

31/07/2003

Cabinet says no to SMS divorce (HL)

Chok Suat Ling; Firdaus Abdullah

PUTRAJAYA, Wed. - The Cabinet today decided that it was not right for Malaysian Muslim men to divorce their wives by merely sending text messages via mobile phones as it was contrary to their culture and against the spirit of the syariah.

There are also plans to pass new laws to prevent divorce pronouncements via the short messaging service (SMS) and other electronic medium such as e-mail and facsimile.

The RM3,000 fine or three-year jail term for husbands who pronounce the talak outside court, including via SMS, may also be increased.

(While it may be an offence to pronounce the talak outside court, the divorce itself remains valid if recognised by the court.)

Prime Minister Datuk Seri Dr Mahathir Mohamad raised the matter in Cabinet today and it was deliberated at length before the ministers unanimously agreed that divorce via SMS could not be permitted.

"We decided that while it may be correct from other angles, it is not the way to get a divorce," Dr Mahathir said after attending a Cabinet luncheon for a newly-appointed member, Transport Minister Datuk Chan Kong Choy.

The Prime Minister yesterday expressed concern that a marriage could be ended via SMS, saying that serious matters like marital problems and divorce should be handled in a more personal way.

The issue of divorce via SMS became news when the Gombak Syariah Court ruled last Thursday that a divorce declared via SMS was valid provided it was verified by the court.

East Gombak Syariah judge Mohamad Fauzi Ismail allowed the divorce of Azida Fazlina Abdul Latif and Shamsudin Latif, who had been married 18 months, following Shamsudin's SMS to her.

He had sent Azida Fazlina an SMS stating "Kalau engkau tak keluar dari rumah mak bapak engkau, jatuh talak tiga. (If you do not leave your parents' house, you will be divorced.)"

Minister in the Prime Minister's Department Datuk Seri Abdul Hamid Zainal Abidin said the authorities were planning to come up with new laws to prevent similar incidents.

"We are studying the possibility of increasing the fine and jail term for husbands who use SMS or other electronic medium to declare the talak.

"Husbands who pronounce the talak outside court, including those who use the SMS to do so, can, at present, be fined up to RM3,000 or jailed three years according to Islamic family law," he said.

Hamid said divorce via the SMS was not valid until the court decided on it.

"It is against Islamic law and tarnishes the image of Islam. The foreign media has exploited the issue.

"Marriage is a sacred institution and must be treated with respect.

"Declaring divorce via SMS is too easy. It makes it seem as if it's so easy to be divorced in Islam."

Hamid said according to an Islamic legal maxim, if there was a situation that could adversely affect the people, action must be taken to rectify it.

"In this case, it has a severe effect on women.

"When a couple decide to marry, much thought would have gone into it, and in the same regard, if a divorce is sought, it must be carried out in

a respectful and dignified manner.

"While divorce is allowed in Islam, it is a matter much frowned upon by God."

He said the matter would be studied by the Department of Islamic Development and Syariah Judiciary Department.

Asked whether new legislation would effectively "overturn" the Gombak Syariah Court's decision, Hamid declined comment.

On whether the Gombak Syariah Court's judgment would set a precedent, he said it could be overturned by a higher court.

He was also asked about husbands who declared the talak via SMS but did not want to appear in court to have it verified.

Hamid said a warrant of arrest could be issued against them.

Commenting on the Cabinet decision, Women and Family Development Minister Datuk Seri Shahrizat Jalil said she was thankful that Dr Mahathir himself brought up the matter at the Cabinet meeting.

"Dr Mahathir gave his views and explained the consequences. After some deliberation, it was very clear that divorcing one's wife via SMS is not our culture or acceptable in Malaysia.

"It not only humiliates women but also tarnishes the image of Islam and syariah law," Shahrizat said after the Cabinet luncheon.

Asked who was to be blamed for the fiasco, she said: "I wouldn't want to say who is at fault but it is a question of interpretation and implementation.

"I hope those concerned will put a stop to the matter as the Cabinet has made a clear decision."