

## The Phenomenon of Talak to A Deceased Wife in Nagari Silantai, Sumpur Kudus District, Sijunjung District, West Sumatra Province

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### ABSTRACT

This thesis entitled "The Phenomenon of Divorcing a Wife Who Has Died in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province". The aim of this research is to describe the types and implementation of talaq on deceased wives by husbands in Nagari Silantai, to be able to describe the impact on husbands if they do not perform talaq on their dead wives in Nagari Silantai, and the form of distribution of assets obtained during the marriage. The theory used in this thesis is the Phenomenological theory of Alfred Schutz. The method the author uses is a qualitative method, with data collection techniques namely observation, interviews and communication. In Nagari Silantai there are two divorce cases that are carried out on wives who have died, the first is divorce divorce, and the second, back divorce. Divorce is carried out by the husband when the wife's body is about to be washed, or even before the wife's body is buried. Talak back divorce is carried out when the wife's body leaves the house and goes to the cemetery. Talak back is a divorce that is facing away from each other, talak back is the separation of husband and wife, because they no longer have the same goal. In talak back, the husband will be taken home to his parents' house by his relatives. After the divorce divorce has been carried out, the next step is to divide the assets obtained during the marriage.

**Keywords:** *Phenomenon, divorce, impact*

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### INTRODUCTION

Sijunjung Regency is a district that has many sub-districts and villages in it. Likewise with the cultural traditions found in the district. Every place has traditions that are different from other places. There is a Minangkabau proverb that says *adat nanlaluka nagari*, which is considered to have the meaning that the nagari itself knows a custom and not necessarily other nagari know or even have it. Likewise with the phenomenon that occurs in the Nagari Silantai Community, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province. One form of phenomenon that occurs in Nagari Silantai is: the imposition of talak, in the event of the death or death of a wife who is given talaq by her husband.

In carrying out the death event, each place has various forms of implementation. Implementation takes the form, some only just buried or buried, and certain steps must be carried out first before it can be buried. However, if you have not carried out these steps,

then the body cannot be buried. This can happen because each place or region has its own culture, especially in the management and even the burial process of corpses.

In the Nagari Silantai Community, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province. Talak is divided into two parts, namely: life divorce and death divorce. Life divorce is pronounced directly to the wife, in the presence of the niniak mamak and the family concerned, while death divorce is pronounced in the form of being delegated to the husband's niniak mamak to the wife's niniak mamak (Rahamis interview, November 2023). Initially, the author thought that divorce could only be done when the wife and husband were both still alive, but in reality divorce can still be done in the Nagari Silantai community if the wife has died before the husband.

According to J Abdillah (2019: 183-192) Analysis of Religious Court Decisions Regarding Divorce and Talak Divorce According to Law Number 1/1974 Concerning Marriage and KHI. This journal contains things that can cause a marriage relationship to break up. The results of this research state that the relationship between a husband and wife breaks down if three things happen: firstly because of death, secondly by a divorce certificate, and thirdly by a divorce decision.

In the Nagari Silantai Community, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province, the husband will still impose divorce on his wife even if the wife has died. The talak was given in the form of a representation to his wife's niniak mamak, along with giving talak money to his wife who had died. The phenomenon of imposing divorce in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province, there are two divorces. The first talak is called talak divorce followed by giving talak money, and the second is called tulak pungguang or talak back. Divorce divorce is imposed when the wife's body is about to be washed, but it can also be done before the wife is buried, while tulak pungguang or back divorce is carried out when the wife's body has left the house, or when the wife's body is taken to the cemetery.

After separation occurs due to the death of one of the husband and wife, the couple will then divide the assets acquired during the marriage. The assets shared include houses, land, money and vehicles. In the Silantai Community, the distribution of assets is based on when the assets were acquired, during the marriage or before the marriage. In the Silantai Community, the division of property can also be influenced by hereditary factors, whether the couple has children or not.

The author is interested in raising the title of the phenomenon of divorce from wives who have died in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province. If you look at it from a logical point of view, how could a person who has died still be divorced, because he has become a corpse, and he will not know that he has been divorced by his partner or husband. Likewise with giving money as proof that he has been divorced, as well as tulak pungguang or talak back on the wife's corpse by her husband.

## **METHOD**

This research was conducted using qualitative research methods. The object of this research is the phenomenon of divorce from wives who have died in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province. This research was conducted in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province. The primary data in this research is data obtained directly in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency in the form of information obtained from informants regarding the form and implementation of talaq on a wife who has died by her husband and the impact of the husband not carrying out talaq on the corpse. wife to be used as material for analysis in research, with the first step being conducting interviews, events in the field and responses from individuals or community groups regarding this matter. Secondary data in this research is data obtained from literature studies in the form of books, journals, theses and theses to provide data related to this research, namely the phenomenon of divorce from wives who have died in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province. The data analysis technique in this research includes several stages; data collection, data reduction, data display, and conclusions.

## **FINDING AND DISCUSSION**

### **A.Types and Implementation of Divorce to a Wife Who Has Died by Her Husband in Nagari Silantai**

Talaq, also known as divorce, is not something we hear about in everyday life. We often encounter divorce in the environment where we live, either due to the death of one of the partners, or divorce due to a lack of harmonious relationships within the family or household. Divorce can also occur due to the presence of a third party who is clever in taking advantage of the situation, which is less than harmonious, to destroy it so that both of them choose to separate for the reason that the husband no longer loves his wife and the wife does not love her husband.

However, divorce often occurs in household relationships, due to the death of one of the married couples. Every time there is a divorce between a husband and wife, it always begins with the word talak or sayings to divorce the couple, especially the husband's talak against his wife. In general, a husband's pronouncement of talaq on his deceased wife is always followed by the giving of talak money. The talak money is a sign of proof that the talak has been given by the husband to his deceased wife, even though the acceptance has been delegated to his wife's niniak mamak. However, if the husband dies before his wife, then the wife still pays money to the husband's niniak mamak as a form of return of the dowry money during the previous marriage.

The following is the implementation of talaq to a wife who has died by her husband:

#### **1. Divorce divorce**

Divorce divorce is a separation divorce between a husband and his deceased wife which is followed by the giving of talak money as proof that the husband has given the divorce to his wife's alma house. In the people of Nagari Silantai, Sumpur Kudus District, husbands still impose talaq on their wives, even though their wives

have died, but the receipt of talak and talak money on their deceased wife is already in the form of being represented by their wife's niniak mamak. The imposition of divorce by a husband on his deceased wife is still carried out by the Nagari Silantai Community from the past until now. However, if a husband is unable to pronounce the word talak against his wife to his wife's niniak mamak, then the husband may ask his niniak mamak for help or assistance in conveying talaq against his deceased wife, whose receipt of the talak and the talak money has been delegated to his wife's niniak mamak.

Divorce may be represented by the husband's niniak mamak, to his wife's niniak mamak, if the husband is unable to convey it directly to his deceased wife's niniak mamak. However, in the delivery of the word talak, the pronunciation of the deceased's husband will differ directly between the husband's representation to the husband's niniak mamak and the deceased wife's niniak mamak. The right time for a husband to pronounce divorce and give divorce money to his wife's armahumah is the right time for a husband to pronounce divorce on his wife whose acceptance of divorce and divorce money has been submitted to his deceased wife's niniak mamak, namely when his wife's corpse is about to be bathed.

However, it is also permissible for a husband to give divorce when his wife's body is about to be buried, for several reasons, the first is because the husband was not at home when his wife's body was about to be washed, the second is because the wife's niniak mamak was not there at that time. However, as for the conditions for a husband to be allowed to carry out a divorce at his wife's funeral, the first thing is that the husband has performed a divorce on his wife's corpse when he was taken out of the house to go to the cemetery. In this case, the husband will be picked up by a representative from his niniak mamak or the husband may also be contacted by telephone.



**Figure 1. giving divorce money by datuak lobia to sampono malin**

In Nagari Silantai, the divorce money is only given by the husband to his wife, the divorce money from the husband is proof that the husband has given the divorce to the almarumah, but the receipt of the divorce and the divorce money has been represented by the deceased wife's niniak mamak. However, if the husband dies

before the wife, the wife still gives money to her husband's niniak mamak, but the money must be given to the wife's niniak mamak, and the wife cannot go directly to her husband's niniak mamak. However, the money given by his wife was not called divorce money but rather money as a return of the dowry from her husband during the marriage between the wife's father and her husband.

The maximum amount for giving talak money in the Nagari Silantai Community, Sumpur Kudus District is not specified. However, what is determined is only the minimum amount, namely: Rp. 5000.00,- (five thousand rupiah). The reason for not determining the maximum amount of talak payment in the Nagari Silantai Community is due to the unequal economy of the community. In order not to burden the people of Nagari Silantai in paying the divorce money, the minimum amount is only IDR 5,000.00 (five thousand rupiah).

If the divorce money has been received by the deceased wife's niniak mamak as proof of the divorce from the husband, against his deceased wife. So the divorce money has become the personal property of his late wife's mother. In using the talak money, the niniak mamak who receives the talak money is free to use the talak money he receives. Whether you want to buy cigarettes, sugar or want to give it back to your deceased nephew's child, that's fine too.

The form of giving divorce money by a husband to his wife will be different from returning the dowry money by the wife to her late husband. A husband may give divorce money directly to his wife's niniak mamak, after the husband pronounces the word talak against his wife, the receipt of the talak and the money is represented by his wife's niniak mamak. However, if the wife is the one who returns the dowry money to her husband who has died, a wife only needs to hand over or give the money to her niniak mamak (wife) as a sign of having returned the dowry during the previous marriage, then the wife's niniak mamak will convey the intention. wife as his niece and at the same time returning the dowry money to the husband's niniak mamak.

## 2. Back Divorce

Talak back is a form of turning your back on the wife's corpse which is about to be taken to the funeral or when the wife's corpse has left the house and headed to the cemetery. In the implementation of talaq back, usually the husband will be taken home to his parents' house. During the implementation of talaq back, the family may tell the wife's family that the husband will be brought home to his parents' house, but this may also not be done, if at that time the situation does not allow it.



**Figure 2. From of back divorce**

A husband can only carry out talaq back on his wife's body. However, it is not permissible for a wife to perform talaq back on her husband's body. Husbands usually carry out divorce when their wife's body leaves the house or is about to be taken to the cemetery. When talaq back is carried out, a husband will be brought back to his parents' house by the family, in the form of the husband's mother's siblings, or the husband's brothers, and the number of families who bring him, is not determined, meaning, it can be one person or more than one. person.

In carrying out talaq back, a husband is required to actually arrive at his parents' house, not halfway back to his parents' house. However, if a husband does not actually arrive at his parents' house and the husband participates in the burial of his wife's body. The people of Nagari Silantai believe that the husband will continue to be disturbed by the spirit of his deceased wife forever. However, if the husband actually arrives at his parents' house and sits for a moment in his parents' house, the Nagari Silantai people believe that the husband will never be disturbed by the spirit of his deceased wife.

At the time of carrying out talaq back, a husband is not at home, it is not possible to wait or the husband has ordered the family of the deceased wife who is at home, just bury my deceased wife, because I (her husband) cannot arrive today. If this is the case then divorce is considered to have been carried out by the husband on his wife's body which will be taken to the cemetery. The reason for this is that the Silantai people believe that because the husband and wife are far away and the husband is having difficulty returning to the deceased's house, it is assumed that they have performed talaq back because the husband and wife have separated or did not meet when carrying the deceased wife's body to the cemetery.

The people of Nagari Silantai also believe that talakback is the final separation between a husband and his wife, because talakback is believed to be a separation, it must be done with their backs to each other because there is no longer one goal between the husband and his deceased wife. However, in Nagari Silantai, even though the husband had been taken home by his family at the time of the divorce. However, the husband is still allowed to stay at his deceased wife's house

until 100 days (one hundred days) after his wife's death. However, a husband may also stay at his wife's alma house at any time if requested by his children, relatives, or his wife's surviving family and that is if the husband wishes.

## **B. The impact on the husband if the back divorce is not carried out**

Basically, the impact of not carrying out talaq for divorce and talak back against the husband are similar, but the difference is that if talak for divorce on the deceased wife is not carried out then the culture of the Silantai Community will be lost, therefore talak on divorce is never not carried out but must be carried out by the Silantai Community. from the past to the present. However, the impact if the husband does not carry out talaq back on his wife's corpse. Results of an interview with Zulfakri (71 years old) in Nagari Silantai on November 16 2023, namely:

### **1. Impact of Not Performing Back Talak**

#### **a. Husbands Will Have Difficulty Getting a Wife**

The effect that will occur if the husband does not perform divorce on his wife's corpse is, if the husband likes a woman then the woman will not like her husband. However, if there is a woman who likes her husband, then the husband will not like the woman who likes him and vice versa. The people of Nagari Silantai call the disease antu bilalau maik.

#### **b. Husband Will Become the Topic of Public Talk**

If a husband does not carry out talaq back then the husband will become the topic of discussion in the Nagari Silantai community, because he cannot carry out talaq back on his wife's corpse. Basically, the talk received by husbands who do not carry out talaq back is in the form of insults, or talk that is not good and the tone seems to be badmouthing the husband. However, in the end, whether a husband realizes it or not, his good name in the eyes of society will slowly decline.

#### **c. Husband's Thinking Will Become Disturbed**

The lack of passion for happiness in his life caused the husband to often get sick. The lack of a sense of happiness has an effect on the husband's thinking, who was previously active in society will gradually become quiet or no longer so active. So in the end the husband who does not carry out talaq back will prefer to be alone rather than mingle with society.

### **2. The impact of divorce on the distribution of inheritance assets when separated**

In dividing inheritance, the husband gets the same distribution as his wife, this can be influenced by the number of descendants (children). The assets obtained will usually be given to their children, except for motorbikes if a father asks for the motorbike. Meanwhile, other assets in the form of houses, gardens, land, will usually be given to their children. However, if the husband and wife do not have descendants or children, then the assets acquired during the household will belong to the husband alone, except for the house if it was built on the land of the deceased wife's family. Basically the house will be given to the wife's family by the husband, but on the basis of an agreement made.

Based on the discussion above, analyzed using Alfred Schutz's phenomenological theory, there is a connection that the divorce phenomenon originates from the everyday understanding of a society. In the everyday world, humans carve out their own lives. However, even though this is the case, the existing phenomena cannot be separated from the human mind itself and it cannot be separated from the social context in which the human being exists.

So it can be concluded, based on Alfred Schutz's theory of phenomena, that phenomena are created in a society because of the understandings of the society itself. However, the understanding that was created was inseparable from the experience that came from the Nagari Silantai Community, which had previously been thought about based on the previous thoughts of the Silantai Community. Furthermore, this existing understanding is mutually agreed upon and becomes a phenomenon that is guided by the Nagari Silantai Community forever.

## **CONCLUSION**

The results of the research entitled "The Phenomenon of Divorcing a Wife Who Has Died in Nagari Silantai, Sumpur Kudus District, Sijunjung Regency, West Sumatra Province" can be drawn as follows: There are two implementations of talak in Nagari Silantai, the first, called divorce divorce and the second, called divorce. back divorce. Divorce divorce is a severance of a husband's relationship with his deceased wife whose acceptance of the divorce has been delegated to the deceased wife's niniak mamak. However, talak back is a separation with their backs to each other between the husband and his deceased wife when the wife is taken out of the house to the funeral. Talak back is also believed to be the final separation between a husband and his deceased wife, because they no longer have the same goal, it is made in a different direction, namely between the back and the back.

During the implementation of the talaq back, the husband will be taken to his parents' house by the husband's family in an unspecified amount as long as it is available to the Silantai Community. However, if it is not possible for the husband to return home when his wife dies, then he is deemed to have separated for the reason that he really cannot go home at that time while the wife's body must be buried. But as for

The impact on the husband if he does not carry out talaq back on his wife's body. Firstly, it will be difficult for the husband to get a new wife, secondly, the husband will become the subject of public talk, and thirdly, the husband's thinking will gradually start to become disturbed. At the time the wife's funeral was over and in the next few days there was a distribution of assets obtained during the marriage between husband and wife.

## **REFERENCES**

- Abdila, J. 2019. Analysis of Religious Court Decisions Regarding Divorce and Talak According to Law Number 1/1974 concerning Marriage and KHI. Journal. Judisia: Legal thought and Islamic law.
- Fauziah, Atika Suri Nur, et al. 2020. Analysis of the Rise of Divorce During Covid 19. Journal. Mizan: Of Islamic Law.



- Haryanto, Sidung. 2012. Spectrum of Social Theory From Classical to Modern. Ar-Ruzz Media: Jogjakarta
- Mardiah, Ainun. 2018. Wife's Inheritance Rights Divorced Bain by Husband Who is Dying Perfect Mashab Maliki and Safi'i. Journal. Al-Qadha: Islamic Law and Legislation.
- Ma'rifatillah, Ma'rifatillah. 2017. Prohibition on Wives Carrying the Body of Their Perfect Husband's Qawaid Fiqiyyah (Al-Adah Al-Muhakhamah): Study in Sumpursari Hamlet, Jambesari Village, Pocokusumo District, Malang Regency. Journal. Maulana Malik Ibrahim State Islamic University.
- Sugiyono. 2018. Qualitative Approach Research Methods, Qualitative and R&d. Alfabeta: Bandung
- Sabran. 2022. Profile of Nagari Silantai, Sumpur Kudus District, Sijunjung Regency: West Sumatra