

RECITATION OF WEDDING AGREEMENTS IN ISLAM: STUDY ON SAMBAS MALAY SOCIETY OF WEST KALIMANTAN

Asman

Institut Agama Islam Sultan Muhammad Syafiuddin Sambas, West Kalimantan, Indonesia

Email: raja.asman86@gmail.com

DOI : <https://doi.org/10.33102/mjssl.vol8no2.226>

ABSTRACT

After the consent is granted in the marriage of a husband and wife, the recitation of *taklik talak* takes place as part of a marriage agreement in Islam. This research is based on the consideration of the pros and cons of the Sambas Malay community, especially religious leaders regarding the marriage agreement called *taklik talak* in Islam. With a qualitative research method that is a phenomenological approach in the field, the author described how *taklik talak* exists as a marriage agreement in Islam and its application to the Sambas Malay community. The fact is that almost every married couple in the Malay community of Sambas does not say *taklik talak* by the husband to his wife after the consent is granted, only knowing it has been written or included in the marriage book without notification to the husband and wife. Although it is not obligatory to verbally express the *taklik talak* which is already written on the marriage certificate, once the *taklik talak* has been read out, it cannot be challenged again. If an agreement that has been agreed with a husband and wife is not fulfilled by one of the parties, then the other party has the right to submit the matter to the Religious Court to resolve it. The results in the study concluded that the pros and cons of implementing *taklik talak* as a marriage agreement in Islam were caused by a lack of knowledge of the Marriage Law Number 1 of 1974 Article 29 concerning Marriage Agreement and Islamic Law Compilation (KHI) Article 46 concerning *taklik talak* as well as the lack of exposure from the KUA through religious counselors and BP4 to premarital couples in Sambas.

Keywords: recitation, agreement, Marriage, Islam

Introduction

After the consent is granted in the marriage of the husband and wife, reading the *taklik talak* as a marriage agreement in Islam. In the Compilation of Islamic Law (KHI), although it is not clear after the reading of *taklik talak* after the consent is granted, the marriage agreement can be considered as a condition of marriage in Islam. Psychologically, when a husband and wife have just completed the consent granted in marriage, then in another section they have read *taklik talak*, it is very disturbing to the peace of mind. (Wiw Alawiyah, 2014: 104). Because the purpose of this marriage is a unified and

The phenomenon is that in the Sambas Malay community, there are husband and wife couples who read *taklik talak*, but there are also couples who do not know what the *taklik talak* is, what is its contents and function, and whether a wife wishes for her husband to read the *taklik talak* as part of their marriage agreement. If the husband hurts his wife or neglects her for a certain period of time, the wife could file for divorce. This shows that terms set in the marriage book have a legal impact on the married couple (Ratno Lukito, 1998: 78-81).

There are different perspectives of the Sambas Malay community regarding the pronunciation of *taklik talak* as a marriage agreement in Islam, and it is this difference that makes the debate of “for and against”

in the Sambas Malay community. This difference of opinion stems from the viewpoint of Malay religious leaders in Sambas and the common people that there are those who allow the recitation of *taklik talak* according to the rules of marriage in Islam and there are those who do not need it in reciting *taklik talak*. The reason for *taklik talak* to not be necessary is that there is no specific article that requires it in the Marriage Law Number 1 of 1974.

One of the benefits of *taklik talak* is to protect the rights of the wife from the arbitrary actions of the husband, such as domestic violence. (Ahmad Furkon, 2013:386-387). According to Kamal Muchtar, the judge will give a verdict in divorce if it turns out that the wife's lawsuit is grounded and proven, or in other words violating the pronouncement of *taklik talak* will have legal consequences for the husband. (Kamal Muchtar, 2011: 207). In Indonesia, traditional customs are still maintained. In fact, people consider *taklik talak* or a marriage agreement as a sensitive subject that is not usually done and is considered disturbing, materialistic, too selfish, unethical, not in accordance with Islamic religious teachings. (Happy Susanto, 2008: 83).

The results of human thought which then produce legal regulations that form the basis of marriage law, namely Law Number 1 of 1974 concerning Marriage, one of which discusses the marriage agreement in article 29¹ of Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI). This decision in article 29 of the Marriage Law has been explained in detail (Undang-Undang Perkawinan Indonesia, dilengkapi Kompilasi Hukum Islam, 2016: 15).

The Regulation of the Minister of Religion of 1975 indirectly explains a regulation that is slightly contradictory to Law Number 1 of 1974 concerning Marriage, the problem of pronouncing *taklik talak*. In the Compilation of Islamic Law (KHI), this is what underlies Article 11 of the 1975 ministerial regulation as stated in Articles 45 to 52. The Regulation of the Minister of Religion clearly states that *taklik talak* is part of the marriage agreement. As explained in Article 46² of Islamic Law Compilation. In a legal juridical manner, the reading agreement and signing under *sighat taklik talak* is a responsibility. As for the marriage agreement, if it is agreed upon by the husband and wife, then each must be fulfilled, as long as there is no form of coercion from the husband and wife. (Ahmad Rofiq, 1998: 154).

With the recitation of *taklik talak*, it is present to make a vow of a marriage agreement in Islam to a couple who has completed the consent of *kabul*. Therefore, the number of divorces whose source of the problem is more identical to that of the husband. There are several things that cause factors for the emergence of the desire to break up marriage for married couples, including the occurred *nusyuz* of the husband. This is used to anticipate and at the same time as a way of holding *al-shulhu* or a peace agreement formulated in the form of *taklik talak* to solve problems between husband and wife when fighting in the household. (Ahmad Rofiq, 2015: 214).

The term *taklik talak* as a marriage agreement in Islam is not explained in detail in the Sambas Malay community when a couple is getting married, but what does exist are the conditions for marriage that can be submitted from the related party without prior explanation or a marriage registrar at the Office

¹ In article 29 of the Marriage Law the marriage agreement has been explained that

1. At the time before the marriage takes place, both parties with mutual agreement can hold a written agreement which is ratified by the marriage registrar, after which the contents also apply to third parties as long as the third party is involved.
2. The agreement cannot be ratified when it violates the limits of law, religion and decency.
3. The agreement is valid since the marriage took place.
4. During the marriage the agreement cannot be changed, except if from both parties there is agreement to amend and the amendment does not harm a third party.

² Compilation of Islamic Law Article 46

1. The contents of the divorce cannot be in conflict with Islamic law.
2. If the conditions stipulated in divorce *taklik* actually occur later, divorce does not automatically fall, the wife must submit the matter of religious justice.
3. The divorce *taklik* agreement is not an agreement that must be held at every marriage, but once the *taklik talak* agreement has been promised it cannot be revoked.

of Religious Affairs. According to Dadang Sukandar, he explained that what is meant by a marriage agreement in Islam is only limited to assets and its implementation is carried out before something that has been regulated in the Islamic Law Compilation (KHI) occurs. (Dadang Sunandar, 2011: 22).

From the description above, the researcher raised the problem of reciting *tartarak* as a marriage agreement in Islam which has so far been a controversy between the pros and cons of the Sambas Malay, the assumption that after marriage everything is integrated into one so that every couple feels no need to make a marriage agreement in the form of pronouncement of *taklik talak* after the consent granted *kabul*.

Research methodology

This type of research is a qualitative research with descriptive analytical methods (describing). Analytical descriptive method is a method of problem-solving procedures that are investigated by describing or describing the current state of the research subject based on facts that appear as they should (Hari Wijaya, 2007: 67). The research subjects here are in Sambas, West Kalimantan Province, where researchers dived deeper on the existence of marriage agreements in Islam in the Sambas Malay community which is being debated for the pros and cons of differences in opinion. To facilitate this research, the object of this research is for two researchers: the first object is the Islamic religious figure in Sambas, and the second object is the Sambas Malay community (lay people).

Meanwhile, according to Sugiono, qualitative research methods are research methods used to examine natural conditions of objects, where the researcher is a key instrument, data collection techniques are carried out by triangulation (combined), data analysis is specific, and qualitative research results emphasize the meaning rather than generalization (Sugiyono, 2014: 1). Whereas in the approach, this research the researcher will later use the phenomenology approach. With this approach the researcher seeks to understand the phenomena that arise in society, and social situations and the efforts that apply in forming a *sakinah* family, as well as the interactions that exist between them (Suharsimi Arikunto, 2008: 129).

According to Richrd L. Lanigan, phenomenology as a methodology has three synergistic process stages, namely (Alex Subur, 2016: 5-6) :

- a. Phenomenological Description
This description explains about reminding that when we are in contact with society it is a conscious experience. Conscious in the sense of reciting the marriage agreement in Islam among the Malay community of sambas
- b. Phenomenology Reduction
Sorting data in this phenomenology explains about, determining which parts of the description are important and which parts are not important. In that sense, determining which one truly understands the marriage agreement in the pronouncement of *taklik talak* and which is the pros and cons of pronouncing *taklik talak* in the Malay Sambas community because it aims to determine the object of the consciousness of the Malay sambas community in the experience they have.
- c. Phenomenological interpretation
The final results of research in this phenomenological approach explain a more specific or important meaning in sorting out the final data as a result of field findings from the experience of the Malay Sambas community regarding the pronouncement of *taklik talak* whether or not it is in accordance with the marriage law and Islamic law.

In this study, the researcher explored the implementation of the recitation of *taklik talak* as a marriage agreement in Islam among the Sambas Malay community in practice after the existence of the consent process for married couples. Pronouncing *taklik talak* also led to debates of the pros and cons of Islamic religious leaders in Sambas and common people (Melayu Sambas). This qualitative research is a research that produces descriptive analytical data in the form of written or oral words from people and behaviors that can be mandated (Ahmad Tanzen, 2009: 100). The researcher intended to discover

information and a true picture of the existence of the recitation of *taklik talak* as a marriage agreement in Islam in the Sambas Malay community with a true phenomenological approach, especially in the field phenomenon in the implication that it goes out of the Sambas Malay community.

Discussion

1. Understanding Taklik Talak

Etymologically *taklik talak* sentence comes from two syllables, namely *taklik* and *talak*. The word *taklik talak* is a mass form of the word: عَلَقٌ يُعَلَّقُ تَعْلِيْقًا which means to hang something with something or make it dependent on something (Luis Ma'Luf, tt: 549). The scholars provide definitions by (Mahmud Syaitu, Ali Al-Sayis, 2000: 210) :

Meanwhile, according to the term, *taklik talak* is a special form of *talak* with certain conditions. *Taklik* in Arabic also means promise because of something that is hanging. (Abdul Mujieb, 2004: 365). Divorce takes effect as soon as it is said by the husband. However, it is different if in the case of *taklik talak*, then *talak* does not apply when it is pronounced, but *talak* is valid when a condition is fulfilled. For example, if a man bullies his wife by saying, "You, I am divorced tomorrow morning." So the divorce does not fall immediately, but it will not fall tomorrow morning. (Hasako Nakamura, 2009: 72).

From the above explanation, *taklik talak* is a divorce that depends on something that has been pronounced in the marriage agreement and if the thing or condition that has been agreed upon is violated by the husband, then the opportunity is opened for the wife to take the initiative to apply for divorce, if she wishes so it is.

While the word *Talak* comes from the word: طَلَّقَ يُطَلِّقُ طَلًّا which means leaving, separating, releasing ties (Mahmud Syaitu, Ali Al-Sayis, 2000: 448). The scholars give the definition of divorce in language is (Ibrahim Anis, 1976: 567):

تَحْرِيْرٌ مِنْ قَيْدِهِ وَنَحْوِهِ

Meaning:

"Release from the bond and for example".

Judging from the arrangement, the word *taklik talak* is divided into two kinds, namely (M. Fauzan, 2013: 244):

- a. *Taklik* intended is like a promise because it contains the sense of doing work or leaving deeds or reinforcing a message.
- b. Divorce is intended is dropped to drop divorce when the conditions have been met. Such divorce is called premises *taklik* requirements.

Meanwhile, the Big Indonesian Dictionary provides an explanation of the term *taklik talak*, (KKBI, 1997: 993-994) as a statement of breaking up a marriage or divorce according to the promise that has been said (because it violates the marriage promise). The connection with the pronunciation of *taklik talak* is that if it is pronounced and not obeyed, the law of divorce will apply, from that problem becomes pressure or problem for married couples when they have entered into a marriage agreement. While divorce is under the Islamic law between husband and wife, lies in the will of the husband. In the *fiqh* dictionary, it is stated that *sighat taklik talak* depends on the fall of the divorce on one thing, then the fall of the divorce at that moment when it occurs. For example, a husband says to his wife "I will not provide a living in three months".(M. Abdul Mujib, 1994: 366). So if the husband does not support his wife for even three months, a divorce will occur, a wife may file a lawsuit at the religious court. From that, if the marriage agreement is carried out, it will have an impact on harmony in the household because the agreement is based on the agreement of the husband and wife, from the case, there will be pros and cons of the Sambas Malay community.

According to Az-Zarqa, that *talaq taklik* agreement in *fiqh* terminology is a legal bond made by two or several parties who both want to bind themselves (Aulia Muthiah, 2017: 97). whereas according to Gus Arifin, *taklik talak* is a husband divorcing his wife conditionally with something because it was done or applied, then divorce or divorce took place. In practice, *taklik talak* is the occurrence of divorce (divorce) or separation between husband and wife dependent on something (certain conditions) (Gus Arifin, 2016: 301).

From the explanation above, it can be formulated that *taklik talak* is a series of divorce statements made by the husband, where the statement is hung on a condition whose proof is possible to happen in the future. Whereas the understanding of *talak taklik* which is practiced in Indonesia is different from the understanding of *talak taklik* which is in the book of *fiqh*. As stated in the Compilation of Islamic Law (KHI), the notion of *talak* divorce is "the agreement which is said by the prospective bridegroom after the marriage contract which is included in the marriage certificate in the form of promises of divorce which are hung on a certain situation that may occur in the future" (Wan Rajni, 2003: 46).

A more detailed explanation is that even though divorce *taklik* has been written in the marriage certificate, it is not an obligation to express it, but once *taklik talak* has been pronounced, then the *taklik talak* cannot be revoked again. In the Compilation of *Taklik Talak* Islamic Law, it is regulated in article 46 (Aulia Muthiah, 2017: 100). For this reason of the benefit it provides to a husband and a wife, the existence of divorce *taklik talak* as an agreement is very important. A statement regarding divorce *taklik talak* which prevails in Indonesia currently has elements of protection both husband and wife, that is, intended to protect the rights of the wife and also contained to protect the husband from possible wife fraud or wife's *nusyuz* (Abdul Manan, 2006: 410).

2. Basic Laws on Taklik Talak

a. The Qur'an

The Muslim jurists differed in their discussion of the law of divorce. There are those who allow and some refuse, there are pros and cons and the differences are still part of the development of Islamic law that is caused by the existence of the divorce *taklik talak* itself as a marriage agreement in Islam. The evidence used by the ulama to strengthen their opinion about the *taklik talak* is the Word of Allah SWT in the QS. al-Baqarah 2: 229:

الطَّلُقُ مَرَّتَيْنِ فَاِمْسَاكَ بِمَعْرُوفٍ اَوْ تَسْرِيحُ بِاِحْسَنِ وَلَا يَجِلُّ لَكُمْ اَنْ تَاْخُذُوْا مِمَّا ءَاتَيْتُمُوْهُنَّ شَيْئًا اِلَّا اَنْ يَخَافَا اِلَّا يُقِيْمَا حُدُوْدَ اللّٰهِ فَاِنْ خِفْتُمْ اِلَّا يُقِيْمَا حُدُوْدَ اللّٰهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهٖ تِلْكَ حُدُوْدُ اللّٰهِ فَلَا تَعْتَدُوْهَا وَمَنْ يَتَعَدَّ حُدُوْدَ اللّٰهِ فَاُولٰٓئِكَ هُمُ الظّٰلِمُوْنَ ٢٢٩

Meaning:

"Divorce that can be referred to is twice, after that may be referred back in a way that is familiar or divorced with a good".

The verses that were revealed regarding the reconciliation of divorce are all absolute, and the absolute becomes a reference as long as there are no other valid propositions. The above verse does not distinguish direct divorce from *taklik*. In the Compilation of Islamic Law (KHI), divorce *taklik* is included in the forms of marriage agreements (KHI Article 45). So in this case *taklik talak* is a binding marriage agreement between the parties that entered into the agreement Allah SWT said in QS. al-Maidah, 5: 1:

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا اَوْفُوْا بِالْعُقُوْدِ

Meaning:

"O you who believe, fulfill all binding covenants".

From the explanation of this verse, it can be the basis for how to formulate the procedures and conditions for divorce *taklik* as a marriage agreement in Islam. The basic law of *taklik talak* is the same as the *talak* divorce, namely *makruh*. This is according to the original law, but if the *taklik talak* will

lead to damage, then the law will be *haram* (Sulaiman Rasjid, 2007: 408). For this reason, it is feared that it will lead to divorce, so it is permissible for the husband and the wife to actually make peace (M. Quraish Shihab, 2000: 579). *Taklik talak* has the meaning of a divorce which depends on the occurrence of a thing that is indeed possible that has been stated in advance in an agreement that was promised in advance (Syuti Thalib, 2013: 118). From the explanation above, divorce *taklik talak* is a marriage agreement in Islam which is binding according to generally includes all binding and *taklik talak* is a form of agreement.

b. The Hadith

Binding agreements generally include everything that is binding and non-divorce is binding. As explained in the Qur'an above, *aqad* includes an agreement on Muslims who believe in Allah and especially in the marriage agreement made by a married couple so that they can gather between each other. This means that what is allowed by Allah and what is prohibited, and what is meant by Allah and everything that is stipulated in the Qur'an must not be betrayed or violated, especially in the marriage agreement in Islam which is called *taklik talak*. (Mahmud Syaltut, 2000: 218).

In the hadith that talks about divorce or divorce in Islam, it is stated that in these conditions it must be guaranteed to be in harmony with the truth. Because the lawful dressing that Allah hates is divorce. (Ahmad Bin Husein, 2010: 249). The Prophet's Hadith which reads:

حَدَّثَنَا كَثِيرُ بْنُ عَبْدِ حَدَّثَنَا مُحَمَّدُ بْنُ خَالِدٍ عَنْ مَعْرِفِ بْنِ وَاصِلٍ عَنْ مُحَارِبِ بْنِ دَثَارٍ عَنْ ابْنِ عُمَرَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ
أُبْغَضُ الْحَالِلَ إِلَى اللَّهِ تَعَالَى الطَّلَاقُ

Meaning:

Having told us Katsir bin 'Ubaid, told us Muhammad bin Khalid from Mu'arrif bin Washil from Muharib bin Ditsar from Ibn Abbas from the Prophet sallallahu alaihi wasallam he said: "The halal thing that Allah hates the most is divorce." (Abu Daud: 1863).

This hadith has the following reinforcement:

حَدَّثَنَا كَثِيرُ بْنُ عَبْدِ الْجُمَيْيُ حَدَّثَنَا مُحَمَّدُ بْنُ خَالِدٍ عَنْ عَبْدِ اللَّهِ بْنِ الْوَلِيدِ الْوَصَّافِيِّ عَنْ مُحَارِبِ بْنِ دَثَارٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ قَالَ
رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أُبْغَضُ الْحَالِلَ إِلَى اللَّهِ الطَّلَاقُ

Meaning:

Having told us Katsir bin Ubaid Al Himshi said, had told us Muhammad bin Khalid from Ubaidullah bin Al Walid Al Washshafi from Muharib bin Ditsar from Abdullah bin Umar he said, "Rasulullah sallallahu 'alaihi wasallam said:" The most hated halal matter Allah is divorce." (Ibnu Majah: 2008).

From the discussion of the Qur'an and the hadith above, it is only natural that the recitation of *taklik talak* appears pros and cons which are debated among the Sambas Malay community. This has fulfilled what the Prophet said about the most appropriate conditions to be fulfilled, based on this opinion there is an opportunity to enter into a marriage agreement so that he can handle the high level of divorce. (Amir Syarifuddin, 2014: 146-147). The reason is that the manuscript of the agreement attached to the copy of the marriage certificate and is nationally valid is signed by the husband, so that once the *sighat taklik talak* is pronounced by the husband, it cannot be revoked..

3. An Analysis of the Arguments of the Sambas Society Pros and Cons of Marriage Agreements

The *sighat taklik talak* manuscript differs from the provisions in the Indonesian version of fiqh. If certain conditions required in *taklik talak* do occur, then in order for the divorce to actually fall, the wife must submit the problem to the Religious Court (PA). If you don't report the problem to the PA, the husband's divorce will not fall forever.

The complete sound of *taklik talak* in Indonesian fiqh is as follows:

“After the marriage contract I (the groom) promised with all my heart that I would have a good relationship with my wife named (bride) (*mu'asyarah bil ma'ruf*) according to Islamic teachings. To my wife I proclaim the following *sighat taklik*:

If I:

1. Leaving my wife 2 (two) years in a row;
2. Not providing him with obligatory support for 3 (three) months;
3. Hurting my wife's body / body, or
4. Leaving (ignoring) my wife for 6 (six) months or more;

and because of my actions my wife was displeased and filed a lawsuit at the Religious Court, so if the court accepted her lawsuit, then my wife paid Rp.10,000 (ten thousand rupiah) as *iwadh* (substitute) to me, my divorce was one to her. o the court I gave the power to receive the *iwadh* money and hand it over to the local National Zakat Agency for social worship purposes”.

If we look closely, the pronouncement of *sighat taklik talak* as a marriage agreement in Islam contains 2 conditions, namely alternative conditions and cumulative conditions. The alternative requirement must be violated by the husband while the cumulative requirement must be done by the wife. The alternative condition is number 1 through number 4. If the husband has neglected one of the numbers 1 to 4 or all of them, then the husband has violated the alternative divorce *taklik*. But that is not a sufficient condition for the fall of husband's divorce.

For the divorce of the husband, the wife must meet the cumulative requirements, namely 1. the wife is not happy 2. file a lawsuit against the PA 3. the lawsuit is accepted and 4. the wife hands over an *iwadh* of Rp.10,000, -. These four cumulative conditions must all be met. If all 4 cumulative conditions have been met, then the divorce of one husband will fall.

The common people sometimes or the Sambas Malay community come to the Religious Court to ask for a divorce on the grounds that her husband has violated one of the alternative conditions for *taklik talak*, for example her husband has not provided her with support for more than 3 months. Of course this will not be fulfilled by the Religious Courts.

The view of the Malay sambas community is wrong as a result of understanding the *taklik talak* that is in the teachings of the yellow book fiqh. Because in the *taklik talak* version of the yellow book there are no alternative and cumulative requirements. There are only general requirements. The fall of divorce because the husband violates the marriage agreement that he has read in front of his wife, if he violates the agreement, there is a direct violation of *talak*, this is what is a debate for the pros and cons of the Malay community regarding the recitation of *taklik talak* whether it is in accordance with Islamic law.

a. Malay Society Pros of Marriage Covenants in Islam

Here the authors describe the data obtained through observation and interviews about the object under study regarding the recitation of *taklik talak* after consent to Kabul in the pro-sambas Malay community towards marriage agreements in Islam:

The opinion of Mr. H. Heri, S. Ag (religious figure) regarding the pronouncement of *taklik talak* is an agreement in marriage, in this case divorce can fall according to the conditions that have been determined, so if the husband violates the contents of the agreement, the wife may file a lawsuit to the Court Religion so that the wife's demands are granted in accordance with predetermined conditions.

Here, the author queried about the contents of the pronouncement of *taklik talak*. According to Mr. H. Heri, S. Ag, the content of *taklik talak* in the marriage book is good because it protects the rights of a wife and also for the husband to be able to carry out his obligations and be responsible for the wife, what if the husband violating the agreement, the wife can file a lawsuit at the court if it is approved by

the religious court, then the wife pays' *iwad* (substitute), amounting to Rp. 10,000.00 (ten thousand rupiah).

Mr. H. Heri, S. Ag also agrees with *taklik talak* as a marriage agreement in Islam because it provides protection to the wife, and reciting *taklik talak* when married is the obligation of the husband to keep his promise. Mr. H. Heri, S, Ag also said that *taklik talak* is very relevant, because seeing that currently there are husbands who are not responsible and do not carry out their obligations towards their wives.

So the conclusion of the results of the interview with Mr. H. Heri, S, Ag is that after the consent of qabul pronouncing *taklik talak* is mandatory, because it argues that *taklik talak* is a government decision and the Indonesian Ulema Council does not prohibit the agreement, because there is a marriage agreement in the marriage book that does not harm both parties in a marriage to foster a *sakinah, mawaddah, and rahmah* household. (Conclusion Results of interviews with Mr. H. Heri, S. Ag, Religious Figures (Melayu Sambas).

The next perception is by Mr. Santriadi, S.Pd.I, where the pronunciation of *taklik talak* is appropriate because the contents of the agreement have gone through the stages of selecting the correct sentence and the formulation is carried out by those who are experts in their field of Islam. What makes the content of *sighat taklik talak* must be parties that are trusted and recognized by the state to compile a rule or legal provision, especially Islamic law. He also expressed his opinion about the payment of *'iwad* (successor) which must be updated or reviewed in the Islamic marriage agreement because the figure is too small.

Based on the observations of the author on the views of Mr. Santriadi, S.Pd. whether he agrees or does not pronounce the *taklik talak* as a marriage agreement in Islam, he strongly agrees in marriage as for the reason so that the rights of the wives are fulfilled physically and mentally in fostering a household. At the time of his marriage, he recited *taklik talak* with the agreement, he was determined to build a good marital relationship and be able to bring peace to his household. This is the conclusion from the results of the interview with Pak Santriadi, S. Pd. I (common people with Sambas Malay).

The author believes that implementing this agreement in the state of Indonesia is possible because, one of the reasons the government imposes *taklik talak* as a marriage agreement in Islam is to suppress the arbitrary actions of husbands against wives who are often victims of domestic violence with *taklik talak* which can reduce the high divorce rate specially in Sambas Regency, West Kalimantan. With the *taklik talak* as a marriage agreement in Islam, the husband can no longer leave his wife traveling for a long time so that he forgets his obligations and responsibilities, nor can he commit violence or beat his wife without any reason because if the wife is hurt because of the action of her husband, the wife may file a suit for divorce at the Religious Court. In the case of reciting *taklik talak*, if there are factors beyond the control of the husband in pronouncing *taklik talak*, such as an element of loss of sanity or loss of control, it must be considered. Islamic law itself has provided liberation and relief in certain circumstances. Therefore, clear evidence is needed to help the religious courts make the right decisions and assist the parties involved. (Zaini Bin Nasoha, Mahfuzah Binti Abdul Shukor, 2018: 46).

b. Malay Society and view on Marriage Agreement in Islam

The perception of Mr. H. Husaini Mahmud, S.Pd.I regarding the pronunciation of *taklik talak* as a marriage agreement in Islam is hanging, meaning that a husband hangs the divorce on his wife who has just granted consent. If the condition at that time, divorce could happen to his wife if the husband reneges on the agreement. Opinion of Mr. H. Husaini Mahmud, S.Pd. I, regarding the pronunciation of the contents of *taklik talak*, *taklik* does not need to be pronounced at the time of marriage after the consent granted, but the husband should give better promises to his wife such as providing for his wife properly and being responsible and to his partner must love each other forever. He also said that if the *taklik* divorce was read it was tantamount to having bad prejudice for a married couple in their marriage.

In observing whether or not Mr.Husaini Mahmud, S.Pd.I agrees with the pronunciation of *taklik talak* as a marriage agreement in Islam, he does not approve of pronouncing *taklik talak* in marriage on the

grounds that it is not regulated in the Koran and al-Hadith, he said without reciting *taklik talak* is legal in a marriage because if there is no provision then the agreement can be canceled.

In observing that the perception of Mr. H. Husaini Mahmud, S. Pd. I is the pronunciation of *taklik talak* is a marriage agreement, he said that *taklik talak* is irrelevant, the reason for reading it is that the agreement with the wife through *taklik talak* does not have the right for the husband to pronounce it, and many problems will occur because of the result of reciting *taklik talak*. Divorce is an act that is hated by God. Mr. H. Husaini Mahmud, S. Pd. I did not pronounce *taklik talak* when he was married because according to him the problem of *taklik talak* was not in Islamic law (Result of interview with Mr. H. Husaini Mahmud, S. Pd. I, (Religious Leader).

Furthermore, according to Mr. Ruspianto, the pronunciation of *taklik talak* is a hanging agreement, meaning that the husband hangs the marriage agreement on his married wife, if this condition occurs then the divorce path falls on the wife. Mr. Ruspianto opinion regarding the pronunciation of the contents of *taklik talak* is that *taklik talak* does not need to be pronounced after the consent is granted. Due to the lack of pre-marital knowledge exposure, BP4 does not explain the *taklik talak* and its contents as a marriage agreement in Islam. BP4 only explains how to build a good household.

The author observed that Mr. Ruspianto does not agree with the pronunciation of *taklik talak*, probably the reason being that he does not have strong rules in Islam regarding the obligation to pronounce the *taklik talak* script. If there is a binding marriage agreement, it will cause problems in the household because the wife is bound by the husband's agreement. Related to knowing whether the pronunciation of *taklik talak* is a marriage agreement or not, according to him, the pronunciation of *taklik talak* is irrelevant, the reason for Mr. Ruspianto pronouncing *taklik talak* will disturb the marital relationship that has been developed in the household. When Mr. Ruspianto got married he did not pronounce *taklik talak* because it had been filled in by BP4 and need not be said to be a marriage agreement in Islam (Result of interview with Mr. Ruspianto, common people with Sambas Malays).

After seeing the results of interviews with respondents who contradict the pronunciation of *taklik talak* as a marriage agreement in Islam, the authors conclude from the above analysis that religious and lay community leaders (Melayu Sambas) reside in Sambas, so the four respondents above were selected as data sorting in the field have different opinions about the pronunciation of *taklik talak*, because among the respondents they do not agree with the pronunciation of *taklik talak* as a marriage agreement in Islam, because it usually disturbs the harmony of the household. While there are respondents who agree to such agreement in order to maintain a good husband and wife relationship.

Of the four respondents, there were two respondents who did not agree with the recitation of *taklik talak* as a marriage agreement in Islam, because there are no provisions in the Koran and al-Hadith, the existence of reciting *taklik talak* can facilitate divorce between husband and wife in fostering a household. The writer draws the conclusion that the opinions of the two respondents expressed are quite rational considering on the one hand that by pronouncing *taklik talak*, there will be many divorces in the household. This is because if the husband violates the marriage agreement, the wife can sue for her husband's divorce easily. The opinion of the two respondents led to a negative impact arising from the existence of *taklik talak* in marriages in Indonesia, especially in the district of Sambas in the Malay community.

In a theoretical review it is true that divorce is something that is lawful but is hated by Allah SWT, as the Prophet Muhammad SAW said:

حَدَّثَنَا كَثِيرُ بْنُ غَيْبِ الْجَمِصِيِّ حَدَّثَنَا مُحَمَّدُ بْنُ خَالِدٍ عَنْ غَيْبِ اللَّهِ بْنِ الْوَلِيدِ الْوَصَّافِيِّ عَنْ مُخَارِبِ بْنِ دِنَارٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَبْغَضُ الْخَلَالَ إِلَى اللَّهِ الطَّلَاقِ

Meaning:

"For telling us Katsir bin Ubaid Al Himshi said, has told us Muhammad bin Khalid from Ubaidullah bin Al Walid Al Washshafi from Muharib bin Ditsar from Abdullah bin Umar he said, "Rasulullah SAW said:" The most halal matter that Allah SWT hates is divorce ". (IBNUMAJAH: 2008).

From the hadith above, which is related to the facts in the field, the results of the observations of the author, with the recitation of the *talak* of the Malay Sambas community, there are currently many divorce problems that may be faced by married couples, especially in carrying out household life. Therefore, sociologically, the recitation of *taklik talak* in the marriage process can be used as a solution to protect each other's rights, especially the rights of a wife, which must be held accountable by a husband in order to avoid divorce.

In its development, *taklik talak* is made not only to focus on issues of rights or property, but also to pay attention to the social relations and inner life that will be obtained from a married couple. This includes the start of a marriage with openness and honesty, opportunities to express desires of one another, and matters related to economic or family support matters.

After the researchers conducted observations and interviews with the Malay Sambas community to the bride and groom who wanted to do a Kabul consent at the Sambas Religious Affairs Office, how many couples recited *taklik talak* and did not pronounce *taklik talak*, some people argued that the existence of *taklik talak* pronunciation in marriage was proven. The pros and cons of pronouncing *taklik talak* and signing the *taklik talak* that have been described above about the respondents chosen by the authors in this study. And all married couples have awareness after reciting *taklik talak* for those who are pro about *taklik talak* because *taklik talak* is a sacred marriage agreement and cannot be violated by the husband in the responsibilities of being married.

Based on the explanation above, the existence of *taklik talak* is very important. Because of the existence of a marriage agreement in Islam that has been supported by the power of law that is clear in the Qur'an and the hadith of the Compilation of Islamic Law (KHI) and its influence on women themselves, this adds to the importance of the meaning of reciting *taklik talak* in fostering a household in the life of a married couple.

Thus, the recitation of *taklik talak* remains valid and still has legal consequences, because the validity of the *taklik talak* depends on the reading and signing of the *taklik talak* by the husband. So it is very clear what happened in the writer's observations at the Sambas Religious Affairs Office, almost all married couples get married after there is a qobul agreement, that's where the husband and wife, and the husband recites the *taklik talak* and signs the deed of divorce as a marriage agreement in Islam.

Conclusion

In the understanding of the community of Sambas Malay regarding marital relationship between a husband and a wife, there are some who do not know what *taklik talak* is and what its function is, and whether a wife wants to pronounce *taklik talak* from her husband as a marriage agreement in Islam. The views of the Sambas Malay community regarding the pronunciation of *talak taklik* as a mutual agreement in marriage are different, it is this difference that makes a long debate of pros and cons among the Sambas Malay community, namely religious leaders and ordinary people.

The difference in opinion stems from the opinion of the Islamic religious shops in Sambas and some common people that they allow reciting *taklik talak* in accordance with the provisions of marriage in Islam. In the Compilation of Islamic Law on *taklik talak* article 46 and there is no need for the recitation of *taklik talak* in marriage, the reason for not being obliged to pronounce *taklik talak* is because there is no explanation from the Qur'an and al-Hadith about *taklik talak* nor is there a special article that requires it in the Law -Marriage Invitation. So those who intend to pronounce *taklik talak* as a marriage agreement in Islam may pronounce it, as long as they do not violate the provisions of the agreement in order to avoid hurting a wife. For those who do not pronounce *taklik talak* due to the absence of the provisions, it is permissible too as long as the husband and wife can maintain harmony in their marriage.

The Malays who are pros to *taklik talak* divorce as a marriage agreement in Islam, namely religious leaders and the Sambas Malay lay community, agree with the contents of the sakhath *taklik talak* in the marriage book as a promise made by a husband to his wife. The existence of divorce in marriage because it is one of the handles of a wife, because the contents of the divorce *taklik talak* really protect the rights of the wife what has been said by a husband. Indeed, there is no compulsion for a husband who holds a marriage, after the consent *ijab qobul* finished saying *taklik talak* on his newly married wife. But indeed, the husband should be willing to say divorce *taklik*, given the benefits of the divorce *taklik talak* both husband and wife to be able to be a handle in avoiding divorce in the household.

The Malay community of Sambas who oppose the recitation of *taklik talak* as a marriage agreement in Islam, on the basis of there being no provisions in the Qur'an and al-Hadith as well as special laws regulating divorce, with the pronunciation of *taklik talak* it facilitates the way of divorce between husband and wife in fostering the household . The opinion of the Malay sambas community that is spoken is quite rational considering that on the one hand, with the pronunciation of *taklik talak*, there will be many divorces in the household, because the wife dares to sue for her divorce, thus causing debate among religious and lay people. The opinion issued has an impact on the negative impact on a woman after marriage arising from the recitation of the *taklik talak* as a marriage agreement in Islam.

If a husband leaves his wife without providing support for both physically and spiritually without news, of course it will be very painful for the wife's feelings so that the absence of divorce can reduce the divorce rate of husband and wife. If you pronounce *taklik talak* after the consent is granted, the marriage agreement can be obeyed in order to make it easier to carry out the household life that will be lived. Given the recitation of *taklik talak* after seeing the phenomenon in the field, the writer states that *taklik talak* is something that gives a wife a positive side regardless of the pros and cons of the Malay Sambas community related to the existence of a marriage agreement in Islam, but in reciting *taklik talak* does not violate the rule of law Islam and as a normative foundation in terms of marriage in Islam.

With this, the authors provide a solution for couples who want to get married so that they can take lessons from marriage and related parties in managing marriage registries in Islam, as follows:

Bearing in mind that in a household life that is fostered full of problems between husband and wife who should marry, they must really prepare carefully, not just indulge in mere desires. Entering household life requires strong mental preparation, so that problems in the household can be handled properly and husband and wife take good care in order to build a happy family in accordance with Islamic law. For married couples who want to get married must have good intentions, and not only as a mere satisfaction of their passions which can result in cracks in building a household.

Hopefully the related parties who play a role regarding marriage, such as the office of religious affairs, especially BP4 and religious openers or Islamic religious extension workers, will intensify socializing again with prospective husband and wife about *sighat taklik talak* that is uttered by husbands after kabul consent to their wives, because most husbands forget even do not know what the exact pronunciation of the *taklik* divorce that is listed in the marriage book.

The public, especially the Sambas Malay, need to be given awareness of the pronunciation of *taklik talak* from its history, its provisions and benefits so that it becomes clear to the community about the true *taklik talak*. This knowledge equips a prospective husband and a wife to understand the *taklik talak* of divorce as a marriage agreement in Islam.

The office of religious affairs should emphasize to those who agree to *taklik talak* in the marriage book, that a prospective husband in pronouncing *taklik talak* as an agreement has to carry out this decision with seriousness, because the existence of *taklik talak* as an agreement in Islam is not only a mere formality in carrying out a marriage.

REFERENCES

- Abdul Manan, *Penerapan Hukum Acara Perdata di Lingkungan Peradilan Agama*. Jakarta: Kencana, 2006.
- Ahmad Bin Husein bin Ali bin Musa Abu Bakar Al-Baihaqi, *Sunan Al-Bihaqi Kubro*, Jilid VII, Terj. Muhammad Abdul Qodir 'Atho. Beirut: Dâr al-Kutub al-Ilmiyah, 2010.
- Ahmad Furkon, *Fiqh Munakahat*. Cet 1. Jakarta: Attariyâ, 2013.
- Ahmada Rofiq, *Hukum Perdata Islam Di Indonesia (Edisi Revisi)*. Jakarta: Rajawali Pers, 2015. Cet 1.
- Alex Subur, *Filsafat Komunikasi "Tradisi dan Metode Fenomenologi"*. Jakarta: PT Remaja Rosda Karya, 2016.
- Al-Sayis Ali S, Mahmud yaltu, *Muqaranah al-Madzâhib fil Fiqhi*, Terj Zakiy al-Kaaf. Bandung: Pustaka Setia, 2000.
- Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia, Antara Fiqh Munakahat dan Undang-Undang Perkawinan*, cet 5. Jakarta: Kencana, 2014.
- Aulia Muthiah, *Hukum Islam-Dinamika Perkembangan Seputar Hukum Perkawinan dan Hukum Kewarisan*. Yogyakarta: PT Pustaka Baru, 2017.
- Dadang Sukandar, *Membuat Surat Perjanjian*. Yogyakarta: Andi. Ed; Maria Agustina S, 2011.
- Gus Arifin, *Menikah Untuk Bahagia (Fiqh Pernikahan dan Kamasutra Islami)*, Edisi Terbaru cet ke - 6. Jakarta, PT Elex Media Komputindo Kompas Gramedia, 2016.
- Hari Wijaya, *Metodologi dan Teknik Penulisan Skripsi, Tesis, dan Disertasi*. Jakarta: Elementera Publising, 2007.
- Ibrahim Anis, et.al., *al-Mu'jâm al-Washi*. Mesir: Darul Ma'arif, 1976.
- Khoiruddin Nasution, *Islam tentang Relasi Suami dan Istri (Hukum Perkawinan I)*. Jogyakarta: Academia dan Tazzfa, 2004.
- Luis Ma'luf, *Al-Munjid*. Beirut: Darul Masriq, tth.
- M. Abdul Mujid, Maburu Thalhan Syafi'ah AM., *Kamus Istilah Fiqh*. Jakarta: Pustaka Firdaus, 1994.
- Mujieb Abdul, *Kamus Istilah Fiqh*. Jakarta: Pustaka Firdaus, 2004.
- M. Fauzan, *Pengantar Hukum Islam dan Pranata Sosial*, cet 1. Bandung: Pustaka Setia, 2013.
- M. Quraish Shihab, *Tafsir Al-Mishbah*, volume 2. Ciputat: Lentera Hati, 2000.
- Muktar Kamal, *Asa-Asas Hukum Islam Tentang Perkawinan*. Jakarta: Bulan Bintang, 2011.
- Nakamura Hasako, *Perceraian Orang Jawa*. Yogyakarta: Gajahmada University Press, 2011
- Ratno Lukito, *Pergumulan Antar Hukum Islam Dan Adat Di Indonesia*. Jakarta: Inis, 1998.
- Sayuti Thalib, *Hukum Keluarga Indonesia*. Jakarta: Yayasan Penerbit, 2013.
- Shohih Abu Daut, *Hadis 9 Imam*. Jakarta: Lidwa Pustaka, 2010.

- Shohih Ibnu Majah, *Hadis 9 Imam*. Jakarta: Lidwa Pustaka, 2010.
- Suharsimi Ari Kunto, *Prosedur Penelitian Suatu Pendekatan Praktik*. Jakarta: PT Rineka Cipta, 2008, Cet VII.
- Sulaiman Rasjid, *Fiqh Islam*. Bandung: Sinar Baru, 2007.
- Tim Penyusun, *Kamus Pusat Pembinaan dan Pengembangan Bahasa*. Yogyakarta: 1997.
- Undang-Undang Perkawinan Indonesia, dilengkapi Kompilasi Hukum Islam di Indonesia. Surabaya: Arloka, 2016.
- Wan Rajni, *Pelanggaran Taklik Talak Menurut Kompilasi Hukum Islam sebagai Alasan Perceraian Suami Isteri*. Fakultas Hukum UI Sumatera Utara Medan: 2003.
- Wiwi Alawiyah Wahid. *Kesalahan-kesalahan seputar Tahap-tahap Pernikahan Paling Sering Terjadi*. Yogyakarta: Sabil, 2012
- Zaini Bin Nasoha, Mahfuzah Binti Abdul Shukor, *Faktor Luar Kawalan dalam Penentuan Status Talak Tiga Sekali Lafaz di Mahkamah*. Malaysia Jurnal Of Syariah and Law. Vol. 8 No 2, Desember 2018.