SISTERS IN ISLAM (SIS) PERTAINING TO ُتانُق ISSUES:
AN ANALYSIS FROM AN ISLAMIC PERSPECTIVE

*1Zuraïdah Kamaruddin, 2Rahimah Embong, 3Rosmalizawati Abd. Rashid
& 4Saidatolakma Yunus

1Kulliyyah of Islamic Revealed Knowledge and Human Sciences,
International Islamic University Malaysia
2Faculty of General Studies & Avanced Studies, Universiti Sultan Zainal Abidin
3Faculty Islamic Contemporary Studies, Universiti Sultan Zainal Abidin
*zuraïdah_shukri@yahoo.com

Abstract: Sisters In Islam (SIS) is a Non-Governmental Organization in Malaysia. The group suggested that some existing laws in the Shariah court be reformed to ensure that the Muslim women’s rights are protected under the law. Thus, the objective of this study is to analyze the proposed solutions by SIS on the selected issues related to the provisions of ُتانُق in the Islamic Family law that are implemented in the Shariah court in Malaysia. Then, the paper gives clarification in relation to it from an Islamic perspective.

In the selected issues pertaining to ُتانُق, the research found that SIS often comes up with their proposed solutions without referring to any Qur’anic verses or the Hadith of the Prophet. Therefore, the researchers are in opinion that an analysis of SIS’s views on these selected issues should be done from an Islamic perspective. It is hoped that this study will provide an objective understanding on the issues of ُتانُق from a correct perspective. In providing solutions and suggestions, SIS must refer to maqāṣid shari‘ah. All solutions and recommendations must be parallel with the Qur’an and Hadith.

Keywords: Sisters In Islam (SIS); analysis; ُتانُق; Islamic perspective

INTRODUCTION

Feminism is not only confined to the Middle-east countries, but also spread to the other parts of the Muslim regions including the South-east Asia. They claim that they seek to apply the teachings of the al-Qur’an to the present-day context. This application they claim is grounded on the idea of the universal equality of human beings in Islam (Rashida, 2002).

One of the South-east Asia countries we mentioned earlier is Malaysia. A prominent women’s group in Malaysia claim to struggle for the equality between genders. This group is known as the Sisters In Islam (SIS). They are active in publishing their writings and organizing seminars on this matter (Rashida, 2002).

The establishment of SIS is traced to a certain law they were dissatisfied with when there was an implementation of new Islamic Family Laws that had been legislated in 1984. In 1987, a group of women were not satisfied with certain law of this new Islamic Law when it was enforced in Shariah courts. They claimed that some existing laws which are implemented in the Shariah court in Malaysia are biased and discriminatory against Muslim women. It seemed to them that Muslim women are oppressed by men or their husbands. They then suggested that some existing law in the Shariah court be reformed to ensure that the rights of Muslim women are protected under the law (Zainah and Shanon Shah, 2006)

Since SIS focuses on matters related to Islamic Family Law, a few issues connected to ُتانُق are chosen as the subject of analysis. This paper explains several issues raised by SIS
relating to ṭalāq. SIS’s comments and recommendations related to these issues are discussed, and their solutions are analysed from an Islamic perspective.

**ISSUES RELATING TO ṬALĀQ: AN ANALYSIS FROM AN ISLAMIC PERSPECTIVE**

Literally, ṭalāq means “taking off any tie or restraint” and “in law it signifies the dissolution of marriage.” (Syed Khalid, 1979).

In Shari’ah, repudiation (ṛtalāq) is defined as "the dissolution of a valid marriage contract forthwith or at a later date by the husband, his agent or his wife duly authorized by him to do so, using the word talaq, a derivative or a synonym thereof.” (Jamal, 1990).

In Malaysia, the Act and the enactment of Islamic Family Law provides stipulations of divorce among married Muslim couples. Section 47 is the provision for divorce through ṭalaq or by order, while section 48 is the provision of arbitration by hakam (Laws of Malaysia, Act 303, Islamic Family Law (Federal Territories) Act 1984).

SIS has submitted several recommendations for the amendment of section 47 and 48. They claim that their recommendations are aimed to help with the implementation of the provisions and avoid unnecessary delays and unwarranted incidents. SIS believes these kinds of problems bring unavoidable hardship and injustice to the parties involved specifically the wives and children.

**ṬALĀQ AT THE DECLARATION OF THE HUSBAND IS SAID TO BE TOO EASY**

According to SIS, the pronouncement of ṭalāq without the court’s approval should not be recognised (Sister In Islam, 2015). SIS mentions that there are many adverse effects relating to the case of immediate ṭalāq upon its declaration by the husband. According to SIS, the divorce is said to be too easy: (Sister In Islam, 2014c).

i. **The Issue of Ṭalāq (Divorce) Without a Witness**

SIS states that there is the case of ṭalāq where the husband divorces the wife without a witness (Sister In Islam, 2014c) In the opinion of SIS, divorce is too easily granted.

**Analysis**

According to Imam al-Shafi’i, it is not a requirement to having witness for the validation of a divorce (Al-Shafi’i). And, Jumhūr fiqh scholars of the Salaf and Khalaf have also conceded that ṭalāq is valid even if it is declared by the husband without any witnesses as ṭalāq is one of the rights of men. With regards to having a witness, there is no hadith of the Prophet or verbal records of the companions of the Prophet stating that having a witness is a requirement for the validation of a divorce (Al-Sayyid Sabiq, 1985). Thus, the ijmā’ of the Muslim scholars concludes that having witnesses is not a requirement of ṭalāq (Wahbah az-Zuhaili, 2011).

Ṭalāq without the requirement of having witnesses does not necessarily make divorce easier. As the right to the declaration of ṭalāq is given to men, it is not compulsory to obtain any witnesses. This coincides with the obligation of the husband to provide dowry upon marriage as well as sustenance in the form of nafqah to the wife and the family during the entire course of the marriage. In addition to this, the husband must also continue to provide sustenance in the form of nafqah ‘iddah and mut’ah should the divorce be granted.

On the other hand, Ahl al-Bayt Imāms and Shi’ah Imāmiyyah fiqh scholars are of the opinion that ṭalāq is only valid if there are witnesses (Muhammad Bagir) Athā’, Ibn Jurayj, and Ibn Sīrīn are among the Sunnī scholars who also share this opinion (Al-Sayyid Sabiq).
ii. The Issue of Ṭalāq (Divorce) without the Knowledge of the Wife
As claimed by SIS, there are also cases of ṭalāq that is declared without the knowledge of the wife. They further highlighted that this is an act of persecution towards the wife who is unbeknownst of the situation (Sister In Islam, 2014a).

Analysis

Imam Shāfi‘ī does not mention that ṭalāq is invalid without the presence of the wife. Similarly, to Imams Mālikī, Ḥanbalī and Ḥanafī, they also never said that the declaration of ṭalāq is invalid without the knowledge of the wife.

Ṭalāq is regarded as valid whether it is declared within or without the presence of the wife (Haron et al, 2007). The declaration of ṭalāq by the husband in the presence of or within the knowledge of the wife is not a requirement of divorce. In other words, the divorce is still valid when the husband pronounces a divorce from his wife without her knowledge (Muhammad Saed, 2007).

As an example, if a man declares, "I am divorcing my wife", the divorce is technically valid even if the wife is unbeknownst of it. After the period of three menstrual cycles from the declaration, the ‘iddah period would be considered complete, even if she were still unaware of the declared divorce (Muhammad Saed, 2007).

iii. The Issue of Ṭalāq through Text Messages
SIS highlights that the current practice in Malaysia is that the husband will be fined if he declares ṭalāq through a phone text message. Even so, the divorce is still considered valid (Sisters In Islam, 2014a).

Analysis

According to Imam Shāfi‘ī, other than the form of a verbal declaration, ṭalāq can also be communicated through writing (Al-Shafi‘i). The proclamation of ṭalāq by the husband through writing is valid as long as its conditions are fulfilled (Al-Sayyid Sabiq). According to Jumhūr Fuqahā’, the declaration of ṭalāq through a written statement is valid when the husband has the intention to divorce his wife (Wahbah az-Zuhaili, 2011).

As the proclamation of ṭalāq in writing is recognised and valid, an e-mail communication also falls under this category provided that it is verified by the husband that it was he, or a person he had specifically appointed, was the author of the said e-mail containing the declaration. However, the commencement of the ṭalāq only begins upon the acknowledgement of the husband. The e-mail message is not considered valid without necessary proof (Muhammad Saed, 2007).

In the case of the communication of ṭalāq through a phone text message, the same principles would apply. The ṭalāq is valid as long as the conditions are similar to that of the written statement and that the husband verifies that it was he, or his appointment that had written and sent the text.

iv. The Issue of Ṭalāq with Regards to the Wife Who is Divorced from Her Husband Even When She is Not Agreeable to It
Such cases may occur where a husband requests to divorce the wife even when the wife has agreed to him practising polygamy and does not agree to a divorce (Sister In Islam, 2014c).

Analysis

In the case where the wife provides consent to her husband to practice polygamy and does not agree to the divorce, Dr. Azizah mentions that the husband must provide mut‘ah as a form of compensation. Mut‘ah is given to protect the welfare of the wife and is compulsory in Malaysia,
like in other countries. The Shafi’i mazhab stipulates the mut’ah as compulsory, while it is not so in the Hanafi mazhab. Based on this, the court does look into the interest of the wife (Azizah, personal communication, April 16, 2014).

As she further explains, the provisions of section 47 gives equal rights to both husband and wife to request for a divorce under a mutual agreement. In the case where the wife does not agree to a divorce requested by the husband, a divorce will not be granted by the court. Under such circumstances, the court will appoint the hakam or conciliatory committee. If the committee grants the divorce, it will be categorised as a divorce approved outside of the court (Azizah, personal communication, April 16, 2014).

Under section 56, she stipulates that if the requested divorce is without a just cause, the husband must provide mut’ah. The wife can request for a higher price in mut’ah if the divorce is without a reasonable cause. However, the court will make a decision based on the husband’s current solvency (Azizah, personal communication, April 16, 2014).

Based on the existing provisions outlined above, there are no gender discriminations of the court in a divorce case where the wife is not agreeable to it. In Malaysia, the Shari’ah court will not grant a divorce without a mutual agreement and would appoint the hakam or conciliatory committee (refer section 47). However, if the husband divorces his wife outside the decision of the court, he must recompense with mut’ah as a form of penalty.

v. Proposed solution by SIS

SIS suggests a solution for the issues where they claim divorce is easily granted in favour of the husband. They propose that a declaration of ṭalāq should only be recognised once it is approved by the court. According to SIS, this concept is consistent with a verse from the Qur’an in Sūrah Al-Nisā’ 4:35 where it outlines the procedures of having ḥakam and discourages arbitrary divorce (Sister In Islam, 2015).

Analysis

It is important to understand the pillars (arkān) of ṭalāq in the discussion of issues regarding ṭalāq without a witness; ṭalāq without the knowledge of the wife; ṭalāq declaration through text messages; and ṭalāq against the women’s will.

According to the Shāfi’i and Ḥanbalī schools of thought, there are five pillars of ṭalāq: 1) Al-Maṭtālīq, the man who declares ṭalāq; 2) Al-Sīghah, the words proclaiming ṭalāq; 3) Maḥal, the marriage; 4) Al-Wīdāyah, guardianship; and 5) Qaṣd (Wahbah az-Zuhaili, 2011). According to the Ḥanafi school of thought, the pillar of ṭalāq is lafẓ or the pronouncement indicating the intention of ṭalāq (Wahbah az-Zuhaili, 2011).

Whereas according to the Maliki school of thought, the pillars of ṭalāq are: 1) The ahl or the person who declares ṭalāq must be capable of declaring it; 2) Qaṣd or the words expressed clearly indicates the husband’s resolve to dissolve the marriage even if unintentionally; 3) Maḥal or the marriage itself; and 4) Lāfẓ or the pronouncement of ṭalāq whether clear pronunciation (ṣarīḥ), indirect (kinayāḥ) (Wahbah az-Zuhaili, 2011).

The valid conditions of a husband who pronounces ṭalāq are: he is at the age of puberty, he declares at his own free will and was not forced into it (Mohamad Rifai, 1988). While the valid conditions of the wife are: she is the legal wife of the husband proclaiming ṭalāq; and still under the care of the husband, which includes being within the period of ‘iddah raj’ī (Mustafa, 1991).

The valid conditions of the pronunciation of ṭalāq are: clear pronunciation (ṣarīḥ), indirect (kinayāḥ) or through an indication (Mohamad Rifai, 1988). “Besides that, it is well known in shariah that divorce takes place when the words are uttered, written or indicated by a gesture that takes the place of speaking. This is something that is between the husband and his Lord if no one hears him say that.” (Muhammad Saed, 2007).

The jurists concede that a divorce is valid when the words (either in Arabic or any other language that indicates the meaning of divorce) are uttered, written or indicated by a gesture that takes place of speaking (Wahbah az-Zuhaili, 2011).
The above pillars as outlined by the four Imams (Shāfiʿī, Mālikī, Ḥanbalī and Ḥanafī) do not mention the requirement of witnesses or having the wife be aware of the declaration. Thus, the divorce is valid according to these four imams as long as the communication used clearly indicates the husband’s intent of a divorce. The conditions above also do not state a prerequisite of a mutual agreement between the husband and the wife. This means that ṭalāq is still viable once the husband proclaims it, even if it is against the will of the wife, without a witness or even without the wife’s knowledge. This also includes ṭalāq communicated via a text message should it fulfill the conditions and is proven valid.

However, Shia Imamiyyah fiqh scholars disagree with the opinion of the four imams mentioned above when it comes to matters pertaining to witnesses and divorce through SMS. Shia Imamiyyah scholars claim that witnesses are required for the declaration of ṭalāq.

In this issue, SIS make proposals and suggestions that they believe it can give justice to the women involved. The group does not mention which Muslim scholar’s opinions they refer to, nor do they refer to any evidence from the Qur’an and Hadith when commenting on these issues.

However, in their recommendation regarding these issues, SIS has mentioned Sūrah Al-Nisāʾ 4:35. The group proposes that the declaration of ṭalāq should only be recognised once it is approved by the court. According to SIS, this concept is consistent with verse 35 of Sūrah Al-Nisāʾ, which outlines the procedures of appointing a hakam and discourages arbitrary divorce.

Allah s.w.t. says:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا إِن يُرِيدَا إِصْلََالًا يُوَالِدُهُ إِنْ شَاءَ اللَّهُ لَيَوْفِقَ اللَّهُ رِحمَانًا

Al-Nisāʾ 4:35

Translation: If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah hath full knowledge, and is acquainted with all things.

According to Dr. Azizah, verse 2:229 must be taken into consideration, particularly the meaning of “al-ṭalāq marratayn”. She claims that there is no mention that the declaration of divorce must take place within the court. While in verse 4:35, the hakam should be appointed, but only before a divorce is declared and not after it. A married couple can appoint a hakam to help them reconcile their differences in their resolve to avoid a divorce. However, in verse 2:229, ṭalāq can still ensue (when the husband declares ṭalāq upon his wife) (Azizah, personal communication, April 16, 2014).

Dr. Azizah further highlights another aspect that must be looked into, which is the responsibility of the husband to not declare a divorce arbitrarily. If the law requires the couple to undergo a court proceeding before a divorce is granted, the husband may declare ṭalāq more than once and this may further complicate the matter. Therefore, the validation of ṭalāq without the court’s approval is a precautionary measure. During the reign of ʿUmar al-Khaṭṭāb, if a man declares ṭalāq three consecutive times, the divorce will be valid as the third ṭalāq. This law was put in place to mitigate the issue of men declaring ṭalāq arbitrarily. She stresses that Allah gives the right of the declaration of ṭalāq to the husband; therefore he must be cautious and vigilant in exercising this right. In addition to this, the practice of other Muslim societies must also be reviewed and looked into (Azizah, personal communication, April 16, 2014).

Dr. Azizah questions whether the suggestions made by SIS is pervasive in other Muslim countries. The fatwas must be taken into consideration and till today the literal meanings of the verses indicate divorce as a matter that should not be taken lightly by the husband. In addition to this, both the Qur’an and Hadith do not mention that a court proceeding is required for a divorce. However, the responsible authorities must monitor cases where ṭalāq is proclaimed outside of court. If the pronouncement of ṭalāq is not valid outside of court, there is a concern that ṭalāq will be freely declared and widespread among society (Azizah, personal communication, April 16, 2014).

From the Islamic perspective or ḥukm, she states that the pronouncement of ṭalāq outside the court is considered valid. She makes reference to verse 2:229 – is the declaration of ṭalāq as mentioned in this verse to be done in court? Based on the opinions of jurists, there are
no references claiming that the pronouncement of ṭalāq must be done in court (Azizah, personal communication, April 16, 2014).

Dr. Azizah disagrees with the suggestion that the declaration of ṭalāq without the approval of the court is invalid as she is concerned with the circumstances that may ensue. Divorce is not a small matter and cannot be uttered at one’s whim. If ṭalāq only be recognised in court, the declaration of ṭalāq outside of court will be taken lightly and arbitrarily. This is even more of an issue for those living outside of urban areas with inadequate access to court. Should the husband proclaim ṭalāq outside of court and it is not considered valid, would it be lawful for him to continue living with the wife within the perspective of Islamic law? These are issues that remain unclear and doubtful (ṣubuhāt) (Azizah, personal communication, April 16, 2014).

**THE ISSUE OF THE COURT’S TECHNICAL PROBLEMS RELATING TO ṬALĀQ**

SIS has highlighted the impact of existing provisions from section 47 and 48 as follows: (Sister In Islam, 2014b)

(i) The wife has to go through several stages and a conciliatory committee as well as hakam if the husband does not agree to divorce her;  
(ii) Subsection (4): can add to the delay of the removal of a hakam and the appointment of another;  
(iii) Subsection (5): to obtain full power from their principal can burden the hakam; and  
(iv) Subsection (6): there are multiple procedures to go through before the stage that allows the court to appoint another hakam to give them the power to order a divorce. According to SIS, the husband does not have to go through such stages even if his wife does not agree with the divorce. However such procedures are put in place when the situation is the other way around.

SIS claims that in the case of ṭalāq through mutual consent, the wife is told to be patient through counselling and is not given a complete explanation of the rights of both husband and wife with regards to divorce. According to SIS, this counselling process is irrelevant because it is much in favour of the husband (Sister In Islam, 2014c).  

SIS highlights that there are cases where the court does not take into consideration the women’s issues. For example, one case states that a wife was forced under duress to agree to a condition where financial claims were dropped as imposed by the husband. SIS claims that the court takes no interest to intervene in order to safeguard the welfare and rights of the wife. Rather, SIS says that the court insists the husband and wife to discuss and convene outside of the court before the trial commences. SIS highlights that this is cumbersome to the wife, especially to those who do not know their rights in divorce (Sister In Islam, 2014c).

SIS also claims that a divorce is difficult when the woman requests for it, but it comes easily for when it is requested by the man. According to SIS, even when all circumstances show that the marriage cannot be saved and enough witnesses testified to support the divorce, the court would take unnecessary steps in extending the divorce procedure if the husband is not agreeable to it (Sister In Islam, 2014c).

**Analysis**

The above issues highlighted by SIS are references to technical problems. If the claims of SIS are true, the court or the relevant authorities should take action to solve the problems that are faced by women in the process of divorce especially for those whose husbands are not agreeable to it. A proper study should also be conducted to investigate the claims made with regards to inequality faced by women in counselling and divorce procedures.

Besides that, SIS must also take into consideration of the fact that Islam does not encourage arbitrary divorce. Therefore, any blame on the court in this matter is unjust as the decision-making process is a time consuming affair due to the numerous considerations that must be accounted for. However, the court must also be aware of the claims made against them.
in handling divorce cases. The court must take the necessary steps to further improve their efficiency as unnecessary delay and lengthened periods of divorce procedures will burden both the husband and the wife.

When any form of reconciliation cannot be achieved between the husband and the wife, the last option is divorce (Muhammad, 2000). If the court proceedings consume extended lengths of time in solving the problems of a divorce as claimed by SIS, the positive angle is possibly due to the court having the opinion that the marriage can still be saved. Thus, the court proceedings require more time to prevent unnecessary divorce. However, the negative side of this issue is that it will burden the parties involved.

i. Proposed solution by SIS

SIS offers their solutions to overcome the problem of what they claim as unreasonably lengthy and unnecessary delay. The group proposes that the various levels of the committee and hakam should be consolidated into one group that has the authority to grant the divorce. SIS also suggests that the full power of hakam should be standardised when it is appointed (Sister In Islam, 2014b).

Analysis

According to Dr. Raihanah, the above suggestion has been brought up by various parties, and not just by SIS. If the claim that there are unnecessary hurdles in obtaining the approval for a divorce is true, then this is an implementation issue. It does not only happen in the Shariah court, but it is also apparent in the civil court (Raihanah, personal communication, April 8, 2014).

Dr. Azizah agrees with the suggestion of SIS that various stages of the committee and hakam should be consolidated into one group of hakam. She also agrees that many steps to the procedure will further extend the length of the divorce proceeding. However, the court has already stipulated that the time frame for any divorce case must not exceed one year (Azizah, personal communication, April 16, 2014).

ii. Proposed solution by SIS

Another solution that is proposed by SIS is that the provisions in subsection (4), (5) and (6) should be replaced with the provision that gives full power to the hakam initially appointed. SIS suggests that the hakam that is appointed by the court should have full power, including the power to grant the divorce if they are of the opinion that the divorce is necessary and both parties are unable to reconcile within six months of its appointment (Sister In Islam, 2014c).

Analysis

According to Dr. Raihanah, this suggestion will shorten the length of the divorce procedure as the counselling committee will only stretch it longer, and most of the women who go to court for divorce have actually already made their decision to divorce after much consideration and counselling sessions. Making the decision to enter court for a divorce is arguably not an easy task for any woman, and when they do, their decision of a divorce is usually final. Therefore this suggestion will shorten the divorce proceeding (Raihanah, personal communication, April 8, 2014).

Whereas according to Dr. Azizah, conclusive research should be done before making any recommendation. Apparently, it looks easy, but the bureaucratic issues faced are unpredictable and unique to every situation. She mentions that in providing a suggestion, SIS should consider maqāsid Shariah. If the recommendation is in accordance with the maqāsid Shariah, it should not be a problem (Raihanah, personal communication, April 8, 2014).
As a conclusion, the problem solving offered by SIS on the court’s technical problems can be considered as long as it does not contradict with Islamic teachings. And, any problem solving from their proposed solutions that contradict the Qur’an and Hadith must be rejected.

CONCLUSION

Based on the analysis of these selected issues, the study found that SIS often comes up with the views without referring to any Qur’anic verses or the Hadith of the Prophet. In addition, SIS does not mention which Muslim scholar’s opinions that it refers to when commenting on these issues. The study also found that SIS has misunderstood certain Qur’anic verses in giving its views. Thus, in providing solutions and views, SIS has to apply the proper method of tafsīr in order to obtain the accurate meanings of the Qur’anic verses. SIS is supposed to give emphasis on the opinions of Ahl al-Sunnah wa al-Jamā‘ah and should be equipped with adequate knowledge in highlighting the relevant issues particularly related to matters of jurisprudence in Islam. In addition, SIS must also take into consideration the issues of maqāṣid shariah in providing the relevant solutions and suggestions. All views and solutions must be parallel with the injunctions of the Qur’an and Hadith. Meanwhile the proposals and solutions offered by SIS on the court’s technical problems can be considered as long as it does not contradict with shariah or Islamic teachings. Any SIS views that are contradict to the Qur’an and Hadith must not be acceptable, and the society must not be confused with the liberal interpretation in certain issues advocated by SIS. Therefore, it is important to study the issues pertaining to ʿtalāq from the correct sources of knowledge. It is hoped that the finding of this study will contribute and benefit the Muslim society because it will reveal the true understanding on the issues related to ʿtalāq from an Islamic perspective.
REFERENCES


INTERVIEW:

Azizah Mohammad (Associate Professor, Dr., Department of Islamic Family Laws, AIKOL, International Islamic University Malaysia), in an interview with the researcher, April 16, 2014.

Raihanah Binti Haji Abdullah, (Associate Professor Dr., Department of Shariah and Law, Academy of Islamic Studies, Malaya University), in an interview with the writer, April 8, 2014.
SECTION 48

Section 48, Subsection (4): If the Hakam are unable to agree, or if the Court is not satisfied with their conduct of the arbitration, the Court may remove them and appoint other Hakam in their place.

Section 48, Subsection (5): The Hakam shall endeavour to obtain from their respective principals full authority, and may, if their authority extends so far, pronounce one talaq before the Court if so permitted by the Court, and in that event the Court shall record that pronouncement of one talaq, and send a certified copy of the record to the appropriate Registrar and to the Chief Registrar for registration.

Section 48, Subsection (6): If the Hakam are of the opinion that the parties should be divorced but are unable for any reason to order a divorce, the Court shall appoint other Hakam and shall confer on them authority to order a divorce and shall, if they do so, record the order and send a certified copy of the record to the appropriate Registrar and to the Chief Registrar for registration. 34 Laws of Malaysia ACT 303.