

Contract Marriage

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Abstract— From various history told that contract marriage is the sharia that is derived from the form of prophet ordinances. Although the Prophet himself was not perpetrator of contract marriage but the reaction and response of the Apostle to behavior of contract marriage the companions quite a legitimacy about the rules of implementation. The basic principle of a contract marriage in the Apostle is to protect human dignity. Not only related to the interests of men who are the contract marriage, but also consider the benefits of women who are married by contract. Therefore, even though human life has undergone change and development, still when we want to perform the contract marriage must adhere to the basic principles.

Keywords— *contract marriage; existence; urgency*

I. INTRODUCTION

Islamic Sharia is a path that must be passed by the Muslims to reach God. Not only the Qur'an which is the main source but also the hadith of the Prophet both in the form of word, deed, ordinances, physical and non physical properties of the Apostle. Islam is not only a religion that teaches about the ordinance of certain worship. The existence of the rules or the system of provisions is to regulate human relations with God and human relationships with other human beings.

Although it has the same functions and roles, but from the existence side of the hadith has no similarity with the Qur'an. Because when God has given a direct care assurance against the Qur'an, not so with Hadith. The long journey that must be passed by Hadith to get to the beginning of the Kodifikasi stage has been almost a century long. Although at this stage the codification is still very simple but quite capable to be the first step of the development of hadith and its science.

In this long process, not only affect the development but also the authenticity of the a sanad and the hadith and its understanding. It is not questionable that the scholars let alone the Prophet as the main source of hadith, but 100 years passed by relying only on memorization without adhering to an official record, making the Hadith many are torn by various slander and interest. Finally, the scholars agreed that the hadith requires the stages of research to be able to practice the comprehensive hadith. At least three important stages must be passed by the Criticism of sanad, the criticism of matan and understanding.

II. RESEARCH METHOD

Unlike the Qur'an, when dealing with a hadith before it reached the stage of understanding. The first step to take is criticism of hadith is criticizing the source of the history from the side of the a sanad and matan. This stage is done in order to get to one belief that the history actually comes from the prophet. When the saheeh sanad and matan, then the research will be able to continue to the level of understanding. A comprehensive understanding can only be done while not only paying attention to the text but also the context relating to the existence and urgency of the birth of a provision. It could be the existence and urgency of the cause of the rule in the period of prophet is not present in the situation of Islamic society today, so that leads to a conclusion of its invalidity. It may even be applicable to only a handful of people, but it is strictly forbidden for only certain groups of people. Contextual understanding is done at least by analyzing the language, cause of the investigation and the opinion of the scholars.

III. RESULT AND DISCUSSION

A. Criticism of Hadith

The hadith on the implementation of *contract marriage* is divided into two groups, namely the hadith that allows and hadith that prohibit. The hadith that allows among them is the history of Ibn Abbas [1] and the history of Muslim al-Qurri [2]. The hadith that prohibits them is the history of Ali ibn Abi Talib [3], the history of Salamah al-Akhwa'i [4], Abd al-Razaq's history [5], the history of Sabrah al-Juhniy [6], the history of Ali ibn Abi Talib [7], a chronicle of Abu Hurayrah [8] and two histories of Rabbi ' bin Sabarah [9].

It is narrated from the quality aspect of the sanad, the hadith of Ibn Abbas in Ibn Hajar's view of his status and to calculate it as a hadith of the syadz. From the quality of matan, the history of Ibn Abbas according to the scholars contradictory hadith with hadith quality is more valid. Ulama also rejected the substance of hadith that seems to be cause revelation surah al-Mu'minin verse 6. Because this verse belongs to the verse Makiyah that descended on the first period of Islam. In fact, the practice of legal and constitutional contract marriage in the Medina period [10].

As for the history of Muslim al-Qurri although not problematic from the side of the sanad, but there is a difference among the scholars in the substance is the pronunciation of contract. In the Book of Muslim and Ahmad put the history of Muslim al-Qurri in a Hajj is not on the book of contract marriage as a gesture that the intent of contract pronunciation is the contract al-hajj instead of contract al-Nisa'.

It is very different from the opinion of al-Thabathabai. In his commentary, he was the hadith of the history of Muslim al-Qurri by including the pronunciation of contract and also chose a history that calls contract al-nisa'i as the basis for the legalism of contract marriage in the time of the prophet. Al-Thabathabai's opinion is strengthened by the explanation at the end of the hadith that describes the confirmation of the legitimacy of the implementation of the contract marriage to the mother Abdullah bin Zubair. As it is known in the Prophet history that the mother of Abdullah bin Zubair is Asma ' binti Abu Bakar, the woman who contract marriage by Zubair bin Awwam. Even in his marriage, they got two sons, Abdullah ibn al-Zubair himself as a friend who confirmed the hadith and Urwah bin al-Zubair his brother.

The hadiths about the banning of *contract marriage* in Khaibar were all narrated from Ali ibn Abi Talib, as the last a sanad and the first narrator without any support history. However, scholars have almost agreed on the validity of the sanad. As for the quality of the scholars differ in their response. In Musnad al-Humaid, Ibn Abbas said that when he was in Khaibar, the prophet had forbidden to eat local Khimar meat and contract marriage, while Ibn Uyainah understood that the forbidden by the prophet in Khaibar only ate the flesh of the Khimar do not include the practice of contract marriage.

Scholars also have differences of opinion in determine quality of hadith concerning the prohibition of marriage in the war of *Awtas*. The pronunciation of ' *Am Awtas* ' in the hadith is not the pronunciation in the *Awtas*, so it may be that the meaning of *Fath al-Makkah* is not the war *Awtas*. According to Muhaddis the disclosure of the word ' *Am* ' *Awtas* is easier to remember than the word *Fath al-Makkah*. According to Abu Hatim the war *Awtas* and *Fath al-Makkah* is an event. The prohibition of contract marriage at the time of Umrah al-Qadai, according to Muhadditsin quality of his hadith is weak because of the weak sanad.

Contract marriage ban on ' *Am al-Fath* '. There is no problem around the sanad and *matan* of the hadith. Therefore this history is considered valid in terms of the a sanad and its *matan*. Ibn Hajar assessed the Hadith about the prohibition of the *contract marriage* in the *Hunain* month of Syawal was *Tashif*. The prohibition of *contract marriage* in the war of *Tabuk*, the scholars assess the quality of respect of daif because of the weak sanad and can not be used as a *hujjah*. Similarly, the prohibition on the hajj of Wada ', the quality of his hadith is weak, because it has a weak sanad. Although it differs in the assessment of the quality of the a Isanad and *matan* hadith, it remains on the conclusion that the history that tells about the marriage of *mut'ah* is true from the prophet.

Differences of opinion among scholars around the quality of a *sanad* and *matan* Hadith is not to doubt the validity of news sourced from the prophet that makes it as false news. Therefore, it can be asserted that the *contract marriage* has a clear source of sharia that is prophet. The question of understanding that is integral and comprehensive will be continued through the contextual traditions described in the next sub-chapter.

B. Hadith Understanding

1. Language Terminology and term

Being reviewed in terms of the definition language of contract marriage will be focused on the word al-Mut'ah. In terms of pronunciation, *al-Mut'ah* consists of three things: *al-hajj* contract, *al-talaq* contract and *al-nisa* contract [12]. *Al-mut'ah* pronunciation is *isim masdar* of *matta'a* meaning *al-intifa'u* and *al-taladhudh* [11] Although the word *mut'ah* has a different meaning but in the end it refers to *al-intifa'u* definition. *Al-intifa'u* from a meaningful philological aspect is seeking and hoping for benefits and delicacy. Everything that is taken advantage is called *mata'un*.

The term mating contract in the view of *Ahlussunnah* and *Syi'ah* is a man marry a woman until a certain deadline by giving a certain dowry and if the deadline has been exhausted then by itself they parted without *talak* or divorce. The woman must be (wait) merely to ensure the net of the uterus and the inheritance does not apply between the two. Simple contract mate is a wedding by mentioning a certain time limit.

When observing the history of Ibn Abbas which tells about the legitimacy of contract marriage and also Muslim history and other histories on the prohibition of contract marriage, it is understood that the definition and procedure of marriage contract is a man coming To a woman then they made a covenant (contract) and set a certain time limit. Men give the dowry (wage) to women. In Muslim history It is said that the dowry was a shawl and the deadline mentioned only during wartime, could be two days, three days or less. Usually not more than 45 days.

There is no obligation to make a living and not inherit each other. This is understandable because if it is reviewed from the contextual implementation The marriage contract is in the battlefield or in a journey that is not possible to provide a living birth or bath or fulfillment of various needs Adequate unless only fulfillment of sexuality desires. In war and travel conditions there is usually no excess of property that can be given. There is no waiting time except only to ensure that the uterus is clean or not pregnant. The purpose of marriage is only for a short time, do not expect to offspring, or to seek calmness except only as a release of thirst when the thirst is clogging in the throat.

2. Analys

When viewed from the historical data the existence of the *contract marriage* is not disputed. The number of histories that tell about *contract marriage* is enough to give confidence in its existence. The Companions of the *nikah mut'ah* are the leading companions who are not the least number of them are Jabir bin Abd Allah, Abd Allah ibn Mas'ud, al-Zubair bin Awwam, Asma binti Abu Bakr, Abdullah bin Umar, Mu'awiyah bin Abi Sufyan, Abu Sa'id Al-Khudri, Salmah ibn Umayyah ibn Khalaf, Mabad ibn Umayyah, Khalid bin Muhajir al-Makhzumi, Amr bin Harith, Ubay ibn Ka'ab, Samurah bin Jundab, Sa'id ibn al-Jubair and Zufar [12]. Although the Prophet did not commit *nikah mut'ah* but agreed that the hadith is not only the behavior of the Apostle but also includes the decree or his *ordinances* for the attitude of the friends around him.

Through the reason narrated of hadith, it is known that the legitimacy of the implementation of *nikah mut'ah* is only happening when a friend is on a journey away in a country that he does not know. In order to settle, maintain the safety of themselves, the property and its honour, so he commits *contract marriage* with the locals. Further Muhaddis asserted that *contract marriage* was only in the early days of Islam. In addition to the security and war emergency factors, the cause is a condition of the society that has just been built on the Islamic tradition that is fond of adultery and playing women. It is not allowed for the marriage of the carcass, blood and pork in the most difficult times as for safety and medical purposes.

In particular, the rules of *nikah mut'ah* can be seen at the time of Khaibar war and Awtas war, namely to control the attitude of friends. At that time, not a few of the muslim soldiers went to leave the camp just to perform *contract marriage* with the non muslim women. Rasullullah can understand that the muslim soldiers are a group of high spirits in both jihad and desire against the opposite gender. In this condition, fasting is not an effective solution, because it will be physically weak. prophet suffice the women of prisoners of war as the release of the soldier Thirst. Because it marries non muslim woman in addition to harm *aqidah* also very dangerous on the defense stability of the soldiers. This rule is not because it does not protect the honors of prisoners of war but actually Islam comes in the time of slavery has spread everywhere. It does not exactly seem to be for Islamic Shari'a that the concept of keeping the treasures and honors of a man, immediately obliging them to dispose of their treasures and pleasures at once.

The variety of reason narrated that informs about different places and times about *contract marriage* gives birth to the understanding that the practice of *contract marriage* has been legalized and banned several times. It also gives a cue that the issue of *contract marriage* is not an easy thing so it is not enough if only one time is warned. The history agreed upon by the scholars as a proof of dismission, among others, on the execution of the *Haji Wada*, also through an *atsar* which relates that Umar ibn Khatab in a speech prohibits the implementation of *contract marriage*. The prohibition of a *nikah mut'ah* mentioned in the speech of Umar ibn Khatab in the presence of friends and Taabi'een without protest from one of the companions, is seen as an authentic proposition to the approval of the Companions to the prohibition of *contract marriage*.

In addition, when it is based on the context of the between *nasikh* and *mansukh*, the prohibition of the *contract marriage* in the execution of the *Haji Wada* and in the speech of Umar bin Khatab as a caliph at that time, can generally be said to have eliminated the law of marriage in the execution of the *Haji Wada* and in the speech of Umar bin Khatab as a caliph at that time, can generally be said to have eliminated the law of marriage ability that happened in the previous days.

If observed in the enforcement of Islamic law, always hold the principle of gaining benefit by avoiding *mudharat*. There is no exception in the marriage rules. There are several alternatives that are prescribed by religion, different in terms of being adjusted to the conditions of the *mukallaf*. In common situations, for example, youth can perform monogamous marriages, one male to one woman [13]. But especially for youngmen who have certain conditions for example because of the willingness and ability to be fair can do a polygamy marriage by marrying several women at once but not by way of *mut'ah* [14]. In the Word of God almighty also explained the fact of a marriage is to achieve the glorious goal for anyone who lived. Build lasting households, gain offspring and foster good relations between the two large families. This objective will certainly not be obtained from a *contract marriage* that is nil of the purpose. Because the purpose of marriage is no other than merely the release of a moment of thirst, when it is lost, it ends with a relationship.

When the marriage is regarded as the sunnah of the Apostle and the practice of half-religion, it will be more motivating to maintain and maintain continuity. Because the responsibilities of family, as a husband, wife or children are not limited only within a certain period of time but will continue and remain accountable until the day of judgement [15]. If the *contract marriage* is a good solution, certainly for young men who want to marry but do not have the ability of the Apostle does not command him to fast but will certainly advise him to make a marriage by *mut'ah*. In a history Ibn Hibban explained that when the Prophet the suffering of the women of the marriage of the perpetrators *mut'ah* after the marriage, then expressed through the wailing cry. the Apostle immediately prohibits the implementation of *contract marriage*.

Finally, the thing that also needs to be examined from the sharia of Allah that Muhammad as a prophet and Apostle never recommended a sunnah even if he was the first person to do so. It would be the implementation of a *contract marriage* from various histories told that the apostle never did until the end of life. Even in the situation that allows the war Khaibar when it came a young widow named Shafia Binti Huyai who handed herself to the prophet. The apostle married him but not *mut'ah*. The *mahar* given by the Apostle was liberation as a prisoner of war. Then the Apostle brought Shafiyah to Mecca gathered with the other prophet's wife.

Need to be considerate when about to connect the contextual hadith in the past with the present is that a Muslim at all times and the opportunity is always tied to the rules of religion. No even from his lifetime could be detached from religion, even in the condition of sleep and alone. Time may be rolling, human life and needs will continue to develop, but the principle of the enforcement of a sharia should be able to protect human dignity and make it a better human from time to time. Although based on the context of time, the marriage of Mut'ah can be classified as a legal group that has been submitted by the Shari'a, but in particular the marriage of *mut'ah* still applies to certain groups of people because of the situation and circumstances That is, protecting human dignity as an initial cause.

IV. CONCLUSION

The execution of *contract marriage* is only to protect the dignity of the culprit for both men and women. Not only legalize the distribution of biological desire but also in order to protect honor, soul, property, security to defend the religion and defend the *Aqidah*. This should be the current consideration when it will legalize the implementation of the *nikah mut'ah*, as far as the existence and urgency of the *contract marriage* is able to protect human dignity.

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