

The Conduct Of Marriage Contracts In Mosques From Perspective Of Syafii Jurisprudence

Muhammad Haikal

Islamic University of Al-Aziziyah Indonesia

Email: haikalputridja@gmail.com

ABSTRACT

This study addresses a controversy sparked by a religious figure in Aceh who equated marriages conducted in mosques with Christian weddings in churches, leading to significant community debate. The research investigates the perspective of the Syafi'i school of jurisprudence on conducting marriages in mosques. Utilizing a qualitative approach with library research methods, the study concludes that scholars of the Syafi'i school permit the practice of conducting marriages in mosques.

Keywords: *Nikah, Mosque, Mazhab Syafi'i*

INTRODUCTION

The conduct of marriage contracts represents a crucial and meaningful initial stage in the journey of marriage. In many Muslim communities, steeped in rich traditional and religious values, the mosque is often regarded as the ideal setting for performing *nikah* contracts, aligning closely with the principles of *Syafi'i* jurisprudence. This understanding of *nikah* contracts extends beyond the religious dimension, influencing various aspects of daily life, including gender roles, family structures, and social norms. The diverse perspectives on conducting *nikah* contracts in mosques highlight the social and cultural dynamics that shape these communities.

The progression of time and the impact of globalization present new challenges in preserving and understanding the practice of marriage contracts within communities. Social and cultural transformations significantly shape societal perceptions of marriage procedures, particularly

in the context of *Syafi'i* jurisprudence, which serves as a cornerstone of Islamic marriage law. The interplay of local and religious values with external factors such as lifestyle changes, education, and urbanization further complicates this understanding. Consequently, it becomes essential to delve deeper into how communities perceive and conduct marriage contracts in mosques, ensuring alignment with the principles of *Syafi'i* jurisprudence.

Marriage in Islam is a sacred contract that establishes mutual rights and obligations for the husband and wife. In *Syafi'i* jurisprudence, a valid marriage contract requires specific pillars and conditions: *ijab* and *qabul* (the offer and acceptance), a marriage guardian (traditionally the bride's biological father), two just witnesses, a dowry, and the mutual consent of both parties without coercion. Conducting marriage contracts in mosques is a common practice, as it is believed to bring blessings, symbolize Islamic values, and ensure transparency. However, modern challenges such as urbanization, shifting social values, education, open access to information, and foreign cultural influences have introduced complexities to these practices. Despite these changes, the foundational principles of *Syafi'i* jurisprudence remain intact. A profound understanding of marriage contracts based on *Syafi'i* jurisprudence is essential to preserving religious and cultural traditions, making the mosque-based marriage contract a symbol of blessing, transparency, and lifelong commitment.

Several months ago, a controversy emerged within the Acehnese community that gained significant attention on social media. Some *Teungku/Ustadz* asserted that conducting a marriage contract inside a mosque is *haram* (prohibited), as they perceived it to mimic the practices of non-Muslims who marry in churches. This opinion sparked debate within the community and influenced their understanding of the appropriateness of performing marriage contracts in mosques. The diversity of perspectives on this issue reflects the social and cultural dynamics within the community, as well as the challenges in upholding and interpreting the principles of *Syafi'i* jurisprudence in modern contexts. In light of this, the researcher seeks to delve deeper into the practice of marriage contracts in mosques from the perspective of the *Syafi'i* school of thought.

RESEARCH METHODS

This research adopts a qualitative approach, utilizing a library-based methodology to gather primary and secondary data. Given the object of study, it can be classified as normative research. According to Moleong (2005, p. 70), normative research relies on legal theories sourced from legal documents and classical *fiqh* texts. The primary data sources include library materials, with relevant literature from the *Syafi'i* school of jurisprudence being meticulously reviewed and, where necessary, copied from non-circulating library collections or accessed online.

Data processing and analysis were conducted continuously, both during and after data collection, adhering to the interactive analysis model outlined by Miles and Huberman, as cited by Sukmadinata. This model involves three key stages: data reduction, data display (presentation), and conclusion drawing/verification. To ensure comprehensive analysis, data collected from literature reviews and field observations (including interviews) were systematically organized, connected, reduced, displayed, and interpreted.

Throughout the research process, the researcher engaged in an iterative cycle of data collection and analysis, refining insights into the research problem from the outset. This continuous and circular approach ensured that findings were grounded in robust, methodical examination of both theoretical and empirical sources.

RESULTS AND DISCUSSION

Review of Marriage in Shafi'i Fiqh

Definition and Legal Basis of Marriage in Shafi'i Fiqh

Marriage is the establishment of the validity of a marital bond. Marriage validation (*isbat nikah*) is the ratification of a marriage conducted according to Islamic law. In the Qur'an and hadith, marriage is referred to with the words نكاح (*nikah*) and زواج (*zawaj*), as seen in Surah An-Nisa verse 3 and Surah Al-Ahzab verse 37(Amir Syarifuddin, 2006, p.35).

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ وَرُبْعًا فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ۚ ذَٰلِكَ أَدْنَىٰ أَلَّا تَعُولُوا ۗ

Literally, *An-Nikah* means *Adh-Dhammu* and *Al-Jam'u*, which refer to gathering or uniting. It is also used to mean *Al-Wath'u*, denoting sexual intercourse, and *'Aqdun* (Zuhaili, 1985, p.29), which signifies a contract. According to sharia, marriage is a contract established by Islamic law to permit lawful intimacy between a man and a woman, allowing both to enjoy companionship within a mutually agreed framework.

In *Fiqh Sunnah*, marriage is described as one of Allah's *sunnatullah* (divine laws) that applies universally to all His creations, including humans, animals, and plants. It is the means chosen by Allah SWT for the continuation of offspring, reproduction, and the preservation of life. Marriage serves as the way through which individuals fulfill their roles in realizing the objectives of marriage, once they are ready to take on its responsibilities.

Moreover, marriage is also defined in Indonesia's Marriage Law Number 1 of 1974, which describes it as a physical and spiritual bond between a man and a woman as husband and wife, aimed at establishing a happy and lasting family or household, grounded in faith in Almighty God.

Pillars and Conditions of Marriage in Shafi'i Fiqh

The pillars and conditions of marriage in Islam are:

The requirements for a prospective husband in Islam include being clearly identified as a man, acting on his own desire and choice (not coerced), not having four wives, having no mahram (forbidden) relationship with his prospective wife, not being married to a woman whose marriage to the prospective wife is prohibited, and knowing that the prospective wife is not forbidden to him. Additionally, the prospective husband should not be in the state of *ihram* for Hajj or Umrah.

The requirements for a prospective wife include being clearly identified as a woman, having received permission from her guardian, not being married, not being in the *iddah* (waiting) period, and having no mahram relationship with the prospective husband. If the prospective wife is

a widow, she must consent of her own free will and not due to coercion. Furthermore, she must not be in the state of *ihram* for Hajj or Umrah.

The requirements for a guardian include being male, Muslim, of legal age, rational, free (not a slave), just, and not in the state of *ihram* for Hajj or Umrah.

As for the two witnesses, they must be male, Muslim, of legal age, rational, independent, just, capable of seeing and hearing, understanding the language used in the contract, not in the state of *ihram* for Hajj or Umrah, and present at the moment of the *ijab* (offer) and *kabul* (acceptance).

Finally, the conditions for *ijab* and *kabul* are that the words used must clearly indicate marriage, whether in Arabic, Indonesian, or the local language of the bride and groom. The *ijab* and *kabul* must be continuous, without any interruption by words or actions. The marriage contract should take place in one location and should not be tied to any specific requirements or time constraints.

Place of Conducting the Marriage Contract in Shafi'i Fiqh

In *fiqh Shafi'iyyah*, there are no specific provisions requiring a particular location for the marriage contract. However, several etiquettes and customs are recommended when carrying out the marriage contract: Mosque: Many *Shafi'iyyah* scholars recommend conducting the marriage contract in the mosque, as it is considered a holy and blessed place. By performing the marriage contract in the mosque, it is hoped that the blessings from this sacred space will be abundant for the newlywed couple. The Bride's House: In various regions, it is customary to hold the marriage contract at the bride's house. This is due to the convenience of the location, as it is easily accessible for the bride's family and relatives, offering a more comfortable setting for the family.

Adequate and Respectful Place: If the marriage contract is not held in a mosque or at the bride's house, it should take place in an appropriate and respectful location, such as a hall or meeting room. The most important factor is that the place can accommodate the family and witnesses comfortably, while maintaining a solemn and sacred atmosphere. *Shafi'iyyah* scholars have different views on the location of the marriage

contract. Imam *An-Nawawi* stated that the marriage contract can be carried out in a mosque or any other place that meets the requirements of Islamic law. Imam *Al-Mawardi*, a prominent cleric of the *Shafi'iyyah* school, also emphasized the preference for conducting marriage contracts in mosques, in alignment with the majority opinion of other *Shafi'iyyah* scholars, considering both the benefits and adherence to Islamic law. Similarly, *Ibn Qudamah*, a scholar from the *Hanbali* school, acknowledged that the marriage contract could be performed in any location deemed lawful according to Islamic law.

Review of the Implementation of Marriage Contracts in Mosques According to Fiqh Sha fi'iyyah

The majority of fiqh scholars are of the opinion that a marriage contract in a mosque is sunnah, based on the hadith which they use as evidence and the benefits of having it done there. In the book *Kanz Al Ghāribin 'ala Minhāju Al-Thālibīn* it is stated:

الغالبية من العلماء يوصون بأن يُجرى عقد النكاح في المسجد ليحظى بالبركة ويعلمه الناس
(Mahalli, 2014, p. 135)

Meaning: The majority of ulama recommend that the marriage contract be carried out in the mosque so that it can receive blessings, and that it will be known to the public.

وعن عائشة رضي الله عنها، قالت: قال رسول الله صلى الله عليه وسلم: أعلنوا هذا النكاح
واجعلوه في المساجد واضربوا عليه بالدفوف

Meaning: From *Aisyah Radhiallahu Anha*, she said, *Rasulullah Shallallahu'alaihi Wa Sallam* said: Announce the wedding, and do it in the mosque, and (make it lively) by hitting the duf (tambourine).

أما من حيث الفوائد، فإن عقد النكاح في المسجد له بركة. ولكن هناك مشكلة في هذا السياق. إذا كان الاستنتاج هو ذلك، فإنه يجب على النبي صلى الله عليه وسلم أن يبذل جهداً كبيراً لإقامة عقد النكاح في المسجد بنفسه، وأن يبذل جهداً لشرح هذا لرفاقه.

لذلك، الأمر الأكثر لياقة للقول به هو أن تنفيذ عقد النكاح في المسجد في الأصل جائز، خاصة إذا تم القيام به فقط بين الحين والآخر، أو يتوقع أن يكون أكبر احتمال لتجنب المنكرات مقارنة بإقامته في مكان آخر. ولكن إذا تم إجراء العقود باستمرار، أو إذا اعتبر أن ذلك يحمل فضيلة خاصة، فإن ذلك يعتبر بدعة. ينبغي التذكير بهذا ومنع الناس من القيام بذلك من هذا الجانب. إذا كان سيحدث في هذا الحدث اختلاط بين الرجال والنساء، أو حدوث استخدام للموسيقى، فإن عقد النكاح في المسجد يكون أكثر تحريمًا من خارجه، لأن ذلك ينتهك نقاء بيت الله. (Dimiyati, 2007, p.261)

Meaning: As for the benefits, the marriage contract in the mosque has blessings. However, in this case there is a problem. If that is the conclusion, then the Prophet Sallallahu Alaihi Wa Sallam should have really made an effort to carry out his own marriage contract in the mosque, and tried to explain this to his companions. Therefore, what is more appropriate to say is that carrying out the marriage contract in the original mosque is permissible, especially if this is only done occasionally, or there is a greater chance of avoiding evil than if the contract was held in another place. However, if every contract is continuously carried out, or it is believed that this has a special priority, then this is considered heresy. It is appropriate to remind this and prohibit people from doing it from this side. If at the event there will be ikhtilat (mixing bawur) between men and women, or music will be used, then the contract in the mosque becomes even more forbidden than outside, because it violates the sanctity of God's house.

الدليل على شرعية عقد النكاح في المسجد هو حديث امرأة قدمت نفسها لتتزوج بها النبي، كما رواه البخاري ومسلم، ثم تزوجها بأحد أصحابه في المسجد. ولكن لا يوجد حديث يشير إلى أنه عاد ليفعل ذلك مرة أخرى بعد ذلك. سئلت اللجنة الدائمة للبحوث العلمية والإفتاء: "أنا أتطلع إلى الشريف لتوضيح حكم شرع الشخص الذي يقيم عقد النكاح في

المسجد. يجب معرفة أنه سيتم الحفاظ في هذا العقد على قوانين الإسلام، مثل عدم وجود اختلاط بين الرجال والنساء أو مرافقته بالموسيقى. "أجابوا: "إذا كانت الحالة كما ذكرت، فإنه لا بأس بإقامة عقد النكاح في المسجد".

أيضاً، سئلوا: "هل إقامة عقد النكاح في المسجد بشكل متواصل يعتبر من السنة المستحبة أم من البدع؟" أجابوا: "مسألة إقامة عقد النكاح في المسجد أو في أماكن أخرى هي قضية واسعة من الناحية الدينية. وفي علمنا، لا يوجد دليل يثبت أن إقامته في المسجد بشكل خاص هو سنة. لذلك، استمرار إقامته (عقد النكاح) في المسجد يعتبر بدعة". وقالوا أيضاً: "ليس من السنة إقامة عقد النكاح في المسجد، ومواصلة إجراء عقود النكاح في المسجد باعتقاد أنها سنة هي إحدى أشكال البدع. كما قرر النبي صلى الله عليه وسلم في قوله: من أحدث في أمرنا هذا ما ليس منه فهو ردّ. (Abd Razzaq, 2006, p. 110-111).

Meaning: The rationale for the provision of marriage contracts in mosques is based on the hadith of a woman who offered herself to marry the Prophet, as narrated by Bukhari and Muslim, then he married her to one of his companions in the mosque. However, there is no history that he did it again after that. Ulama who are members of Al-Lajnah Ad-Daimah were asked: "I hope that your excellency will explain the religious law for people who hold a marriage contract in the mosque. Please note that Islamic rules will be maintained in this contract, such as no ikhtilat (mixing) between men and women or accompanied by music. They answered: "If the conditions are as stated, then there is no harm in holding the marriage contract in the mosque." They were also asked: "Is carrying out the marriage contract continuously in the mosque part of the recommended sunnah or is it a bid'ah?" They answered: "The matter of holding a marriage contract in a mosque or other is a broad matter from a religious perspective. And as far as we know, there is no established evidence that shows that implementation in mosques specifically is sunnah. So, continuing to carry out (marriage contracts) in mosques is bid'ah."

And they (also) say: "It is not sunnah to hold a marriage contract in a mosque, and continuing to hold a marriage contract in a mosque and the belief that this is sunnah is a form of heresy. As there is a decree from the Prophet Sallallahu'alaihi Wa Sallam who said: "Whoever creates a new matter in our (religious) affairs, which does not exist (teachings) then he is rejected."

If women attending the marriage ceremony are preening and children are making noise in the mosque, then carrying out the marriage ceremony in the mosque is prohibited, because it creates disorder. It is known that buying and selling in mosques is prohibited. However, a marriage contract is not considered a sale or purchase. Therefore, if the marriage contract is held in a mosque, there is nothing wrong with it. However, advocating for this practice to the extent of insisting that one must leave the house to go to the mosque, or that both parties mutually agree to hold the contract in the mosque, requires evidence. As of now, I do not know of any proof for this.

From this explanation, it can be understood that the implementation of marriage contracts in mosques does not have a strong basis in the Sunnah of the Prophet Muhammad SAW. While in *fiqh Shafi'iyah*, there are no specific provisions for the location of the marriage contract, most scholars from the *Shafi'iyah* school support the idea of holding the contract in a mosque. This is based on the opinion of Imam *Al-Ghazali* in his book "*Ihya' Ulumuddin*", where he states that the marriage contract is a sacred contract, and it is recommended to perform it in a clean and respectful place. While no specific place is required, performing the contract in a mosque is considered better because of the blessings associated with it.

Imam *Nawawi* in "*Al-Majmu*" also explains that there are no special provisions regarding the location of the marriage contract. The contract can be carried out at home, in a mosque, or at another place, as long as nothing invalidates the contract. However, he suggests that it be held in a place where many people can attend, so that the message of Islam may be more widely spread. Furthermore, *Ibn Hajar Al-Haitami* in his book "*Tuhfatul Muhtaj*" states that while the location of the marriage contract is not specifically determined, it is recommended to carry it out in a mosque due to the blessings it holds and its distance from negative influences.

In *fiqh Shafi'iyyah*, there are no binding provisions regarding the specific location for the marriage contract. However, *Shafi'iyyah* scholars emphasize that the most important aspect is fulfilling the legal and harmony conditions for the marriage contract, as well as choosing a place that brings blessings and convenience to all parties involved. Performing the marriage contract in a mosque, at home, in a marriage hall, or another location is all permissible, as long as it does not disrupt the order or sanctity of the event.

CONCLUSION

Conducting the marriage contract in a mosque according to Shafi'i fiqh is allowed and even recommended because it contains many virtues and blessings. The mosque as a sacred place of worship provides blessings to the married couple and shows respect for the symbols of religion. However, conducting the marriage contract in a mosque also faces several challenges, such as limited facilities and differences in views among the community. Therefore, proper arrangements and clear socialization are needed to overcome these challenges. This study highlights the importance of a deep understanding of conducting the marriage contract in a mosque according to Shafi'i fiqh principles in maintaining religious and cultural norms amidst the continuously evolving social and cultural dynamics.

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