

THE PRACTICE OF PRONOUNCING *TA'LIQ* AFTER
THE SOLEMNISATION OF MARRIAGE IN
SELANGOR: AN ANALYTICAL JURISTIC STUDY

BY

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A thesis submitted in fulfilment of the requirements for
the Degree of Master of Islamic Revealed Knowledge
and Heritage
(Fiqh and Usul al-Fiqh)

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Knowledge and Human Sciences
International Islamic University Malaysia

FEBRUARY 2022

ABSTRACT

Under the Islamic Family Law, one of the methods of dissolution of marriage is known as *ta'liq talāq*, where the husband pronounced a divorce based on certain conditions as prescribed in the marriage agreement form. Therefore, this research aims to analyse the practice of pronouncing *ta'liq talāq* after the solemnisation of marriage, particularly in the State of Selangor. This is because the practice has become an official procedure in a marriage ceremony by the State Islamic Law. It is compulsory for the groom to pronounce the *ta'liq* after the solemnisation of marriage. The implementation of this practice in Malaysia, particularly in the State of Selangor, has been seen as a way out of a marriage by protecting the rights of the wife from being neglected by the husband in the marriage. This research is also analysing whether the practice of pronouncing the *ta'liq talāq* after the solemnisation of marriage is consented by the newlyweds. Besides that, the condition of *ta'liq talāq* in the prescribed form, as pronounced by the husband after the solemnisation of marriage is similar to the provision of *fasakh*. Therefore, the purpose of this research is also to evaluate and analyse the relevancy of this practice when there is already a provision of *fasakh* in placed as a dissolution method of marriage to protect the rights of the wife. A qualitative methodology by the way of interviews was selected as the research methodology to analyse the issue. In this methodology, two stages of data collection and data analysis are involved by way of content analysis of the relevant published materials and semi-structured interviews with the experts in the field. The interviews were conducted by interviewing solicitors who are practitioners of the *Sharī'ah* Law. Based on these study and analysis, the findings will give an indication whether the provision of *fasakh* gives sufficient protection to the wife by providing several grounds for dissolution of marriage. In addition, the proof of *ta'liq* application is required to have double the burden of proof as compared to *fasakh* application. This research is concluded by suggesting some recommendations and solutions for the issues raised in the practice, which will eventually benefit the state religious authority, as well as the newlyweds.

ملخص البحث

عرف القانون الأسرة الإسلامية بإحدى طرق حل الزواج بتعليق الطلاق الذي يتحدث الزوج عن الطلاق بوقوعه على حصول أمر في المستقبل على النحو المنصوص عليه في استمارة عقد الزواج. فإن الغرض من هذه الدراسة هو تحليل ممارسة تعليق الطلاق بعد عقد النكاح خاصة بولاية سلاَنجور. كانت هذه الممارسة إجراء رسمياً بعد عقد النكاح وفقاً لقانون الأسرة الإسلامية. فلذلك، يجب على العريس أن يتلفظ تعليق الطلاق بعد عقد النكاح. وقد اعتبر هذا التنفيذ وسيلة للخروج عن مسألة الحياة الزوجية لحماية حقوق الزوجة من إهمال الزوج بماليزيا خاصة بولاية سلاَنجور. وتحلل الدراسة إذا كان نطق تعليق الطلاق بعد عقد النكاح يتم بموافقة العروسين. وإضافة على ذلك، حالة تعليق الطلاق في استمارة عقد الزواج الذي ينطق الزوج يشبه بالقانون الفسخ. إذن، تهدف هذه الدراسة إلى تقييم وتحليل مدى أهمية نطق تعليق الطلاق بعد عقد النكاح مادام حكم الفسخ لحماية حقوق الزوجة في الزواج. استخدمت هذه الدراسة المنهج النوعي أي الدراسة الميدانية بطريقة المقابلة لتحليل القضايا المتعلقة بها. تنطوي هذه المنهجية على مرحلتين لجمع وتحليل المعلومات والبيانات عن طريق تحليل محتوى المواد المنشورة والمقابلة شبه المنظمة مع الخبراء في الميدان، حيث تجرى المقابلة مع محامي قانون الشريعة. بناء على هذه الدراسة والتحليل. استدلت النتائج هذه الدراسة على ما إذا كان الفسخ يكفي لمحافظة حقوق الزوجة بتوفير عدة أسباب لحلها. وإضافة إلى ذلك، يُشترط في إثبات تعليق الطلاق في المحكمة أن يحتاج إلى إثبات مضاعف مقارنة مع التفريق بالفسخ. وانتهت هذه الدراسة ببعض الاقتراحات والتوصيات المناسبة لحل القضايا المثارة، حيث تستفيد السلطة الدينية والعروسين بها.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Islamic Revealed Knowledge and Heritage.

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Miszairi Bin Sitiris
Supervisor

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DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Yusra Binti Muhammad Noor Choliq

Signature: *Yusra*

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SOLEMNISATION OF MARRIAGE IN SELANGOR: AN ANALYTICAL
JURISTIC STUDY**

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ACKNOWLEDGEMENTS

In the name of Allah, the Most Beneficent and the Most Merciful. Praise be to Allah the Almighty who has blessed me with the strength, guidance to complete this dissertation.

First and foremost, my deepest gratitude to my supervisor, Sahibus Samahah Associate Professor Dr. Miszairi Sitiris for his generous advice, opinion, and guidance throughout my study. He always provided valuable suggestions and positive comments on my writing.

I would like to dedicate exclusively to my mother Sharinatul Aziah Na'am for the endless motivation, emotional and financial support, encouragement, prayers, constant loves, and advice. The precious person in my life who has given me the confidence to finish this journey. Special thanks to my dearest husband, father, siblings, parents-in-law, family and closest friends who grant me unwavering support and prayers in this journey. They are my inspiration to accomplish this wonderful journey as a postgraduate student.

My special thanks goes to all the lecturers who had taught and provided me with inspiration and insightful views to study and contribute to the society. I would like also to express my gratitude to the staff members of the Department Fiqh and Usul al-Fiqh and the AbdulHamid AbuSulayman Kulliyah of Islamic Revealed Knowledge and Human Sciences (AHAS KIRKHS) for their fullest cooperation, courtesy and kindness.

Last but not least, I hope this study will benefit and provide a valuable knowledge to be shared with others. For being a part of my colourful journey in this Master's study, I owe all of you a great debt of appreciation.

May Allah bestow His countless rewards and blessing upon all of us.

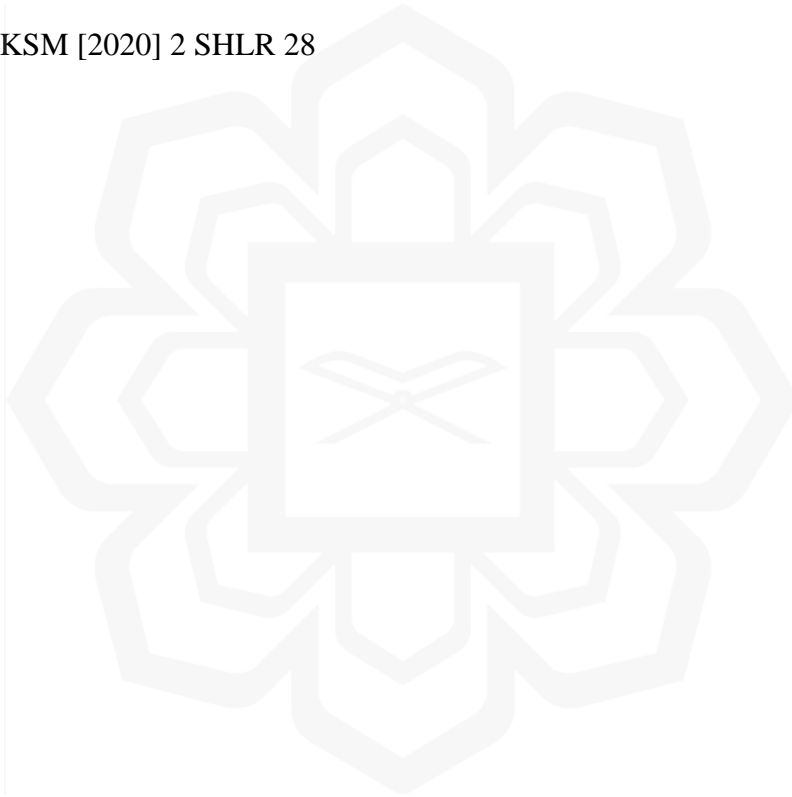
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Shari'ah Court Evidence (State of Selangor) Enactment No. 5 of 2003

Practice Directive Year 2006, 2007, 2010



TABLE OF TRANSLITERATION

Table of the system of transliteration of Arabic word and names used by the
International Islamic University Malaysia

ء		ز	z	ق	Q
ب	B	س	s	ك	K
ت	T	ش	Sh	ل	L
ث	Th	ص	ṣ	م	M
ج	J	ض	ḍ	ن	N
ح	ḥ	ط	ṭ	هـ	H
خ	kh	ظ	ẓ	و	W
د	D	ع	‘	ي	Y
ذ	dh	غ	Gh		
ر	r	ف	F		

Short Vowels		Long Vowels	
اَ	a	اَ+اَ	ā
اِ	U	اِ+اِ	ī
اِ	i	اِ+اِ	ū

CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND OF THE STUDY

Marriage in Islam is essentially a righteous act and it is an *Ibadah*. It is based on offer (*'ijāb*) and acceptance (*qabūl*) between two parties. It is a civil contract between the parties concerned. The principle of marriage is forever, which is covered by elements of compassion, togetherness and love. Allah describes in the *Qur'an* that the Muslim marriage institution as the source of tranquillity, love and mercy:

﴿وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً
وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ﴾

And of His signs (to prove His might and mercy) is that He created for you (O men) wives from among yourselves, that you might live in tranquillity with them and put love and kindness in your (husbands and wives) hearts. All those are signs (which make people realise the truth) for people who reflect¹.

Marriage consists of two souls which are one in essence. However, in a marriage, conflicts and problems may arise and Allah has prescribed divorce as the last resort to preserve the spouse's wellbeing, although it is strongly discouraged in Islam. Under Islamic Family Law, a husband has the right to divorce his wife by *ṭalāq* and a wife also has the right to dissolve the marriage under certain circumstances.

One method of dissolution of marriage under the Islamic Family Law is called *ta'liq al-ṭalāq* where a divorce is pronounced by the husband according to a condition².

¹ *Al-Qur'an* (Ar-Rūm) 30:21.

² Sayyid Sabiq, *Fiqh Al-Sunnah*, (Beirut: Dar al-Fikr, 1983), p. 222.

According to Mimi Kamariah Majid, *ta'liq* linguistically meant suspended or attached³. For example, if the husband says, “*if you go out, then you are divorced*”⁴. It envisages the occurring of something with conditions. In the context of divorce, it is a stipulation agreed upon by the husband that the wife would be entitled to a divorce under certain circumstances.

In Selangor, *ta'liq* is practiced immediately after the solemnisation of marriage and the husband is required to recite the *ta'liq* which is given by the Registrar of Marriage in the prescribed form⁵. According to Section 2 of the Islamic Family Law (State of Selangor) Enactment 2003, *ta'liq* is a promise expressed by the husband after the solemnisation of marriage in accordance with *Hukum Shara'* and the provisions of the Act⁶. The specific provision known as *ta'liq* deed, which is attached together with the marriage certificate issued by the State of Selangor⁷. It is compulsory for the husband to pronounce the *ta'liq* and sign the *ta'liq* certificate immediately after the wedding is solemnised. It was introduced as a way of protecting the rights of the wife from being neglected by the husband⁸. The pronouncement of *ta'liq* contained in the provisions in the State of Selangor is as follows:

I declare that whenever I leave my wife (wife's name) for four months *Hijrah* continuously or more, wilfully or forcefully, and I or my representative do not give her maintenance for such period whereas she is obedient to me, or I cause harm to her body, and later she makes a complaint to the *Sharī'ah* court and it is found to be true by the court and she gives to the *Sharī'ah* court, that

³ Mimi Kamariah Majid, *Family Law in Malaysia*, (Kuala Lumpur: Malayan Law Journal, 1999), p.135.

⁴ Sayyid, *Fiqh Al-Sunnah*, p. 222.

⁵ Nor Fadzlina Nawi, “*Ta'liq* Agreement: A Proposal for Reform” in *Islamic Family Law: New Challenges in the 21st Century (Volume II)*, edited by Zaleha Kamaruddin (Kuala Lumpur: International Islamic University Malaysia, 2004), p. 63.

⁶ See Islamic Family Law (State of Selangor) Enactment 2003, (Section 2 of 2003). <http://www2.esyariah.gov.my/esyariah/mal/portalv1/enakmen2011/Eng_enactment_Ori_lib.nsf/8e791863d5e2682548256faa00184cce/52ae08b2a4d2b33348257619001894ff?OpenDocument> (accessed 4 December, 2019).

⁷ Najibah Mohd Zain, *Islamic family law in Malaysia*, (Selangor: Sweet & Maxwell, 2016), p. 175.

⁸ See Islamic Family Law (State of Selangor) Enactment 2003, (Section 2 of 2003).

receives on behalf me, an amount of RM10, she is immediately divorced by way of *ṭalāq khulu'*"⁹.

The husband is statutorily required to pronounce the above *ta'liq* during the solemnisation of marriage which stipulates the common grounds for dissolution of marriage by way of *ta'liq* as non-payment of maintenance to the wife for a period of four months or more, desertion for a certain duration of time, or physical violence¹⁰. The wife could also apply for dissolution of marriage under the application of the *ta'liq* at the *Sharī'ah* court¹¹. Notice of the application is required to be served on the husband and the *Sharī'ah* Judge is required to record evidence from the wife and a minimum of two witnesses. The *Sharī'ah* Judge may grant the dissolution of marriage by way of *khulu'* if he is satisfied on the veracity of the wife's claim or allegation. The wife is then required to pay a sum of RM10 and the court will accept the payment on behalf of the husband¹².

1.1 STATEMENT OF PROBLEM

The basis of *ta'liq ṭalāq* is the stipulation agreed upon by the husband, that the wife would be entitled to a divorce under certain circumstances. The *ta'liq* is valid when the conditions are fulfilled in terms of having a relationship as husband and wife, have a sound mind and no element of coercion¹³. It is clear that a husband is statutorily required to pronounce the *ta'liq* because it is an official procedure in the State Islamic Law and this is seen as a compulsion for newlyweds. Once pronounced, *ta'liq* agreement is

⁹ Najibah, *Islamic family law in Malaysia*, p. 175. See also: Marriage certificate of Selangor.

¹⁰ Ibid.

¹¹ See Islamic Family Law (State of Selangor) Enactment 2003, (Section 50 of 2003).

¹² Zaleha Kamaruddin, *Introduction to Divorce Laws in Malaysia*, (International Islamic University Malaysia: Kuala Lumpur, 1998), p. 187.

¹³ Faiz Adnan, "Isu paksaan dalam ta'lik talak" Peguam Syarie Sedia Membantu Anda, <<https://peguamsyariefas.com.my/isu-paksaan-dalam-talik-talak/>> (accessed 4 December, 2019).

signed by the husband and attested by witnesses¹⁴. Thus, an issue arises as to whether the husband consented to the agreement. It seems that there is an element of coercion present because the husband was not given any choice during the entire occasion. The consent of both husband and wife are a vital element in order for a contract to be valid. In addition to *ta'liq*, there is also a provision known as *fasakh* for a wife to apply for a divorce. *Fasakh* is the annulment of a marriage by reasons of any circumstance permitted by *Hukum Syarak* in accordance with the Act¹⁵. The condition stated in the *ta'liq* contract is similar with the provision under *fasakh*, such as maintenance was not paid for four months by the husband or other grounds as stipulated in the *fasakh*¹⁶. This similarity may lead to the question of relevance in practicing *ta'liq* in the State of Selangor. Therefore, the purpose of this study is to analyse the practice of pronouncing *ta'liq* for newlyweds after the solemnisation of marriage in the State of Selangor and to evaluate the need of *ta'liq* when the Islamic Family Law already has the provision of *fasakh* in its legislation.

1.2 RESEARCH QUESTIONS

1. What is the meaning of *ta'liq* in Islamic jurisprudence?
2. What is the provision of *ta'liq* in the Islamic Family Law of Selangor?
3. How is the pronouncement of *ta'liq* practiced after the solemnisation of marriage in the State of Selangor?
4. To what extent the practice of *ta'liq* in Selangor is in line with *Sharī'ah*?

¹⁴ Nora Abdul Hak, Roslin Che Soh, Norliah Ibrahim, and Manawee Niringjuerae, "Right of Women to Obtain Divorce under Shari'ah and Islamic Family Law of Malaysia: With special reference to Ta'liq and Khulu", *Journal of Basic and Applied Sciences*, vol. 6, no.11 (2012): p. 288, ISSN 1991-8178.

¹⁵ See Islamic Family Law (State of Selangor) Enactment 2003, (Section 2 of 2003).

¹⁶ *Ibid*, Section 53.

1.3 RESEARCH OBJECTIVES

1. To explain the pronouncement of *ta'liq* in Islamic jurisprudence.
2. To evaluate the provision of *ta'liq* in the Islamic Family Law of Selangor.
3. To examine the practice of pronouncing *ta'liq* after the solemnisation of marriage in the State of Selangor.
4. To analyse the practice of pronouncing *ta'liq* after the solemnisation of marriage in the State of Selangor from *Sharī'ah* viewpoint.

1.4 LIMITATION

This research focuses on the practice of *ta'liq* after the solemnisation of marriage and excludes other forms of marriage dissolutions as *ta'liq* is a statutory requirement under Section 2 of the Islamic Family Law (State of Selangor) Enactment 2003. Therefore, this research only limits and focuses on the practice of *ta'liq* within the Islamic community in the State of Selangor.

1.5 SIGNIFICANCE OF THE STUDY

The factors below discuss the importance of this study:

1. This research aims to fill the gap in academic research on *ta'liq* and to improve the understanding and practice of *ta'liq* after the solemnisation of marriage in Selangor.
2. This study will be a benefit to the state religious authority to improve the *ta'liq* procedures.

This research will benefit the Muslims community as a whole especially the bride and groom. The implications of this study is the Muslim community's better and clearer understanding about *ta'liq* and its repercussions.

1.6 RESEARCH METHODOLOGY

In writing this research, the researcher will apply qualitative methods to complete the work. This involved two stages of data collection and data analysis. Data collection employs library and interview methods.

1. **Library research:** The library research involves content analysis of the relevant literature related to the practice of *ta'liq* through journals, books and previous studies done on the topic.
2. **Semi-structured interviews**¹⁷: Semi-structured interview involve direct interaction with solicitors who are practitioners in the *Sharī'ah* Law to acquire the opinions and responses about the practise of *ta'liq* after solemnisation of marriage in Selangor.

1.7 LITERATURE REVIEW

There are many findings that have been discussed to explain about *ta'liq* and its process in Malaysia. The following are the important books, articles and academic dissertation related to the scope and sequence of the present study:

Haron Din discussed in his article “*Persoalan Taklik Talak: Suatu Analisa tentang Wajar tidaknya Taklik Talak terus diamalkan di Malaysia*” (Issues of *ta'liq talāq*: An Analysis on the needs for *ta'liq talāq* to be continuously being practiced in Malaysia)¹⁸, about the division of *ta'liq*. The author summarised in his writing that the *ta'liq* was divided into two parts. The first part was *ta'liq* pronounced by the husband based on his choices, which was intended to improve the marriage life or to divorce his

¹⁷ Refer appendix a, page 122.

¹⁸ Haron Din, “*Persoalan Taklik Talak: Suatu analisa tentang wajar tidaknya taklik talak terus diamalkan di Malaysia*”, (n.ed.), (n.pb), (n.d.), pp. 23-40, <<http://ejournal.ukm.my/islamiyyat/article/download/1843/1469>>.

wife. The second part of the *ta'liq* was as a rule and law of the State without any regard to the choice and will of the husband. The author expressed that the husband sincerely would endeavour to take care of his marriage and avoid divorce. If the husband wanted to divorce his wife, the husband did not require the *ta'liq* itself because he could divorce freely and on his own accord. In short, the author rejected the idea of practising the *ta'liq* after marriage in Malaysia. Therefore, the researcher benefited some ideas from this study and will take up further discussion on the *ta'liq*'s practice after the solemnisation of marriage in Selangor and its process.

Zaleha Kamaruddin in her book entitled “Introduction to Divorce Laws in Malaysia¹⁹”, gave an overview of the Islamic Law on divorce and served as a preface to a detailed study of its implementation in the distinctive cultural setting of Kuala Lumpur. The author attempted to explain the various forms of Muslim divorce and the law as practiced in Malaysia, Kuala Lumpur in particular, and this is what the researcher gained for this study. In this book, the author also summarised some guidelines on how a wife could make a complaint to the *Shari'ah* Judge and apply for a divorce if the husband breaches the *ta'liq*. The author described *ta'liq* as the easiest way of getting a divorce because all the wife needed to establish was the breach of the promise on the part of the husband. Therefore, the researcher will expand the studies on the juristic views and the practicing of *ta'liq* in the Selangor provision.

Mimi Kamariah Majid through her book “Family Law in Malaysia²⁰”, attempted an expansion of the discussion in Islamic family law but did not cover much on the topic of *ta'liq*. According to Mimi Kamariah Majid, *ta'liq* linguistically meant ‘suspended’ or ‘attached’. It envisaged the occurring of something with conditions. In the context of

¹⁹ Zaleha, *Introduction to Divorce Laws in Malaysia*, pp. 186-191.

²⁰ Mimi, *Family Law in Malaysia*, pp. 135-136.

divorce, a *ṭalāq* would be in effect if one condition in the agreement was not fulfilled or breached. As conditions were pre-requisites, there must be an agreement or the *ta'liq* deed. This agreement was reached or sealed at the solemnisation of the marriage. The conditions were listed in a specified form and agreed by the husband and the wife. The researcher will expand the author's discussion specifically on the types and conditions of *ta'liq* pronounced in the Selangor and the provisions related to it.

Nik Noriani Nik Badli Shah wrote in her book, "Marriage and Divorce under Islamic Law²¹" about the statutory provisions for *ta'liq* in four countries which are Indonesia, Indo-Pakistan, the Middle East and Malaysia. The author stated that this type of divorce was also known as *tafwīd at-ṭalāq*. In the book, the writer also discussed the opinion on the validity of certain conditions that would entitle the wife to a dissolution of marriage. She deliberated her verdict on the topic along with the procedure based on the Islamic Family Law (Federal Territories) Act 1984 and provided some case scenarios. The author summarised that the standard *ta'liq* agreement in Malaysia normally entitled the wife to a divorce by way of *ta'liq* in the event the husband deserted or did not provide maintenance for the wife for a period of four months or more, or caused harm to her. Therefore, some of her ideas were adopted in this research and the researcher will continue to discuss the jurists' views and the practice of *ta'liq* after solemnisation of marriage in Selangor.

Abdul Rahman As-Sobuni wrote a book on Islamic contemporary juristic studies entitled, "*Niẓām al-Usrah wa Ḥillu Mushkilātuhā fī Ḍaw'i al-Islam*" (*The Family System and The Solution of Its Problems In The Light of Islam*)²². This book is

²¹ Nik Noriani Nik Badli Shah, *Marriage and divorce under Islamic Law*, (Selangor: International Law Book Services, 2001), pp. 73-82.

²² Abdul Rahman As-Sobuni, *Niẓām al-Usrah wa Ḥillu Mushkilātuhā fī Ḍaw'i al-Islam*, (Dimashq: Dar al-Fikr, 2001), pp. 111-148.

divided into three chapters. The first chapter discussed marriage rights and the duties that consists of engagement, marriage and divorce. The second chapter is about the rights and duties of parents and children such as lineage, breastfeeding and custody. The third chapter is about the rights of relatives such as expenses, inheritance and guardianship. In the first chapter, the author presented to the reader the types of dissolution of marriages in Islam and the role of the spouses in handling the conflict in marriage. The judiciary could also take part in the divorce matter. The researcher also benefited from the selected fatwas gathered from international and selected states' Islamic jurisprudence councils' and assemblies. The author wrote the discussion about dissolution of marriage by way of *ta'liq* by presenting the opinion of the scholars and the provision of *ta'liq* in Syria as a brief. Therefore, the researcher will discuss further about the *ta'liq* and its rulings, the types of *ta'liq* and its conditions, and the practices of *ta'liq* after solemnisation of marriage in Selangor.

The book entitled "*Aḥkāmū Wa Athārū Al-Zawjīyah Sharḥun Muqāran Li Qānūni Al-Aḥwāl Al-Shakhsīyah*" (*The Provisions And Effects of Marriage: A Comparison in The Personal Status Act*)²³ written by Muhammad Samara, focused on the issues related to the marriage and divorce from the Islamic perspectives. It included opinions and views on the issues of marriage and divorce such as dower, *li'ān*, *zihār*, and dissolution of marriages as a whole from the various school of thoughts and linked it to the provisions of the law. The author explained the valid conditions in pronouncing the dissolution of marriage by way of *ta'liq* and supported the arguments with the evidences in detail. He also gathered selected fatwas and all resolutions from international and selected states' Islamic jurisprudence councils' and assemblies.

²³ Muhammad Samara, *Aḥkāmū Wa Athārū Al-Zawjīyah Sharḥun Muqāran Li Qānūni Al-Aḥwāl Al-Shakhsīyah*, (Amman: Dar al-Thaqafah, 2002), pp. 289-292.

Therefore, these ideas will be further elaborated and will be an updated study on this topic that corresponds to the current development in *ta'liq* issues. The researcher will continue to discuss in detail on the provisions related to *ta'liq* in Selangor and the juristic perspective of *ta'liq* being practiced after the solemnisation of marriage in Selangor.

An article was written by Nor Fadzlina Nawi entitled “*Ta'liq* Agreement: A Proposal for Reform²⁴” analysed the procedure and the process related to *ta'liq* in the Federal Territory of Kuala Lumpur. Through her analysis, the author sought to ascertain the truth of the contention related to *ta'liq* and to identify whether there was room for improvement or reform in the procedure. The writer proposed a prenuptial agreement to replace the *ta'liq* due to the limitation and uncertainty in the *ta'liq* agreement. According to Nor Fadzlina Nawi, a prenuptial agreement is a binding contract that details not only what will happen to the parties’ income and assets in the event the marriage ends in death, divorce, or separation but also safeguard Islamic rights within a marriage. It is allowed to put conditions in the contract, provided that they do not contradict with *Sharī'ah* Law. In addition, the procedure of *ta'liq* in Malaysia arguably show some element of coercion and thus its validity is uncertain. Due to these reasons, the writer proposed that the practise of *ta'liq* be reformed, either giving the couple the freedom or right to stipulate the conditions of the prenuptial agreement in order to protect their rights in the marriage. This was a solution for the issue of lack of understanding on the effect of the *ta'liq* agreement and lack of consent in accepting the agreement. These discussions will benefit the researcher in analysing and synthesising the issues related to *ta'liq* in Selangor. However, the discussion on the *ta'liq* and its

²⁴ Nor Fadzlina, “*Ta'liq* Agreement: A Proposal for Reform,” in *Islamic Family Law: New Challenges in the 21st Century*, edited by Zaleha Kamaruddin (Kuala Lumpur: IIUM, 2004), pp. 63-81.

rulings, and the practising of *ta'liq* in the Selangor provision is absent from the author's article. Therefore, the researcher will continue to discuss it in detail and analyse it from juristic perspective focusing on the validity of pronouncing the *ta'liq*.

Sheikh Ali al-Khafif in his book entitled, "*Furaq Al-Zawāj fī Al-Madhāhib Al-Islāmīyah*" (*Dissolution of Marriage in Islamic Perspectives*)²⁵, proposed a systematic comparative study on issues dealing with the conditions of divorce, *khulu'*, *li'ān*, and *'iddah*. The author balanced the views between the four famous jurists and the contemporary Islamic scholars in his writing. According to Sheikh Ali al-Khafif, *ta'liq ṭalāq* was under the category of *sīghah ṭalāq* which meant the pronouncement of divorce. He explained the conditions of *ta'liq* pronounced must be possible and relevant. Moreover, the author explained the overview of *ta'liq* from the jurisdictional perspectives in depth. The scholars had different opinions about *ta'liq*. Some scholars rejected the idea of practicing the *ta'liq*, while others said it was permissible for the husband to pronounce it based on certain conditions. However, the discussion on the practice of the *ta'liq* in Selangor was absent in the book. Therefore, the researcher will discuss the practice of pronouncing *ta'liq* after the solemnisation of marriage and the provision related to *ta'liq* in Selangor.

An article entitled "Right of Women to Obtain Divorce under *Shari'ah* and Islamic Family Law of Malaysia: With special reference to *Ta'liq* and *Khulu'*"²⁶ by Nora Abdul Hak, gave an overview about two grounds for divorce that were available in Islam, for example *khulu'* and *ta'liq*. The first part of the article covered about *ta'liq* and the rest on *khulu'*. Therefore, the researcher benefited from the discussion about the

²⁵ Ali al-Khafif, *Furaq Al-Zawāj fī Al-Madhāhib Al-Islāmīyah*, (Al-Qéhirah: Dar al-Fikr al-'Arabi, 2008), pp. 110-118.

²⁶ Nora Abdul *et al*, "Right of Women to Obtain Divorce under *Shari'ah* and Islamic Family Law of Malaysia: With special reference to *Ta'liq* and *Khulu'*," *Australian Journal of Basic and Applied Sciences*, vol. 6, no.11 (2012): pp. 286-293.

procedures provided under the Islamic family law for women to exercise the rights of divorce through *ta'liq* and *khulu'* in Malaysia. The cases involved matters of maintenance, desertion and hurt caused to the wife. The author viewed that the practice of *ta'liq* should be reformed by either giving more freedom of right to stipulate in order to protect the rights of the wife in the marriage. In short, the article benefited the researcher about the provisions of *ta'liq* in Malaysia. However, the discussion about the practicing of *ta'liq* in the Selangor provision was absent in the article. Therefore, the researcher will expand the discussion on the validity of *ta'liq* from Islamic jurisprudence in relation to the procedure in Selangor.

Najibah Mohd Zain wrote a book entitled, “Islamic Family Law in Malaysia²⁷” which discussed the legal effects of *ta'liq*. The writer emphasised the importance of examining the contents of the *ta'liq* provision in the marriage certificate. The writer also claimed that the practice of *ta'liq* after solemnisation of the marriage was not mandatory according to *Hukum Shara'*. It was applicable as it was based on the consent of both parties. The writer also summarised the position of *ta'liq* under the *Hukum Shara'* and the provisions of *ta'liq* in the states of Malaysia. The researcher benefited greatly from the explanation of *ta'liq* provision in Selangor and able to categorise the states of Malaysia based on the similarities on the grounds for divorce. In some states, the effect of *ta'liq* divorce was similar to divorce by *talāq*, except for some states that provided for *ta'liq khulu'*, while at the same time the grounds for *ta'liq* were similar to *fasakh*. It was revealed that there were inconsistencies in *ta'liq* provisions between the states. However, the analysis of *ta'liq* in Islamic jurisprudence is lacking. Therefore,

²⁷ Najibah, *Islamic family law in Malaysia*, p. 175.