



The Legal Istimbath Method in The Mui Fatwa Mut'ah Marriage

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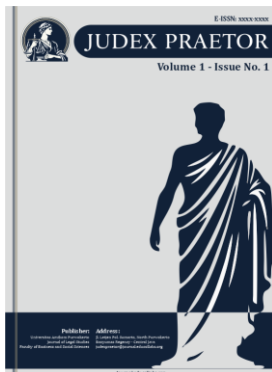
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ABSTRACT



The Indonesian Ulema Council (MUI) fatwa on mut'ah marriage is implemented through the legal istimbath method, which in this method is the process of determining the law based on Islamic legal sources such as the Qur'an, Hadith, Ijma, and Qiyas. This study aims to determine the legal istimbath method of the Indonesian Ulema Council in formulating a fatwa on mut'ah marriage, as well as to determine what factors cause the Indonesian Ulema Council in formulating a fatwa on mut'ah marriage. In conclusion, the MUI fatwa and most scholars state that mut'ah marriage is haram, because this marriage is a marriage where a man marries a woman for a short time and for a certain time, while the purpose of marriage itself is to build a family that is sakinah mawadah wa rahmah. In this study the method used is the normative legal approach method where this research only uses literature studies or relies on books rather than field research.

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INTRODUCTION

The Indonesian Ulema Council's fatwa on temporary marriage (muta'ah) has attracted significant attention in the context of marriage in Indonesia. As an institution authorized to issue religious fatwas, the Indonesian Ulema Council (MUI) plays a crucial role in providing guidance to Muslims in Indonesia. In 1997, the MUI issued a fatwa specifically addressing temporary marriage (muta'ah), which has become a reference for understanding the law and practice of this marriage.

The MUI's view on temporary marriage (muta'ah) is highly significant because this institution is recognized as an authority in interpreting Islamic law in Indonesia. This fatwa directs Muslims to avoid the practice of temporary marriage (muta'ah), which is considered inconsistent with religious values. Thus, this fatwa provides clear guidance for Muslims in living their married lives in accordance with religious teachings.

As a religious institution, the MUI is tasked with deliberating and issuing fatwas on Islamic law. Sessions within the Indonesian Ulema Council's commissions are held according to the needs of issues frequently arising in society, such as those concerning temporary marriage (muta'ah). The practice of temporary marriage, also known as "mut'ah" (contractual marriage), has recently become increasingly common among some Muslims in Indonesia, particularly among young people and students. However, these marriages have raised considerable concern, anxiety, and unrest among parents, religious scholars, educators, community leaders, and the Muslim community in Indonesia. Consequently, the Indonesian Ulema Council (MUI) issued a fatwa regarding temporary marriages.

The majority of Muslims in Indonesia adhere to Sunni Islam (Ahli Sunnah wal Jama'ah), which rejects and prohibits temporary marriages, as they are viewed as a propaganda tool within the Shia sect in Indonesia.

This research employed qualitative research methods. The research method was bibliographical, guided by books on Islamic law (the Qur'an, Sunnah, Ijma' and Qiyas), and other documents that correlated and related to this research. Based on the above background, several issues need to be addressed, including:

1. What is a fatwa from the Indonesian Ulema Council (MUI)?
2. What is the definition of Mut'ah Marriage, and what is its ruling
3. What is the legal istinbath method used in the MUI fatwa on Mut'ah Marriage?

METHOD

This research employed a qualitative approach with a library study, as all data analyzed came from official documents, fiqh literature, and fatwa



manuscripts. The primary object of the study was the Indonesian Ulema Council (MUI) Fatwa on Mut'ah Marriage, including the considerations, evidence, and arguments used in its legal decision-making process. Primary data included the text of MUI Fatwa Number 4 of 2010 on Mut'ah Marriage and sharia sources such as the Quran, hadith, and relevant ushul fiqh literature. Secondary data were obtained from classical and contemporary fiqh books, scholarly journals, and Islamic legal studies discussing the concepts of istinbath and mut'ah marriage.

Data collection was conducted through document review, with an in-depth examination of the fatwa's contents and supporting references. Data analysis employed content analysis to identify the thinking patterns, istinbath methods, considerations, and ushul fiqh used by the MUI in prohibiting mut'ah marriage. The analysis process was conducted through data reduction, categorization using istinbath methods (such as qiyas, sadd al-dzari'ah, Islamic arguments, and consideration of the maqashid sharia), and drawing conclusions. Using this method, the study aims to systematically uncover how the Indonesian Ulema Council (MUI) constructs the legal basis and arguments in issuing fatwas regarding mut'ah marriage.

RESULT & DISCUSSION

A. Fatwa of the Indonesian Ulema Council

The Indonesian Ulema Council (MUI) stands for the Indonesian Ulema Council (MUI), and was founded on July 27, 1975, through a Ulama Congress held from July 21 to 27, 1975. It included 53 participants from various backgrounds, including representatives of newly formed regional Ulama assemblies, representatives of existing central boards, and others. The MUI appointed Hamka as its first Chairman.

The MUI is an institution that brings together ulama (religious scholars) from various religious organizations in Indonesia, including Muhammadiyah, Nahdlatul Ulama (NU), Persatuan Islam (Persis), and other religious organizations. The MUI's primary goal is to serve as a forum and organization representing the voices of Indonesian ulama in conveying their views and issuing fatwas (religious edicts) on religious and social issues in Indonesia. The MUI also plays a role in providing recommendations and advice to the government and society regarding religion and religious life.¹

The Indonesian Ulema Council (MUI) is a formal decision issued by the Indonesian Ulema Council (MUI), the official institution authorized to issue fatwas in Indonesia. These fatwas contain explanations or decisions

¹ Irma Suryani, "Metode Fatwa Majelis Ulama Indonesia," *Juris*, Vol. 9, No. 2 (2010), p. 177.



regarding issues related to Islamic law. MUI fatwas are typically issued in response to questions or issues arising in society and require diverse perspectives on Islamic law.

The MUI assists the government in matters concerning the welfare of the Muslim community, such as issuing fatwas on the halal status of certain foods, determining the validity of Islamic sects, and matters related to the relationship between Muslims and their environment concerning Islamic law

B. Understanding Mut'ah Marriage and Its Laws

A temporary marriage, also known as a discontinued marriage, is a marriage in which a man marries a woman for a short period of time, such as a day, a week, or a month. Among Islamic jurists, a temporary marriage is known as a minor contract. It is called a temporary marriage because the man intends to have fun for a predetermined or mutually agreed-upon period.²

In another definition, contract marriage in Islamic law is known as mut'ah marriage, which is a marriage carried out solely to satisfy lust and have fun or a marriage contract carried out by a man with a woman for one day, one week or one month.³

Meanwhile, Zomakhshari defines contract marriage as a marriage for a predetermined time or a known time limit, such as one day, two days, one week, or even years.⁴

Ibn Qidamah defines a temporary marriage as a man marrying a woman for a specific period of time, for example, with a guardian saying, "I give my daughter to you in marriage for a week, a month, or a year, or until the end of this season," and so on.

In the Arabic dictionary, the word mut'ah comes from the word mata'a, which means to enjoy and to take advantage of. The word "al-mata'" becomes amti'ah in its plural form, and can also be formed into its plural forms, namely amati' and amatii', which mean all that is utilized from the adornments of the world, whether small or large. There are also words like tamatta' or istamta'a, which mean to take advantage of something for a long time.

However, in this discussion, mut'ah marriage refers to a marriage that is set for a specific period. Once the specified period ends, the

² Sayyid Sabiq, *Fikih Sunnah, Jilid 6, Terj. Mohammad Thalib*, Bandung: PT. Al-Ma'rif, (1980), p. 63.

³ Mutiara Citra, Rika Lestari, and Rahmad Hendra, "Tinjauan Yuridis Terhadap Kawin Kontrak Dalam Perspektif Hukum Perjanjian Dan Hukum Islam," *Jurnal Online Mahasiswa Fakultas Hukum Universitas Riau*, Vol. 3, No. 1 (2016), p. 3.

⁴ Mardani, *Hukum Perkawinan Islam*, Yogyakarta: Graha Ilmu, (2011), p. 15.



marriage is terminated. There are several opinions among scholars regarding mut'ah marriage, including:

- a. Imam Syafi'i is of the opinion that the prohibited temporary marriage is all forms of marriage that are determined for a certain period of time, whether short or long.
- b. Abu Laits Assamarqondi is of the opinion that temporary marriage is haram, for example if someone marries off his child for a day or a month.
- c. Imam Nawawi in al majmu' syarah muhazzab explains that mut'ah marriage is a marriage that is determined until a certain time. If the specified time has expired, then the marriage is complete.
- d. Ibn Dhawayyan explained that mut'ah marriage is marrying off one's child for a certain period of time, and after that period ends, the husband and wife divorce.

During the Prophet's time, temporary marriage (mut'ah) was no different from Islamic marriage except in terms of timing and inheritance. In temporary marriage, the consent of a guardian and witnesses is still required, as is the case with Islamic marriage.⁵

From the explanation above, it can be concluded that mut'ah marriage is a form of marriage that ends when the agreed-upon time has arrived. After that, the husband and wife will separate without going through the divorce process as marriages are generally known in Islam.

According to scholars of the Sunnah wal Jama'ah, mut'ah marriage is forbidden in Islam, but it is permitted in the Shia school of thought. This is because Shia scholars believe that there is no authentic Prophetic hadith that revokes the permissibility of mut'ah marriage, meaning it remains permissible to this day.

C. The Indonesian Ulema Council's Fatwa on Mut'ah Marriage

Mut'ah marriage is an old issue that remains controversial to this day, as it has never been extinct in practice. Therefore, its validity remains questionable, making it an important issue that must be discussed and reviewed at the Indonesian Ulema Council's Fatwa Commission session, held on October 25, 1997. The session concluded that mut'ah marriage is haram.⁶

⁵ Khairil Ikhsan Siregar, "Nikah Mut'ah Dalam Perspektif Al-Qur'an Dan Hadis," *Jurnal Studi Al-Qur'an*, Vol. 8, No. 1 (2012), p. 12.

⁶ Ma'ruf Amin et al., "Himpunan Fatwa Majelis Ulama Indonesia Sejak 1975", Jakarta: Emir, (2011), p. 481.



In this marriage, the perpetrator is also deemed to have violated existing laws and regulations concerning marriage. Therefore, action can be taken by bringing the perpetrator to court.

The MUI based its fatwa on the following provisions as a basis and consideration:

- a. This fatwa relies on the legal basis in the Al-Qur'an, Surah al-Mukminun (32) verses 5-6. This letter states that sexual relations are only permitted with women who function as wives or slaves they own, other than that it is not permitted or prohibited.
- b. Mut'ah marriage is contrary to the purpose of marriage, namely to create a prosperous family and have children.
- c. In mut'ah marriage, it is contrary to statutory regulations, such as the Marriage Law Religious Courts Law, Compilation of Islamic Law (KHI).⁷

Based on the provisions and arguments put forward, it can be concluded that the method applied by the MUI in forbidding mut'ah marriage is in the Qur'an Surah Al-Mukminun (23) verses 5 and 6 which states that husband and wife relations can only be carried out with the wife and the slave she owns, apart from these two it is not permitted, whereas mut'ah marriage is not included in both, because.

- a. Mut'ah marriage does not have logical consequences for mutual inheritance,
- b. The mut'ah marriage iddah is not like the normal marriage iddah,
- c. Mut'ah marriage does not reduce a person's rights to the ability of a man to marry four people,
- d. Mut'ah marriage does not cause a person to become a muhsan (a person who has reached puberty, is free after having been mixed with legal means).

The MUI also applies the consideration of maqashid al-Syari'ah, which emphasizes the institutionalized purpose of Islamic law. Mut'ah marriage is considered contrary to maqashid al-Syari'ah because it fails to create a prosperous family (sakinah, mawadah, warahmah) as the primary goal, for the continuation of offspring.

Another basis used in this fatwa is using the Sadd al-Zari'ah method, as a preventive measure to prevent greater harm from occurring. And this has even disturbed parents, educators and society in general. It is suspected that it is being used as propaganda for Shia teachings, as Shia teachings are incompatible with the Sunni teachings embraced by the majority of Muslims in Indonesia.

⁷ Suryani, "*Op.Cit.*," p. 180.



The supporting evidence in this fatwa refers to one verse of the Quran, two hadiths, and one principle of Islamic jurisprudence. The provisions in this fatwa represent a legal reform or a change in the law when compared to the legal views of classical scholars. According to the Hanafi school, temporary marriage is considered invalid, and Imam Syamsudin al-Sarkhasi and 'Ala al-Din al-Kasani both stated that temporary marriage, such as temporary marriage, is not permitted or is forbidden.⁸

In practice, this type of marriage is conducted like a regular marriage, fulfilling the pillars and conditions stipulated by Islamic law and based on mutual consent, with the presence of a guardian, witnesses, and a dowry. However, the prospective wife gives up some of her rights to her husband, such as the right to maintenance, the right to take turns, or the right to live in a place of residence.⁹

The Indonesian Ulema Council (MUI) has formulated a fatwa on temporary marriage (mut'ah) with the aim of providing clearer guidance and explanation to Muslims in Indonesia. In formulating the fatwa on temporary marriage (mut'ah), the Indonesian Ulema Council conducted an in-depth study of sources of Islamic law such as the Qur'an, Sunnah, Ijma' and Qiyas. The MUI also considered the social, cultural, and religious values prevailing in Indonesia.

The Indonesian Ulema Council (MUI) fatwa on temporary marriage (mut'ah) concluded that the practice is inconsistent with Islamic teachings and therefore prohibited (haram). This fatwa aims to provide guidance to Muslims, especially in Indonesia, to avoid practices that are inconsistent with religious values and prevailing societal norms.

CONCLUTIONS

The The Indonesian Ulema Council (MUI) is a formal decision issued by the Indonesian Ulema Council (MUI), the official institution authorized to issue fatwas in Indonesia. This fatwa contains an explanation or decision regarding an issue related to Islamic law. MUI fatwas are typically issued in response to questions or issues that arise in society and require diverse perspectives on Islamic law. The MUI's primary goal is to serve as a forum and organization representing Indonesian ulama (Islamic scholars) in conveying their views and fatwas on religious and social issues in Indonesia.

⁸ Imam Syamsudin Al-Syarkhasi, *Al-Mabsuth, Juz 5, Cet-1*, Beirut: Dar Al-Fikr, (2000), p. 136.

⁹ Mendra Siswanto, "Fatwa-Fatwa Hukum Keluarga Majelis Ulama Indonesia Tahun 1975-2012 Dalam Perspektif Maqashid Al-Syari'ah," *Hukum Islam*, Vol. 21, No. 2 (2021), p. 220.



Mut'ah marriage is known as a temporary or interrupted marriage. A mut'ah marriage is a marriage in which a man marries a woman for a short period of time, such as a day, a week, or a month. Among Islamic jurists, mut'ah marriage is known as a small contract. It is called mut'ah marriage because the man intends to have fun for a predetermined or mutually agreed-upon period.

At the Fatwa Commission meeting of the Indonesian Ulema Council, the meeting was held on October 25, 1997. In the meeting it was decided that mut'ah marriage was haram. Based on the provisions and arguments put forward, it can be concluded that the method applied by the MUI in prohibiting mut'ah marriage is in the Qur'an, Surah Al-Mukminun (23) verses 5 and 6 which state that husband and wife relations may only be carried out with wives other than the second sari, which is not permitted, while in mut'ah marriage it is not included in both. The MUI also applies the consideration of maqashid al-Syari'ah, which emphasizes the purpose of the institution of Islamic law. Mut'ah marriage is considered contrary to maqashid al-Syari'ah, because it is unable to create a prosperous family (sakinah, mawadah, warahmah) as the main goal, in the context of the continuation of offspring. Another basis used in this fatwa is using the Sadd al-Zari'ah method, as a preventive measure to prevent the emergence of greater harm.

REFERENCE

- Al-Syarkhasi, Imam Syamsudin. *Al-Mabsuth, Juz 5, Cet-1*. Beirut: Dar Al-Fikr, 2000.
- Amin, Ma'ruf, M Ichwan Sam, Zainul Tauhid, Hasanudin AF, Asrorun Ni'am Sholeh, and others. "Himpunan Fatwa Majelis Ulama Indonesia Sejak 1975." Jakarta: Emir, 2011.
- Citra, Mutiara, Rika Lestari, and Rahmad Hendra. "Tinjauan Yuridis Terhadap Kawin Kontrak Dalam Perspektif Hukum Perjanjian Dan Hukum Islam." *Jurnal Online Mahasiswa Fakultas Hukum Universitas Riau* 3, no. 1 (2016): 1-15.
- Mardani. *Hukum Perkawinan Islam*. Yogyakarta: Graha Ilmu, 2011.
- Sabiq, Sayyid. *Fikih Sunnah, Jilid 6, Terj. Mohammad Thalib*. Bandung: PT. Al-Ma'rif, 1980.
- Siregar, Khairil Ikhsan. "Nikah Mut'ah Dalam Perspektif Al-Qur'an Dan Hadis." *Jurnal Studi Al-Qur'an* 8, no. 1 (2012): 11-28.
- Siswanto, Mendra. "Fatwa-Fatwa Hukum Keluarga Majelis Ulama Indonesia Tahun 1975-2012 Dalam Perspektif Maqashid Al-Syari'ah." *Hukum Islam* 21, no. 2 (2021): 205-35.



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<https://doi.org/http://dx.doi.org/10.24014/jhi.v21i2.11520>.

Suryani, Irma. "Metode Fatwa Majelis Ulama Indonesia." *Juris* 9, no. 2 (2010): 175-84.