



ISLAMIC LEGAL BASIS FOR MARRIAGE

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Abstract: *Marriage is common and applies to all of its creatures, whether in humans, animals, or herbs. It is a chosen way by God. In Islamic religion, God encourages us to perform marriage. Marriage is a process in which a woman and a man unite their relationships in a family bond with the aim of organizing home life and offspring. Marriage in Islam is a sacred process, having certain manners and cannot be done in random. If the marriage is not performed based on Islamic law, then the marriage can be an act of adultery. Therefore, we as Muslims must know the tips of marriage in accordance with the rules of Islamic religion so that our marriage is judged by Allah SWT*

Keywords: *Islamic Legal, Marriage, Legal Basis, Islamic Law*

INTRODUCTION

Marriage is common and applies to all of its creatures, whether in humans, animals, or herbs. It is a chosen way by God S.W. T, to multiply, and preserve his life.

Marriage comes from a word of marriage which is according to the languages of al-Jam'u and al-Dhamu which means to gather or collect, and to be used for the word shone. Marriage (Zawaj) can be interpreted by Aqdu al-Tazwij, meaning Akad Nikah and also interpreted (Wath'u al-Zaujah) means to get a wife (Syahrani, 2014). Another definition suggests that marriage is derived from the Arabic "Nikahun" which is a Masdar or origin word of the verb "nakaha", the synonym "Tazawwaja" then translated into Indonesian as "marriage". According to the term jurisprudence (terminology) of the Fuqaha defines the marriage of an agreement that contains the ability to have sexual intercourse (promission) by using the words (LAFAZ) marriage or Tazwij (Rahmat, 2000).

The fiqh of the four sects has a distinction in defining marriage or marriage itself.

1. The Hanafiyah defines mating is an akad which provides the benefit of the ability to have fun (special) with his partner.
2. The Shafi'i define marriage is a contract that contains the provisions of the law of his/her own character ' (intercourse) using the pronunciation of nuclei, or tazwij and the-the There are with both.



3. The Malikiyah defines that marriage is an agreement that contains the provisions of the law solely to allow Wati ' (intercourse), having fun enjoying what is in a woman who can be married (not Mahram).
4. The Hanabilah defines marriage is an agreement using the marriage pronouncement or tazwij to obtain pleasure with a woman.

In contemporary concepts, among others as seen in the law No. 1 year 1974 on marriage, marriage is defined as the inner birth bond between a man and a woman as husband and wife with the purpose of forming The Happy and eternal family (households) based on the almighty Godhead. While in the compilation of Islamic law marriage is a very strong akad or Mitsaqan ghalizhah to obey God's command and perform it as a worship (Ridwan, 2010).

It can be understood that getting married in the framework of the family not only to fulfill the needs of human instincts. But family formation is one of the religious orders, which serves to safeguard and protect human beings from various abuses in fulfilling sexual needs (Zulaikha, 2014).

LEGAL BASIS FOR MARRIAGE

The suggestion for marriage can be seen in an-Nur letter verses 32:

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

"And let the people who are in the same loneliness among you, and the worthy (married) of your servants the men and the servants of your servants who are women. If they are poor God will enable them with his bounty. And Allah is vast (his giving) again knowing". QS. An-Nur: 32.

His reasonable interest in this verse of God advocated marriage with some facilities. Because marriage is the most effective way to keep self-honor away from committing adultery and other sins. Marriage is also the only way to obtain good descent and foster an ideal society. It also requires parents to keep their family's honor in a manner of marriage without being burdened with the problem of property or others.

The Hadith of the Prophet also explained the recommendation to marry: Rosulullah SAW said: "The marriage is my circumcision, whosoever does not like, not my golding!" HR. Bukhari, Muslim).



Interpretation of the hadith above that family is one aspect of various aspects of worship. Therefore, every Muslim should have a realization that in the formation of his family as an application of the desire to follow the RosulullahSAW.

The realization that marriage is a religious order and is a Sunnah of the Prophet will bring positive implications towards the survival of the established family (Zulaikha, 2015).

LAW OF MARRIAGE

The law of marriage can be fundamentally changed according to the state of the culprit. This is due to the condition of the MUKALLAF, both in terms of its human character and in terms of its wealth ability. The law of marriage is not one that applies to all the MUKALLAF. Each of the their deeds has its own specific laws in accordance with its specific condition, whether it is property, physical, and or moral requirements(Azzam, 2011).

Marriage is reviewed in terms of the Shar'i law, there are five kinds. Sometimes the law of marriage is mandatory, sometimes it can be sunnah, sometimes it is unlawful, sometimes become makruh and permissible or ruling can be according to Shari'ah (Zulaikha, 2015). Some scholars divide it into five categories as well as the division of the Law of deeds, while some other scholars share the law of marriage is not so, namely:

- a. The Shafi'i said that the law of marriage is permissible (permissible).
- b. Hanafi sect, Maliki, and Ahmad Hambali said that the law of marriage was circumcision.
- c. Dawud Zahiri said that the law of marriage is compulsory for Muslims once in a lifetime. 8
- d. While Sayheed Sabiq concludes the five legal categories of the marriage, namely:
 - 1) compulsory, when a person is able to marry, his or her lust is urgent and afraid to fall into adultery.
 - 2) Sunnah, for a person whose lust has been urged and able to marry but can still refrain from committing adultery.
 - 3) Haram, when a person who is unable to fulfill his/her inner living and birth to his wife and his/her lust is not urgent.



- 4) Makruh, when someone who wants to marry weak and not able to give his wife spending, although not harm the wife.
- 5) Mubah, if a person is not pressed by all the reasons that oblige and prohibition to marry.

The law of marriage may change according to the conditions and circumstances and will return to the law of the five (al-Ahkamul Khasah) Rahmat Hakim, 2000). According to the sharia, Sunnah married women who had a good religious background, were able to keep themselves and come from the descendants of good people Zulaikha, 2015).

RUKUN AND WEDDING TERMS

1. The Pillars of marriage

Rukun, that is something that is certain that determines valid or not a work (worship), and something that is included in the series of work, such as the presence of prospective male or female pengent in marriage.

If one of the pillars of an event or legal action or event is not fulfilled resulting in a legal act or a legal event is invalid and its status is "null and void". The Jumhur scholars agreed that the marriage pillars consist of:

- a. The presence of prospective husbands and wives who will conduct marriage
- b. The guardian of the bride candidate's party

The marriage contract will be considered valid if there is a guardian or deputy who will marry him, based on the Prophet's words:

أَيَّمَا امْرَأَةٍ نَكَحَتْ بِغَيْرِ إِذْنِ وَلِيِّهَا فَنِكَاحٌ حُهَا بَاطِلٌ (اخرجه الاربعة الا للنسائي)

"Whichever woman is married without her guardian's permission, then her marriage is void"

In another hadith prophet SAW said:

لَا تُزَوِّجِ الْمَرْأَةَ وَلَا تُزَوِّجِ الْمَرْأَةَ نَفْسَهَا (رواه ابن ماجه و دار قطنى)

"Let not one woman marry another woman, and let not a woman marry herself".



c. There are two witnesses

The implementation of the marriage contract will be valid if two witnesses who believe the marriage contract, based on Hadith prophet SAW:

لَا نِكَاحَ إِلَّا بِوَلِيِّ وَشَاهِدَي عَدْلٍ (رواه احمد)

d. Shighat Akad Nikah, the Ijab Qabul spoken by the Guardian or his deputy from the female party, and answered by the male groom.

The purpose of the agreement in the marriage contract such as Ijab in various other transactions, namely the statement that came out of one of the parties who held a contract or transaction, whether in the form of words, writings, or cues that reveal the wishes of the agreement, Either from the husband's party or from the wife's party. While Qabul is a statement that comes from a second party either words, writings, or cues that reveal the approval of Ridjust.

Based on the above sense, the Ijab cannot be devoted in the heart of his wife or guardian and or his deputy. So also Qabul. If a man says to the female Guardian: "I marry your daughter or marry me to your daughter named Si Fulanah". The Guardian replied: "I marry you to my daughter or I accept or I agree". The first greeting is called Ijab and the second greeting is Qabul. In other words, Ijab is a form of good expression that gives meaning to the contract or transaction, with the record falling at the first order. While in is a good form of expression to answer, the record falls on the second order of any party from both parties.

Akad is a combination of one of two speakers and another acceptance. Like the saying of a man: "I marry thee with my daughter" is the Ijab. Others said: "I received" is Qabul.

About the number of these pillars of marriage, the scholars differed:

1. Imam Malik said that the pillars of marriage are five kinds, namely:
 - A) The guardian of the female party
 - b) Mahar
 - c) Prospective Groom
 - d) Bride candidate
 - e) The marriage Sighat Akad



2. Imam Shafi'i said that there are five kinds of marriage, namely:
 - A) Prospective groom
 - b) Bride candidate
 - c) Wal
 - d) Two witnesses
 - e) The marriage Sighat Akad

3. According to the scholars Hanafiah, the marriage is only ijab and in (i.e. the Akad is done by the female guardian and the prospective groom). Meanwhile, according to another group of marriage there are four, namely:
 - a) Sighat (Ijab and Qabul)
 - b) Bride candidate
 - c) Prospective Groom
 - d) The guardian of the bride candidate.

The opinion that the pillars of marriage is four, because the groom and the bride are merged into one pillars.

Terms of marriage

The terms of marriage are the basis for the marriage. When the terms is fulfilled, the marriage is valid and raises all rights and obligations as a husband and wife.

While the term marriage is a condition that is related to the marriage pillars, namely the conditions for prospective bride, guardian, witness, and Ijab Qabul.

In explaining the issue of these marital terms, there is also a difference in drafting the terms but still at the same core. Syari'at Islam determines some conditions that must be fulfilled by the prospective two brides who are suitable and based on the ijthihad of the scholars.

1. Terms of prospective husbands
 - a. Islamic religion



- b. Not a mahram of prospective wife and obviously halal married with a prospective wife
 - c. The light (obviously) that the prospective husband is right man
 - d. The person is known and certain
 - e. Prospective groom know/know on the prospective wife and know well the prospective wife is halal for him.
 - f. prospective husband willingly (not forced/forced) to do the marriage and at his own volition.
 - g. not being doing Ihram.
 - h. Not having an illegitimate wife be married to a prospective wife.
 - i. Not being a wife of four.
2. Terms of prospective wife
- a. Islamic religion
 - b. There is no obstacle, ie no husband, not mahram, not in the Iddah.
 - c. The light that he was woman. Not a Khuntsa (sissy)
 - d. The woman is of the person (obviously the person)
 - e. not forced (independent, for self-willingness/endeavour)
 - f. not being Ihram Hajj or ' Umrah(Zulaikha, 2015).
4. Terms of Guardian

The marriage is held by the bride's guardian or her deputy with her prospective husband or deputy. The terms is a guardian should:

- a. Male
- b. Muslim
- c. Baligh
- d. The Legacship
- e. Fair (ungodly)
- f. Not forced
- g. not being ihram.



5. The terms of witnesses.

The terms of witnesses attending the marriage contract must be two men, Muslims, Baligh, resourceful, not working on Ihram, see and hear and understand (understand) the intent of marriage (Sahrani, 2014).

6. Terms of Shigat/Ijab Kabul

The Ijab was conducted by the bride's guardian or deputy, while Kabul was performed by the groom or his deputy. Sighat Ijab Kabul must be based on marriage sentence or tazwij. According to the word of Alloh surah An-Nisa ' verse 3 and Surah Al-Ahzab verse 37. This ijab and Kabul in the Islamic law compilation is required that:

- a. Ijab and Kabul between guardians and prospective groom must be clear in succession and not time.
- b. The marriage certificate is personally executed by the relevant guardian. The legal guardian may delegate to another person.
- c. The right to say Kabul is the prospective groom as a personal.
- d. In certain matters the word of the marriage of Kabul can be represented to another man with the provision of prospective groom give a firm power in writing that the acceptance of the representative of the marriage contract is for the groom.
- e. In the case that the prospective bride or guardian objection to the groom is represented, then the marriage contract should not be held.

7. Mahar (Dowry)

Mahar is the absolute right to the bride and groom's obligation to give her before the marriage contract. Mahar is the epitome of a husband and wife relationship and the epitome of the groom's responsibilities to the bride, who later became his wife. God's Word SWT:

وَأْتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا

"Give a masmate (Mahar) to the woman (whom you marry) as a gift with willingness.

Then if they submit to you a portion of the masmate gladly, then eat (take) the gift (as food) that is delicious again in consequence. " QS. An-Nisa [4]: 4). 13



THE AIM OF MARRIAGE

Marriage has a very noble purpose that is to manifest the life of a godly household, Mawaddah, and Rahmah, as the word of Allah SWT. :

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ

مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

"And among the signs of his power is he created for you the wives of your own own, that ye might tend and feel at him, and be made to him among you a sense of love and compassion. Indeed there is a sign for the people who think "(QS. Ar-Rum verse 21).

According to the verse, the Islamic family formed in the integration of Interfaith (Sakinah), Full of Love (Mawaddah), and Compassion (Rahmah). It is comprised of obedient and faithful wives, honest and sincere husbands, affectionate and friendly fathers, gentle and meek mothers, obedient and obedient daughters and relatives who foster interlocking and please help. This can be achieved if each member of the family knows their rights and obligations.

Sulaiman Al-Mufarraaj, in his wedding provision, explained that there are 15 purposes of marriage, namely:

1. As worship and draw closer to Allah SWT. Marriage is also in order to obey Allah SWT and his apostle.
2. For ' Iffah (keep away from forbidden things; Ihsan (self-fortifying) and Mubadho'ah (can do intercourse)
3. Multiply the people of Muhammad SAW
4. Perfecting Religion
5. Marriage including the abundance of the messengers of Allah SWT
6. Giving birth to a child who can ask God for their father and mother when they enter heaven
7. Keeping the community from ugliness, moral collapse, adultery, etc.
8. Legality to have intercourse, create responsibility for the husband in leading the household, provide a living and help the wife at home
9. Bring together different family ropes to strengthen the family circle
10. Know each other and love



11. Making peace of love in the soul of husbands and wives
12. As a pillar to build a household of Islam that corresponds to his teachings sometimes for people who ignore the sentence of Allah SWT, then his married goal will deviate
13. A sign of the greatness of Allah SWT. We see people who are married, initially they do not know each other, but by establishing a marriage rope the relationship can both know and love each other
14. Multiply the descendants of Muslims and embed the Earth through the process of marriage
15. To follow the call ' Iffah and look after the things that are forbidden. 14

CONCLUSION

With marriage is expected to form a family of Sakinah, Mawadah, and Warohmah, the world and the hereafter.

Wedding is a platform for the education and the formation of human beings that will be expected to have a life and a better future.

With the head of the family who led the household ark, life was haraam to be more meaningful and the husband and wife of the end times had a high spirit in the way of Allah SWT.

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