



The Practice of *Muhallil* Marriage as a Legal Loophole in The Enforcement of Islamic Family Law in Indonesia

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Abstract: *Marital conflicts may lead to divorce, and after a third talaq, reconciliation is only lawful through nikah muhallil. Although valid if meeting legal requirements, the Prophet Muhammad (PBUH) condemned this practice when done merely to allow remarriage with a former husband, as it opposes the true purpose of marriage. This normative juridical study analyzes Indonesian Islamic family law enforcement concerning nikah muhallil using statutory and ushul fiqh approaches. Findings reveal that while Al-Baqarah 2:230 is often cited to justify nikah muhallil, its misuse legitimizes contractual marriages that undermine women's dignity and the noble aims of marriage (maqashid al-nikah). Currently, Indonesian law does not explicitly regulate this practice. Existing laws—such as the Marriage Law and the Compilation of Islamic Law (KHI)—stress marriage's goal of building a lasting, harmonious family. However, due to legal gaps, nikah muhallil still occurs in areas like Padarincang, Kampar, and Muko Muko Bathin VII. Therefore, reformulating the KHI to explicitly prohibit nikah muhallil and strengthening premarital education are essential to preserve the sanctity and justice of marriage.*

Abstak: Dalam kehidupan rumah tangga, terkadang timbul berbagai permasalahan yang dapat menyebabkan perceraian. Perceraian akibat talak tiga hanya bisa dirujuk melalui nikah *muhallil*. Meskipun sah secara administratif jika memenuhi syarat dan rukun, namun Rasulullah SAW melaknat praktik ini jika tujuannya hanya untuk memungkinkan rujuk dengan mantan suami karena bertentangan dengan tujuan disyari'atkannya pernikahan. Oleh karena itu, peneliti tertarik mengkaji nikah *muhallil* sebagai celah dalam penegakan hukum keluarga Islam di Indonesia serta upaya preventifnya. Penelitian ini merupakan penelitian pustaka dengan menelaah berbagai sumber *ushul fiqh* dan hukum positif di Indonesia yang berkaitan dengan pernikahan, khususnya tentang nikah *muhallil*. Jenis penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan terhadap regulasi yang berkaitan dengan nikah *muhallil*. Hasil penelitian menunjukkan bahwa QS. Al-Baqarah ayat 230 kerap dijadikan dasar praktik nikah *muhallil*, meskipun dalam realitanya sering disalahgunakan untuk melegitimasi pernikahan rekayasa. Para *fuqaha* juga menilai praktik ini menyimpang dari tujuan luhur pernikahan (*maqashid al-nikah*) dan merendahkan martabat serta keadilan perempuan. Nikah *muhallil* belum diatur secara eksplisit dalam hukum positif di Indonesia. Dalam Pasal 1 UU Perkawinan serta Pasal 2 dan 3 KHI sendiri menegaskan bahwa pernikahan bertujuan membangun keluarga yang utuh dan berkelanjutan, bukan sementara. Namun, praktik nikah *muhallil* masih terjadi di beberapa daerah, seperti di Padarincang, Kampar, dan Muko-Muko Bathin VII. Kekosongan norma yang tegas telah menimbulkan celah hukum. Oleh karenanya, diperlukan reformulasi terhadap KHI untuk melarang praktik ini secara tegas, serta edukasi yang masif terhadap calon pengantin guna mencegah praktik nikah *muhallil* serta menjaga kesucian dan keadilan dalam pernikahan.

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A. Introduction

Islam defines marriage as a sacred bond regarded as an act of worship, as taught by the Prophet Muhammad (peace be upon him), with the primary aim of establishing a family characterized by tranquility (*sakinah*), affection (*mawaddah*), and compassion (*rahmah*). It also serves as a legitimate means for individuals to fulfill their biological desires and to preserve lineage in a manner that is honorable, lawful, and recognized by both religion and the state.¹ Meanwhile in the journey of married life, not everything proceeds smoothly. Various challenges—ranging from minor issues to more serious conflicts—often arise, each contributing to the dynamics of domestic life. These challenges are sometimes accompanied by intense emotional reactions, which may even lead to the utterance of divorce.²

Divorce (*ṭalāq*) is a lawful act in Islam but one that is highly detested by Allah SWT. Although Islam permits divorce, it must be pronounced with utmost caution and considered only as a last resort in resolving marital conflicts. Divorce is categorized into two main types: *ṭalāq rajʿī* and *ṭalāq bāʿin*. *Ṭalāq rajʿī* refers to a revocable divorce, in which the husband and wife retain the possibility of reconciliation and restoring the marital relationship during the wife's 'iddah (waiting period). However, if reconciliation does not occur during this period, the divorce transitions into *ṭalāq bāʿin sughrā* (minor irrevocable divorce). *Ṭalāq rajʿī* encompasses the first and second instances of divorce. In contrast, *ṭalāq bāʿin* is an irrevocable divorce that eliminates the possibility of reconciliation without a new marriage contract. It is further divided into *ṭalāq bāʿin sughrā* and *ṭalāq bāʿin kubrā*. *Ṭalāq bāʿin sughrā* still allows the former spouses to remarry each other, but only with a new contract. *Ṭalāq bāʿin kubrā*, on the other hand, prohibits the couple from remarrying unless the woman has lawfully married another man, consummated that marriage, and subsequently been divorced. *Ṭalāq bāʿin kubrā* occurs after the third pronouncement of divorce.³

As stated in the Qur'an, Surah Al-Baqarah verse 230:

فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا إِنْ ظَنَّا أَنْ يُقِيمَا حُدُودَ اللَّهِ وَبَلَّغَ حُدُودَ اللَّهِ يَبَيِّنْهَا لِقَوْمٍ يَعْلَمُونَ

“And if he divorces her [for the third time], then she is not lawful to him afterward until she marries a husband other than him. And if the latter husband divorces her, there is no blame upon the woman and her former husband for returning to each other if they think that they can keep [within] the limits of Allah. These are the limits of Allah, which He makes clear to those who know”.

A divorce resulting from a husband's pronouncement of threefold *ṭalāq*, is irrevocable, and reconciliation is only permissible through the occurrence of *nikah muhallil*. *Nikah muhallil* refers to a marriage between a woman—who has been divorced thrice by her former husband—and another man, with the intention that she may lawfully remarry her first husband following a divorce from the second. From an administrative perspective, *nikah muhallil* is considered legally valid as

¹ Anggry Muktiyah et al., “Fenomena Nikah Muhallil Berbayar: Tinjauan Urgensi Sosialisasi dalam Perspektif Hadis”, *Al-Mustaqbal: Jurnal Agama Islam*, Volume 2, Number 3, 2025 (DOI: 10.59841/al-mustaqbal.v2i3.183), p. 1.

² Muhammad Haikal, “Konsep Nikah Muhallil Menurut Fikih Mazhab”, *Al-Mizan: Jurnal Hukum Islam dan Ekonomi Syariah*, Volume 8, Number 2, 2021 (DOI:10.54621/jiam.v8i2.139), p. 2.

³ Faisal, “Pernikahan Cina Buta dan Gender”, *Jurnal Anifa: Studi Gender dan Anak*, Volume 4, Number 1, 2023 (DOI: 10.32505/anifa.v4i1.6059), p. 69.

long as it fulfills the essential conditions (*shurūṭ*) and pillars (*arkān*) of marriage. However, the Prophet Muhammad PBUH condemned and cursed those who engage in nikah *muhallil* with the sole intention of legalizing the woman's return to her first husband, as this contradicts the intended purpose of marriage as prescribed in Islamic law.⁴

The legal status of nikah *muhallil* remains a subject of debate among Islamic scholars. Although the marriage may meet the formal legal requirements, its underlying intention deviates from the spiritual and ethical objectives of Islamic marriage. Consequently, nikah *muhallil* is often viewed as a form of manipulation of Islamic marital law.⁵ In practice, nikah *muhallil* continues to occur within society, both openly and covertly. In Indonesia, however, the legal framework does not explicitly regulate this practice, leaving a gap that enables individuals to exploit the absence of strict legal provisions and continue engaging in nikah *muhallil*.

Based on that background, the researcher is motivated to examine and analyze the legal implications of nikah *muhallil* practices as a loophole in the enforcement of Islamic family law in Indonesia, as well as to explore preventive measures to address such practices.

B. Research Method

This study can be classified as (library research) which involves a series of activities related to literature data collection, including reading, note-taking, and managing research materials. The research was conducted by examining various sources of (*uṣūl al-fiqh*) and Indonesian positive law related to marriage, particularly the practice of nikah *muhallil*. This study also falls under the category of qualitative research.⁶

Qualitative research is descriptive in nature, aiming to describe an object, phenomenon, or social setting which is then expressed in a narrative form.⁷ Using this qualitative research model, the researcher aims to systematically and accurately describe and analyze the practice of nikah *muhallil* from both the perspectives of Islamic jurisprudence and positive law.

This research employs a normative juridical method using a (statutory approach), focusing on the systematic analysis of written legal norms. The primary legal sources of data include Act Number 1 of 1974 concerning Marriage and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI). Additionally, the researcher draws on secondary sources obtained from classical (*fiqh*) literature and scholarly journal articles. The data are analyzed using a descriptive analytical method, which aims to provide a comprehensive understanding of the legal arguments⁸ surrounding the practice of nikah *muhallil*.

⁴ Anggry Muktiyah et al., "Fenomena Nikah Muhallil Berbayar: Tinjauan Urgensi Sosialisasi dalam Perspektif Hadis", *Al-Mustaqbal: Jurnal Agama Islam*, Volume 2, Number 3, 2025 (DOI: 10.59841/al-mustaqbal.v2i3.183), p. 1-2.

⁵ Aulia Diningrum et al., "Analisis Hukum Islam terhadap Praktik Nikah Tahlil", *Akhlak: Jurnal Pendidikan Agama Islam dan Filsafat*, Volume 2, Number 2, 2025 (DOI:10.1132/akhlak.v2i2.636), p. 2.

⁶ Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: Remaja Rosdakarya, 2014), p. 12.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2017), p. 35.

⁸ Siti Musdah Mulia, "Metodologi Penelitian Hukum Islam," *Jurnal Studi Islam*, Volume 5, Number 1, 2018, p. 100.

C. Discussion

Fiqh-Based Analysis of Nikah *Muhallil* within Islamic Marital Jurisprudence

In Arabic literature, the term *muhallil* is derived from the root verb (*fi l māḍī sulāṣī mujarrad*) *ḥalla* (حَلَّ), which means “to permit” or “to make lawful.” This root later undergoes morphological transformation into the derived verb form (*fi l sulāṣī mazīd biḥarfīn*) *yuhillu* (لَحَّى), the verbal noun (*ism maṣḍar*) *taḥlīl* (لَيْلَحَت), and the active participle (*ism fā’il*) *muḥill* (لَحَمٌ). These various forms carry the meaning of permitting or rendering something lawful (*ḥalāl*). An example of its usage appears in the phrase *ja’alahu taḥlīlan* (لَيْلَحَت هَلَعَجَ), which can be translated as “he made it lawful” or “he rendered it permissible between him and her.” In the context of marriage, *nikāḥ muḥallil* specifically refers to a marriage entered into with the deliberate intention of legitimizing the remarriage of a woman to her former husband, after she had been irrevocably divorced (i.e., divorced three times) by him. This type of marriage is performed to fulfill the legal requirement for her to lawfully return to her first husband.⁹

In Islam, marriage is regarded as a sacred and solemn covenant (*mithaqan ghalīẓan*), intended to establish tranquility (*sakinah*), affection (*mawaddah*), and divine mercy (*raḥmah*), as stated in Qur’an Surah Ar-Rūm verse 21. This verse affirms that Allah created spouses so that human beings may find serenity and develop love and compassion between them. However, in practice, this noble objective of marriage is often compromised by the misuse of religious law, such as in the case of *nikāḥ muḥallil*. This practice arises when a woman who has been divorced three times by her husband enters into a subsequent marriage with another man solely for the purpose of becoming lawful (*ḥalāl*) again to her former husband. The justification commonly cited for this practice is Qur’an Surah Al-Baqarah verse 230, which declares that a woman who has been divorced three times is not lawful for her former husband until she marries another man. However, this verse is frequently misused to legitimize contrived or sham marriages. According to Islamic jurists (*fuqaha’*), the practice of *nikāḥ muḥallil* not only deviates from the higher objectives of marriage (*maqāṣid al-nikāḥ*), but also undermines the dignity and justice due to women.

Imam Aḥmad ibn Ḥanbal asserted that a *muhallil* marriage is considered invalid if the marriage contract explicitly includes the condition of *taḥlīl* (making the woman lawful again for her previous husband), or even if there exists a firm intention of *taḥlīl* prior to the contract, despite the condition not being verbally stated. In other words, according to him, whether the intent to legalize the woman’s return to her first husband is explicitly mentioned in the contract or merely held as a

⁹ Muhammad Haikal, “Konsep Nikah Muhallil”, p. 134.

prior internal intention, the legal ruling remains the same: the *muhallil* marriage is void. This view, as explained in al-Iqna' fi Fiqh al-Imam Aḥmad ibn Ḥanbal, underscores that even a hidden human intention bears sufficient weight to invalidate the legitimacy of the marriage contract in the perspective of Imam Aḥmad.¹⁰

According to the view of Imam al-Shafi'i, a *muhallil* marriage may be deemed valid as long as the marriage contract does not explicitly include the condition of *taḥlil* that is, the intention to render the woman lawful again for her former husband. In other words, if during the *ijab* and *qabul* (offer and acceptance) there is no verbal declaration or agreement indicating such a contrived purpose, the marriage is considered valid. However, if the marriage contract is concluded with an explicit condition of *taḥlil*, then the *muhallil* marriage is considered void. This indicates that, for Imam al-Shafi'i, the spoken elements of the contract (*ẓahir*) hold more legal weight than hidden intentions. Nonetheless, with regard to internal, unspoken intentions (*ghayb*) aimed at *taḥlil*, Imam al-Shafi'i maintains that such intentions are subject to divine pardon, as only Allah knows the inner states of individuals. In other words, a concealed *taḥlil* intention that is not articulated during the contract does not invalidate the marriage in his view although such an intention may still be considered morally reprehensible (*makruh*).

In summary, Imam al-Shafi'i emphasizes the importance of a marriage contract (*'aqd*) that is free from any explicit *taḥlil* condition for the validity of a *muhallil* marriage. However, an unspoken internal intention does not invalidate the contract³. Imam al-Shafi'i draws an analogy (*qiyas*) between *nikah muhallil* and *nikah mut'ah* (temporary marriage), as explained in his seminal work *Al-Umm*, based on a narration found in Ṣaḥīḥ Muslim: "Sufyān ibn 'Uyaynah reported to us, from al-Zuhri, from al-Rabi' ibn Sabrah, from his father, that the Prophet PBUH prohibited *nikah mut'ah*."

In *Al-Umm*, Volume 9, Imam al-Shafi'i argues that if the *taḥlil* condition is explicitly stated in the marriage contract, then the *muhallil* marriage becomes invalid. This is because the inclusion of such a condition renders the marriage analogous to *nikah mut'ah* a contractual or temporary form of marriage which is clearly prohibited in Islam.¹¹

In the Shafi'i school of thought, *nikah mut'ah* is considered impermissible (*ḥaram*) and invalid, as it is inherently non-permanent. Similarly, a *muhallil* marriage that includes an explicit *taḥlil* condition is also deemed impermissible. Such a marriage no longer serves the essential

¹⁰ Imron Mustofa and Yuni Anggraini, "Hukum Nikah Muhalil (Studi Komparatif Perspektif Imam Syafi'i Dan Imam Ahmad Bin Hanbal)", *Celestial Law Journal*, Volume 2, Number 1, 2024, p. 68.

¹¹ Imam As-Syafi'i, *AL UMM* Jilid 9, translated by Misbah, ed. Badrus Abu Faiq (Jakarta: Pustaka Azzam, 2014), p. 460.

purpose of establishing a lasting bond and fostering tranquility (*sakinah*), but rather functions merely as a means or instrument to achieve another objective namely, to make the woman lawful (*ḥalal*) again for her former husband. This condition undermines the very essence of marriage, which in Islamic jurisprudence is meant to be a stable, enduring relationship built upon mutual compassion and divine mercy.

According to Imam Abu Ḥanifah, a *muhallil* marriage is considered valid, even if it includes a time condition (*ta'qit*) or the explicit intention of *taḥlil*. He holds that a void or impermissible condition does not automatically invalidate the marriage contract itself. As long as the marriage contract has been lawfully and properly concluded in accordance with Islamic law that is, all the essential pillars (*arkan*) and legal conditions (*shurut*) of the marriage are fulfilled then the contract remains valid. This applies whether the *taḥlil* condition is mentioned before the contract or during the contract ceremony. Regarding the textual evidences that explicitly prohibit the practice of *nikah muhallil* such as the ḥadīth in which the Prophet PBUH curses both the *muhallil* and the *muḥallal lahu* the Ḥanafī school interprets such prohibitions as indicating reprehensibility (*makruh*), but not to the extent that they invalidate the legal validity of the marriage itself.

This *makruh* (reprehensible) status arises because the *taḥlil* condition undermines the fundamental objectives of marriage namely, to attain tranquility (*sakinah*), to procreate, and to cultivate mutual affection and compassion. These noble goals require permanence and continuity within the marital bond, both of which are compromised by the inclusion of a *taḥlil* condition. Therefore, although such a marriage may be formally valid under Islamic law, it is nonetheless disapproved (*makruh*) due to its deviation from the essence and higher purposes of marriage in Islam.¹²

According to Imam Malik, the essence of marriage lies in the presence of love and compassion between the spouses. Therefore, if a marriage is entered into with the intention of making a woman permissible again for her former husband as in the practice of *nikah muhallil* such a marriage is categorically invalid and prohibited (*ḥaram*). This ruling applies regardless of whether the bride and groom are aware of the impermissibility of the *taḥlil* intention or not. For Imam Mālik, the *muhallil* marriage contract is null and void from the outset, whether consummation (*dukḥul*) occurs or not.¹³

Although there are differing opinions among scholars regarding the legal validity of *nikāḥ*

¹² Ahmad Muhammad Naseh, "Keabsahan Nikah Muhallil Perspektif Madzhab Hanafiy", *Mabahits: Jurnal Hukum Keluarga*, Volume 5, Number 01, 2024, p 34–37.

¹³ Hilmi Huriyatul Ainiyah and Siti Maryam Qurotul Aini, "Nikah Muhallil Perspektif Empat Madzhab," *JAS MERAH Jurnal Hukum dan Ahwal Al-Syakhsyiyah*, Volume 1, Number 2, 2022, p. 75.

muḥallil, the majority agree that this practice contradicts the noble objectives of marriage and undermines the dignity of women. This is because nikah *muhallil* reduces the sanctity of the marital bond to a mere legal manipulation, stripping it of its intended spiritual and moral purpose.

Nikah *Muhallil* in the Perspective of Positive Law and Empirical Practice in Indonesia

a. Regulations Related to Nikah *Muhallil* in Indonesia

Marriage in Indonesia is governed by Law Number 1 of 1974 on Marriage (the Marriage Law) and Presidential Instruction Number 1 of 1991 on the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI). Article 2, paragraph 1 of the Marriage Law stipulates that a valid marriage is one conducted in accordance with the laws of the respective religion or belief of the parties involved. In Islamic family law, the concepts of ṭalāq (divorce) and rujūʿ (reconciliation) are recognized. Ṭalāq refers to the formal declaration to dissolve the marital bond between husband and wife, while rujūʿ refers to the act of resuming and restoring the marital relationship.¹⁴

According to Article 43 of the Compilation of Islamic Law, a woman who has been divorced three times by her husband may not reconcile with him unless she has married another man, consummated the marriage (dukhūl), and then been divorced by that second husband after the completion of her waiting period (ʿiddah). Only under these conditions may she remarry her first husband. This provision is consistent with Article 10 of the Marriage Law, which states that a couple who has divorced for the second time may not remarry unless permitted by their respective religious laws or beliefs. In this context, Islam permits remarriage after the second divorce, but requires the condition of nikah *muhallil* if a third divorce (ṭalāq thalāth) has occurred.¹⁵

A marriage conducted solely for the purpose of permitting remarriage after a triple divorce (ṭalāq thalāth) is known as nikah muḥallil.⁸ The legal provisions governing nikah *muhallil* are not explicitly outlined in either the Marriage Law or the Compilation of Islamic Law (KHI). However, Articles 2 and 3 of the KHI and Article 1 of the Marriage Law, which define marriage as a strong spiritual and physical bond between a man and a woman established to form a harmonious (sakinah), loving (mawaddah), and compassionate (rahmah) family, clearly indicate that the primary objective of marriage is the formation of a stable and enduring household—not a temporary or artificial union.

A marriage may be annulled if it fails to meet the requirements stipulated by the respective religious laws, as regulated in Article 22 of the Marriage Law. In Islam, nikah *muhallil* that involves

¹⁴ M. Muhsin and Soleh Hasan Wahid, "Talak di Luar Pengadilan Perspektif Fikih dan Hukum Positif", *Al Syakhsiyyah: Journal of Law & Family Studies*, Volume 3, Number 1, 2021, p. 71.

¹⁵ Faisal, "Pernikahan Cina Buta", p. 70.

deception or is entered into with prearranged intent—such as a planned divorce—is strictly prohibited. In Aceh, nikah *muhallil* is equated with nikah mut‘ah (temporary marriage) and is classified as an illegal form of marriage, due to the presence of a predetermined time frame and the intention to divorce from the outset.¹⁶

When nikah *muhallil* is carried out merely as a means to legitimize the reconciliation between a woman and her first husband, it contradicts the principles and objectives of marriage as established in both the Marriage Law and the KHI.¹⁷ Therefore, it can be concluded that nikah *muhallil* is impermissible and stands in contradiction to the positive law in Indonesia.

b. Nikah *Muhallil* Cases in Indonesia

The following are several examples of the actual practice of nikah *muhallil* in various regions of Indonesia:

1. Padarincang District, Serang regency.

Padarincang District is one of the 29 districts within Serang Regency. The socio-cultural characteristics of the Padarincang community are strongly influenced by Islamic values. This is evident in the way the local residents and newcomers are able to integrate and coexist harmoniously within the same residential environment, without experiencing significant socio-cultural barriers. Divorce cases in Padarincang share similar patterns with those in other regions, primarily resulting from marital disharmony between husband and wife. This disharmony is often triggered by various factors, including the husband's infidelity, gambling habits, or polygamous behavior. Such issues frequently lead to recurrent conflicts between spouses, culminating in the husband pronouncing divorce (*ṭalāq*).

In cases where a triple divorce (*ṭalāq thalātha* or *ṭalāq bā'in*) has occurred, the former husband may later regret his decision, citing continued affection for his ex-wife and concern for their children's well-being as reasons for wanting reconciliation. However, Islamic law prohibits reconciliation after a final divorce unless the ex-wife has lawfully married another man and the marriage has ended. Consequently, some former husbands seek the services of a *muhallil*—a man who temporarily marries the ex-wife to make reconciliation legally possible. In such instances, the former husband may attempt to find a *muhallil* through personal connections or by asking friends to locate one, so that the marriage arrangement can be coordinated in advance. This practice is

¹⁶ Nikmatullah, “Misinterpretasi Teks-Teks Keislaman Dalam Praktik Kawin Cinta Buta di Indonesia”, *Reflektika*, Volume 18, Number 2, 2023 (DOI: 10.28944/reflektika.v18i2.1309), p. 285.

¹⁷ Sopriyanto, “Pandangan Hukum Islam, Hukum Perkawinan dan KHI Terhadap Praktek Nikah Tahlil (Studi Kasus di Desa Suka Jaya Kecamatan Muko-Muko Bathin VII Kabupaten Bungo)”, *Nur El-Islam: Jurnal Pendidikan dan Sosial Keagamaan*, Volume 6, Number 1, 2019 (DOI:10.51311/nuris.v6i1.116), p. 29.

known as tahlil marriage or nikah *muhallil*. Among the local community of Padarincang, it is colloquially referred to as kawin selang (alternating marriage).¹⁸

According to secondary data derived from interview results as presented in the article titled “The Practice of *Muhallil* Marriage in Padarincang, Serang, Banten Province, Indonesia” by Ahmad Sanusi and Epa Nurpiah, one of the interviewees, identified as JA (pseudonym used), stated that kawin selang (alternating marriage) is essentially a transactional or paid marriage. It is carried out under coercion and involves negotiation or bargaining between the parties. In some instances, the woman remarries her former husband before the completion of her ‘iddah period, following an agreement between the ex-husband and the temporary husband (*muhallil*) regarding the timing of the marriage.

Moreover, there have been reported cases in which the parties involved agreed to exchange spouses for a short period, with the marriage lasting only about two days. Before the ‘iddah period concluded, both men had already returned to their original wives, indicating the temporary and contrived nature of the marriage arrangements. The practice of kawin selang (alternating marriage) in Padarincang has been carried out frequently. This is evidenced by the presence of individuals in the area who are known to take on the role of a *muhallil* as a form of profession. Due to this activity, such individuals are even given a local nickname, “*Mad Tancap*,” referring to their habitual involvement in marrying women who have been divorced three times by their husbands. Those who assume the role of *muhallil* are generally not individuals known for religious observance; rather, they are considered to be people who deliberately violate the legal and moral boundaries established by Islamic law (ḥukm Allāh SWT).¹⁹

Individuals who engage in the role of *muhallil* are typically unemployed, older unmarried men, or even married men. Several factors influence a person to become a *muhallil*, including severe economic hardship and habitual behavior of frequently changing partners—especially when such acts are incentivized by substantial financial compensation. Field observations have revealed several negative consequences associated with the *muhallil* practice, including mental health disorders, physical impairments, and the transmission of sexually transmitted diseases such as syphilis and AIDS, which in some cases have resulted in death.²⁰

¹⁸ Ahmad Sanusi and Epa Nurpiah, “Praktek Perkawinan Muhallil Di Padarincang Serang Provinsi Banten Indonesia,” *Jurnal Hukum Islam*, Volume 18, Number 2, 2020, (<https://doi.org/10.28918/jhi.v18i2.3476>) p. 276.

¹⁹ *Ibid.*, p. 278.

²⁰ *Ibid.*, p. 279.

2. Kampar Kiri District, Kampar Regency

In Domo Village, Kampar Kiri District, Kampar Regency, the practice of nikah *muhallil* is also found. In this region, the practice involves the use of a paid man (*muhallil*) and includes prearranged scheduling of the marriage ceremony. One such case is reported by the family of Mrs. Ruana, who stated: "The *muhallil* marriage with a paid man took place after we divorced and following the pronouncement of triple divorce (ṭalāq thalātha) by my former husband (Mekdis). This occurred in the year 2000." Similarly, Mrs. Upik shared her experience, saying that her husband had pronounced divorce (ṭalāq) three times and had left their marital home on three separate occasions: "My husband, Bahtiar, left the house and stayed for several days at his parents' home. After that, he found another man to marry me after our divorce. This happened in 2004." A similar case occurred with Mrs. Yuni, who stated that a divorce had indeed taken place within her family, culminating in a triple divorce (ṭalāq thalātha). She explained: "I heard from the Ninik Mamak (traditional leaders) in this village that a triple divorce must be 'cleansed' through marriage to another man, someone other than my former husband. My second marriage took place after my divorce from my first husband, Tamar, who had pronounced the triple divorce. This event occurred in 2008." The nikah *muhallil* ceremonies were conducted in various locations, including the bride's home, the residence of the Ninik Mamak, or at a mosque in Domo Village.²¹

3. Muko-Muko Bathin VII District, Bungo Regency

The community in Muko-Muko Bathin VII District, particularly in Sukajaya Village, has identified several reasons behind the practice of nikah *muhallil* in the area. These reasons are further supported by several religious figures (ulama) and community leaders, who acknowledge that the occurrence of nikah *muhallil* in Sukajaya Village is influenced by a number of contributing factors, including the following:

- a) In cases where a married couple has divorced three times, or the wife has been subjected to a triple divorce (ṭalāq thalātha), and both parties wish to reconcile, Islamic law requires that the woman must first marry another man before reconciliation with her former husband is permitted.
- b) According to the customary law (adat) practiced in Sukajaya Village, nikah *muhallil* is considered permissible based on local legal traditions. This permissibility is grounded in the belief that there are four matters which must be acted upon without delay, and

²¹ Abdul Aziz and Supratman Zakir, "Tantangan Pembelajaran Pendidikan Agama Islam di Era 4.0" *Indonesian Research Journal on Education : Jurnal Ilmu Pendidikan*, Volume 2, Number 3, 2022, p. 741.

neglecting them is considered sinful. These four matters include: a request to be married, divorce followed by a desire to reconcile, conversion from disbelief to Islam, and the immediate handling of a deceased person's burial rites.²²

For individuals acting as *muhallil*, the motivations behind their willingness to assume this role vary widely. For example, Castelo (a pseudonym), who has been serving as a *muhallil* since 2003, stated that his reason for doing so is rooted in the belief that every man needs a woman in his life, and that no man is capable of fully restraining his sexual desires. He further explained that after entering into a *muhallil* marriage, he would receive a sum of money, and in his experience, there was no fixed limit to the amount of money he could earn from such arrangements. Similarly, Roger (pseudonym) expressed that his willingness to become a *muhallil* was driven not only by the financial compensation he received, but also by the pleasure he experienced during the brief marriage, which he described as "tasting the sweetness of marital intimacy." In contrast, Jhony (pseudonym) offered a more altruistic rationale. He claimed that his participation as a *muhallil* was motivated by a desire to help individuals who had undergone a triple divorce, particularly out of sympathy for the children involved. He viewed his role as a way to help the couple reunite, rebuild their household, and avoid falling into greater sin.²³

c. Analysis of Nikah *Muhallil* Practices in Indonesia

Based on various case examples described above, it is evident that *nikah muhallil* indeed occurs in several regions of Indonesia. This type of marriage practice is often exploited for personal gain by offering *muhallil* services. From these cases, the parties involved tend to perceive *nikah muhallil* as a "win-win solution" — benefiting the *muhallil*, the former husband, and the former wife. However, such a practice clearly contradicts Islamic law. In Islam, marriage is regarded as a sacred and solemn bond (*mitsaqan ghalizha*) intended to establish tranquility (*sakinah*), love (*mawaddah*), and divine mercy (*rahmah*), as stated in Qur'an Surah Ar-Rum verse 21. Yet, in reality, this noble purpose is often tainted by legal manipulation, such as the practice of *nikah muhallil*.

In Islamic jurisprudence (*fiqh munakahat*), as previously discussed, scholars hold differing views on the legal status of this practice. Nevertheless, the majority tend to prohibit it, considering its potential to undermine the essence of marriage, which is meant to be a lifelong commitment. Through such manipulative motives, *nikah muhallil* reflects an abuse of marriage law.

Furthermore, under Indonesia's positive law, *nikah muhallil* is also deemed impermissible.

²² Sopriyanto, "Pandangan Hukum Islam, p. 25.

²³ *Ibid.*, p. 26.

Article 2 paragraph (1) of the Marriage Law stipulates that a marriage is legally valid only if conducted according to the respective religion and belief of the parties. Consequently, *nikah muhallil* is normatively invalid, as it violates Islamic legal principles.

From a social perspective, this practice is also considered unethical. In communities that uphold values of loyalty, commitment, and honesty, *nikah muhallil* often provokes condemnation, shame, and stigma — particularly toward women. Women in such marriages are reduced to mere “objects” for fulfilling legal formalities to allow remarriage with a former husband, rather than being respected subjects whose dignity and rights are protected. In many cases, women may become victims, compelled to enter into a *muhallil* marriage — becoming a wife solely based on a transactional agreement, without love or mutual affection. They are even required to consummate the marriage and observe the *iddah* period to meet the conditions for remarriage with their previous husband.

The Urgency of Legal Reformulation and Pre-Marital Socialization as Preventive Measures Against the Practice of *Muhallil*

Referring to the various issues surrounding the practice of *nikah muhallil* as previously described, there is a pressing need for systematic and legal-formal preventive measures to curb such practices in the future. In this article, the author proposes both normative and practical solutions, as outlined below:

a. Normative Solution — Revision and Addition of Provisions Regulating Nikah *Muhallil*

One of the main strategies to address the issue of *nikah muhallil* is by reformulating the positive legal framework governing Muslim marriages in Indonesia, particularly those codified in the Compilation of Islamic Law (*Kompilasi Hukum Islam* — KHI). As a formal juridical reference, the KHI indeed regulates prohibited marriages under Chapter VI, Articles 39 to 44. However, these provisions do not explicitly address certain types of marriages prohibited in *fiqh munakahat*, such as *nikah muhallil*, *nikah mut'ah*, and other forms of marriage that fail to meet the requirements and objectives of marriage according to Islamic teachings.

The absence of explicit legal provisions regarding such prohibited marriages creates a normative gap (*vacuum of norms*) within Indonesia's Islamic legal system. Therefore, this article proposes that the KHI be revised and supplemented with new provisions that clearly regulate and prohibit specific types of marriages, including *nikah muhallil*. This revision would serve to strengthen legal protection for the institution of marriage and uphold the dignity of women.

To ensure legal certainty for the public—particularly the Muslim community—and to

prevent misinterpretation in the implementation of marriage law, the proposed revision should comprehensively outline the categories of prohibited marriages as recognized in *fiqh*. Furthermore, the new provisions should not only list the types of forbidden marriages but also detail the elements that render them invalid under Islamic law, accompanied by clear administrative sanctions or specific legal consequences.

b. Practical Solution — Education and Socialization for Prospective Spouses

In addition to legal reformulation, preventive measures must also be carried out through comprehensive education and socialization for prospective spouses. The content of such socialization should not be limited to the administrative procedures of marriage but must also include substantive aspects—particularly forms of marriage deemed invalid under Islamic law, including *nikah muhallil*. By doing so, it is expected that prospective spouses will gain adequate understanding and be able to act wisely in navigating marital dynamics, fostering greater caution in decisions related to *talaq* or *khulu'*.

In this regard, the Office of Religious Affairs (*Kantor Urusan Agama* — KUA) holds a strategic role as the institution most directly connected to the community on marriage matters. The KUA's role extends beyond administrative functions to include educational responsibilities, particularly through marriage counseling programs. Therefore, the marriage counseling curriculum must be strengthened by integrating materials on *sakinah* family principles, *fiqh munakahat*, family psychology, and the legal regulations concerning prohibited forms of marriage.

Moreover, the involvement of other stakeholders—such as the Marriage Advisory, Counseling, and Preservation Agency (*Badan Penasihatatan, Pembinaan dan Pelestarian Perkawinan* — BP4), religious counselors, and Islamic community organizations is essential to optimize the effectiveness of these socialization efforts.

D. Conclusion

Nikah *muhallil* is a form of marriage practiced with the specific intention of legitimizing the remarriage of a woman to her former husband after having been divorced three times. However, this practice is considered problematic from the perspective of Islamic law. Scholars from various schools of Islamic jurisprudence Such as Imam Ahmad, Imam al Shafi'i, Imam Abu Hanifah, and Imam Malik have firmly stated that a marriage entered into with the explicit or implicit intention of tahlil contradicts the noble objectives of marriage in Islam. This practice not only undermines the dignity of women but also violates the sacred essence of marriage, which is intended to be founded upon love, compassion, and tranquility (*sakinah, mawaddah, wa rahmah*). Therefore,

although such a marriage may outwardly fulfill the formal requirements of a valid contract (*akad*), it is often regarded as invalid (*bāṭil*), reprehensible (*makrūh*), or even forbidden (*ḥarām*) because it is not intended to establish a genuine family, but rather to serve as a legal maneuver.

In Indonesia, the ongoing practice of (*nikah muhallil*) illustrates serious issues within the implementation of Islamic family law. This practice lacks clear regulation in both the Marriage Law and the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI). According to existing legal provisions, the objective of marriage is to establish a harmonious and enduring family. A marriage may be annulled if it fails to meet the established legal requirements. From the standpoint of Islamic law, *nikah muhallil* conducted through legal manipulation is impermissible. However, empirical findings indicate that such practices continue to occur covertly and are often exploited to facilitate reconciliation after a triple divorce. While triple *thalaq*. Several reported cases in regions such as Padarincang, Kampar, and Muko-Muko Bathin VII demonstrate that this practice not only deviates from positive law but also violates ethical principles and the objectives of Islamic law (*maqāṣid al sharī'ah*). This phenomenon underscores the urgent need to strengthen public understanding of Islamic family law and to enforce laws that not only rely on textual interpretations but also emphasize substantive justice and the protection of women's dignity.

The widespread practice of (*nikah muhallil*) , which deviates from both legal and Islamic ethical principles, signals an urgent need for legal reform. To date, there are no explicit and unequivocal legal provisions that prohibit this practice in Indonesia's positive law, creating legal loopholes that are often exploited for personal gain. This situation poses significant harm, particularly to women, who are frequently objectified in such arrangements merely to satisfy the conditions for reconciliation, with little regard for their rights, honor, and dignity. Therefore, a revision of the Compilation of Islamic Law is necessary to explicitly prohibit (*nikah muhallil*) . Furthermore, comprehensive education and public awareness campaigns should be directed at prospective spouses—not only regarding procedural aspects of marriage but also to instill a deep understanding of the true meaning and objectives of marriage in accordance with Islamic teachings. Through balanced normative and preventive measures, it is hoped that the practice of (*nikah muhallil*) can be eradicated, and that the sanctity and justice of marriage can be genuinely upheld in society.

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