-divorce legal consequences. Therefore, judgment administration has an indirect relationship with legal certainty and the protection of the parties' rights.

The findings on digitalisation also expand previous studies on e-court systems. Shodikin et al. explain that e-court systems facilitate case processing by reducing the need for physical attendance at court and improving service efficiency (Shodikin et al., 2021). This study extends that discussion to the post-judgment stage. Digitalisation is not only related to case registration or electronic hearings, but also to the issuance of divorce documents. In this context, electronic divorce certificates and digital registration services show that the transformation of Islamic family law has entered the stage of post-



judgment legal documentation. This provides a new perspective that the quality of divorce administration should not be measured only by court judgments, but also by the clarity of registration procedures and the validity of the documents issued.

Practically, this study provides a useful mapping for academics, advocates, courts, Syariah Courts, registration officers, and the public. This mapping helps clarify that the term *fasakh* does not always have the same administrative position in every country. In Malaysia, *fasakh* appears as one form of marital dissolution processed through the Syariah Court. In Indonesia, the administrative outcome of divorce is still recorded in a divorce certificate according to categories used within the Religious Court administration system. Thus, this study helps prevent the direct equivalence of terms between two legal systems that share Islamic normative foundations but differ in institutional structure and registration procedure.

4. CONCLUSION

This study shows that the administration of *fasakh* judgments in the dissolution of Muslim marriages in Indonesia and Malaysia shares similarities at the stage of judicial confirmation, but differs at the stages of registration and issuance of divorce documents. Both countries place judicial institutions as the initial basis for the legal recognition of marital dissolution. However, Indonesia integrates the issuance of divorce certificates into the administrative system of the Religious Courts, whereas Malaysia places the issuance of Islamic divorce certificates within the institutional relationship between the Syariah Courts and the State Islamic Religious Departments.

The findings of this study affirm that *fasakh* should not be understood merely as a juristic concept or a ground for marital dissolution, but also as part of the administrative process of Islamic family law. Court judgments, Syariah Court orders, divorce certificates, and Islamic divorce certificates have important functions in ensuring the legal status of the parties after divorce. Accordingly, divorce documents serve as administrative evidence that connects judicial decisions with the legal, social, and civil administrative needs of Muslim communities.

Theoretically, this study contributes to comparative Islamic family law scholarship by shifting the focus of discussion from grounds for divorce to judgment administration and post-judgment legal documentation. Practically, it can serve as a basis for procedural mapping for courts, Syariah Courts, registration officers, advocates, researchers, and members of the public who require clarity regarding the administrative flow of Muslim divorce in Indonesia and Malaysia. From a policy perspective, the findings indicate the importance of registration procedures that are clear, documented, traceable, and consistent with the institutional structure of each country.

This study is limited to a documentary analysis of legal bases, registration procedures, and the issuance of divorce documents. Future studies may expand the scope by comparing practices in several Religious Courts in Indonesia and several states in Malaysia. Further research may also employ an empirical approach through service observation or interviews with administrative officers, advocates, and service users in order to understand administrative experiences in greater depth.

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