

ABSTRAK

Ditinjau dari aspek perlindungan terhadap kaum perempuan, maka keberadaan taklik talak ini sangat penting, meskipun tidak wajib dilakukan. Shîghat taklik talak memberikan hak bagi seorang isteri untuk mengajukan gugat cerai jika suami melanggar. Pada kenyatannya tidak semua suami mengucapkan shîghat taklik talak setelah akad nikah berlangsung, meskipun ia tetap menandatangani sîghat taklik talak dalam buku nikahnya. Berdasarkan uraian tersebut di atas, dapat dirumuskan permasalahan sebagai berikut: Bagaimana keabsahan ikrar taklik talak yang ditandatangani tanpa diucapkan terlebih dahulu ? Apa akibat hukum penandatanganan ikrar taklik talak tanpa dibaca terhadap cerai gugat menurut hukum islam ?

Tujuan yang ingin dicapai dalam penelitian ini dapat diuraikan sebagai berikut: (1) Mengkaji dan menganalisis keabsahan ikrar taklik talak yang ditandatangani tanpa diucapkan terlebih dahulu. (2) Mengkaji dan menganalisis akibat hukum penandatanganan ikrar taklik talak tanpa dibaca terhadap cerai gugat menurut hukum islam.

Penelitian ini merupakan penelitian hukum yang menggunakan pendekatan yuridis normatif (*normatiflegal research*). Spesifikasi penelitian ini adalah termasuk penelitian deskriptif analitis (*descriptive research*). Datanya telah tersusun secara sistematik itu akan dianalisis dengan menggunakan metode analisis normatif kualitatif.

Berdasarkan hasil penelitian dan pembahasan dapat disimpulkan: (1) Keabsahan ikrar taklik talak yang ditandatangani tanpa diucapkan terlebih dahulu ditinjau dari aspek hukum perjanjian telah memenuhi syarat sahnya perjanjian, sehingga secara normatif sîghat taklik talak yang telah ditandatangani oleh suami pasca ijab kabul adalah sah. (2) Akibat hukum penandatanganan ikrar taklik talak tanpa dibaca terhadap cerai gugat menurut hukum islam adalah lahirnya hak isteri untuk mengajukan permohonan cerai guat ke Pengadilan Agama. Taklik talak yang telah ditandatangani oleh suami tetap dianggap sah meskipun ikrar taklik talak tersebut tidak dibacakan oleh suami. Atas dasar hal tersebut, maka pelanggaran terhadap ikrar taklik talak yang telah ditandatangani oleh suami akan memberikan akibat hukum bagi perkawinan mereka. Ikrar taklik talak meskipun tidak dibacakan oleh suami, namun karena ditandatangani sebagai bukti adanya janji suami terhadap sîghat taklik talak, maka jika suami melanggar taklik talak tersebut dapat berakibat hukum terjadinya talak oleh suami apabila oleh karena hal tersebut isteri tidak ridlo dan isteri mengadukan hal tersebut ke Pengadilan Agama. Ikrar taklik talak dengan demikian tetap memiliki akibat hukum terhadap cerai gugat yang diajukan oleh isteri, meskipun ikrar taklik talak tersebut tidak diucapkan oleh suami.

Kata Kunci :*Ikrar Taklik Talak Tanpa Dibaca, Cerai Gugat, Hukum Islam*

ABSTRACT

Review of aspects of the protection of women, the existence of taklik divorce is very important, though not mandatory. Shîghat taklik divorce entitles the wife to apply for a divorce if the husband violated. In reality not all husbands say shîghat taklik divorce after a marriage ceremony took place, although he remains signed sighat taklik illegitimate divorce in the book. Based on the above description, the problem can be formulated as follows: How the validity of the signed pledge taklik divorce without spoken beforehand? What are the legal consequences of signing a pledge taklik divorce without reading to the contested divorce under Islamic law?

The aim of this research can be described as follows: (1) Assess and analyze the validity of the pledge taklik signed divorce without spoken first. (2) Assess and analyze the legal consequences of signing a pledge taklik divorce without reading to the contested divorce according to Islamic law.

This research is legal using normative juridical (legal normative research). Specifications of this research include descriptive studies (descriptive research). Data that has been structured in a systematic way that will be analyzed using analytical methods Qualitative normative.

Based on the results of research and discussion can be concluded: (1) The validity of the pledge taklik divorce pronounced signed without prior review of aspects of the legal validity of the agreement meets the requirements of the agreement, so that normatively sighat taklik divorce has been signed by the husband after the consent granted is valid. (2) The legal consequences of signing a pledge taklik divorce without reading to the contested divorce according to Islamic law is the birth right of the wife to file for divorce guat to the religious court. Taklik divorce has been signed by the husband remain valid despite the pledge taklik divorce is not read by the husband. On the basis of this, the violation of the pledge taklik divorce has been signed by the husband would give legal effect to their marriage. Pledge taklik divorce although it is not read by the husband, but because it was signed as evidence of the promise of the husband against sighat taklik divorce, then if the husband violates taklik divorce can result in law the divorce by the husband if therefore it is the wife does not ridlo and wife complained the matter to Religious courts. Pledge taklik divorce thus retains the legal consequences of the divorce to sue filed by the wife, despite the pledge takliktalak not pronounced by the husband.

Keywords: *Unread Taklik talak Pledge, Divorced Sues, Islamic Law*