

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

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Abstract

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

Keywords: Sighat taklik, Divorce, Shafi'i school

INTRODUCTION

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

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

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



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