ANALYSIS OF LAFADZ TA’LIQ TALAK IN ISLAMIC LAW PERSPECTIVE AND CIVIL LAW OF MARRIAGE/COMPILATION OF ISLAMIC LAW

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Abstract

Actually marriage is a sacred thing. The contract that unites the two opposite sexes is bound strongly (mitsaqan ghalizha). A strong agreement is concluded in the agreement between the guardian and the prospective husband. Indonesian civil law requires saying sighat ta’liq husband to his wife. The core content of sighat ta’liq is a conditional divorce between the two if the conditions have been fulfilled. Islamic law considers marriage to be legitimate if it has enough conditions and pillars, without sighat ta’liq. Indonesian law requires the requirements of sighat ta’liq in government policy through the decree of the minister of religion number 3 in 1953. The purpose of the existence of sighat ta’liq is to protect the wife from the abuse of her husband, if the husband violates the wife has the right to sue the religious court (divorce). Lafadz sighat ta’liq was made referring to the regulation of the minister of religion number 2 in 1990, but the lafadz contained a new understanding of marriage and the promise of divorce. Compilation of Islamic Law (KHI) as an explanatory regulation from UUP number 1 of 1974 Article 46 paragraph 3 does not require sighat ta’liq.

Keywords: Analysis, Lafadz, Ta’liq Talak, Perspective, Islamic Law, UUP/KHI.

Abstrak


Kata kunci: Analisis, lafadz, ta’liq talak, perspektif, hukum Islam, UUP/KHI.
I. INTRODUCTION

Marriage basically brings together two human children who love and cross each other. The combination of love is tied to a marriage contract or marriage. But the results of marriage in household life are not all going smoothly as desired in the phrase BP4 or KUA, namely households that are sure to be warahmah. The final solution if the household problem cannot be solved in any way, then the finish is divorce. According to UUP No. 1 of 1974, that marriage could or could be interrupted caused: 1. The cause of death (husband / wife); 2. For divorce (divorce); 3. Because the court ruling (divorce sue / fasakh / khuluk).

In KHI Article 116, divorce can occur due to eight factors, namely: a). one of the parties commits adultery or becomes a drunkard, compactor, gambler, etc. which is difficult to cure; b). one of the parties leaves the other party for 2 (two) consecutive years without the permission of the other party and without valid reason or because other things are beyond his capacity; c). one party gets a sentence of 5 (five) years or a more severe sentence after marriage; d). one party commits atrocities or severe abuse that endangers the other party; e). whether one party gets a badab or disease with the result of not being able to carry out its obligations as a husband or wife; f). between husband and wife there are continuing disputes and arguments and there is no hope of living in harmony again in the household; g). Husband breaks ta’liq talak; g). the conversion of religion or apostasy which causes harmony in the household

Generally the agreement is in bermuamalah and buying and selling or other muamalah. But in marriage in the modern era now, there are also agreements, both pre-marriage agreements regarding property rights or post-marriage agreements called sighat ta’liq, this is done if one day there is an undesirable event between a married couple and their household problems. , then to avoid persecuting each other or menzhalimi between the two, is considered necessary for a marriage agreement, both pre or post-marriage (marriage).

Ta’liq talak according to its journey has been in effect for a long time in the practice of Indonesian marriages, especially Islam. Sighat is voluntary but has become a necessity for her husband. Husbands submit conditions if they do not want it in the time of the wedding, the wife is justified to complain to the PA to sue for divorce, while the law sighat ta’liq has legal consequences for both married couples.

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1 Anny Najiah, "Overview of Islamic Law on Violations of Ta’liq Talak as the reason for Divorce”. Research Yogyakarta: Faculty of Sharia and Law Department of Family Law UIN Sunan Kalijaga, 2014), p. 3
2 State Gazette UUP No. 1 of 1974; see also Hasbullah Bakay, Complete Collection of Marriage Regulations in Indonesia, (Jakarta: Djambat, 2015), p. 245
4 State Gazette, “Compilation of Islamic Law in Indonesia” (KHI), Directorate of Islamic Religious Counseling Directorate General of Islamic Institutional Development, (Ministry of Religion, 2001), Article 116; see also Uswatun Khasanah, "Reasons for the occurrence of Taklik Talak Violations in Divorce (Case Study in Karangmoncol Village, Randudongkal District, Pemalong District)”. Research Semarang: Faculty of Sharia Walisongo State Islamic University, 2015), p. 2-3
5 Ru’fah Abdullah, “Agreement in Marriage of the Perspective of Islamic Law and Legislation”. Journal of Gender and Child Studies. (Vol. 3 No. 1, January-June 2016), 31-49, p. 31
6 Sulaiman Rasjid, Islamic Fiqh, (Jakarta: Attahriyah, t.th), p. 386-387
7 Muh. Sudirman Sesse, op. cit., p. 1
8 Ratno Lukito, Struggle between Islamic and Customary Law in Indonesia, (Jakarta: Inis, 2008), p. 78-81
According to UUP No. 1 of 1974 above, there is no reason for divorce based on ta'liq talak.\(^9\)

Ta'liq talak according to the understanding of law in Indonesia such as pledges, with the pledge that requires the occurrence of talak to the wife, meaning that the pledge of talak through ta'liq talak has legal consequences.\(^10\) Ta'liq talak is basically a tradition that has been passed down for generations, this is proof that the role of customary law and Islamic law influences the process of legal legislation, especially family law in Indonesia.\(^11\)

According to fiqh terminology, it can be interpreted that ta'liq talak is conditional divorce or talak muqayyadah, for example the expression of a husband to his wife "if you do not pray tomorrow I will fall to one of my talak". So this expression becomes the basis of falling divorce if the wife tomorrow does not pray, but if tomorrow the wife prays, then the divorce does not fall (invalid)).\(^12\)

According to the jurisprudence reference, it relates to the study of ta'liq talak, as an example: 1). Sulaiman Rasyid in his book "Islamic Jurisprudence" states that it is permissible and the existence of ta'liq talak as a form of marriage agreement. 2). Mahmud Syaltut in his book "Comparative School" argues that divorce uses the best ta'liq talak road agreement in divorce to protect women's rights for her husband's evil deeds.\(^13\)

From the two jurists above, in this article the author will try to study them in the perceptions of Islamic law and Indonesian civil law, namely UUP / KHI.

II. DISCUSSION

1. Definition of Ta’liq Talak and Istinbath Law

Ta’liq talak comes from two words namely taklik and talak, in terms of the language of taklik comes from the word "alaqa" which means "hang".\(^14\) While the word talak comes from the Arabic word "thalaqa" which means to let go or leave,\(^15\) release from the bond and for example,\(^16\) releasing ties, both sensory (essential) such as removing horses or prisoners, as well as meaningfully like giving up marriage\(^17\) and give up the agreement or leave it.\(^18\)

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\(^9\) Abdul Manan, "The Problem of Ta'lik Talak in Marriage Law in Indonesia". Legal pulpit. (No. 23 Year VI Jakarta: Al-Hikmah, 1995), p. 68

\(^10\) Kamal Mukhtar, Principles of Islamic Law on Marriage, (Jakarta; Bulan Bintang, 2014), p. 207

\(^11\) Ratno Lukito, op. cit., p. 75; see also Nihayatul Ifadhloh, "Taklik Talak As Marriage Agreement (Study of Analysis of the Compilation of Islamic Law in Indonesia Article 45)". Research. Semarang: Syar'i'ah Faculty and Law of the State Islamic University of Walisongo, 2016), p. 2

\(^12\) Sayyid Sabiq, Fiqh Sunnah, (Bandung: Al-Ma’arif, t. Th), p. 41..


\(^14\) Louis Ma'luf, Al-Munjid, (Beirut: Darul Masyriq, t.th), p. 549

\(^15\) Louis Ma'luf, Al-Munjid, p. 448; see also Mahmud Yunus, Arabic-Indonesian Dictionary, Translator/Interpretation of the Qur'an, (Jakarta, 2012), p. 227

\(^16\) Ibrahim Hosen, Comparative Fiqh in the Issues of Marriage, Thalaq, Rajuk and Inheritance Law, (Jakarta: Islamic Library and Publishing Center Ihya Ulumuddin Foundation, 1979), p. 567

\(^17\) Abu Al Ula Muhammad Abdurrahman bin Abdurrahim Al Mubarakfuri, Tuhfatul Ahwazi, (Solo: Reader Azzam, 2011), p. 60.

While in terms of the term ta'liq talak is a special form of talak with certain requirements. Taklik in Arabic means "condition or promise". Divorce applies as soon as it is said by the husband. However, in the case of ta'liq talak, the divorce does not apply when it is pronounced, but when the conditions previously set are fulfilled. For example, if the husband tells his wife, "you are talak tomorrow morning", then divorce or divorce will only fall the following morning.19

According to Wahbah Juhailel ta'liq talak is a series of statements whose proof is possible to occur in the future by using terms, such as, when, whenever, and so on, such as the husband's words to his wife, if you enter Fulan's house, then you tame.20

According to Sayuti Thalib ta'liq talak is a divorce that depends on the fall of a thing that has been agreed upon and if the thing or condition that has been agreed to is violated by the husband, then the opportunity is opened to take the initiative by the wife, if he so wishes.21

According to Sayid Tsabiq ta'liq is a husband in dropping divorce depends on a condition, for example the husband says: "If you go to a place, then you are betrayed.22

Article 1 of the Compilation of Islamic Law (KHI) states that ta'liq talak is an agreement made by a prospective bridegroom after the marriage contract that is included in the marriage certificate in the form of promises of divorce which are dependent on certain conditions that may occur in the future.23

Regarding the time to come or a certain time, that means the divorce will fall if the conditions have been violated. The Imam of the school itself has different opinions. Abu Hanifah and Imam Malik argued that women were immediately accused, but Imam Shafi'i and Ahmad said they had not been valid before that time arrived, as for Ibn Hazm both now and in the future such divorce did not fall.24

From some of the meanings above, it can be concluded that ta'liq talak is a divorce which depends on a possible event which has been mentioned in an agreement, after the marriage contract.25

Istinbath of the law ta'liq talak, based on the Qur'an Surat an-Nisa: 128:

وَإِذَا أُخِفَتْ أَمْرَةٌ مِنْ بَعْلِهَا وَسَبِيلٌ وَفِي أَيْضَاءُ أَيْضَاءٌ فَأَخْرَجَهَا مَا فَتَمَّ مِنْهَا صَلَحًا وَأَخْصَرَتْ أَلْقَافَ الشَّهَابَةَ وَإِنْ قَدْ حَمَلَتْ وَقَوْلُهُمْ مَا كَانَ مَنْ تَعْلَمُ عَلَيْهِمْ (١٢٨)

Meaning: And if a woman is worried about being nuyu26 or indifferent attitude from her husband, so it is not right for both of them to hold true peace,27 and peace is better (for them) even though man is according to his miserly nature,28 and if you get along with your wife well and take care of yourself (from nusyuz and indifference), then surely Allah is knowledgeable of what you do.29

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21 Sayuti Thalib, Indonesian Family Law, (Jakarta: Publisher Foundation VI, 2014), p.119
23 Uswatun Khasanah, "Reasons for the Violation of Taklik Talak, p. 36
24 Sayyid Sabiq, Fiqhu al-Sunnah, (Cairo: Maktabah Ma’arif, t.th), p. 364
25 Uswatun Khasanah, "Reasons for the Violation of Taklik Talak, p. 36
26 Nusyuz: That is leaving the obligation to be married with a wife. nusyuz from the wife's side like leaving home without her husband's permission. nusyuz on the husband's side is to be hard on his wife; do not want to menggaulinya and do not want to give their rights
27 Like a wife willing to have some rights reduced As long as her husband wants to be well back
28 That is: the tabi’at man does not want to give up some of his rights to other people with his heart, however, if the wife releases some of her rights, then may the husband accept it
This verse is the basis for formulating procedures and conditions for ta’liq talak as a marriage agreement. Ta’liq talak means a divorce which depends on the occurrence of a thing that may have happened which has already been mentioned first in an agreement that has been agreed in advance.30

So also based on the hadith narrated by Imam Bukhari in terms of the agreement. Said the Prophet Muhammad, which means: "All conditions not contained in the Book of Allah are null and void, even if one hundred times the conditions". (Narrated by Bukhari Muslim).31 From the above hadith, it can be concluded that every agreement made by husband and wife as long as it does not conflict with Islamic law must be kept.32

In ta’liq talak also has a requirement. Jumhur fiqh scholars propose three conditions for the enactment of ta’liq talak: a). This requirement is something that does not yet exist, has not yet happened and may occur. For example: saying a husband to his wife "if you go out of the country without my permission, then your divorce falls", which means going out of the country something that has not happened but might happen. Then taklik al-Muallaq fell by himself. b). When the ta’liq talak recitation was pronounced by the husband, the woman was still a wife. c). When the conditions stated in ta’liq talak pronunciation are fulfilled, the woman is still a wife.33

The second and third conditions, a wife who is killed by her divorce must be in a condition that can be subject to divorce.34 The circumstances are: a) Being in a husband and wife legally. b) When in a state of talak raj'i or iddah talak ba'in sughra, because in these circumstances the legal ties of husband and wife are still valid until the expiration of mas iddah. c) If women are separated from their bodies because they are considered as divorce, such as separation of bodies because the husband does not want Islam, if his wife enters Islam, or because of ila'. This situation is considered talak by the Hanafi group.35

Ta’liq talak is relying on the fall of talak to something that is to come (mustaqa'bal), using terms such as: "in", "idza", "eye" and others.36 This aims to prevent arbitrary acts from the husband's side. Ta’liq talak was carried out after the marriage contract, either directly at that time or on another occasion.37

2. The opinions of the Fuqaha about Ta’liq Talak

The law of sighat ta’liq or ta’liq talak according to the number of ulama from the Malikiyah sect, Syafi’iyah, Hanafiyah and Hanabilah, ta’liq talak is legal if the requirements are fulfilled.38 This is based on the verse al-Qur'an surah al-Baqarah verse 229 which means: "Divorce" (which can be recited) twice. after that you can refer again in a way that is forgiving or divorcing in a good way. It is not lawful for you to take back something from what you have given them, unless both are worried that they will not be able to carry out God's laws. if you are worried that both (husband

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30 Sayuti Thalib, _Indonesian Family Law_, (Jakarta: VI Publisher Foundation, 2014), p. 118
31 Imam Abi Abdillah Muhammad bin Ismail bin Ibrahim, _Shahih Bukhari_, (Beirut: Darul Kutub al-Ilmiyah, t.th), p. 44
32 Uswatun Khasanah, "Reasons for the Violation of Taklik Talak, p. 38
33 Abdul Aziz Dahlan, _Encyclopedia of Islamic Law_, (Jakarta: Ichtia Baru van Hoeve, 2016), p. 1781
34 Uswatun Khasanah, "Reasons for the Violation of Taklik Talak, p. 39
35 Sayyid Sabiq, _Fiqhu al-Sunnah_, p. 68
36 Wahbah Zuhaili, _al-Usul al-Fiqh Islami_, p. 424
37 Sofyan Yusuf and Moh. Toriqul Chaer, "Taklik Talas on the Perspective of Ulamas of the School and Its Effect in Housekeeping": _Il Anil Islam_, (Vol. 10 No. 2, December 2017), 262-284, p. 264
38 Wahbah Zuhaili, _al-Usul al-Fiqh Islami_, p. 430
and wife) cannot carry out God's laws, then there is no sin on both of them being paid by the wife to redeem themselves. These are the laws of God, so do not violate them. Those who violate the laws of their God are the wrongdoers. "In the verse there is no difference between the continued talak (munjiz) and the dependent divorce (muallaq), and there are no signs which indicate a particular type of divorce (mutlaq). In reality there are many ta'liq talak at the time of the Companions of the Prophet. For example in the hadith mentioned: "From Ibn Masud, there was a man who said to his wife: If he did this and like this then he was betrayed, then he did it, then Ibn Masuud said: he was one, and her husband had more rights" (Narrated by Imam Baihaqi). According to the Malikiyah sect, Syafi'iyah, Hanafiayah, Hanabilah and Muhammad Yusuf Musa stated that the ta'liq talak spoken by the husband could cause the fall of the husband's divorce to his wife if it fulfilled the following conditions:

1. That what is copied is something that does not exist when the text is pronounced but is possible in the future.
2. When ta'liq talak is pronounced the object of taklik (wife) has become a legitimate wife for taklik sayers.
3. At the time ta'liq talak was pronounced husband and wife were in the assembly.

According to the scholars of Zahiriyah and Syi'ah Imamiyah, ta'liq talak law, both qasami or syarthi, are invalid. Scholars Zahiriyah and Syi'ah Imamiyah argued that the ta'liq talak was an oath, and an oath to other than Allah Almighty may not, Rasullalah SAW said which means: "Whoever swears then do not swear on other than Allah Almighty".

Then they said: There is no divorce except what Allah has commanded. And there is no oath except what Allah has commanded. So the oath used for talak is not God's command. Scholars of Zahiriyah and Syi'ah Imamiyah also based on a hadith narrated by Ibn Hazm and Ibn Qayyim al-Jauziyah: “The oath used for divorce did not occur (invalid)”. Therefore they said: "There is no basis either from the Qur'an and Hadith which explains about ta'liq talak”. In this case, Wahbah Zuhaili argues that naming ta'liq talak with yamin (oath) is only limited to majaz, in terms of the principle of oath to Allah, which is encouraging to do something or leave something and strengthen khabar. The above hadith mentioned above does not mean ta'liq talak. Whereas narrated by Thawus still need takwil, so the argument cannot be made.

According to Ibn Taymiyyah and Ibn Qayyim al-Jauziyah ta'liq talak is divided into two ta'liq talak qasami and ta'liq talak syarthi while the legal law and whether or not ta'liq talak depends on the type of ta'liq talak, are: 1) If ta'liq talak qasami, and if the requirements are realized (violating the oath) then according to Ibn Taymiyyah talak is invalid, and must pay the kafarat of yamin (oath). Whereas according to Ibn Qayyim al-Jauziyah divorce is invalid and is not obliged to pay expiation; 2) If ta'liq talak is in the form of syarthi then the divorce is valid if the requirements have been fulfilled.

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39 This verse is the legal basis for khulu 'and acceptance' iwadh. Kulu 'That is a divorce request to the husband with a payment called' iwadh
40 Sofyan Yusuf and Moh. Toriqul Chaer, "Taklik Talak Perspective of the Ulama School, p. 271
41 Wahbah Zuhaili, al-Usul al-Fiqh Ismail, p. 425
42 Sofyan Yusuf and Moh. Toriqul Chaer, "Taklik Talak Perspective of the Ulama School, p. 272
43 Ibid.
44 Ibid.
45 Wahbah Zuhaili, al-Usul al-Fiqh Ismail, p. 430
46 Sofyan Yusuf and Moh. Toriqul Chaer, "Taklik Talak Perspective of the Ulama School", p. 273
47 Ibid.
Ibn Taymiyyah and Ibn Qayyim al-Jauziyah postulated according to the type of divorce itself. If the purpose of the word is to encourage something to do or prevent something or strengthen the news, it is included in the law of divorce qasami.\textsuperscript{48}

According to Zuhaili, ta'liq talak is not called an oath either in language or terms, but ta'liq talak is a swearing oath, because it resembles an oath in terms of its rules of encouraging doing something or preventing something and strengthening the news. Then the law of ta'liq talak is not the same as the essential oath law, which is to swear by the name of Allah or His attributes, but has another law namely the fall of divorce when the realization of the conditions.\textsuperscript{49}

The first opinion was the opinion that the Malikiyah sect, Syafi’iyah, Hanafiyah and Hanabilah had the strongest arguments. Apart from differences of opinion in the jurists about the form of tyranny which can cause the fall of divorce, the fundamental difference between tacyclies in the book of fiqh and the practice that exists in Indonesia is on the subject of divorce. In the book of fiqh, the husband is the subject of divorce whereas in practice in Indonesia, the wife is the subject of divorce. Besides that in the book of fiqh it is also not regulated about the standard sigat taklik, even though the taklik is specifically used to ta'liq talak. Unlike the case with ta’liq talak which is known in Indonesia as stipulated in PMAKPPN in Article 11.\textsuperscript{50}

From the explanation above, it can be understood that ta’liq talak is a series of divorce statements uttered by the husband, in which the statement depends on a condition which is possible to occur in the future. The law of ta'liq talak is permissible as long as it fulfills the conditions of the conditions that have been determined.\textsuperscript{51}

3. Ta'liq Talak in the Perspective of UUP and KHI

According to the Compilation of Islamic Law (KHI). 1) Article 45, which consists of: The two prospective brides can enter into a marriage agreement in the form:\textsuperscript{52} a) Ta’liq talak. b) Other agreements that do not conflict with Islamic law. 2) Article 46, which contains: a) The contents of ta'liq talak may not conflict with Islamic law. b) If the conditions required in ta'liq talak really occur later, not by themselves talak falls, the wife must submit it to the Religious Court. c) The agreement of ta’liq talak is not an agreement that must be held on every marriage, but once ta’liq talak has been promised it cannot be revoked.\textsuperscript{53}

Compilation of Islamic Law underlines Article 11 of the Regulation of the Minister of Religion Number 3 of 1975, namely:\textsuperscript{54} 1). The agreement in the form of taklik talak is considered valid if the agreement is said and signed by the husband after the marriage contract is held. 2). Sighat ta’liq talak was determined by the Minister of Religion. In the Compilation of Islamic Law itself contains 8 Articles on the Agreement on Marriage, namely Article 45 to Article 52. In the Compilation of Islamic Law taklik talak is clearly described in the Articles, but it is not the same as described in the Marriage Law.\textsuperscript{55}

In the Marriage Law No. 1 of 1974 Article 29, it is explained that a person who wants to carry out a marriage can make a marriage agreement, this is proof that the

\textsuperscript{48} Ibid.
\textsuperscript{49} Ibid., p. 274
\textsuperscript{50} Ibid.
\textsuperscript{51} Ibid.
\textsuperscript{52} Ibid., p. 275
\textsuperscript{53} Uswatun Khasanah, “Reasons for the Violation of Taklik Talak”, p. 38
\textsuperscript{54} Nihayatul Hadhloh, “Taklik Talak As Marriage Agreement”, p. 56-57
\textsuperscript{55} Ahmad Rofiq, Islamic Law in Indonesia, (Jakarta; PT Raja Grafindo Persada, 2008), p. 154.
agreement in marriage has a wide place in Law No. 1 of 1974 Article 29 which reads: (1). At the time or before the marriage takes place, the two parties with mutual agreement can enter a written agreement that is ratified by the marriage registrar employee, after which the contents also apply to third parties, as long as the third party is involved. (2). The agreement cannot be ratified if it violates the boundaries of law, religion and morality. (3). The agreement came into effect since the marriage took place. (4). During the marriage an agreement cannot be changed, unless there is agreement from both parties to change and the changes do not harm the third party.\(^56\)

In the article above we can see that the agreement that is allowed only must fulfill the requirements of not violating the boundaries of law, religion and morality, but there is no word "taklik talak" in the explanation, this then makes the pros and cons when compiled in Islamic Law Article 45 CHAPTER of Marriage Agreement which explains, that: "Both prospective brides can enter into marriage agreements in the form of: (1). Ta’liq talak. (2). Other agreements that do not conflict with Islamic law.\(^57\)"

However, if we look at the Marriage Law Article 29 above, it does not clearly state the things that can be agreed to, except only to state that the agreement cannot be ratified if it violates the boundaries of law and decency.\(^58\) This means that it covers everything, with provisions not contrary to law and decency, so that the conditions can be stated in the marriage agreement. One of them is taklik talak because taklik talak is also something that is not contrary to law, religion, customs or decency.\(^59\)

In the Compilation of Islamic Law taklik talak becomes a separate part of the other verses which we can see in the second verse which says "Other agreements that do not conflict with Islamic law", this makes taklik talak seem to be highly considered and gets its own place in CHAPTER V about Marriage Agreement.\(^60\) Taklik talak in Compilation of Islamic Law is expected to be the basis for protecting wives and having legal certainty. Taklik talak in Compilation of Islamic Law is an agreement pronounced by the prospective bridegroom after the marriage contract which is included in the marriage certificate in the form of a promise of divorce which is dependent on a certain condition that may occur in the future.\(^61\)

Marriage agreements are referred to in Article 139 to Article 185 of the Civil Code (KUHPerdata), and explained what is meant by marriage agreements are "agreements made by a married couple before or at the time of marriage are held to regulate the consequences of marriage to their assets, the marriage agreement is carried out before or at the time of the marriage”.\(^62\)

### 4. Analysis of Lafadz Ta’liq Talak

The author tries to analyze lafadz sighat ta’liq or ta’liq talak made by the ministry of religion as follows:

Bismillahirrahmanirrahim

“With the Name of Allah, the Most Merciful, the Most Merciful”

\(^56\) State Gazette, Marriage Law in Indonesia and Compilation of Islamic Law in Indonesia, (Surabaya; Arloka, t.th), p. 15.

\(^57\) State Gazette, Marriage Law in Indonesia and Compilation of Islamic Law in Indonesia, p. 192.

\(^58\) Nihayatul Ifadhloh, “Taklik Talak As Marriage Agreement, p. 60

\(^59\) *Ibid.*, p. 56-57

\(^60\) *Ibid.*, p. 58

\(^61\) Zainudin Ali, *Civil Islamic Law*, (Jakarta; Sinar Grafiika, 2016), p. 42

\(^62\) Nihayatul Ifadhloh, “Taklik Talak As Marriage Agreement, p. 63
Wa Auffuul Bil ‘Ahdi Innal ‘Ahda Kaana Mas’uulaa
و آوْفَوْا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْؤُولًا

Just keep your promise, in fact the promise will be demanded later.”

Sighat Ta’liq Which Is Spoken After After Marriage Contract As Following:

After the marriage contract, me:
……………………………………… binti ………………………………
promised sincerely that I would associate my wife named:
……………………………………… binti ……………………………… well (mu’asyarah bil ma’ruf) according to Islamic teachings.
To my wife I stated sighat ta’liq as follows:
If I:
1. Leaving my wife for 2 (two) years in a row;
2. Not giving the obligatory income to him for 3 (three) months;
3. Harm my wife’s body or body;
4. Allowing (not caring for) my wife for 6 (six) months or more.

And because of my actions, my wife was not happy and filed a lawsuit against the Religious Court, so if the lawsuit was received by the Court then my wife paid Rp. 10,000, - (ten thousand rupiahs) as ‘iwadl (substitute) to me, then one of my talaks fell to him.

To the Religious Courts I give the power to receive the money ‘iwadl (substitute) and submit it to the local National Amil Zakat Agency for the purposes of social worship.

Pekanbaru, ..................... 2019
Husband,
(..............................)

From the text of lafadz sighat ta’liq talak above, according to the author raises an interpretation just finished the marriage contract and immediately pledged a promise to divorce (talak) with conditions or conditional divorce. According to Nihayatul Ifadhloh in his research entitled "Ta’liq Talak As Marriage Agreement (Study of Analysis of Compilation of Islamic Law in Indonesia Article 45)". Then it can be concluded that talak talak according to the normative law view as a marriage agreement in the Compilation of Islamic Law. In Indonesia it is not categorized as one of the marriage agreements. This is clearly contained in UUP No. 1 of 1974 and the Civil Code because taklik talak is more identical to a unilateral agreement. Such is the conclusion according to Nihayatul Ifadhloh, but according to the author, it remains that sighat ta’liq talak is an agreement according to normative law, both KHI, UUP No. 1 of 1974 and KUHPer, although it is also called a unilateral agreement, in the writer's understanding, the name of the agreement cannot be unilateral, there must be parties or other parties, at least two or more parties.

According to the authors agree with the expression of Nihayatul Ifadhloh, that sighat ta’liq talak is not supposed to be read in public, enough in a marriage book record. If you have just made a marriage contract, then an appointment or pledge, if, if, if, then fall one divorce and another. This is called a divorce agreement if it happens, and it has been publicly presented as a witness to the pledge, even though the purpose of marriage is happiness and the creation of a family full of mercy and compassion (samara). The author's opinion about sighat ta’liq does not need to be read and is not required to be read, and do not ask to be read by the bridegroom. If viewed from the benefit of marriage, namely the sakinah family, then reciting sighat ta’liq, his name
invites or asks for something that will happen and will happen, so that it happens and befall it with the pledge. But the lafadz must still be in the marriage book, as proof and conditions later if it occurs according to the requirements, the wife will more easily judge the husband about the material in the courtroom.

III. CONCLUSION

If seen from the text of lafadz sighat ta’liq talak above, then according to the author raises an interpretation "just finished the marriage contract and immediately pledges promises of divorce (talak) with conditions or conditional divorce. According to the author that ta’liq talak according to the normative law view as a marriage agreement in the Compilation of Islamic Law. According to the author that sighat ta’liq talak is an agreement according to normative law, both KHI, UUP No. 1 of 1974 and KUHPer, although it is also called a unilateral agreement, in the writer's understanding, the name of the agreement cannot be unilateral, there must be parties or other parties, at least two or more parties. According to the writer that sighat ta’liq talak is not supposed to be read in public, it is enough in a marriage book record. If you have just made a marriage contract, then an appointment or pledge, if then fall one divorce and another. This is called a divorce agreement if it happens, and it has been publicly presented as a witness to the pledge, even though the purpose of marriage is happiness and the creation of a family full of mercy and compassion (samara). The author's opinion about sighat ta’liq does not need to be read and is not required to be read, and do not ask to be read by the bridegroom. If viewed from the benefit of marriage, namely the sakinah family, then reciting sighat ta'liq, his name invites or asks for something that will happen and will happen, so that it happens and befall it with the pledge. But the lafadz must still be in the marriage book, as proof and conditions later if it occurs according to the requirements, the wife will more easily judge the husband about the material in the courtroom.

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