

Legal Consequences of Pronouncing Sighat Taklik Talak Based On Decree of The Minister of Religion of The Republic of Indonesia Number 75 of 2014

Marsyudi Na'imulloh

Islamic State University of Maulana Malik Ibrahim Malang

naimullohm@gmail.com

Abstract:

Sighat taklik talak contained in the excerpt of the marriage certificate has been applied in the Regulation of the Minister of Religion Number 2 of 1990, that in the sighat taklik talak is felt to occur easily, because of the parameter of taklik talak in the sighat is not specific. therefore things that are not considered potential reasons for divorce can come out as a result of the fall of divorce or even vice versa that things that are considered to be potential reasons for the fall of divorce can settle into non-results the fall of divorce. This research uses a qualitative approach, research that is included in field research. The implementation of sighat taklik talak is carried out in two ways, namely The reading and understanding of taklik talak is done in front of the registrar of marriage and not in front of the registrar of marriage. However, the signing as proof of reading the sighat taklik talak is carried out before the registrar of the marriage leaves the contract venue. When the above matters are violated by the husband, while the wife is not pleased and is reported by the wife, then taklik talak falls with talak khul'i.

Keyword: Diforce; *Taklik Talak*; *Sighat*.

Background of Study

Meaning of marriage in Article 1 of Law No. 1 of 1974 On marriage explains that marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy household based on the divine divinity. Then, when a couple of men and women have started to form a household, then the effort to make each other happy must be worked together. Then, so that things do not happen that can ruin the purpose of forming a happy household, then taklik talak can be used as a solution to the husband or wife who do not fulfill their obligations in the household. The view of previous jurisprudence scholars about taklik talak, that taklik talak is a tool for the husband to the wife as giving understanding and lessons to the wife who is *nusyuz*, which is said by the husband to his wife, whenever and wherever.¹

Sighat taklik talak contained in the quotation of the marriage deed has been stipulated in the Regulation of the Minister of Religion Number 2 of 1990, that in the sighat taklik talak is felt to occur easily, because the parameters of taklik talak in the sighat are not specific but very general. So things that are perceived as not potential to be the reason for divorce can

¹ Hanafi Nur Karim, *Pelanggaran Taklik Talak dan pengaruhnya terhadap istri dan anak (Studi Kasus Kenagarian Suayan Kec. Akabiluru Kab. Lima Puluh Kota)*, e-Thesis, (Riau: UIN Sultan Syarif Kasim, 2018), 35.

come out as a result of the fall of divorce or even vice versa that things that are felt to be potential as a reason for the fall of divorce can settle into not as a result of the fall of divorce.

The formulation of *sighat taklik talak* which is set based on the Regulation of the Minister of Religion Number 2 of 1990 is as follows. So it was set in Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014 concerning Amendments to the Decree of the Minister of Religion Number 99 of 2013 concerning Stipulation of Blank List of Marriage Checks, Marriage Certificates, Marriage Books, Duplicate Marriage Books, Reference Books, and Quotations of Referral Registration Books that was explained in article 1 that is essentially everything contained in the appendices is an integral part of this decision².

"After the marriage contract, I bin solemnly promise, that I will fulfill my obligations as a husband, and I will pergauli my wife named binti well (*mu'asyarah bil-makruf*) according to the teachings of Islamic law.

Next I say *sighat taklik* on my wife as follows:

At my time: (1) Left my wife for two years in a row; (2) Or I did not give him obligatory alimony for three months; (3) I hurt my wife's body; (4) Or I let (disregard) my wife for six months.

Then my wife did not like it and complained to the Religious Court or the officer who was given the right to handle the complaint, and the complaint was allowed and accepted by the court or the officer, and my wife pay Rp. 10.000, -(ten thousand rupiah) as *iwadh* (substitute) to me, then my *talak* one fell to her."

This article will discuss about the implication whom the head of religious affairs office will implement *sighat taklik talak* at him law place. Then, it was different with other article that are as follows, there is discussing about inculcating the values of husband's responsibility towards his wife through *sighat taklik talak*³, factors causing the wife's reluctance to file for divorce from husbands who violate *sighat taklik talak*⁴, because of the high number of divorce cases due to *taklik talak* violations in a religious court and efforts to prevent divorce due to the violation of *taklik talak*⁵, *urgensi taklik talak dalam perkawinan sebagai upaya perlindungan huku bagi perempuan yang ditelisis dengan Maqasid Syariah*⁶ dan juga Pelafalan *sighat taklik talak dalam perspektif Maqasid Syariah*⁷, *taklik talak in the view of madzhab scholars and their influence in marriage*⁸, and the position of *taklik talak* in a review of Islamic law and positive law⁹, as well as *taklik talak* and suing for divorce in view of the

² Kementrian Agama Republik Indonesia, *Himpunan Peraturan Perundang-Undangan Perkawinan*, (Jakarta: Direktorat Bina KUA dan Keluarga Sakinah, 2018), 260.

³ Itani Safitri, "Penanaman Nilai Tanggung Jawab Suami terhadap istri Melalui Sighat Taklik Talak," *Family Studies*, Vol. 2 No. 2 (2018): 1. <http://urj.uin-malang.ac.id/index.php/jfs/article/view/413>

⁴ Sri Dian Horizon, "Faktor Penyebab Keengganan Isteri Mengajukan Gugat Cerai Terhadap Suami Yang Melanggar Sighat Taklik Talak di Kecamatan Kaur Selatan Kabupaten Kaur," *Qiyas*, Vol 2, No. 1(2017): 19. <https://ejournal.iainbengkulu.ac.id/index.php/QIYAS/article/view/460>

⁵ Sandi Bakti Ayana, "Pelanggaran Taklik Talak Sebagai Suatu Alasan Perceraian Di Pengadilan Agama Pekanbaru," *Online Mahasiswa*, Vol 6 No 1 (2019): 1. <https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/23616/22872>

⁶ Nastangin dan Muhammad Chairul Huda, "Urgensi Sighat Taklik Talak Dalam Perkawinan Sebagai Uaya Perlindungan Hukum Bagi Perempuan Perspektif Maqasid Syari'ah," *Mahkamah*, Vol 4 No 2 (2019): 163. <https://doi.org/10.25217/jm.v4i2.634>.

⁷ Nanda Rizkiya Putra, Ach. Faisol, and Syamsu Madyan, "Pelafalan Sighat Taklik Talak dalam Pernikahan ditinjau dari Maqasid al-Syari'ah," *Hikmatina*, Vol 1 No 2 (2019): 24. <http://riset.unisma.ac.id/index.php/jh/article/view/3341>

⁸ Sofyan Yusuf and Moh. Toriqul Chaer, "Taklik Divorce from the Perspective of Islamic Scholars and Its Influence in Households," *Instika*, Vol. 10 No. 2 (2017): 262. <http://jurnal.instika.ac.id/index.php/AnilIslam/article/view/65>

⁹ Hasanuddin, "Kedudukan Taklik Talak dalam perkawinan Ditinjau dari Hukum Positif," *Medina-Te*, Vol 14 No 1 (2016): 45. <http://jurnal.radenfatah.ac.id/index.php/medinate/article/view/1145>

purpose of marriage.¹⁰ So discussion of taklik talak and its legal consequences in the Compilation of Islamic Law from the point of view of feminist theory¹¹. So that way, it will be great article if the article discuss the Implementation of Pronouncing sighat Taklik divorces in the marriage Book Based on the Applicable marriage Rules and Practices in Religious Affairs Office Panjang District, Bandar Lampung City first and the legal consequences of pronouncing it based on Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014.

Research Metode

This research uses a qualitative approach, research that is included in field research. Sources of data used in this study are primary data sources and secondary data sources. The data collection methods used were observation, documentation and interviews. interviewing was did do with informan from Religious Affairs Office Panjang for knowing the information of sighat taklik talak statement in Religious Affairs Office Panjang District, that is the Head Of Religious Affairs Office Panjang District with the name "H. Purnawirawan S.Ag". then the researcher will interview with informans from Religious Affairs Office Panjang District, the Religious Courts Class 1 A of Tanjungkarang, and Syariah Faculty of State Islamic University Maulana Malik Ibrahim Malang for knowing the data about legal consequences of the sighat taklik talak implementation in Religious Affairs Office Panjang District, Bandar Lampung City. This research location is located in Panjang District, Bandar Lampung City. Then regarding the method of data management researchers use *editing, classifying, verifying, analyzing, and concluding*.

The Implementation of Pronouncing sighat Taklik divorces in the marriage Book Based on the Applicable marriage Rules and Practices in Religious Affairs Office Panjang District, Bandar Lampung City

Taklik talak one agreement in marriage, in this case the agreement in the form of lynchings occurrence of divorce, so as to achieve a divorce is then it is necessary to implement the terms stated in the agreement. This is explained in Article 1 letter e of the Islamic Law Compilation, it is explained that Taklik-talak is an agreement that is pronounced by the prospective groom after the marriage contract which is stated in the marriage certificate in the form of a promise of divorce that depends on certain circumstances that may occur in the future."

Sighat taklik talak in marriage with straight forward sighat. Therefore, the taklik conditions need to be considered before they are made and pronounced when the marriage contract is finished, namely that the contents do not contradict Islamic law, use straightforward language, but may not be in a state of being unreal or supposing, such as "if the sun rises from the west, my divorce fell. ". So that attention to substance and purpose must be considered carefully. ¹² Of course, this is inseparable from a problem or something that is identical with marriage. The marriage is closely related to the religious affairs office, one of which is the Panjang District Office of Religious Affairs.

The Panjang District Office of Religious Affairs does not require or even eliminate the activity of taklik talak in its territory, such as the decision of the Indonesian Ulama Council

¹⁰ Didin Komaruddin, "Taklik Talak dan Gugat Ceerai dalam Perspektif Tujuan Pernikahan (Studi Kasus di Kecamatan Gegecik Kabupaten Cirebon)," *INKLUSIF* No. 1 (2018): 75. <https://syekhnurjati.ac.id/jurnal/index.php/inklusif/article/view/1562>.

¹¹ Nur Azizah Hutagalung dan Edi Gunawan, "Taklik Talak dan Akibat Hukumnya dalam Kompilasi Hukum Islam Perspektif Teori Feminis," *Pemikiran Hukum Islam*, Vol. 15 No. 1 (2019): 183-202. <https://journal.iaingorontalo.ac.id/index.php/am/article/view/976>.

¹² Zaeni Ashadi, etc, *Hukum Keluarga Menurut Hukum Positif di Indonesia*, (Depok: Rajawali Pers, 2020), 172.

on 23 Robiul Akhir 1417 H / 7 September 1996 which decreed that sighat taklik talak in the marriage book was based on Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014 is no longer needed. The substance or reasons for the MUI decision are as follows: (1)Whereas the material of sighat taklik talak has basically been fulfilled and is contained in Law Number 1 of 1974 concerning Marriage and Law Number 7 of 1989 concerning Religious Courts; (2) According to the Islamic Law Compilation (KHI), the taklik talak agreement is not a necessity in every marriage (KHI Article 46 paragraph 3); (3)Whereas the historical context of saying sighat taklik talak was to protect women's rights, where at that time there were no marriage laws and regulations, so saying the sighat was no longer necessary."

The Panjang District Religious Affairs Office, in this case the head of the office, namely H. Purnawirawan S.Ag, explained that the recitation of sighat taklik talak is still recommended. This can be seen from his explanation "yes recommended"¹³. This suggestion is a confirmation that it still exists or is still being used in the District Office of Religious Affairs. The sighat used in the Head of Religious Affairs Office in Panjang District is the sighat determined by the Minister of Religion. The use of sighat taklik talak implemented by the Minister of Religion is based on the Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014. The sighat is written in the marriage book or it can be referred to as a marriage certificate quote.

In the implementation of sighat taklik talak, Mr. Purna explained that "When they both agree, especially the wife asks the husband to follow it, in his view it applies, so we recommend that we do not oblige."¹⁴ It can be seen that based on the Regulation of the Minister of Religion Number 2 of 1990 in the jurisdiction of the Panjang District Office of Religious Affairs, the implementation of the sighat taklik is carried out on the basis of a voluntary principle. However, in practice the average person agrees to read the sighat taklik talak. Regarding the technicality of reading it and the reading time is slightly different. Then he explained the technical matters of reading and the time to read the sighat taklik talak in the marriage book, namely as follows.

"We suggest we ask, read sir, want to read it here or both of you, if the time is not possible, we usually offer to read it but because the time is no longer available now, it's tight please just read it together, aa now, to prove it for testimony. just sign the item first."¹⁵

Looking at the explanation above, we can see that there are two technical readings and reading times, namely as follows.

First, read and understand sighat taklik talak at the time of the completion of the marriage contract at the place where the marriage contract is carried out with the leader.

Second, the groom reads and understands the sighat taklik talak not with the leader.

However, according to him, in the signing of the evidence, the sighat taklik talak was read in the marriage certificate and marriage book or it can also be referred to as the excerpt of the marriage certificate, both those who read and understand the post-contract marriage with the penghulu or not, both sign it at the completion of the marriage contract. in that sense, evidence of the reading of taklik talak has been written, even though the implementation was carried out after the signing. As instructed by him that "To prove it for the testimony of the child, just sign it first."¹⁶

The reading and understanding of the sighat taklik talak that is in the marriage book at the time of the marriage ceremony procession which is accompanied by the presence of the

¹³ Purna Irawan, *interview*, (Bandar Lampung, 18 February 2021)

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

leader is not so much as the executor of the reading and understanding of the taklik talak in the absence of the leader. The reading and understanding of taklik talak not with the penghulu got a percentage of 70%, while the reading and understanding with the taklik talak got a percentage of 30%. The following is his brief explanation of the percentage. the head of the Religious Affairs Office the opinion that the implementation of taklik talak carried out in his area is an attempt by the government to anticipate unwanted events during marriage. So that this is a protection given to the wife. Protection for both body and spirit of the wife. Even though it has not covered all the rules relating to the obligations of husband and wife. Sighat which is applied based on Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014.

The Legal Consequences of Pronouncing Sighat Taklik Talak Based On Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014

Taklik talak consists of two words, namely taklik and talak. word from the word Taklik “*Allaqa yu'alliqu ta'liqan*” which means to hang.¹⁷ But in the legal dictionary there are two discussions, namely taklek and talik. The two discussions each have a meaning, namely the *first*, Taklek is a divorce because the conditions that have been uttered by the man when married, have been met. Then, *secondly*, talik has the meaning that the promise made by the groom that if things happen as mentioned, and his wife reports it, to the Religious Judge, then the first talaq will fall.¹⁸

Then the word talak comes from Arabic, namely *tallaqa yutalliqu ta'liqan* which means mentalak, divorce, or the word becomes "separation". But, taklik talak in book of vocabulary book. So that the meaning from the language side of taklik talak is hanging talak, which means that to achieve the divorce, it is also necessary to achieve something that has been hung by the husband.¹⁹

In Article 1 letter e of the Islamic Law Compilation, it provides an explanation that taklik-talak is an agreement that is pronounced by the prospective groom after the marriage contract which is stated in the marriage certificate in the form of a promise of divorce that is suspended in certain circumstances that may occur in the future. So that when in the future the conditions for the divorce that were hung are fulfilled, the divorce will fall. So that taklik divorce is one of the reasons for the break up of a marriage. This is as explained in Article 8 of the Compilation that the break of a marriage other than a divorce by death can only be proven by a divorce certificate in the form of a decision from the Religious Court in the form of a divorce decision, a divorce vow, khuluk, or a divorce judgment. "

In the jurisdiction of the Panjanga District Office of Religious Affairs, the use of sighat taklik talak only uses the sighat that has been implemented by the Ministry of Religion based on the Regulation of the Minister of Religion Number 2 of 1990 concerning the obligation to register a marriage. So it was ditetapkan di dalam Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014.

In the opening phrase before the sentence which states taklik divorce, it is as follows.

“After the marriage contract, I bin solemnly promise, that I will fulfill my obligations as a husband, and I will have sexual my wife named binti well (*mu'asyarah bil-makruf*) according to the teachings of Islamic law. "

The opening sentence above, is an explanation of the divorce taklik which will be hung, the explanation of who will be the divorce taklik. This is because as a determinant of the wife who is divorced. This is due to the need for certainty regarding the married wife. Because in

¹⁷ Khoiruddin Nasution, “Menjamin Hak Perempuan dengan Taklik Talak dan Perjanjian Perkawinan,” *Unisia*, Vol. 31 No. 70 (2008): 333. <https://journal.uui.ac.id/Unisia/article/download/2700/2487> .

¹⁸ Subrata, Kubung, *Kamus Hukum Internasional dan Indonesia*, (Surabaya: Permata Press, 2018), 411.

¹⁹ Khoiruddin Nasution, “Menjamin Hak Perempuan dengan Taklik Talak dan Perjanjian Perkawinan,” 333.

Article 24 Paragraph 3 it is explained that "If during the marriage contract the husband represents the qobul to another person, the divorce taklik is read and signed by the husband at another time in advance of the a marriage registrar or the a marriage registrar Assistant where the marriage contract is made or the one who is in the territory of his residence. " So if in this case it is not explained by mentioning the name of a wife, it is feared that the identity of the wife is unclear, especially for those who are polygamous.

Next sighat taklik talak:

Next I say sighat taklik on my wife as follows:

At my time: (1) Left my wife for two years in a row; (2) Or I did not give him obligatory alimony for three months; (3) I hurt my wife's body; (4) Or I let (disregard) my wife for six months.

Then my wife did not like it and complained to the Religious Court or the officer who was given the right to handle the complaint, and the complaint was allowed and accepted by the court or the officer, and my wife pay Rp. 10.000, - (ten thousand rupiah) as iwadh (substitute) to me, then my talak one fell to her.

Looking at the above sighat, it can be viewed from four parts. The four parts are not cumulative, but can be worn individually. This is as explained by Mr. HKM Junaidi as the judge's resource person, namely as follows.

"So in principle it is not cumulative, so one of the 4 things is if the wife is not happy and complains about the case in a religious court, the complaint can be accepted, then it will fall into divorce, right? Then he paid iwadh, why is it because his wife was redeemed?"²⁰

According to Muhammad Yusuf Musa taklik talak pronounced by the husband can bring the consequences of the fall of the talaq of the husband to the wife which when fulfilled the following conditions that is being interpreted is something that does not exist when the taklik is spoken but is likely to happen in the future and by the time the taklik talaq is pronounced. At the time of the taklik talak pronounced by the husband, the wife is in the assembly.²¹ in principle, the statement in taklik talak is a pledge from the husband and only binds to the husband and wife themselves.²²

The 4 parts of the sighat taklik talak which are applied based on the Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014 are as follows.

Left my wife for two years in a row.

Leaving his wife for two consecutive years is a violation committed after the recitation of sighat taklik-talak based on Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014. In this case Mr. Sanusi, hereinafter referred to as Judge 1, as a judge at the Tanjungkarang Religious Court who was the resource person the interview explained the two consecutive years, namely as follows.

"Yes, for two consecutive years, he has a record under him as long as his wife does not mind, for example, he was in Saudi Arabia for two years, I would like to, if for example, her husband could actually report two years in a row, but his wife did not complain because of what, because it was sent every month. then even though his name is taken far away by his name, so in fact his name leaves the wife's eee as long as his wife doesn't complain, but if for example she complains even though she sends, complaining can happen, because of what? Because the husband is okay with the husband leaving his wife for six consecutive months not giving ... letting go. "²³

²⁰ HKM Junaidi, *interview*, (Bandar Lampung, 5 March 2021)

²¹ Aulia Muthiah, *Hukum Islam Dinamika Seputar Keluarga*, (Yogyakarta: Pustaka Baru Press, 2016), 101.

²² Muhammad Syaifuddin, etc, *Hukum Perceraian*, (Jakarta: Sinar Grafika, 2019), 141.

²³ Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

Then from that, Mr. HKM Junaidi, hereinafter referred to as Judge 2, also explained as follows.

"Two years in a row, there was no confirmation for two years, so that's a minimum, not a maximum, so yes, the language is like this for two years, so there is no information at all. In fact, it includes the reasons for divorce in letter b, if in 116 Compilation of Islamic Law or article 19, it is not included in the *sighat taklik* divorce, it does not matter."²⁴

The explanation above can be understood that "leaving your wife for two years in a row" means leaving without there is a pause. Leaving for two consecutive years is the minimum limit for leaving one's wife for two consecutive years. So that when the husband leaves within one year more than eleven months, this is not yet the reason for divorce based on *taklik talak*, *taklik talak* which is contained in the marriage book.

Furthermore, from the above explanation, Mr. Sanusi confirmed that it is as follows. "Leaving there is that he does not communicate and his wife has objections, but if for example leaving, communication and the wife do not object, it does not happen, because below that, if the wife complains about her husband's treatment to the court, then the court accepts the complaint, then divorce falls. one."²⁵

The explanation above explains that as long as the husband left his wife for two years there was no communication at all.

Furthermore, from the above, if the husband leaves his wife for two years. Then in the last two months, the wife was not happy or for that matter there was no communication at all. Even though leaving him has reached the conditions, the wife's willingness is the determinant. So when the wife is not willing in the last two months for 2 consecutive years, then the conditions for the fall of the divorce law are not fulfilled. This is based on the explanation explained by Mr. Sanusi, which is as follows.

"Yes, the important thing is when the husband is called, it is not possible for the husband not to be called, asked for information for up to two years, but my permission from my wife and my wife allowed me, then now my wife is not willing, since the beginning, my wife said yes, then. Honestly, it's not possible to go to Saudi Arabia if my wife doesn't allow me, I see, it's just a matter of proof, what the husband denies is the same as what the wife and wife have to prove, the husband also has to prove, if I send it every month sir, here I prove this, there are witnesses and witnesses."²⁶

In this case it is clear, that the conditions for the fall of *taklik* divorce by leaving the wife for two consecutive years also need to confirm the willingness of the wife to the husband by looking at the explanation of the husband about the wife's willingness.

The explanation above is emphasized by the explanation from Mr. HKM Junaidi, which is as follows.

"So if for example 5 months come and then go again, you say in a row, right? There is no interval, there is no gap, right?"²⁷

So with this it can be seen that the departure for two consecutive years is twenty-four months without interruption.

Then from that, one of the ways that can be taken from Mr. Junaidi's explanation regarding the anticipation of uncertainty regarding the husband's departure, either regarding the time of his departure or the reason for his leaving, is as follows.

"If it is agreed that there is evidence of agreement, that is why in a marriage there is a promise in that marriage."

²⁴ HKM Junaidi, *interview*, (Bandar Lampung, 5 March 2021)

²⁵ Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

²⁶ *Ibid.*

²⁷ HKM Junaidi, *interview*, (Bandar Lampung, 5 March 2021)

This is in line with the marriage promise described in Article 11 Paragraph (1) that "A husband and wife candidate can enter into an agreement as long as it does not conflict with Islamic law and the prevailing laws and regulations." and Article 11 Paragraph (2) explains that "The agreement as referred to in Paragraph (1) is made in 4 copies in paper according to the applicable regulations, the first sheet is for the husband, the second sheet is for the wife, the third sheet is for a marriage registrar and the fourth sheet is for the court.

Or I did not give him obligatory alimony for three months.

Not giving a living for three months is one part of *sighat taklik talak*. The meaning of not giving a living for three months is the same as three months in a row. The meaning of "during" is "successive". Even though the use of diction in the *sighat* is slightly different from the cause of the occurrence of *taklik divorce* at the first point or in the point that I left my wife for two consecutive years. This is based on the explanation explained by Mr. Sanusi.

"Consecutively, it means that three months for three months he did not provide a living. But if it's only been a month, not yet, not two months."²⁸

Furthermore, Mr. HKM Junaidi is of the opinion regarding *sighat taklik talak* on this second point, namely as follows.

"Yes, the language is not called consecutively, but the meaning is that, right, three months in a row, two months have not yet reached three months, so the three months don't give at all, it means consecutively right, even though it is not mentioned."²⁹

From the explanation above, it can be seen that even though it is not mentioned with successive diction, it has meaning in succession. This has the consequence that these three months are the minimum requirement for the fall of the hanging divorce. As continued by Mr. Sanusi that "So what is meant by the minimum standard"³⁰ in this case Mr. HKM Junaidi also emphasized that "At least 3 months, minimum."³¹. As for the examples given by Mr. Sanusi are as follows.

"3 months, he did not give it at all from November until now November December January, just three months, he just gave it to him, especially his children."³²

Because of the above, this explains that when there is an incident the husband who do not provide a living for three months without succession during the marriage, then this is not the cause of the fall of *taklik divorce*. The examples are as follows.

"If Fulan married Fulanah one year. In that one year, so and so did not provide a living in June, July and September to the fulanah or his wife. So these three months cannot make the *taklik divorce* fall, because they are not consecutive. The incident in the three months has lapsed with the provision of a living in August. "

Furthermore, regarding this second *sighat* point, Mr. Sanusi is of the opinion that not giving a living for three consecutive months is a fabrication from the Ministry of Religion. Although in *fiqh* it may be two months or one month long. However, it is feared that it will become short or in the sense of being short. The explanation is as follows.

"Because of that 3 months was actually engineered by the Ministry of Religion, at least 3 months, if it's only been a month, don't do it, even though in the law of *fiqh* it is

²⁸ Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

²⁹HKM Junaidi, *interview*, (Bandar Lampung, 5 March 2021)

³⁰ Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

³¹ HKM Junaidi, *Interview*, (Bandar Lampung, 5 March 2021)

³² Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

permissible, if you do not provide me with compulsory living for a month, for example in taklik divorce it is permissible. this is once considered vague "³³

Or I hurt my wife's body

To be able to get taklik divorce because the condition of this third point is fulfilled is to commit an act of hurt to the wife who has reached its quality. This is as explained by Judge 1, namely as follows.

"The panel of judges must first see what the quality of the acts of Jarimah ol committed by men, if it is just a pinch and then complained, it is not just a pinch, and the panel of judges will certainly not accept it for granted."³⁴

The following is as follows.

"Yes, although it is proven to be pinch, the pinch does not meet the quality."³⁵

The quality measures given by Judge one above are as follows.

"Yes, a measure of quality, for example bruises, turning blue. When it comes to ordinary punches, I also usually pinch ordinary people, yes, it's an irrational and reasonable time, and public opinion states that it is not in the category of hurting the body. Then he just shakes it. "³⁶

The measure of the quality of the fall of taklik talak is by doing the third point of sight taklik talak which is based on the Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014 by the husband against the wife as explained by judge 1, namely hurting the body until it causes bruises and turns blue on the wife's body. The size given by Judge 2 is as follows.

"So it hurts the body, now the size is fissure, and testimony. So if until the blow it injures, it looks blue, swollen even though it doesn't reach the post mortem, but the size of the post mortem, yes post mortem, the punches are dangerous, but if at first you joke about all kinds of things right, ee suddenly goes too far, outrageous, punches like that, So there is magic who saw the beating or there were no witnesses, the evidence of the marks of the beating was a post mortem, there were bruises until it bled, right? Which resulted in physical damage right?³⁷

The measure of hurting the wife's body according to judge 2 as explained above is to hurt the body, which is injurious and dangerous in nature so that it can result in turning blue in the body area and the presence of swelling. Then from that, these measurements can be proven by the presence of proof of post mortem and / or witnesses. As for example, there is no proof of post mortem, it can be proven only by the presence of witnesses. This can be seen from the explanation of Judge 2, namely that "Yes, there is a witness that can."³⁸

Furthermore, the explanation from Judge 2 is as follows.

"Putting in may not hurt that standard. At least the judge can judge, yes, the extent to which it hurts his body, pinching if it's not dangerous is that right. If pinching can be dangerous, pinching the left neck, for example, has been proven until it kills him right. Look for another reason, you can't enter that reason. "³⁹

Even though you hurt your body just by pinching, this can make it fulfilled the requirement of not having a divorce at this third point. The size of the pinching is

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ HKM Junaidi, *interview*, (Bandar Lampung, 5 March 2021)

³⁸ Ibid.

³⁹ Ibid.

pinching which can endanger the wife. This is exemplified as a husband pinching the left neck, causing the wife to get loud.

As for the occurrence of violence against the wife on the grounds of educating her. educate by force or by spanking. This is as narrated by Muqatil regarding the reasons for the revelation of Surah An-Nisa Verse 34. That Sa'ad bin Rabi', he is a person who belongs to the tribe, was treated by his wife, Habibah bint Zayd bin Abu Zuhayr. Then, he slapped her. So Mr. Habibah went with him to the Prophet Muhammad SAW. He said, "I put my daughter (Habibah) to sleep with him (Sa'ad), then he slapped her". Prophet Muhammad SAW said: "Let her *recite* her husband". So Habibah and her father went to *recite* her husband. Then the Prophet Muhammad SAW said, "Come back, here Jibril comes to me". Allah revealed this verse, then Prophet Muhammad SAW read it. Prophet Muhammad SAW said, "I want a case and Allah wants a matter, whereas what Allah wants is better".

In the case above, according to Muhammad Thalib's observations, some Muslims who follow western thinking are against the existence of the Shari'a on beating wives which applies *nusyuz*. However, they did not reject this because the wife did *nusyuz* and was arrogant. This means that in this situation the wife has really trampled on the husband's self-esteem or dignity. The wife does this *nusyuz* continuously based on her inability to be advised anymore, even not caring about her husband's abandonment of her. They also beat the wife when the wife is really too much. This was also done by scholars, wise men, government elites, and their kings. Therefore, hitting is a very important teaching, especially in matters of religion. This is done not needing to wait for the behavior to rest badly. Thus, how can it not be done, while the decline in moral level has been rampant and the environment has been damaged, while the husband has no other way than to hit, then the wife cannot leave her act *nusyuz*, except only by taking a beating.⁴⁰ Regarding this matter by the two judges.

Between judge 1 and judge 2 who were the sources in this study, there were two different opinions regarding the beatings committed by the husband based on the education of the wife. Judge one argued as follows.

"Coming home late at night as a wife should not be allowed to do that, in the end it is slapped by her husband, the important thing is not to smack your face, hold your hands or feet or not, as a punishment for a husband to a disobedient wife, his name is *nusyuz*."⁴¹

The above is argued by the first judge, namely as follows.

"I hit him with a sling because the judge came home at 10 in the evening, I don't know where he was, he shouldn't be a wife like that, it makes sense, hitting was not because I hit him, but I was the responsibility of my husband. if a wife does not obey her husband, she may be beaten."

"Well, because it is a consequence, after being examined the husband turned out to be conducting *littarbiyyah* education for his wife. So it's not what it's called, it's not a violation. Yes, it means that in the future he will be better right, oh yes, finally the wife also apologizes, sir. "

"The husband by slapping it is also not wrong because it is the responsibility of the husband to his disobedient wife. But because of the responsibility of the husband."⁴²

The explanation from Judge 2 was as follows.

"We are chasing *Litarbiyah*, of course there is something wrong with his wife, right? The *littarbiyah* should not be smacked, the meaning has a measurable prophetic language, hit your wife, but if she or wife's face her pride disappears"

⁴⁰ Muhammad Syaifuddin, etc, *Hukum Perceraian*, 144-145.

⁴¹ Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

⁴² *Ibid*.

"Littarbiyah basically doesn't hurt her"⁴³

As for what judge 2 takes is as follows.

"His face was hit by littarbiyah, in front of other people, he could fight, he felt he was authoritative as a man, sir, on his face, littarbiyah was his husband's excuse."⁴⁴

Judging from the two explanations of the two judges above, it can be seen that the first judge wanted bodily harm by hitting to be permissible, because the wife did not obey the husband. However, according to him, the streak also had limitations, namely by not hitting in the face or face area. This is slightly different from the opinion of the second judge. The second judge wanted that the act of hurting the body on the grounds of educating the wife was allowed as long as it did not hurt the wife.

Or I let (disregard) my wife for six months.

Sighat taklik talak "Letting your wife go for 6 months" is similar to the second point of sighat taklik talak, which is not giving a living for three months. The two points have a meaning in succession, even though the word in the sentence is the word "duration". As explained by Mr. Sanusi, they are as follows.

"The six months are the same, so it doesn't mean he gets two months home, no, do that again, not so, the understanding of six months is in that six month period, if a month comes home it's not six months, yes not, don't arrive This counts for a month, won't do it again for a month, maybe that's not the case. It is not a law, so its general meaning does not fall into the category of public opinion."⁴⁵

Agreeing from the explanation above, Mr. HKM Junaidi explained more as follows.

"Six months can do it right, six months it does not provide for everything, even though he is at home. Do not give, apologize, do not sleep with him, there is the language of *Wa 'Asyiruhunna Bil Ma'ruf*, hang out, one of which is a husband and wife relationship."⁴⁶

From the above explanation, it can be seen that the treatment of husbands towards wives by "leaving the wife for six months" is not only done by leaving the wife at home while the husband leaves or in the sense of leaving the wife, but leaving the wife at home while the husband is at home. can also be the cause of the fall of the divorce. Furthermore, Mr. Jundi added that as follows.

"Having a husband is not understanding, looking for food alone, going alone, there is him at home, who for two years did not know the news at all, now he's been at home for six months, ee the fifth month he started, not in six. last month, got into strife."⁴⁷

Even though the husband is at home, but does not give an understanding of wife, the wife is allowed to find her own food, the wife is left to travel alone for 6 months or more, then this can also fulfill the conditions for sighat taklik talak because these four. Then, even though the husband has ignored the wife and left the wife after five months, but in the last six months the husband has changed, so that thing cannot be the cause of the fall of the divorce act. So that leaving for six months is the minimum limit to be able to make the conditions for the fall of the taklik talak fall.

Then, from the four conditions that are not cumulative above, there is a determinant sentence to confirm the implementation of the four conditions that are not cumulative. The sentence is as follows.

"Then my wife did not like it and complained to the Religious Court or the officer who was given the right to handle the complaint, and the complaint was allowed and accepted

⁴³ HKM Junaidi, *interview*, (Bandar Lampung, 5 March 2021)

⁴⁴ Ibid.

⁴⁵ Sanusi, *Interview*, (Bandar Lampung, 28 January 2021)

⁴⁶ HKM Junaidi, *Interview*, (Bandar Lampung, 5 March 2021)

⁴⁷ Ibid.

by the court or the officer, and my wife pay Rp. 10.000, - (ten thousand rupiah) as iwadh (substitute) to me, then my talak one fell to her. "

From the sentence in the *sighat taklik talak* above, it can be seen that in order to carry out or fall the divorce depends on the four conditions that are not cumulative, the wife is in a state of displeasure, then has to report it to the Religious Court. So that the religious court will consider whether the complaint can be justified or not. If it is justified by the religious court, in this case the judge continues with the payment of iwadh by the wife, then divorce will fall.

This is in accordance with the opinion of Muhammad Yusuf Musa regarding *taklik* divorce. Whereas *taklik* divorce that is uttered by husband can lead to consequences for the fall of husband's divorce to his wife if the following conditions are fulfilled: (1) That what is said is something that did not exist when the *taklik* was pronounced but it is possible to happen in the future; (2) When *taklik talak* is pronounced, the *taklik* object or wife has become the legal wife for the *taklik* speaker; (3) When the *taklik talak* is pronounced by the husband, the wife is in the assembly.⁴⁸

Then, in measuring the pleasure of the wife, this is not only measured by the wife's departure to the religious court to sue the husband, but by listening to the husband's explanation. One example, as explained by Judge Mr. Sanusi, is as follows.

"So the point is that the wife did not complain about her lawsuit to the religious court. Now, it is not just a complaint against the religious court that the lawsuit was accepted by the religious court. If it only filed, it turned out that after being examined, this was a fabrication, it was already yes and already running, it turned out that she was attracted to another man. , for example, she had a relationship with another man and asked her to marry, finally her husband sued but as long as she was then her husband was called from Saudi Arabia, we heard, and it turned out that for example his wife was cheating on him, then the lawsuit had to be canceled, if only he e is based on *taklik talak*, because e what, the conditions for *taklik talak* are not fulfilled."⁴⁹

Seeing from the explanation of Mr. Sanusi above, it can be seen that the explanation regarding the pleasure of a wife who is located in the heart can be known in two ways, namely as follows.

First, to confirm his pleasure by interpreting his arrival at the Religious Court. The presence of the wife to the religious court explained that the wife left home to complain about the violation of *taklik talak* due to the wife's ignorance of the *taklik* divorce violation committed by the husband.

Second, confirm whether a wife is happy or not by listening to her husband's explanation of what happened. So that anything that was confirmed by his wife regarding the violation of the husband's *taklik* divorce, was not confirmed only by the fact that there was a violation of *taklik* divorce.

Then, Mr. HKM Junaidi also argued about his wife's disgrace that he said "In the implementation of two consecutive years, his departure was in the absence of his wife, even though the last two months in two years changed his pleasure to be displeasing, this was not included in the two consecutive years."⁵⁰ So that the wife in this case cannot be justified.

If it is proven true that there is a violation of *taklik talak*, then this can be punished with *talak khul'i*. This is in accordance with the statement stated by Mr. HKM Junaidi "Because of *khuluk*, there is an iwadh of 10 thousand, it is *talak khul'i*."⁵¹. This is despite the fact that in general the divorce that is hung has the result of the fall of the divorce of one *raj'i*, this is

⁴⁸ Aulia Muthiah, *Hukum Islam Dinamika Seputar Keluarga*, 101.

⁴⁹ Sanusi, *interview*, (Bandar Lampung, 28 January 2021)

⁵⁰ HKM Junaidi, *Interview*, (Bandar Lampung, 5 March 2021)

⁵¹ *Ibid*.

different, because in the hanging of the husband's divorce on himself it also includes conditions with an act that must be done by the wife so that the violation of taklik divorce is proven properly. The opinion of Mr. HKM Junaidi above, in line with the decision explained by Satria Efendi in his book, that the violation of the non taklik talak sued in the Blora Religious Court was decided by the verdict of talaq *khul'i*. Then in the decision, the defendant was charged *'iwad* to the Plaintiff with *'iwad* Rp. 1000,-. The violation is not to provide maintenance for a year.⁵² The *iwadh* money by the husband is received to the Court to be further handed over to a third party for the benefit of social worship.⁵³

Conclusions

The implementation of Sighat taklik talak at the Panjang District Religious Affairs Office is still held. Then Sighat taklik talak used in the implementation in the religious affairs office only uses sighat taklik talak which is based on Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014. The implementation of sighat taklik talaq is implemented in two ways, there are reading and understanding of taklik talak in front of and do not in front of the marriage registrar. However, the signing as proof of the reading of the sighat taklik talak was done before the departure of the marriage registrar.

The legal consequences of pronouncing sighat taklik talak based on Decree of the Minister of Religion of the Republic of Indonesia Number 75 of 2014 on the Obligations of Marriage Registrar Employees are as follows: (1) Husbands should not leave their wives without permission for at least two years without the slightest severance. Then in a period of two years between husband and wife did not cut off communication between the two during the leaving; (2)The husband must not provide the wife with maintenance for at least three months. Three long months is three months in a row; (3) Husbands should not hurt their wives until they reach that degree of hurtful quality. The quality of hurting is hurting the body by causing bruising and harmful scars. This is confirmed by the presence of a visa or witness. This is allowed by a single judge if it does not hurt in the sense of hitting the wife for the sake of education of the wife, except hitting the face; (4) Husbands should not leave their wives for 6 months. Six months is equal to six months in a row.

When the above is violated by the husband, while the wife is not pleased and it is reported by the wife, then the taklik talaq falls with talaq *khul'i*. *Ridho* the wife can be known by two things *first*, the wife came to court to complain about the violation committed by the husband is a form of dislike of the wife to the actions of the husband. *Second*, an explanation from the husband about the actual incident.

Bibliography

- Adri, Muhammad. *Pertimbangan Penghulu Terhadap Pembacaan Sighat Taklik Talak Di Kantor Urusan Agama Kecamatan Depok Sleman*. Undergraduate Thesis, Islamic University of Indonesia, 2019.
- Ashadi, Zaeni, etc. *Hukum Keluarga Menurut Hukum Positif di Indonesia*. Depok: Rajawali Pers. 2020.
- Azizah Hutagalung, Nur, dan Edi Gunawan. Taklik Talak dan Akibat Hukumnya dalam Kompilasi Hukum Islam Perspektif Teori Feminis. *Pemikiran Hukum Islam*. (Online) Volume 15 No. 1 (2019). <https://journal.iaingorontalo.ac.id/index.php/am/article/view/976>.

⁵² Satria Effendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer Analisis Yurisprudensi dan Pendekatan Ushuliyah*, (Jakarta: Prenada Media, 2004), 100.

⁵³ Khoiruddin Nasution, "Menjamin Hak Perempuan dengan Taklik Talak dan Perjanjian Perkawinan," 338.

- Bakti Ayana, Sandi. "Pelanggaran Taklik Talak Sebagai Suatu Alasan Perceraian Di Pengadilan Agama Pekanbaru. *Online Mahasiswa*. (Online) Volume 6 No. 1 (2019): 1-15. <https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/23616/22872>.
- Basarudin. *Praktek Taklik Talak Di Desa Beram Kecamatan Praya Tengah Lombok Tengah (Tinjauan KHI dan Fiqih Madzhab Syafi'i)*. Undergraduate Thesis, STAIN Mataram, 2004.
- Dian Horizon, Sri. Faktor Penyebab Keengganan Isteri Mengajukan Gugat Cerai Terhadap Suami Yang Melanggar Sighat Taklik Talak di Kecamatan Kaur Selatan Kabupaten Kaur. *Qiyas*, (online) Volume 2, No. 1 (2017): 19-30. <https://ejournal.iainbengkulu.ac.id/index.php/QIYAS/article/view/460>
- Effendi M. Zein, Satria. *Problematika Hukum Keluarga Islam Kontemporer Analisis Yurisprudensi dan Pendekatan Ushuliyah*. Jakarta: Prenada Media. 2004.
- Hasanuddin. Kedudukan Taklik Talak dalam perkawinan Ditinjau dari Hukum Islam dan Hukum Positif. *Medina-Te*. (Online) Volume 14 No. 1 (2016): 45-60. <http://jurnal.radenfatah.ac.id/index.php/medinate/article/view/1145>
- Hutagalung, Nur Azizah dan Edi Gunawan. *Taklik Talak dan Akibat Hukumnya dalam Kompilasi Hukum Islam Perspektif Teori Feminis*. *E-Journal Pemikiran Hukum Islam*, Vol. 15, No. 1. Gorontalo: Al-Mizan, 2019. <https://journal.iaingorontalo.ac.id/index.php/am/article/view/976>.
- Kementrian Agama Republik Indonesia, *Himpunan Peraturan Perundang-Undangan Perkawinan*, Jakarta: Direktorat Bina KUA dan Keluarga Sakinah, 2018.
- Komaruddin, Didin. Taklik Talak dan Gugat Ceerai dalam Perspektif Tujuan Pernikahan (Studi Kasus di Kecamatan Geigesik Kabupaten Cirebon). *INKLUSIF*. (Online) No. 1 (2018): 75-90. <https://syekhnrjati.ac.id/jurnal/index.php/inklusif/article/view/1562>.
- Labib Ilhamuddin, Mughni. *Faktor Penyebab Terjadinya Pelanggaran Taklik Talak di Desa Sidamulya, Kecamatan Bongas, Kabupaten Indramayu Menurut tinjauan Masalah*. Undergraduate Thesis, Islamic University of Indonesia, 2018. Muthiah, Aulia. *Hukum Islam Dinamika Seputar Keluarga*. Yogyakarta: Pustaka Baru Press, 2016.
- Nasution, Khoiruddin. *Menjamin Hak Perempuan dengan Taklik Talak dan Perjanjian Perkawinan*. e-Journal, Vol. XXXI No. 70. Yogyakarta: UNISIA, 2008. <https://journal.uin.ac.id/Unisia/article/download/2700/2487>.
- Nur Karim, Hanafi. *Pelanggaran Taklik Talak dan pengaruhnya terhadap istri dan anak (Studi Kasus Kenagarian Suayan Kec. Akabiluru Kab. Lima Puluh Kota)*. Undergraduate Thesis, UIN Sultan Syarif Kasim, 2018.
- Nurlatifa, Siti. 2018. *Pelanggaran Sighat Taklik Talak dalam Suatu Ikatan Perkawinan Yang Sah (Studi Putusan Pengadilan Agama Karangasem Nomor 11/Pdt.G/2017/PA.Kras)*. Undergraduate Thesis, Jember University, 2018.
- Nastangin dan Muhammad Chairul Huda. Urgensi Sighat Taklik Talak Dalam Perkawinan Sebagai Upaya Perlindungan Hukum Bagi Perempuan Perspektif Maqasid Syari'ah. *Mahkamah*. (Online) Volume 4 No. 2 (2019). <https://doi.org/10.25217/jm.v4i2.634>
- Safitri, Itani. "Penanaman Nilai Tanggung Jawab Suami terhadap istri Melalui Sighat Taklik Talak," *Family Studies*,(Online) Volume 2 No. 2 (2018): 1-8. <http://urj.uin-malang.ac.id/index.php/jfs/article/view/413>.
- Subrata, Kubung, *Kamus Hukum Internasional dan Indonesia*. Surabaya: Permata Press, 2018.
- Syaifuddin, Muhammad, etc. *Hukum Perceraian*. Jakarta: Sinar Grafika, 2019.

- Rizkiya Putra, Nanda, Ach. Faisol, and Syamsu Madyan. Pelafalan Sighat Taklik Talak dalam Pernikahan ditinjau dari Maqasidh al-Syari'ah. *Hikmatina*. (Online) Volume 1 No 2 (2019). (<http://riset.unisma.ac.id/index.php/jh/article/view/3341>).
- Yusuf, Sofyan and Moh. Toriqul Chaer. Taklik Divorce from the Perspective of Islamic Scholars and Its Influence in Households. *Instika*. (Online) Volume 10 No. 2 (2017): 262-284. <http://jurnal.instika.ac.id/index.php/AnilIslam/article/view/65>.