

A WIFE'S ABUSE OF SHIGAT TAKLIK AS GROUNDS FOR DIVORCE ACCORDING TO THE SHAFI'I SCHOOL OF THOUGHT

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Abstract

Taklik talak is a husband's promise that is hung on four conditions, mean leaving his wife for two consecutive years, not providing a obligatory maintenance for three months, hurting his wife's body, and not caring about his wife for six months. Taklik talak aims to protect the rights of the wife and guarantee them from discriminatory, arbitrary actions by men, abuse of shigat taklik by wives misuse to divorce if the wife is no longer happy with her husband. This paper aims to examines the sigat taklik abused by the wife for divorce in the view of the Shafi'i school. This type of research is normative-empirical legal research with a comparative approach and the object is the wife who abuses sighat taklik as a reason for divorce. In the view of the Shafi'i school of thought, a woman who hates her husband, then sues her husband for divorce without any reason is not permissible.

Keywords: Sighat taklik, Divorce, Shafi'i school

INTRODUCTION

The purpose of marriage under Indonesian marriage law is to create a harmonious and happy family life based on the belief in God; in other words, the goal of a marital union is very clear: to form a family that is sakinah. However, in reality, this is often not achieved in society, because marriage unites two different individuals, so the goals of the marriage must be the same in order to achieve a sakinah family life. However, in Islam itself, when irreconcilable disputes arise within a family, there is room for divorce (Nasution, 2009).

The purpose of marriage is implied in the Qur'an, Surah Ar-Rum, Verse 21:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ



Meaning: "And among His signs is that He created for you mates from among yourselves, that you may find tranquility in them; and He has put love and mercy between you. Indeed, in that are signs for a people who reflect (Q.S. Ar-Rum/ 30:21)"

The meaning of this verse is that Allah created human beings on this earth in pairs, preceded by the establishment of a marital bond. Through this bond, it is hoped that family life can be harmoniously established so that the purpose of marriage to create a family characterized by *sakinah*, *mawadah*, and *warahmah* can be achieved. A husband has the right to divorce (*talak*), whereas a wife does not have the right to divorce under Islamic law. However, Article 114 of the KHI states that a wife may file a lawsuit against her husband, stating: "The termination of marriage may be caused by grounds for divorce, namely *talak* or a divorce suit filed by the wife." However, in order to file a lawsuit with the Religious Court, a wife must have strong grounds that are legally recognized. Therefore, the rights of husbands and wives are actually balanced; there is no distinction between the two (Budiono, 2003).

In light of this, Indonesian marriage law specifically the Compilation of Islamic Law (KHI) provides legal protection for women through the *shigat taklik talak*. Indonesian law defines the *shigat taklik talak* as an agreement made by a husband to his wife after the marriage contract, in which the husband states that he may be sued for divorce if he violates any of the terms of the agreement. The purpose of the *shigat taklik talak* is to serve as a reminder for the husband to treat his wife well (*mu'asharah bil maruf*). This *talak* agreement is understood as an effort to guarantee the wife's rights and protect her from discriminatory actions and the husband's arbitrary behavior. It is a commitment from the husband to *mu'asharah bil maruf* in order to realize a happy family. The *talak* listed in the marriage certificate from the Ministry of Religious Affairs is as follows: at any time, I:

1. Abandoning my wife for six consecutive months.
2. Or failing to provide her with the required financial support for three months.
3. Or physically harming my wife.

Or neglecting my wife for six months.(Kamal Mukhtar, 1993)

Then my wife was unwilling to accept this and filed a complaint with the Religious Court or the official authorized to handle such complaints; her complaint was upheld and accepted by the court or that official, and my wife paid me the sum of Rp. 10,000.00 as *iwadh* (compensation), whereupon my first divorce from her took effect. I authorized the court or the official in question to receive that *iwadh* (compensation) and subsequently use it for social welfare purposes.(Soemiyati, 2015)

The wording of the conditional divorce formula above clearly states that if the husband violates the conditional divorce formula and the wife does not consent and subsequently files a complaint with the court, then a first divorce takes effect. However, in cases the author has encountered involving married couples in the city of Banjarmasin, the misuse of the conditional divorce formula by wives is common in society; this is what wives use as grounds to file a complaint with the Religious Court as a reason for divorce. Marriage laws in Indonesia aim to protect the rights of wives and safeguard them from discriminatory and arbitrary actions by men; the misuse of

the *shigat taklik* by wives is intended to secure a divorce when the wife is no longer happy with her husband.

In the first case, the husband rarely came home, and because he worked far from his wife, she refused to see him, and the family prevented him from providing financial support; consequently, the wife filed a complaint with the Religious Court on the grounds that he had failed to provide for her in every respect. In the second case, there were minor arguments, and the couple was living with the wife's parents; they already had a child, but the wife no longer wanted to be with him. The family urged them to separate and cut off all communication with her husband. After some time, the wife discovered she had developed a relationship with another man who was ready to marry her, but was hindered by the fact that she was still married. On her own initiative, the wife filed a complaint with the Religious Court on the grounds that her husband was not providing for her.

The third case involved a marriage that took place because the wife became pregnant out of wedlock; she was then sent back by her parents to live with them. Due to the long-distance nature of their relationship, the husband visited his wife at her parents' home. After she gave birth, the wife's father ordered the husband to stop providing financial support for his child, as he felt capable of providing for his child and grandchild. Subsequently, the husband faced difficulties communicating with the family because he was blocked by both the family and his wife. On a second visit to see his wife's child, he was prohibited from meeting the child. After some time, the wife filed a complaint with the Religious Court, alleging that the husband had failed to provide financial support to her and the child. The objective of this study is to examine the misuse of the "*sigat taklik talak*" by the wife to seek divorce, from a sociological-legal perspective.

METHOD

Normative empirical legal research is a research method that combines elements of normative law, supported by empirical data drawn from primary and secondary legal sources, using a comparative approach. This study will examine and analyze the comparison of marriage legislation with the Shafi'i school regarding the misuse of *shigat taklik* by a wife as grounds for divorce. The law to be examined and analyzed here is the law concerning the misuse of *shigat taklik* by a wife as grounds for divorce.

In this study, the author collected data through literature reviews, observations, interviews, and documentation relevant to the research objectives. The author employed a qualitative analysis method, in which all materials obtained from various sources were systematically organized and then analyzed using a qualitative approach, thereby identifying clear issues to be addressed

RESULTS AND DISCUSSION

A. *Talak*

Although divorce is something to be avoided in a marriage, it may be permitted as a last resort under certain circumstances. The wisdom behind permitting divorce lies in the fact that the dynamics of married life sometimes lead to situations that conflict with the very purpose of the marriage. In such circumstances, continuing the marriage would cause harm to both parties and those around them. In order to prevent such a form of divorce from occurring, divorce in Islam is permitted solely for the purpose of the greater good. (Syarifuddin, 2011)

Marriage is not always harmonious, so in reality, family life does not always last; sometimes, husbands and wives face many challenges that hurt one another, thereby undermining the unity of the family they have built. (Wahbah az-Zuhaili, 2011)

The Word of God regarding the issue of divorce, Surah at-Talāq 65:1:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ
إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُبَيِّنَةٍ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ
أَمْرًا

Meaning: “O Prophet, when you divorce your wives, divorce them at the time when they can observe their (prescribed) waiting period, and count the duration of that waiting period, and fear Allah, your Lord. Do not expel them from their homes, nor should they be allowed to leave, unless they commit a clear act of immorality. These are the laws of Allah, and whoever violates the laws of Allah has indeed wronged himself. You do not know; perhaps Allah will bring about something new after that. (Q.S. at-Talāq/65:1),

However, it is considered disliked if it is not necessary, according to the narrations of Abu Daud, Ibn Majah, and al-Hakim, which he authenticated. (Shiddiq Hasan Khaan, 2012)

عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ بْنِ عَمْرٍو قَالَ سَأَلْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَبْغَضَ الْحَلَالَ إِلَى اللَّهِ عَزَّ وَجَلَّ الطَّلَاقُ.

Meaning: “From Ibn Umar. He said that the Messenger of Allah (peace be upon him) said, ‘Among the lawful things that Allah most detests is divorce.’ (Abu Daud, 1999)

The dissolution of a marriage under Law No. 1 of 1974 and Government Regulation No. 9 of 1975 is referred to as “divorce”; thus, just as the husband’s

exercise of the right to divorce is permitted only for the reasons specified in Article 19 of Government Regulation No. 9 of 1975, so too is the wife's exercise of the right to *khulu'* permitted only for the reasons specified in that article.(Achmad Kuzari, 1995)

B. *Taklik Talak*

Linguistically, *taklik* means to attach something to something else or to make it dependent on something. Meanwhile, *talak* linguistically means to leave, to separate, or to sever a bond. Thus, linguistically, *taklik talak* refers to a divorce that is contingent upon something.

Taklik talak is derived from two words: *taklik* and *talak*. In Arabic, *taklik* means "to attach." Meanwhile, *talak* in Arabic is *tallaqa yutalliqu tatlîqan*, which means to divorce, to separate, or the resulting term "separation." Thus, linguistically, *taklik talak* is a divorce that is made contingent. That is, a divorce or *talak* that is contingent, made contingent by the husband upon the wife if the husband violates the terms of the *taklik talak*.(Nasution, 2008)

In technical terms, *taklik talak*, according to Wahbah az-Zuhaili, is:

"A series of statements whose fulfillment may occur in the future using conditional words, such as if, when, whenever, and so on, such as a husband's statement to his wife: 'If you enter the house of so-and-so, then you are divorced.'"

Then, according to Sayyid Sabiq:

"Something that a husband designates as grounds for divorce if certain conditions are met; for example, if the husband says, 'If you go to a certain place, then you are divorced...'"

Meanwhile, according to the definition in Article 1(e) of the Compilation of Islamic Law:

"A statement made by the groom after the marriage ceremony and recorded in the marriage certificate, in the form of a promise of divorce contingent upon a specific circumstance that may occur in the future"

Furthermore, Article 46 of the KHI states that: There are three points to note. First, the essence of a *taklik talak* must be in accordance with Islamic law. Second, if the terms of the agreement are fulfilled at a later date, the divorce does not automatically take effect; rather, in the event of a divorce, the wife must file a petition with the appropriate authority. Third, a *taklik* agreement is not mandatory in every marriage; however, once such an agreement has been made, it cannot be annulled.(Haris, 2013)

Taklik talak is a "conditional divorce." Under Indonesian law, *taklik talak* is a contractual pledge made by the husband to the wife, wherein the terms of the agreement constitute a conditional divorce; if the husband violates any or all of these terms, the wife may file for divorce.(Kamal Mukhtar, 1993)

The Ministry of Religious Affairs of the Republic of Indonesia has issued marriage certificates that include a conditional divorce clause based on Quranic Surah

Al-Isra' verse 34: The meaning of this verse is that a person will be held accountable in the hereafter for the promises they make to others. Therefore, a person who has made a promise must fulfill it. In reality, a *taklik talak* of this nature essentially means that the husband makes his divorce conditional upon the wife, and this is mutually agreed upon after the marriage contract is finalized. The husband then reads the contents of the *taklik talak* aloud; consequently, if the husband violates the terms of the *taklik talak*, this can serve as grounds for the wife to file for divorce in Religious Court. In Article 1, point (e): a divorce condition is a promise from a husband to his wife contained in the marriage certificate, consisting of a promise of divorce contingent upon certain conditions. (Republik Indonesia, 2005)

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A prospective husband or wife who wishes to enter into a prenuptial agreement may do so in various forms, whether regarding conditions for divorce, personal property or joint property, polygamy, or other agreements that do not conflict with Islamic law.

The content of the prenuptial agreement is governed by Article 34 of Law No. 1 of 1974, which states:

1. A husband is obligated to protect his wife and provide for all the necessities of married life to the best of his ability.
2. A wife is obligated to manage household affairs to the best of her ability.
3. If either the husband or the wife neglects their respective obligations, they may file a lawsuit in court.

Since the enactment of Law No. 22 of 1946 as amended by Law No. 32 of 1952, the provisions regarding the formula for the declaration of divorce have been uniformly applied throughout Indonesia. Since the formulation of the declaration was taken over by the Ministry of Religious Affairs, the formula for the declaration of divorce has undergone several changes. These changes have not only concerned its fundamental elements but also the nature of the relevant conditions for the *taklik* and the amount of the *iwadh* payment.

According to Abdul Mannan, these changes are inseparable from the original mission of institutionalizing the *sighat taklik talak*, namely to protect

wives from the arbitrary actions of their husbands. Furthermore, the changes are intended to bring the practice closer to the true principles of Islamic law. (Abdul Mannan, 2001)

The final wording of the divorce declaration is the formulation established under Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 2 of 1990, the full text of which is as follows:

After the marriage contract, I, ..., son of ..., solemnly promise that I will fulfill my obligations as a husband and treat my wife, ..., daughter of ..., well (*mu'asyarah bil ma'ruf*) in accordance with Islamic teachings. Furthermore, I pronounce the conditional divorce formula (*sighat ta'lik talak*) upon my wife as follows:

If at any time I:

- (1) abandon my wife for two consecutive years;
- (2) or fail to provide her with the required financial support for a period of three months;
- (3) or physically harm my wife;
- (4) or neglect my wife for a period of six months;

Then, if my wife is dissatisfied and files a complaint with the religious court or the official designated to handle such complaints, and her complaint is upheld and accepted by the court or said official, and my wife pays the sum of Rp. 1,000 (one thousand rupiah) as *iwadh* (compensation) to me, then my first divorce from her is finalized. I authorized the court or official mentioned earlier to receive the *iwadh* (compensation) and then donate it to a charitable cause.

Based on the wording of the *taklik talak*, there are at least ten key elements, namely:

- a. the husband abandons his wife, or;
- b. the husband fails to provide for his wife, or;
- c. the husband harms his wife, or;
- d. the husband neglects (ignores) his wife;
- e. the wife does not consent;
- f. the wife files a complaint with the court;
- g. the wife's complaint is accepted by the court;
- h. the wife pays the *iwadh*;
- i. the husband pronounces one divorce upon the wife;
- j. the *iwadh* paid by the husband is submitted to the court to be subsequently handed over to a third party for social welfare purposes.

From the above elements, it is evident that there are essentially only four grounds for divorce, namely:

- a. the husband abandons his wife, or;
- b. the husband fails to provide for his wife, or;
- c. the husband harms his wife, or;

d. the husband neglects (ignores) his wife;

Upon examining the four elements above, which constitute the conditions for the dissolution of marriage, none of them conflict with Islamic law. This is also in line with Article 46, Paragraph 1 of the Compilation of Islamic Law, which states that “the content of a conditional divorce must not conflict with Islamic law.”

According to the provisions of Islamic jurisprudence, the pronouncement of a conditional divorce (ta'lik talak) is jaiz, meaning it is permissible; it is neither obligatory nor prohibited. Similarly, Article 46, Paragraph 3 of the Compilation of Islamic Law states: “A ta'lik talak agreement is not a mandatory agreement in every marriage; however, once a ta'lik talak has been agreed upon, it cannot be revoked.”

The sighat of ta'lik talak in fiqh literature is an utterance by a husband to his wife, such as, “If you enter that house, then my first divorce shall be pronounced upon you.” The act of entering the house is referred to as the condition. If that condition is fulfilled, then the divorce is pronounced. In fiqh literature, examples of such conditions always take the form of a husband threatening his wife with the intent of securing her complete obedience.

From the above explanation, it can be understood that the conditional divorce formula in Minister of Religious Affairs Regulation No. 2 of 1990 differs from the conditional divorce formula found in fiqh texts in terms of form, conditions, and motivation. In fiqh texts, the motivation takes the form of a husband's threat against his wife, whereas in Minister of Religion Regulation No. 2 of 1990, it is a promise from the husband to his wife to treat her well (*mu'asyarah bil ma'ruf*) in accordance with Islamic law, followed by a conditional divorce formula that essentially serves as a reminder to himself not to neglect his obligations as a husband toward his wife. Thus, this provides women with a valid legal argument to free themselves from the suffering caused by the actions promised by their own husbands (Muhammad Jawad Mughniyah, 2001)

According to the Imams of the schools of jurisprudence Imam Malik, Imam Shafi'i, and Imam Ahmad, a woman may file for divorce before a judge on the grounds that:

The husband fails to provide for his wife.

2) The wife does not feel safe in her daily life due to her husband's behavior and actions.

3) The wife's life is threatened because the husband has left for an unknown location.

In this case, according to Imam Malik and Ahmad ibn Hanbal, even if the husband leaves sufficient financial support for the duration of his absence. For Imam Ahmad, the minimum period for a wife to file for divorce is six months from the husband's departure, and three years for Malik (according to another opinion, one year).

4) The wife's life is endangered because her husband is in prison. In his book *Fiqh al-Sunnah*, Sayyid Sabiq explains that the marriage contract known as *taklik talak* is divided into two types:

- a) *Taklik* is understood as a promise, as it implies performing an action or refraining from an act. Thus, this type of *taklik talak* is called *ta'liq qasami*.
- b) A *taklik* intended to effect a divorce upon the fulfillment of a condition within the *taklik* is called *ta'liq syarti*.²⁰

Regarding the wording of the divorce declaration, it is based on Ministry of Religious Affairs Regulation No. 2 of 1990, the essence of which is that after the marriage contract, a man promises his wife to fulfill his obligations as a husband and to protect her properly in accordance with the teachings of Islamic law. A husband makes this pledge to his wife under the following conditions: if the husband abandons his wife for two consecutive years, or fails to provide for her material and emotional needs for three months, or commits domestic violence and neglects his wife for six months. If the wife does not accept the terms of the agreement because the husband has failed to fulfill them, she may file for divorce in the Religious Court on that basis, and upon doing so, a first divorce (*talak satu*) is pronounced. Meanwhile, according to the imams, including Imam Malik, Imam Shafi'i, and Ahmad ibn Hanbal, a woman may seek a divorce from a judge on the grounds that: (Muhammad Jawad Mughniyah, 2001)

The husband fails to provide for his wife.

2) The wife does not feel safe in her daily life due to her husband's behavior and actions.

3) The wife's life is threatened because her husband has left for an unknown destination. In this case, according to Imam Malik and Ahmad ibn Hanbal, even if the husband leaves sufficient financial support for the duration of his absence. For Imam Ahmad, the minimum period after which a wife can file for divorce is six months from her husband's departure, and three years for Maliki (according to another opinion, one year).

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- a. *Taklik* is understood as a contract, as it implies performing an action or refraining from an action. Therefore, this type of *taklik talak* is called *ta'liq qasami*.
- b. *Taklik*, which is understood as a divorce if the conditions in the *taklik* are met, is called *ta'liq syarti* (A. Fuad Said, 1994). Thus, these two types of *taklik talak* can be distinguished by the words spoken by the husband. In *ta'liq qasami*, the husband takes an oath against himself. Meanwhile, in *taklik talak*, the husband

sets a condition with the intention that if the condition is met, the divorce becomes effective, which the wife can then file with the Religious Court.

C. *Khulu'*

Article 38 of Law No. 1 of 1974 states that a marriage may be dissolved due to death, divorce, or a court ruling. There are two forms of divorce: divorce by repudiation (*cerai talak*) and divorce by petition (*cerai gugat*). *Talak* divorce refers to a divorce that takes place upon the husband's petition to the Religious Court based on specified grounds; subsequently, once the Religious Court deems the specified grounds sufficient, the court grants the husband permission to pronounce the *talak* declaration before the court (Azizah, 2012)

A divorce by petition, or *khulu'*, is a request made by a wife to her husband to divorce her because she fears she will be unable to fulfill Allah's laws, namely, obedience to her husband in exchange for an *iwadh* (compensation) paid to her husband as a ransom for her freedom, so that he may divorce her by uttering the words "khulu'" or their equivalent (BAGUS, 2022)

According to the Shafi'i school of thought, *khulu'* is:

هو اللفظ الدال على الفراق بين الزوجين بعوض متوفرة فيه الشروط.

This means: "The statement that signifies the divorce of a husband and wife with *iwadh* (compensation), which must meet certain requirements."

Ibn Kathir stated that many of the Salaf and the later scholars said, "Indeed, *khul'* is not permitted unless the discord and disobedience originate from the wife; in that case, the husband is entitled to receive compensation. (NPM, 2020)

The Compilation of Islamic Law (KHI) distinguishes between divorce by lawsuit and *khulu'*. The difference is that in a divorce by lawsuit, the payment of *iwadh* (compensation) is not always required, whereas in *khulu'*, the payment of *iwadh* is the basis for the *khulu'* to take place. The similarity between a divorce by lawsuit and *khulu'* is that the desire to divorce comes from the wife in both cases (whether *khulu'* or divorce by lawsuit) (M.A, 2019)

ANALYSIS

A divorce by petition may occur as a result of a petition filed by the wife or her legal representative with the court. Government Regulation No. 9 of 1975 states that a divorce by petition is a divorce petition filed by the wife or her representative with the court whose jurisdiction covers the defendant's place of residence. In some cases, divorce is not only filed by the husband but can also be initiated by the wife. Under state law, both are valid and permitted, while in Islam there are guidelines that must be observed, especially if the petition is filed by the wife.

In Islam, divorce proceedings have two terms: *fasakh* and *khulu'*. *Fasakh* is the dissolution of the marital bond between husband and wife, in which the wife does not return her dowry or provide compensation to her husband. Meanwhile, *khulu'* is a divorce petition filed by the wife in which she returns a portion of her assets or dowry to her husband (Yanuar, 2019)

It is stated in Surah al-Baqarah, verse 229: "But if you fear that the two will not be able to uphold the laws of Allah, then there is no sin upon them if they accept the payment (divorce settlement) offered by the wife to redeem herself (and regarding the husband's acceptance of that payment)."

Mustafa al-Khin and Musthafa al-Bugha in **al-Fiqih al-Manhaji 'ala Madzhab al-Imam al-Syafi'i** explain: "Khulu' is a divorce initiated due to the wife's desire and insistence; such a matter is permitted through khulu', namely, the wife agrees to pay the agreed-upon amount between herself and her husband, with the standard being based on the dowry that has already been given" (Al-Khin dkk., 2000)

Article 51 of the Indonesian Islamic Family Law (KHI) stipulates that if a marriage contract or a conditional divorce clause is violated, the party is entitled to request the annulment of the marriage or to file it as grounds for a divorce suit in the Religious Court. According to the majority of fiqh scholars, the conditions for the validity of a conditional divorce clause include three elements, namely:

- a. Something that does not yet exist, has not yet occurred, and may occur.
- b. When the words of the divorce condition are spoken by the husband to the wife or while she is still in her waiting period (*iddah*).
- c. When the conditions outlined in the divorce condition are fulfilled, the woman is still the wife or is still in her waiting period (*iddah*). (Muthoin, 2012)

The meaning of the divorce declaration must be understood as a means of fostering a harmonious, happy, and prosperous family life that endures until death parts them. Thus, for men (husbands), the declaration of taklik talak must serve as a driving force of commitment within the marriage to consistently fulfill the duties and obligations of a husband, to be able to care for and protect his wife, and to remain bound by deep love and affection. With the existence of the taklik talak formula, most of a woman's rights are safeguarded should a man fail to fulfill his obligations as a husband. In this regard, the purpose of the taklik divorce is to provide a strong commitment for the man (husband) to treat his wife with kindness (*mu'asyarah bi al-ma'ruf*), to guarantee the wife's rights, and to serve as a safeguard against any wrongdoing by the husband.

With the existence of the taklik clause, most of a woman's rights can be guaranteed if a man fails to fulfill his obligations as a husband. In this context, the purpose of the taklik talak is to provide a strong commitment for the man (husband) to treat his wife with kindness and respect (*mu'asyarah bilma'ruf*), to guarantee the wife's rights, and to serve as a safeguard against the husband's misconduct. However, during the research, the author found that the reason for divorce in three cases was

that the women filed for divorce based on the taklik clause, claiming that their husbands had failed to provide financial support. Upon closer examination, the taklik clause was merely a tool used by the wives to file for divorce in court.

The author encountered a case in which the husband worked far away in another city and rarely returned home; when he did return, his wife no longer wanted to see him, and her family also prevented him from doing so. In fact, the husband was still trying to provide for his wife, but she consistently refused his support; in fact, her family members actively helped her reject him by preventing him from seeing her, and she also cut off all communication with him. After several months, the wife filed for divorce on the grounds that her husband had never provided for her, either materially or emotionally. This was corroborated by witnesses—namely, her family—who confirmed the wife's allegations. Consequently, the husband could do nothing and ultimately consented to the divorce in court, citing a desire to avoid future complications, even though he still harbored feelings of love.

In the context of Indonesian law, a “taklik talak” is a contractual pledge made by a husband to his wife, wherein the terms of the agreement constitute a conditional divorce; if the husband violates any or all of these terms, the wife may file for divorce. However, in the case above, it is known that the wife's divorce complaint, based on the grounds that the husband no longer provides financial support, is merely a pretext. In reality, the husband is still willing to fulfill his obligations but is hindered by several factors, such as the wife herself refusing to accept the support or the wife's family obstructing the process, leaving the husband powerless to act. As is known, the *sighat taklik* was originally intended to protect women/wives so that all their rights would be fulfilled; however, in this context, the *sighat taklik* is instead being used as a tool to file for divorce against the husband if they are no longer satisfied with him.

The conflict in this case stems from the wife no longer feeling happy with her husband; this may be due to economic factors or family interference, as a family consists of members who influence one another. The ability of a family structure to function effectively within the family is crucial; parental roles significantly influence how a child thinks and makes decisions. A family has core functions, those that are difficult to change or replace by others, while other functions, or social functions, are relatively easier to change or undergo changes. Based on the above discussion, the family's function is not merely a biological unit but also an integral part of social life. Here, the family is not only tasked with raising children but also serves to shape social ideas and attitudes. The role of parents is that of advisors, not dictators, in their children's household affairs; parents should not overly interfere in their children's domestic matters.

Such behavior isn't entirely good; it's understandable because parents want the best for their children, but it's better for parents not to interfere too deeply in their children's household affairs this is to help the children develop responsibility in managing their own households, both in terms of their religious and legal marriages.

The family is the most important element in shaping a generation; parental interference in a child's household has both positive and negative aspects. The positive aspects are as follows:

- a. Exchanging ideas on how to be a good father and mother in the household
- b. Advising children-in-law on religious teachings
- c. Offering advice or opinions when problems arise without being pushy
- d. Explaining the duties of husbands and wives without being patronizing
- e. Being a listening ear without offering negative advice
- f. Teaching how to cook and care for children.

Meanwhile, negative parental interference includes situations where parents always want to get involved whenever their children's households face problems, parents lack trust in their children's ability to handle married life, and many other examples.

Problematic interactions will always occur if rules are not consistently enforced, or if those rules are accepted by only one party. Therefore, a marriage is considered successful when the family is able to exercise self-control and establish effective communication patterns or interact well in accordance with mutually agreed-upon rules. However, the situation is different if communication breaks down, making interaction impossible for the husband, so that he cannot avoid divorce. The ability to interact through socialization within the family will foster a high level of familiarity, closeness, and intimacy, as well as intensive face-to-face communication.

According to the Shafi'i school of thought, a woman or wife is permitted to file for divorce from her husband provided there are clear grounds and reasons. In a hadith, it is narrated that a woman who feared falling into disbelief because she disliked her husband—even though he had a good character—was permitted to file for divorce.

CONCLUSION

According to the Shafi'i school of thought, it is not permissible for a woman to file for divorce from her husband without a valid reason.

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