

## Review of Islamic Law Against Sekufu Marriages in Bani Alawiy Tradition in Palu City

Saiye Affan Assegaf<sup>1\*</sup>, Suraya Attamimi<sup>2</sup> & Gasim Yamani<sup>3</sup>

<sup>1</sup> Postgraduate Master of Family Law University Datokarama Palu, Indonesia

<sup>2</sup> State Islamic University Datokarama Palu, Indonesia

<sup>3</sup> State Islamic University Datokarama Palu, Indonesia

\*Corresponding Author: Saiye Affan Assegaf E-mail: [affanassegaf0@gmail.com](mailto:affanassegaf0@gmail.com)

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### ABSTRACT

The research is aimed at finding out the legal review of sekufu marriages especially in alawiy bani in Palu city. researchers use the type of qualitative research, using data collection techniques, through observations, interviews and documentation. Data analysis techniques used for data reduction, data presentation and data verification. The results of this study show that the marriage of Alawiy in Kota Palu is divided into three models: marriage between Sayyid/syarif with Sayyida/syarifah, marriage men 'Ajam (not from the Bani Alawiy) with Sayyid/Syarifah and marriage sayyid (syarif) with women 'Ajam (bukan dari kalangan Bani Alawiy). Then the examination of the Islamic law of the problem is that kafa'ah is a general condition of a marriage and not a legal condition of marriage, in connection with this three priests Mazhab agreed and the other said that kafa'ah is the legal conditions of a wedding. From this study, the conclusion is that Bani Alawiy is highly recommended to maintain and implement Sekufu's marriage, especially women who are called the Syrian. If they are married to someone other than them, they will be dissolved. It was advised that the heads of the Alawiy should establish a Rabitha Alawiyin institution in the city of Palu as soon as possible, so that the matters relating to Nasab and Bani Alawiyah could be properly implemented.

### 1. Introduction

Marriage is not just once a year or two years but for a lifetime, and there are so many things that need to be prepared, ranging from the physical, psychological, economic, religious aspects, and the ability to adapt and adapt to each couple's family. Marriage in Islam is not merely a relationship or a contract of ordinary sexuality, but it has a worship value. Islam teaches some prejudice principles in marriage. One of the issues related to the question of kafa'ah or kufu'.

Kufu' in marriage is a man comparable to his future wife, equal in position, comparable with the social level and equals in morality and wealth. The Qur'an says: "Because there is no revelation in the Quran or in the Hadiths of the Prophet, it is spoken of among the worshippers, whether about the position of the marriage, or what criteria are used in the determination of the Qur'ân." The Kafa'ah which is discussed near all the fiqh books is not offended by the Marriage Act at all and is offended at a glance in the KHI, which is article 61 in discussing the prevention of marriage and which is recognized as the criterion of kafa'ah is what becomes the agreement of scholars, that is, the quality of diversity. There is no excuse for preventing marriage, except because of religious differences.

<sup>1</sup> Saiye Affan Assegaf is a Ph.D Candidate of Islamic Family Law Study Program at Postgraduate School, State Islamic University Datokarama Palu, Indonesia. This paper was presented at the 2<sup>nd</sup> International Conference on Islamic and Interdisciplinary Studies (ICIIS) 2023, as a presenter, held by the Postgraduate School State Islamic University Datokarama Palu, Indonesia.

There are many Arabs living in the city, especially of the Alawiyyin, among whom are Al-Jufri, Al-Habsyi, Alaydrus, As-Seggaf, Bin Yahya and so on. As in general, the Arabs have the principle of kafa'ah among them is to have the same nasab and the descendants of the silsilah. However, with the development of the era in the social society the principle of kafa'ah in the case of nasab and the descendants of silsilah this is not so much attention anymore because it is not as good as the present time in the matter of social society plus more our country Indonesia does not regulate the Principle of kaf'ah of the matter Nasab and descendants of Silsilah. In matters of marriage the government has regulated by issuing the Law No. 1 of 1974 to regulate the execution of marriages for Indonesian citizens. As for his optional issue, he issued the P.P. No. 9 of 1975. According to article 61 of the Law on the Prevention of Marriage, no sect cannot be used as an excuse for preventing marriage, except for sect because of a different religion or religion.

So many of the people who married with other tribes and without paying attention to nasab and silsilah descendants, even among them there are those married to indigenous or not included in the Bani Alawiy civilisation Arab towns used to call it with Ahwal. But in the City of Palu marriage sekufu who still watched the Nasab and Silsilah offspring of masi very many found especially among Bani Allawiy itself, even the tradition is very well kept. They thought that if they were not married to each other Bani Alawiy then there would always be a disaster that affected the family so that it is not rare to find if they are married not to the same Bani alawiy and then they would be expelled from the family. If you keep this tradition, then the happiness of the husband and wife will be more assured.

## 2. Literature Review

A marriage is a marriage that is permitted by means of lafadz كاح ان (marriage) or تزويج (wedding), the word marriage itself means akad, and mayzy means intersection, according to the more shahih opinion. According to the language, marriage means unification. It's also meant to be a physical relationship. The understanding of body relationships is just a metaphor. It is a covenant between a man and a woman to fulfill their biological desires so that between them there are rights and obligations. In fact, marriage is a bond that must be held accountable both to one another and to God. The covenant must arise from the depths of the heart so that a family can be created. It is not an ordinary covenant, but a holy one, both of which are joined together in the name of God.

The basic law of marriage is Sunnah. These basic laws can change according to the conditions and circumstances of people at the time of their implementation. Therefore, the law of marriage can be turned into compulsory, Sunnah, Mubarak, Akruh even illegal. The purpose of marriage is divided into two parts: the primary and the secondary. As for the primary purpose of marriage, it is to obtain a shaleh and shalehah offspring for each spouse. Children are an investment in the Hereafter to be fought for and preserved. Therefore, if a spouse has difficulty in achieving this goal, let him pray to God for a pleasant child, a loving and a grievous child.

### 2.1 Understanding of the Kafa'ah

Kafa'ah is derived from the original word al-kufu meaning al-Musawi' (balance). When associated with marriage, kafa'ah is meant by the balance between the candidate husband and wife, in terms of position (hasab), religion (din), descent (nasab) and the like.

### 2.2 History of the birth of the Kafa'ah concept

There are two theories about the origin of kafa'ah. The first theory by M.M. Bravman argued, this concept came back to pre-Islamic times. To support this theory, Bravman wrote a few cases that have ever happened. For example, the case of Bilal's wedding plan. Besides, he also wrote two other cases, which in the marriage itself can be seen the Caia'ah mentioned clearly. While the second theory, which was driven by Caulson and Farhat J. Ziadah said the concept began in Iraq, especially in Ku'fah, where Abu Hanifah lived. According to this theory, the concept of kafa'ah is not found in the book of Malik, al-Muwatta'. This concept was first discovered in Maliki's mazhab. Al-Mudawwanah. In this book itself only insulted very little. Even noted, the priest Malik himself never discussed the issue.

### 2.3 Religious Opinion About the Kafa'ah

Maliki's mazhab thinks that in marriage there's a kufu' but the true kufu' is based on religion and morals. Therefore, it's not about inheritance, work, or wealth. Hanafi's mazhab's view is that in marriage it is a guardian's right, not a woman's, in this Mazhab it is, descent, freedom, Islam, godliness, obedience, wealth and work. Kufu' according to the mazhab syafi'i is seen from four aspects, namely, descent, religion, freedom and work. Kufu' according to the mazhab of Hambali is the same as the mazhab of the priest Shafi'i, with the addition that the poor man is not as well as the rich woman. In the marriage, there are different opinions about whether or not it is important and whether it is a legal condition of a marriage. According to the Ast-Tsauri, Hasan al-Bashri, and al-Khurki of the Hanafi mazhab argue that kafa'ah is not a legal condition of marriage. And it's not a condition of obedience. So marriage remains lawful and ordinary when it does not take into account whether the husband is equal to the wife or not.

### 3. Methodology

The type of research used is qualitative approach research, because it requires an explanation of the law of equal marriage. The location of this research in Palu City is more specifically in the Narasource and Informan Houses. The research was conducted officially and obtained a research permission from the institute (UIN Datokarama Palu) which was addressed to Narasource and Informan so that the research was known at the research site. It is intended to enable the author to work with informants who are closely related to what the author is researching, so that the barriers known during the research can be overcome. Thro the research activities the author is present as a full participant without being represented by anyone else. In this study the author obtained data from the field during the research process, which is information about the law of marriage sekufu in the bani alawiy as well as its practice in everyday life. In this study the author makes questions that correspond to the subject the author is going to study, then the author searches for explanations to obtain information from certain people who are directly or indirectly involved with the problem raised as well as other literature that has to do with this research. As for the technique of collecting data by means of observations, interviews and documentation. Then the data analysis technique used is data reduction, i.e. the author summarizes some data obtained from the field, then takes some data that represents to be entered in this discussion. Data presentation is the process of showing the data that has been collected mastered by the researchers as a basis for making the right conclusions. Once the amount of data is collected by taking some data from the total amount of available data. The next is to present the data into the core of the discussion and the results of field research obtained from the sources and informants. Data verification The amount of data and descriptions that are included in this study will be selected for validity and truthfulness so that the data entered in this discussion is data that is undoubtedly accurate. In this case, the author researches the Analysis of the mastery of calligraphy in the class of pupils. The authenticity of the data is also intended to ensure that there are no doubts about the data obtained either from the author himself or the readers so that the next day no one is harmed especially the author who takes his time and devotes all his energy to compile this scientific work.

### 4. Results and Discussion

During the Bani Abbasiyyah era (750-1258 A.D.) the knowledge of Islam developed in its various branches besides the fact that the life of the upper layers deviated from the teachings of Islam. He formed the Bani Abbasiyyah dynasty who inherited the caliphate. The term "Muslim when Kaif" has become commonplace. The life of the descendants of Sayidatina Fatimah Az-Zahra is suspected, no free and always threatened, this is because of the influence of the grandchildren of Al-Hasan and al-Husein r.a. on the people is huge and impoverished. The desire of most Muslims is a descendant of the Prophet who should hold a caliphate. Many were imprisoned and killed by him, and many moved and operated the Bani Abbasiyyah center in Bahdad. Ahmad bin Isa r.a. as one of the descendants of Al-Hussein r.A. decided to make Hadramaut a place of hijrah and he died in Hasisah in 345 AD. The descendants of Ahmad bin Isa who lived in Hadramaut were named Alawiyyin after his grandson Alwi bin Ubaidilah bin Ahmad Bin Isa who was buried in Sumul. The descendants of Al-Hasan and al-Hussein.

#### 4.1 The practice of Kafaah in the tradition of Bani Alawiy in the city of Palu

In the city of Palu there are three models of marriage in the sphere of Bani Alawiy: Marriage between Sayyid/Syarif and Sayyida/Syarifah, marriage between men 'ajam (not of the Bani Allawiy) with Sayyidah/Syarifah and Marriage of Syarif/Sayyid with women 'ajam (not of the Bani Allawiy).

#### 4.2 Review of Islamic Law Against the Practice of Kafa'ah in the Marriage of Bani Alawiy Kota Palu

Kafa'ah and caste are two different things. Kafa 'ah is Shariat while caste is custom. Why is the Kafa'ah a Sharia and not a custom because the Kawa'ah is the opinion of the Madzhab Muslims. All of Madzhab's priests agreed on the existence of Ka'bah even though they had different views on its implementation. One of the things that makes the difference is in heredity. (Nasab). The term Nasab is derived from the Indonesian dictionary, and is also associated with the term Nasabah meaning family association. In Arabic, it means a person's relationship with his or her best friends and friends. Here are the views of the mazhab priests on the Kafa'ah:

#### **4.2.1 Madzhab Maliki**

According to this Mazhab, the criteria of Kafah are religion, wealth and absence of defects. According to Imam Malik kafa'ah the most important is about religion and the absence of defects. Like a woman who is righteous, not like a man who is wise or wicked. As for wealth, nasab, work, it's only a matter of consideration.

#### **4.2.2 Madzhab Hanafi**

According to Mazhab Hanafi Kafa'ah is determined by the female side. Thus is the man who is the object of determination. This Mazhab argues that the criteria of the Kafa'ah are Nasab or nationality, faith, profession, freedom, absence of defects and wealth.

#### **4.2.3 Madzhab Shafi'i**

According to Imam Shafi'i, the criteria are religion, profession, freedom and absence of defects. He is the only one on earth, and he is only the one who has the power to obey and to fear God. Priest Shafi'i also declared that marriage that is not equal is not forbidden. Imam Shafi'i argues that kafa'ah is a condition in marriage because this kafa'a can be cancelled. Because kaf'ah is the right of the woman and her husband. The candidate bride and her wife have the right to decide whether to maintain or cancel the Ka'bah. It happens when a woman is married to a man who is not equal. If it is not possible to have a marriage, it will not be possible for it to be fulfilled. If a woman's guardian wishes to waive the condition of kafa'ah, then the marriage can be carried out on condition that the cancellation of kaf'ah must be fulfilled first. There are two elements of cancellation. The first is the reluctance of a woman to be married by a man whose degree is lower than her. The second is the agreement and agreement of all the guardians of the woman. The agreement and agreement of the guardians of this woman is a proof that the woman is willing to dismiss the Ka'bah, not to allow one of the woman's guardian who has an objection to the marriage to be held, or if one of them disagrees then marriage can not be continued.

#### **4.2.4 Madzhab Hambali**

Kafa'ah is religion, religion, profession, freedom, absence of defects and wealth. Priest Hambali argues that marriages are not like Nasab's condemned marriage that is fasakh or void. A woman of noble descent is the right of all her wives, whether near or distant. If one of them is not married to a man who is not equal, then he is entitled to cancel. That women are God's right. If all the guardians and the women themselves had accepted men who were not equal, then their delight would not be valid.

### **5. Conclusion**

The Alawiyyin are divided into four stages, each of which has its own degree. As for these titles, the priests (Third Century to Seventh Century), the sheikhs (Seventh century to the Eleventh), the habibs (Eventh to the Fourteenth) and the Sayyids. (From the 14th century to the present). The practice of the Kafa'ah in the Tradition of the Marriage of Bani Alawiy in the City of Palupernah Marriage between Sayyid / Syarif with Sayyida / Syriph, the marriage of a man 'Ajam (not of the Alawij Bani) to Sayyidah / syriph and the marrying of a Sayyide / syarif with a woman 'Ajem (Not Bani Alawiy). A review of the Islamic Law

#### *Paper Title*

Against the Practice of the Kafa'ah in the Marriage of Bani Alawi in the City of Palu is that the Ka'ah is a common condition of a marriage and not a legal condition of the marriage, in connection with this three priests Mazhab agreed and another priest said that the ka'ah was a valid condition of marriage.

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