442021 - Written Khul’ and Dihar

the question

If there is no intention of divorce, divorce in writing is not valid. Does the same apply in the case of zihar, khul', li'aan and faskh, and other such matters? explain

Detailed answer

Praise be to Allah.

Firstly:

Divorce through writing, without verbal expression, does not occur except with intention;because it is a form of indirect expressions of divorce, and is not considered explicit.

Please refer to the answer to question no. 70460

Secondly:

Zihar (a form of divorce) through writing also does not occur except with intention, similar to written divorce.

It is stated in Al-Hawi Al-Kabir (10/169): "As for Zihar through writing: it is like divorce according in that there are two opinions.

As for Ila' (oath of abstinence) through writing: it is not valid, unanimously; because Ila' is an oath by Allah the Exalted and does not take effect through indirect expressions." End quote.

Thirdly:

Khul' (divorce initiated by the wife) in writing also does not occur except with intention, and does not occur if written without intention.

It is stated in Nihayat Al-Muhtaj (6/407) regarding what constitutes Khul': "Writing with intention stands in place of verbal expression." End quote.

As for annulment, it is a ruling that is a result of matters such as defects, the conversion of one of the spouses to Islam, and non-fulfillment of a condition in the marriage contract.

Fourthly:

Li`an (oath of condemnation) is not valid in writing; because it is an oath by Allah; thus, it does not take effect through indirect expressions, as previously mentioned about Ila' in Al-Hawi.

And Allah knows best.