

## **ABSTRAK**

### **ANALISIS HUKUM PELANGGARAN TAKLIK TALAK SEBAGAI ALASAN ISTRI MENGGUGAT SUAMI**

**Oleh**

**FARA PUSPITA AQILA NINGRUM**

Taklik talak merupakan perjanjian yang diucapkan calon mempelai pria setelah akad nikah yang dicantumkan dalam akta nikah berupa janji talak. Kompilasi Hukum Islam (KHI) pasal 45 menjelaskan bahwa taklik talak termasuk kedalam bentuk perjanjian perkawinan. Apabila keadaan yang diisyaratkan dalam taklik talak terjadi maka tidak dengan sendirinya talak jatuh, untuk dapat jatuhnya talak, istri harus mengajukan persoalannya ke Pengadilan Agama.

Permasalahan dalam penelitian ini adalah bagaimana syarat dan prosedur cerai gugat karena suami melanggar taklik talak dan bagaimana akibat hukum dari putusan hakim terhadap gugatan dengan alasan pelanggaran taklik talak dalam perkara cerai gugat di Pengadilan Agama. Metode penelitian yang digunakan dalam penelitian ini adalah normatif atau studi kepustakaan, metode pengumpulan data melalui studi pustaka dan studi dokumen, metode analisis data kualitatif.

Menurut penulis, syarat dan proses yang dilakukan hakim dalam menjatuhkan Putusan Nomor 0558/Pdt.G/2021/PA.Bi dan Putusan Nomor 4096/Pdt.G/2020/PA.Smdg sudah sesuai dengan Undang-Undang(UU) Nomor 50 Tahun 2009 Tentang Perubahan Kedua Atas UU Nomor 7 Tahun 1989 Tentang Peradilan Agama. Akibat hukum dengan adanya putusan tersebut yaitu, pada putusan Nomor 0558/Pdt.G/2021/PA.Bi Hakim menyatakan gugatan tidak dapat diterima sehingga talak suami tidak jatuh terhadap istri, menurut penulis sebaiknya hakim dapat mempertimbangkan gugatan istri dikarenakan kepergian istri disebabkan suami tidak memberikan nafkah. Sedangkan pada putusan Nomor 4096/Pdt.G/2020/PA.Smdg hakim menyatakan bahwa suami melanggar sighat taklik talak dan menjatuhkan talak satu Khul'I suami terhadap istri, sehingga antara keduanya sudah tidak ada lagi hubungan suami istri.

Menurut penulis hendaknya calon suami istri yang akan menikah memahami kewajiban dan hak mereka setelah menikah, dan Pemerintah dalam mengatur mengenai taklik talak dalam KHI dapat diatur secara lebih luas sehingga tujuan dari pengucapan sighat taklik talak untuk melindungi hak-hak istri

Kata kunci : analisis hukum, taklik talak, Pengadilan Agama

## **ABSTRACT**

### **LEGAL ANALYSIS OF TAKLIK TALAK VIOLATION AS A REASON FOR WIFE SUGGESTING HUSBAND**

**By**

**FARA PUSPITA AQILA NINGRUM**

Taklik talak is an agreement made by the prospective groom after the marriage contract is included in the marriage certificate in the form of a promise of divorce. Article 45 of the Compilation of Islamic Law (KHI) explains that taklik divorce is included in the form of a marriage agreement. If the circumstances implied in the taklik of divorce occur, then the divorce is not automatically terminated, in order for divorce to occur, the wife must submit the matter to the Religious Court.

The problem in this study is what are the terms and procedures for imposing divorce taklik and what are the legal consequences of the judge's decision on a lawsuit on the grounds of violation of taklik talak in divorce cases being sued in the Religious Courts. The research method used in this study is normative or literature study, data collection methods through literature and document studies, qualitative data analysis methods.

According to the author, the terms and process carried out by the judge in imposing Decision Number 0558/Pdt.G/2021/PA.Bi and Decision Number 4096/Pdt.G/2020/PA.Smdg is in accordance with Law (UU) Number 50 of 2009 concerning the Second Amendment to Law Number 7 of 1989 concerning Religious Courts. The legal consequence of this decision is decision Number 0558/Pdt.G/2021/

PA.Bi The judge stated that the lawsuit was unacceptable so that the husband's divorce did not fall on the wife, according to the author the judge should be able to consider the wife's lawsuit because the wife left because the husband did not provide alimony. Whereas in decision Number 4096/Pdt.G/2020/PA.Smdg the judge stated that the husband violated sighat taklik divorce and imposed one Khul'I divorce between the husband and wife, so that between the two of them there was no longer a husband and wife relationship.

According to the author, prospective husband and wife who are going to marry understand their obligations and rights after marriage, and the Government in regulating taklik divorce in KHI can be regulated more broadly so that the purpose of pronouncing sighat taklik divorce is to protect the rights of the wife.

Keywords: legal analysis, taklik talak, Religious Courts