



**CRITICIZING THE MUSLIM DIVORCE TRADITION IN LOMBOK:
AN EFFORT TO CONTROL THE WOMEN'S RIGHTS**

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Abstract: This research aims to identify the divorce tradition in Lombok Muslim life and find solutions to the problems occurring. This is field research using observation, interview, and documentation methods. In this study, the researchers directly observed and interviewed audiences. Moreover, the researchers discovered some problems of Muslim divorce tradition in Lombok Island, namely, the report from a husband to a religious personage or community leader about the divorce between him and his wife. The second problem is *pecelekan* (bringing back a woman to her parents after her husband has divorced her). The third problem is eliminating the man's livelihood responsibility after divorcing his wife. In Lombok Island, the divorce can automatically stop the relationship between the husband and wife. In other words, there is no responsibility anymore for a husband after a husband says divorce to his wife. However, separation of spouse by divorce in Islam does not automatically abolish the husband's responsibilities. The woman in *'iddah* period still obtains her rights. Nevertheless, in Lombok, divorce causes the divorced wife to lose her rights. This research contributes to finding two solutions to solve these problems. The first way is by socializing intensively with all of society, and the second is through the active role of religious personage to control women's rights in Lombok society.

Tujuan penelitian adalah untuk meegetahui tentang budaya talak/cerai dalam kehidupan muslim di Lombok dan untuk mencari solusi atas permasalahan yang ditemukan. Penelitian ini adalah penelitian lapangan. Penelitian ini menggunakan

metode observasi, wawancara dan dokumentasi, yaitu peneliti secara langsung turun ke lapangan untuk mengobservasi dan menginterview pelaku talak. Dalam Penelitian ini, peneliti menemukan permasalahan-permasalahan tentang budaya talak muslim di Pulau Lombok. Permasalahan-permasalahan tersebut adalah sebagai berikut; Pertama: Laporan Laki-laki kepada Tuan Guru atau Tokoh Masyarakat tentang telah terjadinya talak antara dia (suami) dengan istrinya. Kedua, melakukan budaya pecelean yaitu mengembalikan perempuan kepada orangtuanya setelah terjadinya talak. Ketiga, menghilangkan tanggungjawab seorang suami pada istrinya yang tertalak setelah seorang laki-laki mentalak istrinya. Di Pulau Lombok, talak itu bisa membuat hubungan antara suami dan istri terhenti secara otomatis. Jadi, tidak ada lagi tanggungjawab bagi seorang suami setelah seorang suami mengucapkan talak pada istrinya. Padahal perpisahan pasangan dengan talak dalam Islam tidak menghilangkan tanggungjawab suami. Perempuan yang masih dalam masa iddah harusnya masih memperoleh hak-haknya. Tetapi di Lombok, Talak menyebabkan hak-hak istri yang tertalak hilang. Penelitian ini memberikan solusi sebagai berikut; pertama: melakukan sosialisasi secara terus-menerus pada masyarakat tentang hukum yang benar. Kedua, memberikan peran kepada tuan guru atau tokoh masyarakat untuk mengontrol hak-hak perempuan, sehingga budaya talak yang menghilangkan hak-hak perempuan tidak terulang Kembali di masyarakat Lombok.

Keywords: Muslim Lombok, Divorce Tradition, Islamic law.

INTRODUCTION

Marriage is a sacred matter in Islam. Islam teaches people how to choose their couple because a husband or a wife is a determinant of human life in the future (in the world or hereafter).¹ Prophet Muhammad said in his hadith, "*Marry a woman because of four things, because of her treasure, her descendants, her beauty, and her religion, but prefer her because of her religion.*"² In the other hadith, Prophet Muhammad said,

إذا صلت المرأة خمسها، وصامت شهرها، وحفظت فرجها، وأطاعت زوجها؛ قيل لها ادخلي الجنة من أي أبواب الجنة شئت

"if a wife had prayed, she had done fasting Ramadhan, she had kept her genitals, and she had obeyed her husband, tell her to come in the heaven in whatever doors of heaven she wants."³

Many divorces have happened because people were wrong in choosing their couple when they married. Consequently, many spouses always fight and debate until the divorce. The factors that cause divorce are a total of 94.28% of

¹ Lukman Santoso and Muhamad Fauzi Arifin, "Terobosan Hukum Hakim Terkait Pencabutan Surat Penolakan Perkawinan Dalam Masa Iddah," *Jurnal Yudisial* 12, no. 3 (2020): 381-98.

² Ibnu Hajar al-Asqalani, *Terjemah Kitab Bulughul Maram* (Semarang: Karya Toha Putra, 2012), 399; Ibnu Hajar al-'Asqalani, *Bulugh Al-Maram*, vol. III (Beirut: Dar al-Fikr, n.d.).

³ Imam Muslim, *Shahih Muslim, Jilid II* (Beirut: Dâr al-Kitab al-Ilmiyah, 2006); Muhammad Ibn Isma'il Abu 'Abdullah Al-Bukhari, *Sahih Al-Bukhari* (Beirut: Dar Ibn Kasir, 1987).

the subjects stated that their spouses were selfish, 85.71% of them mentioned that their partners did not appreciate them, 82.85% of them said their partners were not available when they needed them, then 80% addressed couples could not be invited to share⁴.

Allah said in the Holy Qur'an that we must interact with our wives well, "Interact with them (wives) by using the best interaction" (وعاشروهن بالمعروف). One of the goals of marriage, as stated in the letter Ar-Rum verse 21, is to obtain peace, comfort, love, and affection. Therefore, we recommend getting married to those who can afford those goals.⁵

We can do many things as a husband and a wife to ensure our relationship is healthy and strong. Husbands are obliged to protect and care for their wives, which means protecting their wives' honor, not wasting them, and keeping them always to carry out Allah's commands and stop all actions forbidden by Him.⁶

Marriage is not an agreement giving the enslaved person and the king status or a boss and a servant. However, marriage is the effort to build strength together, walk together and contiguously, and fulfill each other to the happiness of life in the world and hereafter.⁷

The sentence of divorce seriously affects the future of children and wives. However, sometimes, divorce becomes the last solution for a broken family that can not be defended anymore. There are many causes of divorce, including individual problems and family business.⁸ A husband who cannot interact better, such as being tempted by other women, or a wife who does not obey her husband's commands, often becomes a factor affecting the family building and causing the wrong thing, divorce.⁹

⁴ Alfina Sari, Taufik Taufik, and Afrizal Sano, "Kondisi Kehidupan Rumah Tangga Pasangan Sebelum Bercerai Dan Faktor-Faktor Penyebab Terjadinya Perceraian," *Jurnal Konseling Dan Pendidikan* 4, no. 3 (January 9, 2017): 41-51, <https://doi.org/10.29210/113400>.

⁵ Ahmad Zaini, "Membentuk Keluarga Sakinah Melalui Bimbingan Dan Konseling Pernikahan" 6, no. 1 (June 2015): 91, <https://doi.org/10.21043/kr.v6i1.1041>. pasti ada hikmahnya. Salah satu tujuan pernikahan seperti termaktub dalam surat ar-Rum ayat 21 adalah untuk memperoleh ketenteraman, kenyamanan, rasa kasih dan sayang. Prinsip-prinsip dasar pernikahan Islam yang harus diketahui oleh konselor pernikahan dapat dirumuskan sebagai berikut: Dalam memilih calon suami/istri, faktor agama/ akhlak calon harus menjadi pertimbangan pertama sebelum keturunan, rupa dan harta. Bahwa nikah atau hidup berumah tangga itu merupakan sunah Rasul bagi yang sudah mampu.. Bagi yang belum mampu disuruh bersabar dan puasa, tetapi jika dorongan nikah sudah tidak terkendali padahal ekonomi belum siap, sementara ia takut terjerumus pada perzinahan, maka agama menyuruh agar ia menikah. Layaknya pakaian, masing-masing suami dan istri harus bisa menjalankan fungsinya sebagai (a

⁶ M. Harir Muzakki, Ali Akhbar Abaib Mas Rabbani Lubis, and Anis Hidayatul Imtinah, "Women and Divorce in Ponorogo, East Java: Responsibility of The Husband in The Family," *Madania: Jurnal Kajian Keislaman* 24, no. 2 (December 31, 2020): 205, <https://doi.org/10.29300/madania.v24i2.3583>.

⁷ The Result of First observation to the spouse (Harniati dan Topandi)

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⁹ Syukri Syukri, "Ikrar Talak Di Luar Pengadilan: Studi Terhadap Pandangan Tuan Guru Di Lombok" (Disertasi, Surabaya, UIN Sunan Ampel, 2019), 121, <http://digilib.uinsby.ac.id/35679/>.

Islam allows divorce for Islamic legal reasons, yet Islam hates divorce without urgent reasons.¹⁰ Hence, divorce is a *halal* thing, but Allah hates it. We can take a look at Our Prophet's statement in his hadith below;

عن ابن عمر - رضي الله عنهما - قال : قال رسول الله صلى الله عليه وسلم (أبغض الحلال عند الله الطلاق) رواه أبو داود وابن ماجه , وصححه الحاكم , ورجح أبو حاتم إرساله .¹¹

"Divorce, as one part of stopping marriage relation, is not the way to stop the rights and responsibilities of each other, a husband as a head of a family still has the responsibility to give livelihood to his wife (food, clothes, and home), so a wife must still stay at husband's home to finish 'iddah time."¹²

Lombok Island, West Nusa Tenggara Province, is known as a thousand mosques Island. In this region, the divorced wife is brought back to her parent's home after society figures in that region execute the divorce as an abnegation of responsibilities¹³.

By seeing this reality, the authors learned about the divorce tradition of Muslims in Lombok and reviewed it using Islamic law. Thus, the authors can find one urgent point (good or bad, right or false) regarding the tradition. In this case, the authors offer an alternate solution to building a divorce tradition based on Islamic law. Therefore, the authors create the title of this research "Criticizing Muslim divorce tradition in Lombok, (the effort to control the woman's rights)." This article focuses on the tradition of giving livelihood to a divorced wife's rights and the duty during *iddah* period.

Based on this problem, the authors describe some problems in this paper. First, how is the divorce tradition in Lombok? Second, what is the Islamic law's view of the divorce tradition of Muslims in Lombok? Third, what is the alternative solution to revitalize the divorce tradition of Muslims in Lombok as an effort to control woman's rights?

This research used the qualitative approach. According to Sobagyo,¹⁴ qualitative research is a research procedure resulting in descriptive data. Furthermore, according to Nurul Yakin, qualitative research data are in words, sentences, schemes, and pictures. Summarily, Iqbal Hasan¹⁵ mentioned that the data in qualitative research are not numeral.

¹⁰ Islamic Scientists divide divorce law, we can read it in the book by the title *Fiqhul Islam wa Adillatuh*

¹¹ al-'Asqalani, *Bulugh Al-Maram*; al-Asqalani, *Terjemah Kitab Bulughul Maram*.

¹² One of the wisdom is to keep a woman's chastity, so there is no worry that the child in her womb is the child of her husband, not the other men (if after divorce, then the woman is pregnant). We can read it in the book by the title *Fiqhul Islam wa Adillatuh*

¹³ The first Observation of some divorces is the divorce between Mrs. Sanawati and Mr. Ridwan living in Puncang Village, Batu Layar District, West Lombok, West Nusa Tenggara.

¹⁴ Joko Subagyo, *Metode Penelitian: Dalam Teori Dan Praktik* (Jakarta: Rineka Cipta, 2006), 94.

¹⁵ M. Iqbal Hasan, *Metodologi Penelitian Dan Aplikasinya* (Jakarta: Ghalia Indonesia, 2002), 83.

The source in this research is the *Tuan guru* (Religious personage), all heads in the Gunungsari sub-district, all of the headmen in the Gunungsari sub-district, some ex-husbands and divorced wives, and the head of sub-village of Gunungsari. When collecting data, the researchers used two methods suitable for the research: interview and observation.

Before doing an interview, the researchers carried out an observation.¹⁶ After that, the researchers interviewed some respondents. Basic research usually underpins all others since it establishes the fundamental relationship between the observers and the observed objects, and this is the beginning of all understanding of reality¹⁷.

There are some past researches related to this research. First, the research of Zulfatun Ni'mah, with the title "Praktik Perceraian Sepihak pada Masyarakat Sasak di Pulau Lombok."¹⁸ The researchers discovered that unilateral divorce still occurs on Lombok Island, and thus divorce can cause wives to be bullied or lose. It is different from the research in this paper. Second, the research of Taufik Sofyan and Muhammad Zaini, with the title "Perceraian Suku Sasak Lombok Nusa Tenggara Barat." In this research, the researchers only discuss the impacts¹⁹ of divorce on Lombok people, but they did not talk about *nafkah* (living cost) after divorce.

DIVORCE TRADITION OF MUSLIMS IN LOMBOK

The divorce tradition described here is about hanging over the process and fulfilling the duty of the spouse divorced, which gets agreement from religious personage (*Tuan Guru*) and society figures.²⁰ *Tuan Guru* is a figure who has religious knowledge in spreading Islam on the Island of Lombok. *Tuan* means hajj, and *guru* means a figure he gains knowledge or a figure who preaches Islam. People like this on the island of Java are called *Kyai*. In Dompu City, we call them *Ruma*. *Ruma* is the highest position of religious people in Dompu place. Unique in Minangkabau, Sumatra Island, they call their social figure *Buya*. In Arab, People call their social figure *Syeikh*. So do the other places in Indonesia. They have a different way of calling their figure of society. The other example is the social figure of Prophet Muhammad's descendants. They call them *Habib* or *Sayyid*.²¹

¹⁶ The observation direct is a method of data collection that consists of observing the object of study within a particular situation. This is done without intervening or altering the environment in which the object unfolds. Otherwise, the data obtained would not be valid.

¹⁷ Wiki Didactic, "What is the meaning of Observation? Concept, Definition of Observation," Accessed May 2, 2022 in edukalife.blogspot.com.

¹⁸ Zulfatun Ni'mah, "Praktik Perceraian Sepihak pada Masyarakat Sasak di Pulau Lombok," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 51, no. 2 (November 14, 2017): 341, <https://doi.org/10.14421/ajish.2017.51.2.307-344>.

¹⁹ Taufik Sofyan and Muhammad Zaini, "Perceraian Suku Sasak Lombok Nusa Tenggara Barat," *Jurnal Alasma : Media Informasi Dan Komunikasi Ilmiah* 1, no. 2 (October 1, 2019): 258.

²⁰ Masnun Tahir, "Tuan Guru Dan Dinamika Hukum Islam Di Pulau Lombok," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 42, no. 1 (2008): 85-115.

²¹ S Suprpto, "Religious Leaders and Peace Building: The Role of Tuan Guru and Pedanda in Conflict

A social figure is not identical to what the technical term social role means in sociology. Individuals often change social roles and sometimes take on them simultaneously. They can each be assigned to a social sphere. *Social figures*, on the other hand, cross spheres. It is typical for *social figures* " that although they come from different fields, their activities are becoming more and more independent: advising, managing, speculating - these are activities that have become practices that have been in a long since left their traditional field in order to get through the to wander entire society.²²

Some divorce traditions of the *Sasak Muslim* hangover process and fulfillment of their very urgent rights and duties of them are;

1. The report of the man's part to the head of the sub-village about the divorce that already happened. First, this report aims to be decisive about valid or not valid divorce. This decision usually is used in law in Imam Syafi'i's opinion.²³ Second, the divorce is noted to make it easy about *iddah* time. This is beneficial when the woman becomes a wife again or marries the other man²⁴. Everything in Islam must be noted to avoid the things that can disturb the covenant of transactions, including the divorce period.
2. *Pecelakaan* (bringing back a wife to her parent's home).²⁵ After it happens, a valid divorce²⁶ according to the Religion. So, this thing must be reported to the head of the sub-village, religion personage, or headman²⁷. In a short time, the head of the sub-village, accompanied by the headman and some of the family members from the man's family member, brings back his ex-wife to her parent's home. In Sasak (Lombok Language, this method is called *Pecelakaan*.
 - a. *Pecelakaan* is information from a man's family about the divorce between a wife and her husband and brought her ex-wife to her parent's home²⁸. This information is not only from the man's family but also from the others, for example, neighbors, friends, etc. This divorce information

Resolution in Lombok - Indonesia," *Al-Jami'ah: Journal of Islamic Studies* 53, no. 1 (June 10, 2015): 225, <https://doi.org/10.14421/ajis.2015.531.225-250>.

²² Mohamad Abdun Nasir, "Islamic Law and Paradox of Domination and Resistance: Women's Judicial Divorce in Lombok, Indonesia," *Asian Journal of Social Science* 44, no. 1-2 (January 1, 2016): 78-103, <https://doi.org/10.1163/15685314-04401006>.

²³ Imam al-Shafi'i, also known as 'Shaykh Al Islam', is one of the four great Imams of Sunni schools of law. He is also the author of several prominent works in the field. He has been titled 'Nasir al-Hadith' which means "defender of hadith".

²⁴ Interview with the head of Dusun South Penimbung, April, 20 2020.

²⁵ Compare with research results Sofyan and Zaini, "Perceraian Suku Sasak Lombok Nusa Tenggara Barat," 256.

²⁶ The divorce that is usually consulted with the penghulu is the kinayah divorce

²⁷ Siti Zahratul Azizah, "Pembagian Harta Bersama Akibat Talak Di Luar Sidang Pengadilan Agama: Studi Kasus Di Desa Mesanggok Kecamatan Gerung, Kabupaten Lombok Barat" (Master Thesis, Malang, UIN Maulana Malik Ibrahim, 2017), <http://etheses.uin-malang.ac.id/9346/>.

²⁸ Interview with Ketua RT 01 Dusun Gelangsar

must be sent to the woman's parents, or directly, a husband tells himself to give this divorce information.

- b. *Pecelekan* is a kind of good attitude from a man's family because they bring back his ex-wife well. So when the woman/wife comes back to become a wife again of her ex-husband, it can get easy away from her family²⁹. Because according to the tradition, if we are good at taking the woman, so good to bring her back. After doing *pecelekan*, the husband's responsibility will stop, so that he does not have the duties anymore to give livelihood; food, clothes, and home or everything given to a wife from his husband. The duty moves back to the woman's parent. So, a husband can not sleep with his wife anymore, he can not give money anymore to his wife, and a husband can not buy clothes anymore for his wife. If *Pecelekan* had been done, a husband would be free from all duties as a husband.
- c. *Pecelakan* is the effort to give information about the divorce, so the ex-wife is far from negative thinking of the people she left her responsibility as a wife³⁰ because many people will say to her that she is not a good woman if people do not know about her divorce from her husband and its effect for a husband if he does not do *Pecelekan*, the society will say to him that he breaks the tradition of Muslim Lombok.
- d. *Pecelekan* is the effort to prevent ex-husband and ex-wife from living together in the same home because it can make them sleep together again³¹. In the thought of the Lombok people, if the divorce had happened, the divorced wife and her husband could not sleep together anymore. So, if the divorce had happened, there would be no time anymore for the husband and his wife to be together or to live together. If they divorce today, so is the last day to live together.
- e. *Pecelakan* does not define divorce differently: *Raj'i* divorce (spouse can be husband and wife again) or *bain* divorce (spouse can not be husband and wife anymore). *Talaq raj'i* is a *talaq* that can be referred back by her ex-husband during the *iddah* period or before the end of his *iddah* period. *Bain talaq* is a *talaq* that should not refer except after marriage to someone else. *Talaq*, or in Arabic, is severing the relationship between husband and wife from the legal marriage bond according to religious sharia. According to *talaq*, language means to let go of the bond. The term *talaq* is the release of the marriage bond with *talaq's* pronunciation.

²⁹ Interview with H. Sainun, the family of Supriana, a mu'taddah woman, Penimbung Muhajirin, April 22, 2020.

³⁰ Interview with figure of religion Dusun South Orong, Lingsar, April 30, 2020.

³¹ Interview with the head of Dusun West Penimbung, April 26, 2020.

3. The decision of who will have custody of the children. Custody of children is based on some things³²
 - a. Promisement or agreement of spouse before the divorce. If before divorce, they agree on who will have custody of the children so that custody will be given to the person who had agreed. Child custody is **a legal term regarding guardianship used to describe the legal and practical relationship between a parent or guardian and a child in that person's care.** Child custody consists of legal custody, which is the right to make decisions about the child, and physical custody, which is the right and duty to house, provide, and care for the child.
 - b. Look at children's age, if the child is below 5 years old, the child will follow his/her mother, and if the child is up to 5 years old, the child will be given a choice, he/she follows her/his mother or his/her father.
 - c. Based on the agreement of the two families. There is a discussion between both families. They are the families of the husband and the family of an ex-wife. The deliberation between both families is the final solution for getting the child custody to avoid the problem between the husband and his ex-wife.
4. Fulfillment of the rights and the duties. Rights and duties in Sasak Tradition, the rights, and the duties will stop together by happening divorce. We will describe more again below.
 - a. Home
After the divorce, a woman (ex-wife) does not have the right to live with her ex-husband anymore, although she is still in *iddah* time. Some reasons cause it some of this are; first, a divorced woman can not interact anymore (Jima'), so making her far from her husband is the best way to make them far from the things forbidden. Moreover, the best home after a divorce is her parent's home. Second, make them far from negative thinking because a divorced woman is a woman who is no longer needed by her ex-husband.
If the woman still stays at her husband's home, that woman does not have the feeling shy anymore. So to prevent this thing, so does not stay at same home is the excellent solution. Third, the tradition that develops in Lombok society that by stopping marriage so the duty to give home will lose, so the woman does not have the right anymore to stay at her ex-husband's home³³.

³² Interview with the figure of Adat Gelangsar village, May, 02 2020.

³³ Interview with kadus Limbungan Taman Sari Village, Gunungsari, West Lombok, April, 5 2020.

b. Food

The duty to give food to the ex-wife in society's culture is not the husband's duty after divorce. Some reasons cause this. First, marriage stops the duty to give food, which is no longer the husband's duty. Second, the wife's and husband's homes are far from each other. Third, this is punishment for a wife for having difficulty finding a livelihood for eating, hoping that after she returns to her husband, she can become more understanding to solve the problems³⁴.

In the Lombok People's tradition, to give punishment to a woman who has a problem is to stop her livelihood. So she will think about how difficult a husband to find the fund for her livelihood every day. So, by this method, she will think again about returning to her husband.

c. Clothes

The duty to give clothes in divorce tradition in Lombok is not the duty of the husband anymore because of some reasons below; first, stopping marriage is stopping the duty to give clothes, so that is not her husband's duty any more. Second, the duty to make up for the wife is for her husband, but after divorce, the duty is not the husband's duty any more³⁵. From some describing before, we can conclude that since divorce has been valid, so in divorce tradition of Moesleem in Lombok think that marriage relation will stop ideally, so the duty of the husband nothing anymore or his rights, or woman's duty and her rights. So, if they have children, life fees or livelihood based on each other between husband and his ex-wife without a minimum standard of livelihood.

ISLAMIC LAW VIEWS OF DIVORCE TRADITION OF MUSLIMS IN LOMBOK

For more regular, we will write about the views of Islamic law about divorce tradition regularly to each point written in part of divorce tradition. Islamic law used to review divorce tradition here is fiqh law from believed and famous Islamic scientists.

1. The report to religion personage and society figure (head of a sub-village)³⁶

About the report on religion personage and society, the figure has not been found *dalil* (in Islam, *dalil* is a real prove to prove them correct and false, the

³⁴ Interview with Kadus Gelangsar, April 10, 2020.

³⁵ Interview with Penghulu Dusun South Penimbug, April 12, 2020.

³⁶ The use of the term "kepala Dusun" is intended to facilitate understanding in the community, although by regulation the term "Kepala Dusun" has been replaced with a regional apparatus, the fame of the term hamlet head is still alive and well, see Law on Village.

source of dalil is al-Qur'an and al-hadits) specifically that makes it a duty, so this report includes of culture/tradition. As a tradition, this report has many positive things. The most important things are;

- a. To know that divorce had happened

This information or this report will become the basis for the head sub-village to manage the interaction between ex-husband and ex-wife. This condition is prevention *zina*³⁷. In Holy Qur'an, Surah **Al-Isra': 32**, Allah SWT said: "And do not approach (adultery); Indeed, adultery is a heinous act and a bad way."

- b. Iddah time

By this report, so religion personage knows iddah beginning and iddah stopping. This information is essential, especially for a woman when she wants to marry again with the other man. Another function of the iddah period is to keep the offspring. When a person separates and performs, the iddah period ensures the woman's uterus is completely clean. So if a man marries a woman, then it is spotless, and there is no longer a mixture of semen from the previous husband. If there is a mixture, it is feared to cause obscurity of the womb whose child and the loss of clear offspring.

This tradition is suitable and must be defended and supported for two reasons. First, based on *fihiyyah* roles العادة محكمة (tradition can be a source of Islamic law). As a tradition that has a positive impact and does not contradict al-Qur'an and sunnah, this tradition is suitable to be defended and supported. Second, based on *Usuliyah* role, الامر بالشيء امر بوسائله³⁸, the command to know about iddah time, so the command too to do somethings that support to know clearly.

An example is a custom at weddings. Between the groom and the bride is on display, and everyone sees it. Of course, this is a custom that contradicts the Shari'a. The Shari'a does not consider such things and cannot be used as legal standards. Shari'a filters adat, not adat filters sharia. Indeed, Shari'a accommodates custom, but if the custom is contrary to Islamic values, then Islam rejects it. Moreover, there are customs in which there are shirk values.

2. Bring back the woman to her parent (*Pecelekan*)

I Agree with the opinion of Wahbah Zuhaili that this tradition is in contradiction with Islamic law³⁹, so it must be lost. In Islam, agreed by Islamic scientists in fiqh that woman's right to get a livelihood, food, and home must be achieved, although divorce has already happened.

³⁷ zina is having intercourse between men and women without a legal marriage bond according to religious sharia without coercion and is done consciously.

³⁸ Abdul Hamid Hakim, *Mabadi' Awwaliyah* (Jakarta: al-Maktabah as-Sa'diyah Putra, n.d.).

³⁹ Wahbah al-Zuhayli, *Al-Fiqh al-Islami Wa Adillatuh*, vol. VII (Damsyiq: Dar al-Fikr, 1985). 658

Then, if a man has a big house, it must be given a border between the husband and his ex-wife, but if the home is small, only has one room, so the husband must move from that home and stay in the other place.

If we look about explaining up, *Pecelekan* is not a good tradition because it contradicts *Islamic law*. Dalil of this opinion is in Holly Qur'an Surah at-Tholaaq ayat 1: "O Prophet, when you divorce your wives, then divorce them when they can (face) their (reasonable) iddah and calculate the time of iddah and fear Allah your Lord. Please do not take them out of their homes and do not (allow) them to go out unless they do clear abominations. These are the laws of Allah, and whoever violates the laws of Allah, then indeed he has wronged himself. You do not know. Maybe Allah will do something new after that."

Ibn Katsir said, "A divorced wife is still ordered to stay at her husband's house for the period of her 'iddah. Because it could be that the husband regretted the divorce from his wife. Then Allah made his heart to be reconciled. Be it easy⁴⁰. In My opinion, this tradition causes the woman to get two problems at once. On one side, she is timid because she was divorced, and on the other side, she must live alone without nafkah from her husband.

3. Food

Culture said the duty to give food to a wife that developed in the society is not a duty for a man after divorce. Some reasons cause this. First, because stopping marriage is stopping food, too, it is not the husband's responsibility. *Second*, the wife's home and husband's home is far. *Third*, a punishment for a wife to find nafkah is tough, so when she returns to her husband, she can understand and face the problem wisely with her husband.

This is very contradictive to Islamic law. Because of; first, Islamic scientists had described some of them said that if it is a *raj'i* divorce or *thalaq raj'i*, the *mu'taddah* woman must get all of the *nafkah* rights such as home, food, and clothes⁴¹.

Al Hafizh Ibnul Hajar Al Asqalani said, "Providing a living for the family is an obligatory matter for the husband. Shari'ah calls it alms to avoid assuming that husbands who have fulfilled their obligations (providing a living) will not get anything in return. They know what the reward will be for those who give charity. Therefore, the shari'ah introduces them to the fact that living for the family also includes alms. So it is not permissible to give alms to other than their families before they provide for their family (which is obligatory) as an incentive to give more priority to the alms that they are obliged to spend (a living for their family) from circumscribed alms.⁴²

⁴⁰ Ibn Katsir, *Tafsir Al-Qur'an al-Azhim* (Mesir: Dar Ibnul Jauzi, n.d.).

⁴¹ al-Zuhayli, *Al-Fiqh al-Islami Wa Adillatuh*. 656

⁴² Ibnu Hajar al-'Asqalani, *Fathu Al-Bari*, vol. IX (Mesir: Maktabah Misr, 2001). 498.

Based on Islamic scientists agree that the *mu'taddah* woman was still a wife in the iddah period. If we think that divorce can stop anything is wrong thinking, so it must be erased. Second, no wife at home is her husband's command, so it may not take this thing as a reason for a woman is not given food. Third, action in variety is not based on logic only, so we do not have basic if we want to give punishment, but we are contra to Allah's command. Allah's command is to give *nafkah*, not stop *nafkah*, and even though stopping giving *nafkah* is a naughty action, this reason does not have basic or *dalil*, and it must be closed.

4. Clothes

Two reasons why clothes are not the husband's duty, according to the divorce tradition in Lombok Society, are; first, stopping marriage is stopping clothes, so that is not the husband's responsibility. Second, the duty to make up for the husband is for the husband, so the husband must give clothes, but when she divorces her husband, her husband has no more extended duty to give clothes to his ex-wife.

The first reason, as described before, is that this assumption is a mistake because *nafkah*, with all of its kind, is still on a wife and a duty to her husband, so this divorce is wrong, so it must be changed. About the second reason, make-up is an actual duty for her husband, but it can not become essential to losing the right of clothes, because that is the duty of his self.

STRATEGY TO BUILD ISLAMIC DIVORCE AND THE EFFORT TO CONTROL THE RIGHTS OF MU'TADAH WOMAN

Divorces of Muslims in Lombok that contradict Islamic law must be changed to keep women's rights. To change the tradition in our society is very difficult, but it must be tried to change. Before we describe this strategy, it is needed to explain the first law because this divorce is a sample of an ineffective Islamic law in divorce problems.

To explain the effectiveness of the law of Clarence J Dias in Marcus Priyo Guntarto⁴³, there are five types of equipment to give value-effective or not one system of law, hangover; first, it is easy or not the meaning of the law is guessed. *Second*, comprehensive or not, society knows about the law's roles. *Third*, efficiency or practical or not mobilization of the roles of the law can be reached by help from administration employees who are aware in their selves in this mobilization, and all people follow to participate in law mobilization. *Fourth*, there s a mechanism of solving the problem that must not be easily connected and entered into each

⁴³ Marcus Priyo Gunarto, "Kriminalisasi Dan Penalisisasi Dalam Rangka Fungsionalisasi Perda Pajak Dan Retribusi" (Master Thesis, Semarang, Universitas Diponegoro, 2008), 71-72, <http://eprints.undip.ac.id/18091/>.

society but must effectively solve the problem. Fifth, there is a thought and admission in people who have thought that the roles of law can be influential. Achmad Ali said applying law can be effective if socialized optimally to all people as law targets.⁴⁴

According to the theory above, so a strategy that can be tried for efficiency of law about divorce are;

1. Socialize about the right and the duty of *Mu'taddah* woman

One of the things that can influence effective or not of law is the degree of society's knowledge about the law. People have little knowledge about law, so more little to implement that law. For this reason, socializing of divorce law must be done continuously.

This socialization aims for people to know about the role of law (right and duty) *mu'taddah* woman in the Islamic role. On the side, fulfilling rights can be the primary choice, so the meaning of law for life must be explained to the society to motivate them to do that.

Effective and efficient is needed to be thought for a good result – socialization strategy. For example, socializing in the writer's thoughts must be done in small communities such as at the sub-village level because smaller locations are easier to control and regulate.

We ask religious personage who has to influence is needed, especially in sub-village has actors of tarekat so bringing the leader of the tarekat can be the most effective way to make people aware about the law, because of tarekat actors always obey and follow their leaders⁴⁵. The critical thing also is asking the head of sub-village because the people have necessary of administrative with him, this is true, can make them obey the opinion and suggestion of the head of sub-village.

Taking place in the mosque is the best choice and wise because the mosque has a spiritual influence on the Psychological condition of the listener so that people can receive law quickly.

2. The role of religious personage and society figure in controlling the *mu'taddah* woman's right.

Religion personage here is the person who has charisma in religion, usually called *Tuan Guru*, *Kyai*, or *penghulu*. The religious personage at all levels helps each other to keep the *mu'taddah* woman's rights if we accord to divorce that happened. Hence, the action of *Penghulu* at the sub-village level is significant because only he, the person who the first time, asked the opinion of the people

⁴⁴ Gunarto, 72.

⁴⁵ Istilah yang sering digunakan untuk menunjukkan kataatan murid

who had divorced. He acts to become the main person who will bring a woman back to her parent's home.

Suppose socialization has done good, and people know well about the *mu'taddah* woman's rights. In that case, the most important next is for an active headman at the sub-village level to practice it by not bringing the woman back to her parent's home. Using these strategies will give a chance for *mu'taddah* woman's rights.

This divorce tradition of Muslim Lombok must be reviewed again because that thing can cause women in Lombok loss. This is the violation done by the Lombok People of women in this life. Women must get their rights, although divorce had happened. Besides, this tradition exceeds the religious norm and the Indonesian law.

For ex-husbands, the obligations that must be carried out are of them to provide *madiyah* (past income) as one of the obligations in the form of legal provisions due to the dissolution of the marriage due to divorce, the provision of *iddah* and *mut'ah* maintenance to the ex-wife and to her child who is not yet *mumayyiz* who in mother's care.⁴⁶ According to Ahmad Fuadi and friends, although a husband is a prisoner, he is still required to give *nafkah* to his wife.⁴⁷

⁴⁶ Riyan Ramdani and Firda Nisa Syafitri, "Penentuan Besaran Nafkah Madhiyah, Nafkah Iddah dan Mut'ah Dalam Perkara Perceraian Di Pengadilan Agama," *ADLIYA: Jurnal Hukum dan Kemanusiaan* 15, no. 1 (March 31, 2021): 37-50, <https://doi.org/10.15575/adliya.v15i1.11874>. disharmony cannot be avoided, one of which is the result of neglecting rights and obligations that lead to the breakdown of the marriage. One of the consequences was the burden on the husband to pay for the *madhiyah*, *iddah*, and *mut'ah* livelihoods. The wife has the right to request payment of maintenance to the Religious Court if the husband does not fulfill his obligation to provide for his services. This study aims to discuss the legal basis and considerations of the panel of judges in determining the levels of the amount of *madhiyah*, *iddah*, and *mut'ah*. This study uses normative juridical research to examine statutory regulations related to determining the amount of *madhiyah*, *iddah*, and *mut'ah*. The results showed that First. The basis for determining the amount of income for the former husband is adjusted according to the ability of the husband as stated in Presidential Instruction No. 1 of 1991 concerning KHI, Law no. 1 of 1974, and SEMA No. 3 of 2018 Results of the Plenary of Religion point 2 as the refinement of SEMA No. 7 of 2012 number 16 and Article 149 letter b of the KHI. In the case of divorce *talak* (Article 8 number (3

⁴⁷ Yulmitra Handayani, "Tipologi Pelaksanaan Kewajiban Nafkah Lahir Suami Yang Berstatus Narapidana Perspektif Hukum Islam (Studi Analisis Interpretasi Teori Qira'ah Mubadalah)," *JURIS (Jurnal Ilmiah Syariah)* 19, no. 1 (June 29, 2020): 13-30, <https://doi.org/10.31958/juris.v19i1.1882>; Mohd Kalam Daud, Syarifah Rahmatillah, and Retno Wati Yulian, "Persepsi Istri Narapidana Terhadap Pemenuhan Nafkah Ditinjau Dari Hukum Islam (Studi Kasus Di Kecamatan Kluet Tengah Kabupaten Aceh Selatan)," *El-Ussrah: Jurnal Hukum Keluarga* 4, no. 2 (December 31, 2021): 387-402, <https://doi.org/10.22373/ujhk.v4i2.7739>. also with the issue of responsibility and the husband's condition to provided. As a prisoner makes a polemic to be provided obligation of the husband. the loss of independence and restrictions on movement cant liability, for physically and mentally. Through this research there are can be discussed; first, how to implement the obligations of a prisoner's husband's conjugal need, and how to understand of living according to Islamic law views this crucial issue. The aim to find the burden of conjugal need status the implication by a husband, which becomes constrained and then as a prisoner. This study was analyzed using a sociological-empirical approach. The results obtained from this study, there are three typologies in the implementation of livelihood obligations of husbands who are prisoners in Rutan Batusangkar; First, implemented with the business going on, and producing. The second is not implemented, the provision of income is inadequate, and the third is not carried out, the opposite is the case, the wife always spends her husband during the criminal period. The view of Islamic law in this

CONCLUSION

The divorce tradition of Muslims in Lombok comprises. First, the report of man's family to religious personage and society figures regarding divorce. Second, *pecelekan* (bringing back the woman to her parent's home). Third, stopping the husband's duty (losing the wife's rights) in *nafkah*, such as food, clothes, and home). Seeing these traditions, the first tradition is good to be defended and supported because it brings many benefits. In contrast, the second and third traditions must be eliminated or refused since both are contradictory to al-Qur'an and adverse to the woman.

Two ways possibly can change the divorce tradition to the Islamic divorce way. The first strategy is by socializing the Islamic law incentively to all of society, from the children to the adult people in the society, from city to village. Consequently, people will be aware of the dangerous sides of the tradition contra to Islamic law. The second way is the enthusiastic reaction of all religious personages and society figures to control women's rights. People must consider the advice of religious personage and society figures. People in the village's society obey their religious personage and the society figures. The authors are sure both ways are the best solution to change the traditional contra to Islamic law.

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case doesn't contradict, although other side liability for the husband must be fulfilled. Islam seen this with two legal standing, the first is the obligation to maintain a living on the typology of implementation. Second, conjugal need obligations fall and become debt to the typology of the implementation of less and not implemented." "container-title": "JURIS (Jurnal Ilmiah Syariah

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