

The Construction of Islamic Law on Marriage: A Normative Study of Rights, Harmony, and Its Limits

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Abstract

Marriage in Islam is a social and spiritual institution that has a strong legal dimension. Islamic law regulates marriage comprehensively, starting from the pillars and conditions, objectives, the annulment of marriage. Understanding the concept of Islamic marriage law is very important to ensure the continuity of family life following Islamic law and moral values. This research uses a qualitative-descriptive approach with a library research method. Data were collected through a review of primary and secondary sources, such as the Qur'an, hadith, classical and contemporary fiqh books, as well as Islamic legal literature and relevant legislation, including the Compilation of Islamic Law (KHI). It was found that the law of marriage in Islam includes five kinds of laws based on individual conditions: obligatory, sunnah, permissible, makruh, and haram. A valid marriage according to Islam must fulfill five main pillars, namely the prospective husband, prospective wife, guardian, two witnesses, and ijab qabul. The rights and obligations of husband and wife are regulated proportionally to maintain family harmony. Islam also establishes prohibitions on marriage to maintain the sanctity of the relationship and accommodate the resolution of household conflicts through divorce, khulu', and fasakh. The concept of marriage law in Islam emphasizes the importance of justice, responsibility, and the protection of the human rights of each partner. These values have high relevance in the dynamics of modern life and become a strong normative foundation in the formation of a sakinah, mawaddah, wa rahmah Muslim family. In addition, the flexibility of Islamic law in responding to social situations makes it relevant to be applied in pluralistic national and international legal systems.

Keywords: *Islamic Law; Marriage; Jurisprudence; Rights and Obligations; Sakinah Family.*

Abstrak

Perkawinan dalam Islam merupakan institusi sosial dan spiritual yang memiliki dimensi hukum yang kuat. Hukum Islam mengatur perkawinan secara komprehensif, mulai dari rukun dan syarat, tujuan, hingga pembatalan perkawinan. Pemahaman terhadap konsep hukum perkawinan Islam sangat penting guna menjamin keberlangsungan kehidupan keluarga yang sesuai dengan syariat dan nilai-nilai moral Islam. Penelitian ini menggunakan pendekatan kualitatif-deskriptif dengan metode studi pustaka (*library research*). Data dikumpulkan melalui telaah terhadap sumber-sumber primer dan sekunder, seperti Al-Qur'an, hadis, kitab-kitab fikih klasik dan kontemporer, serta literatur hukum Islam dan peraturan perundang-undangan yang relevan, termasuk Kompilasi Hukum Islam (KHI). Ditemukan bahwa hukum perkawinan dalam Islam meliputi lima macam hukum berdasarkan kondisi individu: wajib, sunnah, mubah, makruh, dan haram. Perkawinan yang sah menurut Islam harus memenuhi lima rukun utama, yaitu calon suami, calon istri, wali, dua saksi, dan ijab qabul. Hak dan kewajiban suami istri diatur secara proporsional untuk menjaga

keharmonisan keluarga. Islam juga menetapkan larangan-larangan perkawinan demi menjaga kesucian hubungan serta mengakomodasi penyelesaian konflik rumah tangga melalui perceraian, khulu', dan fasakh. Konsep hukum perkawinan dalam Islam menekankan pentingnya keadilan, tanggung jawab, dan perlindungan terhadap hak asasi masing-masing pasangan. Nilai-nilai ini memiliki relevansi yang tinggi dalam dinamika kehidupan modern dan menjadi landasan normatif yang kuat dalam pembentukan keluarga Muslim yang sakinah, mawaddah, wa rahmah. Selain itu, fleksibilitas hukum Islam dalam merespons situasi sosial menjadikannya relevan untuk diterapkan dalam sistem hukum nasional dan internasional yang pluralistik.

Kata Kunci: Hukum Islam; Perkawinan; Fikih; Hak dan Kewajiban; Keluarga Sakinah.

INTRODUCTION

Marriage is one of the social institutions that has a very important position in human life. In Islam, marriage is not only seen as an outward bond between a man and a woman, but also as an inner bond that is sacred and has a deep religious dimension.¹ Islamic law, or known as sharia, pays great attention to the issue of marriage, because this institution is the foundation in the formation of an ideal family and society according to Islamic teachings. In this context, Islamic marriage law includes normative, moral, social, and spiritual rules, which aim to create peace of life, affection, and protection of the rights and obligations of each spouse.²

Islam views marriage as *a mitsaqan ghalizha* (strong covenant) as stated in the Qur'an Surah An-Nisa verse 21, which means that marriage is not just an ordinary social contract, but has a deep religious and spiritual element.³ In Surah Ar-Rum verse 21, Allah SWT says:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

"And among the signs of His power is that He created for you wives of your kind, that you may feel at peace with him, and He has made among you love and

¹ Abd. Rashid As'ad, "The Concept of Maqashid Al-Sharia'ah in Marriage," *Supreme Court*, 2013; Lily Faisal, "MARRIAGE REGISTRATION IN THE CONCEPT OF THE PANCASILA LEGAL STATE," *PRINCIPLE* 11, no. 01 (August 13, 2019): 94–100, <https://doi.org/10.24042/asas.v11i01.4645>; Husna Sulfiyah and Hartini Tahir, "The Concept of Kafa'ah in the Marriage of TNI Members in the Perspective of Islamic Law," *Qadauna: Islamic Family Law Student Scientific Journal* 2, no. 1 (January 2, 2021): 205–16, <https://doi.org/10.24252/qadauna.v2i1.17244>.

² Sulfiyah and Tahir, "The Concept of Kafa'ah in the Marriage of TNI Members in the Perspective of Islamic Law"; Wirnyaningsih Wirnyaningsih, "THE CONCEPT OF JUSTICE ACCORDING TO THE PHILOSOPHY OF ISLAMIC LAW IN POLYGAMOUS MARRIAGE," *Journal of Law & Development* 48, no. 3 (December 5, 2018): 612, <https://doi.org/10.21143/jhp.vol48.no3.1752>; Nia Daniati, "The Application of the Concept of Kafa'ah in Marriage (Case Study in Bima Regency)," *DARUSSALAM JOURNAL: Constitutional Law Thought and Comparative Madhhab* 3, no. 2 (December 26, 2023): 204–19, <https://doi.org/10.59259/jd.v3i2.56>; Subhan Ajrin, "Wife's Marriage Happiness in the Concept of the Javanese Ideal Woman," *Kafa'ah: Journal of Gender Studies* 7, no. 1 (June 22, 2017): 26, <https://doi.org/10.15548/jk.v7i1.167>; Indah Lestari and Abdul Halim, "The Concept of Fair in Polygamous Marriage According to Female Judges in Decisions in Religious Courts," *JUSTITIA: Journal of Law and Humanities* 7, no. 2 (2020).

³ F I Dinnillah, "STUDY OF THE INTERPRETATION OF MÎTSÂQAN GHALÎZHA IN THE TAFSIR FÎ ZHILÂLIL QUR'AN," *Al Karima: Journal of the Study of the Science of the Quran and ...*, 2020.

affection. Indeed, in such a thing, there are signs for the thinkers." (QS. Ar-Rum: 21)

The verse illustrates that the main purpose of marriage is to create peace (sakinah), love (mawaddah), and affection (rahmah) between married couples. To realize this goal, Islamic law provides a set of rules and regulations that regulate the terms, harmony, rights, and obligations in marriage.

Normatively, the basis of marriage law in Islam is sourced from the Qur'an, the Sunnah of the Prophet Muhammad PBUH, ijma' ulama, and qiyas. The Qur'an and hadith provide general provisions regarding who can and cannot marry, the terms and principles of marriage, and the procedures for the implementation of the marriage contract.⁴ For example, the Qur'an in Surah An-Nisa verse 3 provides a limit on the number of wives that a man can marry, which is a maximum of four wives, provided that they can act fairly.⁵ Meanwhile, the Prophet's hadiths provide many examples of the practice of marriage implementation, starting from the khitbah (proposal) process, the implementation of contracts, to the rights and obligations of husband and wife in domestic life.

In practice, the law of marriage in Islam is also inseparable from the social and cultural dynamics of society. Therefore, scholars from various schools of fiqh (such as Hanafi, Maliki, Shafi'i, and Hanbali) developed various thoughts and ijihad in formulating laws related to marriage that were adapted to the conditions of their respective societies. Differences of opinion among scholars are a form of the wealth of Islamic legal treasures that allow flexibility in the application of law, as long as it remains within the corridor of Sharia principles.⁶

In the context of modern countries, Islamic marriage law has also been codified in the form of laws or positive laws in various countries with Muslim-majority populations. In Indonesia, for example, the concept of Islamic marriage law is accommodated in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI), which has been enforced since 1991. This law not only contains general provisions on marriage, but also adopts the basic principles of Islamic law, such as the harmony and conditions of marriage, the rights and obligations of husband and wife, divorce, and child custody.

It is important to note that although Islamic law allows for men to marry more than one, it is not necessarily an encouragement or a necessity. Polygamy in Islam is more of a form of solution to certain social conditions, and not the main normative policy in

⁴ Enik Isnaini, "Serial Marriage In The Perspective Of Islamic Law, Positive Law And Human Rights," *Independent Journal* 2, no. 1 (June 1, 2014): 51, <https://doi.org/10.30736/ji.v2i1.18>; Irma Yulianti, "TRANSFORMATION OF FIQH OF FOUR MADZHABS INTO A COMPILATION OF ISLAMIC LAW ON MARRIAGE WITNESSES," *ADLIYA: Journal of Law and Humanity* 12, no. 1 (April 11, 2019): 61–84, <https://doi.org/10.15575/adliya.v12i1.4490>; Abdul Halim, "Marriage Registration According to Islamic Law," *Al-Mabhats* 5, no. 1 (2020).

⁵ Wirdyaningsih, "The Concept Of Justice According To The Philosophy Of Islamic Law In Polygamous Marriage."

⁶ Riyan Erwin Hidayat, "Imam Madhhab's View On Wife's Rights During The Iddah Talak Bain Period And Its Valence With Laws And Regulations In Indonesia," *Jurnal Al-Nidzom* 3, no. 2 (September 23, 2019): 34–46, <https://doi.org/10.47902/jan.v3i2.45>; Khairul Umam, "The Absorption of Fiqh Madzhab Shafi'i in the Compilation of Islamic Law," *De Jure: Journal of Law and Sharia* 9, no. 2 (December 30, 2017): 117–27, <https://doi.org/10.18860/j-fsh.v9i2.6991>; Ahmad Rajafi, "HISTORY OF THE FORMATION AND RENEWAL OF ISLAMIC FAMILY LAW IN THE ARCHIPELAGO," *Aqlam: Journal of Islam and Plurality* 2, no. 1 (February 1, 2018), <https://doi.org/10.30984/ajip.v2i1.507>.

building a household. The principle of justice is an absolute requirement in the practice of polygamy, as affirmed in QS. An-Nisa verse 3:

وَأِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَتِلْثًا وَرُبْعًا فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ آدْنَىٰ إِلَّا تَعُولُوا ﴿٣﴾

"If you are afraid that you will not be able to do justice, then (marry) only one..." (QS. An-Nisa: 3)

Similarly, Islamic law also strongly emphasizes the importance of sincere intentions in building a household, not solely because of material factors or orgasms. Marriage in Islam is worship, as the Prophet PBUH said: "Marriage is my sunnah, whoever does not like my sunnah is not part of my group." (HR. Ibn Majah)

مَنْ تَزَوَّجَ فَقَدْ اسْتَكْمَلَ نِصْفَ الْإِيمَانِ، فَلْيَتَّقِ اللَّهَ فِي النِّصْفِ الْبَاقِي

"Whoever marries, he has perfected half of his religion. Then he should fear Allah for the remaining half" (HR. Ath Thabrani in Mu'jam Al Ausath [1/1/162], hasanan by Al Albani in the Genealogy of Ahadith Ash-Shahihah [199-202]).

Therefore, in the Islamic view, marriage is not just a contractual relationship (*'aqd*) between two individuals, but rather part of the worship of Allah SWT. The goal is to build a society based on the values of justice, compassion, and social responsibility.

From a legal perspective, marriage is valid if the principles and conditions are met, namely the presence of a prospective husband, a future wife, a guardian of the woman's side, two witnesses, and *ijab qabul*. This provision is in line with the rules of *fiqh*, which states that "*la nikaha illa bi waliyyin wa syahiday 'adlin*" (it is not valid to marry without a guardian and two fair witnesses). These principles and conditions are the foundation of the legality of a marriage in Islam, as well as a protector for the rights of the parties involved.

However, in real-life practice, various challenges often arise in the implementation of Islamic marriage law, especially those related to differences in interpretation, administrative aspects, to social problems such as child marriage, serial marriage, and unrecorded divorces. Therefore, a deep and comprehensive understanding of the concept of marriage law in Islam is very important, both for academics, legal practitioners, and the general public. This aims to ensure that the noble values contained in Islamic teachings on marriage can be realized in real life in a fair, balanced, and spirit of the times.

RESEARCH METHODS

This research uses a qualitative-descriptive approach⁷ with the library *research method*,⁸ which aims to study and understand the concept of marriage law from the perspective of Islamic law in depth and comprehensively. This approach was chosen because the characteristics of the object of study are normative-theological, which is more appropriate to be analyzed through the search for authoritative literature sources. The data sources in this study consist of primary and secondary data. Primary data sources include the Qur'an, saheeh hadiths, as well as classical and contemporary *fiqh* books that are the main reference in understanding the concept of marriage law in Islam. Among the books used are *Fiqh as-Sunnah* by Sayyid Sabiq, *Al-Fiqh al-Islami wa Adillatuhu* by Wahbah

⁷ Moleong, "Qualitative Descriptive Approach," *Qualitative Research Methods*, 2005.

⁸ Amir Hamzah, "Library Research Method," *Literasi Nusantara Abadi* 5, no. 1 (2020).

az-Zuhaili, and Raudhah at-Thalibin by Imam Nawawi. The secondary data was obtained from scientific journals, modern books on Islamic law, and positive legal documents such as the Compilation of Islamic Law (KHI) that applies in Indonesia.

Data collection techniques are carried out through searching, critical reading, and study of literature relevant to the research topic. Furthermore, the data was analyzed using a descriptive-analytical method, namely by describing the legal content or substance of these various sources, then critically analyzed to find the normative structure and philosophical essence of the concept of marriage law according to Islam. In the analysis process, the researcher uses the theoretical framework of Islamic law and the principles of *maqāsid al-shari'ah* to assess the consistency and relevance of marriage law to the noble goals of sharia, such as the protection of religion, soul, descent, intellect, and property. With this approach, this study not only aims to explain the concept of marriage law dogmatically, but also to provide an assessment of its context and application in the life of contemporary Muslim society.

RESULTS AND DISCUSSION

Definition and Purpose of Marriage in Islam

In Islam, marriage or *nikah* is a sacred bond that connects a man and a woman to live together in a legal household according to the Sharia. Etymologically, the word "nikah" comes from the Arabic word meaning "to gather" or "to unite". According to Sharia terms, *nikah* is a contract that legalizes the relationship between a man and a woman to form a harmonious family and obtain legitimate offspring.⁹

In the Compilation of Islamic Law (KHI) Article 1, it is stated that marriage is a strong contract or *mitsaqan ghalizhan* to obey Allah's commands and carry them out in worship. Marriage is not just a social contract, but a spiritual agreement that has consequences for this world and the hereafter.¹⁰

The main legal basis that regulates marriage in Indonesia is Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019. In addition, the implementing regulations are also regulated in the Compilation of Islamic Law (KHI) for Muslims and special regulations for other religions.

Article 1 of the Marriage Law states that "Marriage is an innate bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on the One Godhead." Based on this definition, it appears that the state places great emphasis on religious and ethical aspects in the institution of marriage.

Islam views marriage as a worship that has noble goals, both individually and socially. Here are some of the main purposes of marriage in Islam:¹¹

- 1) Carrying out the Commands of Allah and the Sunnah of the Prophet
Marriage is the command of Allah SWT and the sunnah of the Prophet PBUH. In the Qur'an, Allah says: "And marry those who are alone among you..." (QS. An-Nur: 32).
The Prophet PBUH said: "Nikah is my sunnah, whoever does not practice my sunnah, then he is not part of my group..." (HR. Ibn Majah).
By getting married, a Muslim carries out Allah's commands and follows in the footsteps of the Prophet Muhammad SAW.
- 2) Perfecting Religion

⁹ MAg Drs. Rohmat Chozin and M P Drs. Untoro, "Marriage in Islam Chapter 4," *In*, 2019, 86–114.

¹⁰ Drs. Rohmat Chozin and Drs. Untoro.

¹¹ Drs. Rohmat Chozin and Drs. Untoro.

Marriage is considered the perfection of half religion. The Prophet PBUH said: "When a person marries, then he has completed half of his religion. So fear Allah in the other half." (HR. Al-Baihaqi).

By getting married, a Muslim is expected to be able to better protect himself from immoral acts and focus more on worship.

3) Maintaining Self-Purity and Avoiding Adultery

One of the main goals of marriage is to maintain self-purity and avoid adultery. Allah SWT said: "And those who are unable to marry should keep their purity, until Allah gives them the ability with His bounty." (QS. An-Nur: 33).

Marriage is a legitimate means of channeling biological desires and maintaining self-respect.

4) Creating the Family of Sakinah, Mawaddah, and Rahmah

The purpose of marriage in Islam is to form a family that is *sakinah* (calm), *mawaddah* (full of love), and *rahmah* (full of affection). Allah SWT said: "And among the signs of His power is that He created for you a mate of your kind so that you may feel at peace with him, and He made between you a sense of love and affection..." (QS. Ar-Rum: 21).

A harmonious family is the foundation of a strong and prosperous society.

5) Preserving the Righteous Descendants

Marriage aims to preserve righteous offspring and maintain *nasab*. Allah SWT said: "And Allah has made for you from your spouses children and grandchildren..." (QS. An-Nahl: 72).

Through marriage, a righteous generation can be born and raised in an Islamic environment.

6) Increasing Worship and Getting Rewards

Marriage opens up opportunities to increase worship and get rewards. The Prophet PBUH said: "And in your husband and wife relationship, there is a reward." The Companions asked, "O Messenger of Allah, does any of us channel his orgasm and get a reward?" He replied, "Is it not true that if he passes it on to the unlawful, then he sins? So if he distributes it to what is lawful, he will get a reward." (HR. Muslim).

Every activity in marriage that is carried out with the intention of worship will be worth a reward in the sight of Allah.

7) Maintaining Morals and Morals of the Community

Marriage in Islam is an effective means to improve the morals or morals of society in a better direction. With a legal marriage, people are prevented from promiscuity and immoral acts that damage the social order.

8) Gaining Peace of Mind and Happiness

Marriage provides peace of mind and happiness for married couples. With a life partner, a person feels calmer, safe, and more peaceful in facing life.

9) Building Cooperation and Shared Responsibility

Marriage teaches cooperation and shared responsibility between husband and wife in building a household.

The Law and Position of Marriage in Islam

According to most scholars, the law of origin of marriage is *mubah* in the sense that it can be done and it can be abandoned. However, in terms of the condition of the person

who is going to get married, the law of marriage can change to mandatory, sunnah, makruh, and haram.¹² The explanation is as follows:

- a) Jaiz or mubah means it is permissible, and this is the basis of the marriage law.
- b) Mandatory, namely, people who are able/able to marry. If he does not marry, he is worried that he will fall into adultery.
- c) Circumcision, a person who can marry, but is still able to control himself from temptations that lead to adultery.
- d) Makruh, i.e., a person who is going to get married and has a desire or desire, but he does not have provisions to provide for his dependents.
- e) Haram, that is, a person who is going to get married, but he has bad intentions, such as the intention to hurt a woman or other bad intentions.

The evidence that underlies this legal flexibility is found in the words of Allah SWT:

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِن يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ ﴿٣٢﴾

"Marry those who are still single among you and also those who are worthy (to marry) from your servants, both men and women. If they are poor, God will empower them with His grace. Allah is Vast and All-Knowing." (QS. An-Nur: 32).

In addition, the Prophet PBUH said: "O young people, whoever among you can get married, then marry. Because getting married is more subdued and more protective of the genitals." (HR. Bukhari and Muslim).

Marriage in Islam is not only a social contract, but also a worship one.¹³ Its ranking is very high because:

- 1) Becoming the Sunnah of the Prophet PBUH
The Prophet Muhammad PBUH strongly encouraged his people to get married as a form of religious perfection. He said: "Marriage is my sunnah. Whoever hates my sunnah, he is not of my group." (HR. Ibn Majah).
- 2) Means of Maintaining Honor and Purity
Marriage is a way to guard against adultery and deviant behavior. Islam emphasizes the importance of maintaining self-respect (iffah) through marriage.
- 3) Media to Preserve Offspring
One of the main purposes of marriage in Islam is to legally preserve offspring. This is following maqashid al-sharia (the main purpose of sharia), namely *hifzh al-nasl* (safeguarding offspring).
- 4) Creating the Family of Sakinah, Mawaddah, and Rahmah
Allah SWT said:
"And among the signs of His greatness is that He created for you wives of your kind, so that you may be inclined and at peace with him, and He will make love and affection among you..." (QS. Ar-Rum: 21)

¹² Drs. Rohmat Chozin and Drs. Untoro.

¹³ Drs. Rohmat Chozin and Drs. Untoro.

This verse shows that the purpose of marriage is to create peace of mind (sakinah), love (mawaddah), and affection (rahmah) in the family.

5) Building an Islamic Society

Marriage is the basis for the formation of the family, and the family is the smallest unit of society. A good society comes from a harmonious and Islamic family. Therefore, Islam pays great attention to the process, conditions, and sustainability in married life.

The Pillars and Conditions of Marriage in Islam

Whether or not a marriage is valid depends on whether or not the harmony and conditions of marriage are fulfilled.¹⁴ (see table 1)

Table 1. Harmony and requirements for marriage in Indonesia

RUKUN	REQUIREMENT
a. Husband-to-be	1. Muslim 2. Of Your Own Will 3. Not a Stranger 4. Not during the Hajj
b. Wife-to-be	1. Muslim 2. Not forced 3. Not a Stranger 4. Unmarried 5. Not in the time of Idah 6. Not during Hajj or Umrah
c. The Existence of a Guardian	1. Mukallaf (Islam, maturity, sound mind) 2. Independent Men 3. Fair 4. Not performing Hajj or Umrah
d. The Presence of Two Witnesses	1. Islam, 2. adult, 3. Sound mind, 4. Not wicked, 5. Present in the marriage contract.
e. The existence of ijab and Qabul	With the words "nikah" or something like that. Sequence between ijab and Qabul

Rights and Obligations in Marriage

For the goal of marriage to be achieved, husband and wife must carry out the obligations of married life as well as possible based on sincere intentions for the sake of Allah SWT alone.¹⁵ Allah SWT said:

¹⁴ Drs. Rohmat Chozin and Drs. Untoro; Aisyah Ayu Musyafah, "MARRIAGE IN THE PHILOSOPHICAL PERSPECTIVE OF ISLAMIC LAW," *CREPIDO* 2, no. 2 (November 29, 2020): 111–22, <https://doi.org/10.14710/crepido.2.2.111-122>.

¹⁵ Drs. Rohmat Chozin and Drs. Untoro, "Marriage in Islam Chapter 4."

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ ۗ فَالصَّالِحَاتُ قَنَاطٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ ۗ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنِ اطَّعْتُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا ﴿٣٤﴾

Meaning: "Men are the leaders of women, because Allah has given some of them more than others and because men have provided for some of their wealth". (Q.S. anNisa/4: 34).

The Prophet PBUH also said: "The wife is the person in charge of the household of the husband and wife concerned". (HR. Bukhari Muslim).

The husband's most important obligations are:

- a) Provide sustenance, clothing, and shelter to their wives and children according to their abilities.
- b) Getting along with your wife in a meaningful way, that is, properly and appropriately, for example, with affection, respect, attention, and so on.
- c) Lead the family by guiding and caring for all family members with full responsibility.
- d) Assisting wives in daily tasks, especially in nurturing and educating their children to become righteous.

The most important obligations of a wife are:

- a) Obey and obey your husband within the limits of what follows the teachings of Islam. A husband's orders that are contrary to the teachings of Islam are not obligatory to be obeyed by a wife.
- b) Maintain and maintain the honor of oneself and family as well as the husband's property.
- c) Managing the household well by the mother's function as the head of the household.
- d) Nurturing and educating children, especially religious education. Allah swt. Said:

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا ﴿٦﴾

Meaning: "O you who believe, protect yourselves and your families from the fire of Hell". (QS. at-Tahrim/66: 6)

- e) Be frugal, careful, happy and grateful, and wise to your husband.

The rights of the husband to the wife are:

- a) Obeyed in all things except vices. The Prophet PBUH said: "Only obedience is in what is ma'ruf." (HR. Bukhari and Muslim).
- b) Asked for permission by the wife who wanted to leave the house. The wife is not allowed to leave the house unless her husband has permission.
- c) A wife should not fast sunnah except with her husband's permission. The Prophet (peace and blessings of Allaah be upon him) said: "It is not permissible for a wife to fast (sunnah) while her husband is in the place except with her husband's permission." (HR. Bukhari and Muslim).
- d) Getting services from his wife.
- e) Grateful for the kindness he gave. The wife must be grateful for every gift her husband makes.

The rights of the wife to the husband are:

- a) Getting a dowry from her husband.
- b) Getting proper treatment from her husband. The Prophet (peace and blessings of Allaah be upon him) said: "The believer whose faith is the most perfect is the best in his morals, and the best of you is the best towards his wives." (HR. At-Tirmidhi).
- c) Getting a living, clothing, and shelter from her husband.
- d) Receive fair treatment if the husband has more than one wife. "Whoever has two wives and then he is inclined (outwardly exaggerated) to one of them, then he will come on the Day of Resurrection in a state of being crippled on one side of his body." (HR. Ahmad and Abu Dawud).
- e) Getting guidance from her husband to always obey Allah SWT.

Prohibitions and Restrictions in Marriage

Prohibition in marriage refers to the condition or circumstance that causes a marriage to be invalid or prohibited from taking place.¹⁶ Here are some of the types of prohibitions regulated in Indonesian law:

- 1) The Prohibition of Blood Marriage
This prohibition is regulated in Article 8, letter a of the Marriage Law, which states that marriage is prohibited between two people who have a blood relationship in a straight up or downward line.¹⁷ An example is between parents and children or between grandparents and grandchildren. This prohibition also applies to siblings. This ban aims to avoid negative effects genetically and psychologically, and maintain the social structure of the family. In addition, from a religious perspective, inbreeding is considered to violate moral norms and teachings.
- 2) The Prohibition of Same-Sex Marriage
Temporary marriage, namely having a relationship with a spouse, in-laws, stepsons, sons-in-law, and mother/stepfather (e.g., between a man and his father's ex-wife). Article 8, letter c of the Marriage Law prohibits this type of marriage.
- 3) Prohibition of Marriage of Siblings
According to Article 8, letter d of the Marriage Law (related to milk, i.e., breastfeeding parents, breastfeeding children, breastfeeding siblings, and aunts/uncles), marriage between breastfeeding siblings is also prohibited. This is also affirmed in KHI Article 39. Siblings are considered to have a valid family relationship according to Islamic law, so marriage between them is prohibited.
- 4) Prohibition of Marriage Due to Parenting or Guardianship Relationship
Marriage between adoptive parents and adopted children, or between guardians and children in guardianship. This relationship is seen as having a high element of kinship and moral responsibility, so it is unethical if it is used as a basis for marriage.
- 5) Prohibition of Polygamy Without Permission

¹⁶ Achmad Asfi Burhanudin, "The Concept of Marriage Agreements in the Perspective of Comparative Law," *El-Faqih : Journal of Islamic Thought and Law* 5, no. 2 (October 30, 2019): 133–52, <https://doi.org/10.29062/faqih.v5i2.69>.

¹⁷ Abdul Manan Abdul Manan and Muhammad Ruzaipah, "Marriage Exogamy Perspectives on Marriage Law," *Legitima : Journal of Islamic Family Law* 3, no. 2 (June 24, 2021): 147–59, <https://doi.org/10.33367/legitima.v3i2.1281>.

Although polygamy is allowed in Islamic law, in practice, Indonesia's positive law provides strict restrictions. Based on Articles 4 to 9 of the Marriage Law and KHI, a husband who wants to practice polygamy must obtain permission from a religious court and must meet certain conditions, including the consent of the first wife and economic and emotional fairness.

6) Prohibition of Underage Marriage

Law Number 16 of 2019 states that the minimum age for marriage is 19 years for men and women. Previously, the minimum age for women was 16 years old. This age increase aims to prevent child marriage, which is a high risk to the welfare of children and women and a potential human rights violation.

In addition to the prohibition, there are also administrative and substantive restrictions. These restrictions do not necessarily make the marriage invalid, but they can be grounds for prevention or annulment by the courts.

1) Parental Blessing

For prospective brides who have not reached the age of 21, permission from parents is required as stipulated in Article 6 of Law Number 1 of 1974 concerning Marriage. If you do not get permission, then the marriage can be postponed or not held.

2) Monogamy as a General Principle

Although polygamy is not prohibited, the Marriage Law adheres to the principle of monogamy. This is regulated in Article 3, paragraph (1) of Law Number 1 of 1974 concerning Marriage, which states that basically, in a marriage, a man can only have one wife and a woman can only have one husband.

3) Restrictions on Interfaith Marriage

Interfaith marriage has caused a long debate. Although not explicitly prohibited by the Marriage Law, the practice is not officially recognized in the Indonesian legal system. The Constitutional Court Decision No. 68/PUU-XII/2014 emphasizes that interfaith marriages cannot be registered at the Office of Religious Affairs, because they are not following the provisions of Article 2 paragraph (1) of the Marriage Law which requires that marriage is valid if it is carried out according to the law of each religion.¹⁸

Prohibitions and restrictions in marriage are not only intended to provide legal protection, but also to maintain social stability and family harmony. Prohibitions such as inbreeding have a moral and biological basis, while age restrictions and parental blessings aim to protect the interests of children and maintain family responsibilities.

When these prohibitions or restrictions are violated, the consequences can be very serious. Marriages can be annulled by the courts, inheritance rights and the status of children become problematic, and can cause social and psychological conflicts.

Marriage as a legal and social institution is strictly regulated in Indonesian law. Prohibitions and restrictions in marriage are established to protect moral, social, and legal values in society. The community is expected to understand and comply with the prohibitions and restrictions in marriage not only to provide legal protection, but also to maintain social stability and family harmony. Prohibitions such as inbreeding have a moral and biological basis, while age restrictions and parental blessings aim to protect the interests of children and maintain family responsibilities. When these prohibitions or

¹⁸ The Constitutional Court (MK) Decision Number 68/PUU-XII/2014 rejects judicial review of Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage. This ruling refuses to provide a basis for constitutionality against interfaith marriage.

restrictions are violated, the consequences can be very serious. Marriages can be annulled by the courts, inheritance rights and the status of children become problematic, and can cause social and psychological conflicts.

CONCLUSION

The concept of marriage law in Islam is an integral legal system and reflects the principles of justice, balance, and protection of the rights and obligations of each party in the marriage bond. Based on the provisions of the Qur'an, hadith, and the opinions of scholars, marriage in Islam is not only seen as an outward bond between two individuals but also as a form of worship that aims to form a harmonious family based on divine values. The harmony and conditions of marriage set by Islam show that the legality of a marriage is very much maintained for the sake of ensuring honor and nasab. In addition, Islam emphasizes the importance of balancing the rights and obligations of husband and wife, as well as accommodating social realities through provisions on divorce, khulu', and fasakh within a responsible legal framework.

Thus, marriage law in Islam has high relevance in answering the dynamics of Muslim family life in various contexts of time and place. A comprehensive understanding of these principles is the key to actualizing the noble goals of Islamic marriage, namely realizing the family of *sakinah*, *mawaddah*, *wa rahmah*, while maintaining social and moral stability in society.

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