

The Controversy of *Siyahi* Marriage: A Maqasid Shariah Perspective and Its Relevance in Indonesia

Abdur Rahman Adi Saputera

Sultan Amai State Islamic Institute of Gorontalo, Indonesia

Correspondence Email: adisaputrabd@gmail.com

Submitted:
September 21, 2024

Accepted:
September 24, 2024

Published:
October 30, 2024

Abstract: *The phenomenon of Nikah Siyahi, or temporary marriage during travel, has become a controversial topic in Islamic law. This practice is often carried out by Muslim travelers to enjoy sexual relations without violating religious principles. However, scholars have diverse opinions regarding Nikah Siyahi. Some endorse it as an alternative to avoiding zina (fornication), while others reject it for undermining fundamental values of marriage, such as commitment and purity. This study aims to explore Islamic legal perspectives on Nikah Siyahi and analyze the impacts of this practice through the lens of Maqasid Shariah, which are the primary principles of Islamic law intended to protect religion, life, lineage, property, and intellect. The research employs a library research method to gather views from various literatures on Islamic law. Although it may formally meet the requirements of Islamic marriage, Nikah Siyahi fundamentally contradicts the ideal objectives of marriage in Islam. From the perspective of Maqasid Shariah, this practice can have negative repercussions on the dignity of religion, mental health, family stability, and the rights of offspring. In Indonesia, where marriage law is clearly regulated, this practice brings more harm than benefit. Therefore, the enforcement of law and community education regarding the essence of marriage in Islam must be strengthened to protect fundamental values of Shariah.*

Keywords: Marriage Siyahi, Maqasid Shariah, Shaifi marriage

Abstrak: *Fenomena Nikah Siyahi, atau pernikahan sementara selama perjalanan wisata, menjadi topik kontroversial dalam hukum Islam. Praktik ini sering dilakukan oleh wisatawan Muslim untuk menikmati hubungan seksual tanpa melanggar syariat. Namun, pandangan ulama mengenai Nikah Siyahi sangat beragam. Beberapa mengesahkan sebagai alternatif untuk menghindari zina, sementara yang lain menolak karena dianggap merusak nilai-nilai dasar pernikahan, seperti komitmen dan kesucian. Studi ini bertujuan untuk mengeksplorasi pandangan hukum Islam terhadap Nikah Siyahi dan menganalisis dampak praktik ini melalui lensa Maqasid Shariah, yaitu prinsip-prinsip utama hukum Islam yang melindungi agama, jiwa, keturunan, harta, dan akal. Penelitian menggunakan metode library research untuk mengumpulkan pandangan dari berbagai literatur tentang hukum Islam. Meskipun secara formal memenuhi syarat-syarat pernikahan Islam, Nikah Siyahi*

bertentangan dengan tujuan ideal pernikahan dalam Islam. Dari perspektif Maqasid Shariah, praktik ini dapat berdampak negatif pada kehormatan agama, kesehatan jiwa, stabilitas keluarga, dan hak-hak keturunan. Di Indonesia, di mana hukum perkawinan sudah jelas, praktik ini lebih banyak membawa mudharat. Oleh karena itu, penegakan hukum dan edukasi masyarakat mengenai esensi pernikahan dalam Islam perlu diperkuat untuk melindungi nilai-nilai fundamental syariah.

Kata Kunci: Nikah Siyahi, Maqasid Syariah, Nikah Shaifi

Introduction

Traveling for various purposes such as business, vacations, or personal needs is a necessity for many people. Large merchants, business executives, and professionals often embark on long trips, far from home. In these journeys, some are accompanied by their spouses, but many travel alone. Moreover, the monotony of work routines drives many to seek mental and physical rejuvenation through tourism activities. Tourist destinations offer various forms of entertainment, including sexual services that are sometimes provided discreetly (Wahab et al., 2018). For some Muslims, the temptations at tourist sites pose a significant challenge. On one hand, they are faced with religious teachings that prohibit adultery, while on the other hand, they may seek ways to enjoy themselves without violating Islamic law. This is where a controversial concept known as "tourism marriage" or "Siyahi marriage" emerges. This phenomenon refers to temporary marriages conducted by some Muslim tourists to enjoy sexual entertainment during their travels, while still wanting to be seen as compliant with Islamic law. For instance, numerous cases have occurred in the Puncak area of Bogor, where Middle Eastern tourists often take advantage of their summer vacations to visit and enjoy the area. Many of them marry local women in a manner considered halal according to Shariah law. Ironically, after the summer season ends, they return to their home countries, leaving behind their wives from the region. (Afnah, n.d.) This cycle continues, where they return during the next summer, sometimes to visit their previous wives or even marry new ones, leaving their former local wives behind.

"Siyahi marriage" refers to temporary marriages conducted by some Muslim tourists to enjoy sexual relations during their travels. The term comes from "marriage" meaning marriage, and "Siyahi," which refers to travel or tourism. From the perspective of Islamic law, this practice raises complex ethical, moral, and legal questions. This phenomenon is often seen as a way to legitimize what is essentially prostitution under the guise of Islamic marriage. Siyahi marriage, often viewed as an attempt to "legitimize" sexual activity under the framework of Islamic marriage, has become the subject of debate among Islamic scholars and experts. Abdul Hakim Murad, a prominent Islamic scholar from the University of Cambridge, views this practice as an example of how Islamic law can be misused to justify behavior that contradicts the moral and ethical principles of Islam.

Ingrid Mattson, an Islamic scholar and president of the Islamic Society of North America (ISNA), criticizes Siyahi marriage as a distortion of the true institution of

Islamic marriage. She argues that this practice violates the principles of balance, responsibility, and loyalty that are the core of marriage in Islam. Similarly, Jonathan Brown, a professor of Islamic studies at Georgetown University, explains that *Siyahi* marriage lacks a strong basis in authentic Islamic tradition. In his view, this practice closely resembles "mut'ah marriage," which has been prohibited in Islam. At its core, the phenomenon of *Siyahi* marriage raises various ethical, moral, and legal questions in the context of Islam. In Islam, marriage is a contract that legitimizes the relationship between a man and a woman with the aim of forming a harmonious family. Although *Siyahi* marriage may fulfill the basic requirements of marriage, its temporary nature contradicts the purpose of marriage in Islam. (Mattson, 2018) Many scholars criticize this practice because the intention behind the marriage is not to form a family based on "sakinah," "mawaddah," and "rahmah" (tranquility, love, and mercy), but rather to fulfill temporary desires.

Siyahi marriage creates a moral dilemma for those involved. Although they may feel they are adhering to Shariah law, they are in fact exploiting loopholes in religious law to fulfill temporary personal needs. This also raises questions about honesty and integrity in religious observance. The phenomenon of *Siyahi* marriage is not just a legal issue but also has broader implications. This practice shows how some individuals attempt to manipulate religious law to fulfill personal desires, ultimately undermining the values upheld in Islam. Therefore, it is important to examine this phenomenon from various perspectives and seek appropriate solutions to address it.

Moreover, *Siyahi* marriage has sparked debate within the context of Maqasid Shariah, a concept that emphasizes the overarching goals of Islamic laws. One of the main objectives of Maqasid Shariah is to protect fundamental values such as religion, life, lineage, property, and intellect. The practice of *Siyahi* marriage is seen as a threat to these values because it tends to exploit loopholes in religious law to satisfy temporary personal desires, without considering the long-term consequences for individuals and society. Additionally, this controversy creates a moral gap in society, where individuals involved in this practice may feel that they are adhering to Islamic law, but in reality, they are merely manipulating religious rules to satisfy their fleeting desires. This undermines the moral foundation and integrity of religion, which should serve as a guide for the lives of Muslim individuals. To resolve this controversy, concrete steps must be taken based on a deep understanding of Maqasid Shariah principles. Public education about the essence of marriage in Islam and the moral dangers of *Siyahi* marriage should be prioritized. Governments and religious authorities must also work together to enforce laws that prohibit temporary marriages aimed solely at fulfilling sexual needs. Moreover, scholars and religious leaders must actively provide clear and firm views on *Siyahi* marriage and offer moral guidance to society to avoid engaging in practices that undermine religious values.

By conducting a comprehensive review from the perspective of Maqasid Shariah, it is hoped that the phenomenon of *Siyahi* marriage can be identified, and society can better understand the importance of preserving integrity and values within

marriage according to Islamic teachings. More than that, to solve and address this issue, a thorough study is needed to understand the root cause and find effective alternatives. In this research, the main focus will be on the Islamic legal perspective on the phenomenon of *Siyahi* Marriage. Through the analysis of classical and contemporary literature on Islamic law, including the views of religious scholars and experts, this study will investigate how Islamic law responds to the practice of temporary marriages. The aim of this review is to understand the diverse perspectives regarding *Siyahi* Marriage and whether it aligns or conflicts with Islamic teachings.

Additionally, the implications of the *Siyahi* marriage controversy will be explored from the perspective of Maqasid Shariah. Maqasid Shariah emphasizes the primary objectives of Islamic law, such as protecting religion, life, lineage, property, and intellect. By analyzing the practice of *Siyahi* Marriage within the framework of Maqasid Shariah, we can evaluate its impact on these fundamental values and whether the practice supports or undermines the achievement of these primary objectives. Therefore, through this research, it is hoped that a more comprehensive understanding of the *Siyahi* marriage controversy will be obtained, its relation to Islamic teachings, and the implications of this practice for the primary goals in Maqasid Shariah.

Method

This research method employs a library research approach to obtain a comprehensive understanding of the phenomenon of *Siyahi* marriage and its controversial implications from the perspective of Maqasid Syariah. (Yakin, 2015) The study involves collecting relevant academic literature, such as journals, books, articles, theses, and other documents that discuss *Siyahi* marriage in the context of Islamic law (Nugrahani & Hum, 2014). The researcher will analyze the views of Islamic scholars and legal experts to understand how this phenomenon is treated in Sharia.

The data used comes from various credible literature sources. These sources include the works of scholars and Islamic legal experts who have examined the *Siyahi* marriage phenomenon and the aspects of Maqasid Syariah. (Sugiyono, 2013) The data collection technique involves systematically searching with related keywords, selecting, analyzing, and organizing relevant information to answer the research questions. Data analysis is conducted through content analysis and literature review. The researcher identifies key themes from the gathered literature and evaluates the arguments and perspectives presented. (Darmalaksana, 2020) Conclusions are drawn based on the literature analysis, with data validity strengthened through triangulation from various sources to ensure the reliability of the findings.

Results and Discussion

Islamic Legal Perspective on the Phenomenon of *Siyahi* Marriage (Marriage Shaifi)

Islamic scholars have differing views on marriage with the intent to divorce. Some argue it contradicts fundamental Islamic principles, while others see it as acceptable under specific conditions. This debate focuses on the legitimacy of

temporary marriage, including *Siyahi* marriage. The author presents arguments from scholars both opposing and supporting it, along with fatwas from major Islamic institutions. The review aims to clarify the legal status of such marriages within Islamic law and assess their validity in Indonesia, highlighting their implications for maintaining Islamic values in marriage.

Factors Driving the Occurrence of Siyahi Marriage

The factors leading to *Siyahi* marriage, also known as Shaifi marriage, are complex and closely related to social, cultural, and religious dynamics within society. Several factors influencing the practice of this marriage can be explained as follows:

First, the Need for Sexual Gratification. The primary motivation behind *Siyahi* marriage is the need for sexual gratification within the boundaries of religious and moral values, especially in Islam. Individuals who wish to fulfill their sexual desires while avoiding the guilt associated with violating religious norms see *Siyahi* marriage as a more "halal" alternative to adultery, which is explicitly forbidden. By entering into temporary marriage, they believe they gain moral and religious legitimacy for their actions, allowing them to reconcile their sexual activities with their faith. Despite its controversy among scholars, *Siyahi* marriage provides psychological comfort by aligning personal desires with religious principles.

Second, Time Constraints. Time constraints are a key factor driving the practice of *Siyahi* marriage, particularly among Middle Eastern tourists who are Sunni Muslims. During short vacations or trips, limited time makes it impractical for them to pursue conventional or permanent marriages. *Siyahi* marriage offers a flexible solution, allowing them to fulfill temporary sexual needs without long-term commitments. Unlike *mut'ah* marriage, it doesn't have strict time limits, making it ideal for short-term relationships that align with the duration of their trip. This convenience makes *Siyahi* marriage appealing to those seeking temporary intimacy during busy travel schedules.

Third, Supply and Demand Dynamics. *Siyahi* marriage practices can be seen as a manifestation of the economic principle of supply and demand, where men seeking sexual gratification and women needing economic support fulfill each other's needs. This arrangement provides a mutually satisfying solution, allowing men to express their desires within a permissible context and giving women a means to escape economic difficulties or gain new experiences. By framing their relationship as a marriage, both parties may feel psychologically comfortable, avoiding guilt associated with extramarital relations. However, despite its economic rationale, *Siyahi* marriage poses risks, such as potential exploitation of vulnerable women and a threat to the institution of marriage and social morality by misusing religious laws for personal gain. Thus, the dynamics of supply and demand highlight the complex interplay of social and economic factors in a society that adheres to religious and moral values.

Fourth, Deception of Religious Values. *Siyahi* marriage, while framed as a legitimate form of marriage, is considered a deception of religious values by many scholars and Islamic societies. It creates the illusion of religious legitimacy for sexual

relationships under the guise of marriage, but it contradicts the moral and spiritual principles of Islam. This practice misuses the concept of marriage, which should embody purity and commitment, and instead reduces it to a means of fulfilling sexual desires. True Islamic marriage is a spiritual bond grounded in commitment, trust, and responsibility, whereas *Siyahi* marriage manipulates this concept, neglecting vital aspects such as communication and mutual understanding. Additionally, it can harm the reputation of Muslims and create confusion among youth seeking role models for living out religious values. Thus, while attempting to legitimize temporary sexual activities, *Siyahi* marriage is viewed as a misleading practice that threatens the moral and social integrity of the Muslim community.

In conclusion, the factors mentioned above provide an overview of the complexity of the *Siyahi* marriage phenomenon and how these factors are interrelated and influence its practice in Islamic society.

Contradicting Views of Scholars Regarding the Ruling of *Siyahi* Marriage

The contradictions among scholars regarding the ruling of *Siyahi* marriage reflect the complexity surrounding this issue within Islamic society. This phenomenon, often referred to as "tourist marriage" or "summer marriage," elicits diverse opinions from religious figures about its validity, ethics, and impact within the framework of Islamic law. On one hand, some view *Siyahi* marriage as a way to distinguish sexual relationships from fornication, describing it as a temporary marriage aimed at fulfilling sexual needs in a legitimate manner. On the other hand, some emphasize the commitment, sanctity, and noble purpose of marriage, highlighting this practice as a misuse of the concept of marriage in Islam. The author attempts to explore the contradictions in the scholars' views regarding this form of marriage, delving into various perspectives in the discussion and highlighting the arguments and considerations underlying each opinion.

Regarding this type of marriage, the author notes that there is a difference of opinion among scholars, with the majority recognizing it as Marriage with the Intention of Divorce, where they differ in their views. Some do not agree, while those who permit it have their respective arguments. (Saputera & Lamunte, 2020) For instance, Imam Nawawi said:

"They (the scholars) agreed that whoever enters into marriage generally, intending not to stay with her except for a period he desires, then his marriage is valid and permissible. Similarly, Ibn Qudamah stated"

"Even if he marries her without a condition, but intends to divorce her after a month, or once his needs in that land are fulfilled, then the marriage is valid according to the majority of scholars. Muhammad Al-Amin bin Al-Mukhtar Al-Shanqeeti also explained: Among what was asked of us: A foreigner in a country wishes to marry, and his intention is that when he wants to return to his homeland, he will leave his divorced wife in her place. Does his marriage with this intention of separation after a period of time make it a mut'ah marriage, and thus invalid, or not? Our answer is: The marriage is valid, and it cannot be considered a mut'ah marriage except by explicit declaration of its

conditions, according to the majority of scholars, except for Al-Awza'i, who nullified it. Hafidh Ibn Hajar narrated this in "Fath Al-Bari" and did not follow it with anything, and by Malik's authority - may Allah have mercy on him - he said: "This is neither beautiful nor good for public morals."

Muhammad Al-Amin bin Al-Mukhtar Al-Shanqeeti's statement directly considers this type of marriage valid, although he does not deny the opinion of Ibn Hajar, who says that the marriage is morally undesirable. Uniquely, a fatwa on the validity of this type of marriage was also issued by Abdul Aziz bin Baz, who wisely articulated the opposing views of other scholars. He said in detail:

The translation is as follows: As for marrying with the intention of divorce, there is a difference of opinion among scholars. Some of them, like Al-Auzai and a group of other scholars, oppose it. They say it resembles mut'ah marriage, so according to them, one should not marry with the intention of divorce. However, the majority of scholars, as stated by Al-Muwaffaq, where Ibn Qudamah in Al-Mughni asserts that it is permissible if the intention is solely for the sake of obedience to Allah, not for worldly purposes, such as for studying or other matters, and the person fears for himself. He may marry, even if he intends to divorce her after his duties are completed. This is the stronger opinion if the intention is only between him and Allah, without informing or involving the wife or her guardian. As for marrying in the country he visits for studying, as an ambassador, or for other legitimate reasons to go to a non-Muslim land, he is allowed to marry with the intention of divorce if he intends to return, as previously mentioned, provided he needs the marriage due to fears for himself. However, abandoning this intention is preferable as a precaution in religion and to avoid scholarly disagreement, especially since there is no need for such an intention. The husband is not prohibited from divorcing his wife if he sees any benefit in doing so, even if he did not mention this at the time of marriage.

According to the author, based on the previous arguments, it is clear that the argument for the permissibility of "marrying with the intention of divorce" is that the marriage can essentially continue if the husband desires it, due to reasons he finds in his wife, such as her good character, noble traits, or pregnancy. However, it is important to note that this is limited to individuals in foreign lands for studying, trading, medical treatment, and similar situations, who face temptations like those experienced by students sent abroad or young men living abroad, not for those traveling solely to satisfy sexual desires and virginity of women, or worse, then returning to their homeland. Some scholars agree that "marriage with the intention of divorce" is permissible if the intention is for the sake of obedience to Allah and not solely for worldly purposes. However, the author emphasizes that marriage in Islam is considered a noble institution with the purpose of bringing love, life, and the formation of a family, where marriage with the intention of divorce does not achieve these purposes and instead damages the values of marriage and tarnishes the image of Islam. Therefore, the author asserts: "Although Marriage Siyahi may be categorized as marriage with the intention of divorce, it is clearly not intended for benefit as explained above."

Marriage *Siyahi* is clearly motivated by the intention to satisfy sexual desires of tourists, especially those coming to Indonesia.” This is undoubtedly controversial. While it may formally meet the requirements of marriage, if we consider the intention and purpose, it is clearly not ideal. How can someone marry with the intention of making it temporary, even though the contract does not specify a time limit to avoid being accused of practicing *mut'ah* marriage, which is unanimously prohibited among Sunnis? Moreover, if the woman and her family are unaware of this ‘evil’ intention, it will undoubtedly harm and disadvantage the woman. Therefore, several scholars and Islamic authorities have prohibited this practice because it contains elements of deceit and fraud, and it brings significant negative impacts on Muslim communities:

1. Some scholars, led by the Hanbali School and Al-Auza’i, argue that marriage with the intention of divorce is null and void. Several contemporary scholars, such as Ahmad as-Suhaily, Muhammad Rashid Ridha, Usamah al-Ashqar, and the fatwa from Al-Lajnah ad-Daimah li al-Buhuts al-‘Ilmiyyah, emphasize this. (Irawan et al., 2019)
2. There are also scholars who acknowledge the validity of marriage with the intention of divorce but forbid its implementation, as stated by Ibn Uthaymeen, Mustafa al-Zarqa, Yusuf al-Qaradawi, the European Council for Fatwa and Research, Majma’ Fiqh al-Islami, and Salih Ali Mansur. (Korbatieh, 2019) Therefore, although marriage with the intention of divorce is considered valid by some scholars, its practice is prohibited according to these scholars.
3. The Islamic Fiqh Council of the Muslim World League, in its 18th session, prohibited marriage with the intention of divorce. This type of marriage, where the husband secretly plans to divorce after a certain or unspecified period, is considered deceitful. (Akoridis, 2022) The Council emphasized that if the woman or her guardian knew of this intention, they would not agree to the marriage, and such practices harm the reputation of Muslims.

According to the author's own analysis in the context of marriage law applicable in Indonesia, this practice is not in line with the principles of the Indonesian Civil Code and is also inconsistent with the principles of Islam officially recognized in Indonesia through the Compilation of Islamic Law (KHI). Marriage in Indonesian civil law upholds the principles of equality and legal certainty, where marriage is considered a sacred and legitimate bond between two parties with the aim of forming a harmonious and lasting family. Therefore, this practice cannot be accepted in the context of Indonesian law as it contradicts the principles of civil law and Islamic values that honor the institution of marriage. In this case, the fatwas or views of scholars permitting this practice are not relevant because they must be aligned with the legal principles applicable in this country.

Implications of the Controversy Surrounding Siyahi Marriage from the Perspective of Maqasid Syariah and Its Relevance in Indonesia

Siyahi marriage is clearly recognized as having many implications, both positive and negative. However, the author agrees that its negative implications (harm/Mudharat) should be prioritized to avoid, rather than focusing on the benefits or positive implications. Nevertheless, the author will still outline them: *Siyahi* marriage can offer several advantages for individuals living abroad for extended periods. It provides a halal way to resolve sexual needs, helping avoid zina, particularly for students and migrant workers. Such marriages offer convenience by temporarily fulfilling marital status, while also providing emotional stability through companionship during stressful times away from family. Additionally, it can address economic needs for women, as the husband may offer financial support during the temporary marriage.

The above outlines are some of the benefits of this marriage model, but the author firmly cites the principle of *Kaidah* (درأ المفسد مقدم على جلب المصالح), one of the important principles in *Ushul Fiqh*, which means "Preventing harm takes precedence over acquiring benefits" (Ardi, 2017). Therefore, it is better to leave behind the benefits than to bear the negative implications. This type of marriage invites a number of problems, both legal and social, especially in the context of marriage laws in Indonesia. Here are some of the harms (*Mudharat*) of *Siyahi* marriage:

1. Legal Issues. *Siyahi* marriage is similar to *Nikah Sirri* (unregistered marriage), which is not officially recorded. This makes the legal status of the marriage very fragile. Since it is not recorded in an official registration office or the KUA (Religious Affairs Office), the marriage does not have strong legal legitimacy. As a result, the wife and children born from such a marriage do not receive adequate legal protection.
2. Social Problems. *Siyahi* marriage also brings about several social issues. First, this practice is highly vulnerable to the spread of sexually transmitted diseases. Frequently changing partners increases the risk of contracting dangerous sexually transmitted infections. Second, if a wife becomes pregnant and gives birth while her husband has already returned to his home country, this will become a burden for the woman and her family.
3. *Maqasid Sharia* Perspective. *Maqasid Sharia* refers to the primary objectives intended to be achieved by Islamic law for the well-being of humanity.

Discussing *maqashid sharia*, at least there are five main objectives of *Maqasid Sharia* that must be considered in every Islamic ruling:

a. *Hifz ad-Din* (Protection of Religion)

Marriage in Islam is not merely a contractual relationship between two individuals, but also an act of worship regulated by *Sharia*. *Siyahi* marriage, which is

often unregistered and temporary, contradicts the fundamental principles of Islam that emphasize the need for legitimate, legal, and enduring marriages. Sharia regulates marriage to preserve the dignity, sanctity, and stability of the family, all of which are threatened by the practice of *Siyahi* marriage. One of the main objectives of marriage in Islam is to create a stable and enduring family life. *Siyahi* marriages, which are often entered with the intention of divorce after a set period, undermine this concept of stability and continuity. The uncertainty about the future of the marriage can cause discomfort, anxiety, and insecurity for both parties, especially for women who may be left without support.

In Indonesia, marriage laws are governed by the Compilation of Islamic Law (KHI) and Marriage Law No. 1 of 1974. (Yasin et al., 2020) Marriages must be officially registered with the Office of Religious Affairs (KUA) to be legally recognized. Unregistered *Siyahi* marriages violate these legal provisions, thus failing to provide adequate legal protection for the wife and children who may result from the marriage. Furthermore, unregistered marriages threaten women's rights. In the event of divorce or other issues, women lack the legal evidence to claim their rights, such as alimony, inheritance, and child custody. This is contrary to the objectives of Islamic law, which also seeks to protect women's rights in marriage.

Islam emphasizes the importance of avoiding slander and suspicion in society. *Siyahi* marriage, with its non-transparent and temporary nature, can raise suspicions in the community. This practice may be perceived as an attempt to covertly legitimize adultery, which tarnishes the image of Islam and causes slander among the Muslim community. Improperly regulated marriage practices that do not adhere to Sharia principles can lead to broader social harm. Children born from *Siyahi* marriages may face uncertainty regarding their identity and rights. Additionally, instability within the family can lead to broader social issues, such as increased divorce rates and child welfare problems.

Siyahi marriage, while it may be seen as a temporary solution for some individuals, fundamentally contradicts the core Islamic principles of legitimate and enduring marriage. This practice not only undermines the institution of marriage as governed by Islamic law, but also violates existing legal frameworks in Indonesia, harming social stability. Therefore, the protection of religion through the enforcement of legitimate and enduring marriages is essential to preserve the honor, stability, and well-being of the Muslim community. As Allah SWT says in Surah Al-Hajj (22:78): "And strive for Allah with the striving due to Him. He has chosen you and has not placed upon you in the religion any difficulty." Furthermore, a hadith narrated by Imam Ahmad and Abu Dawud emphasizes the protection of religion: "Whoever sees something wrong should change it with his hand. If he cannot, then with his tongue. If he cannot, then with his heart, and that is the weakest of faith." This hadith underscores the importance of taking action to correct or avoid wrongdoing. If one is unable to act physically, they must denounce it verbally or at the very least, reject it in

their heart. This illustrates that preserving religion also involves concrete actions in combating immorality.

b. *Hifz an-Nafs* (Protection of Life)

In Islam, the protection of life or *Hifz an-Nafs* is one of the primary objectives of Sharia, aimed at safeguarding the safety, health, and well-being of individuals. As Allah SWT says in Surah Al-Ma'idah (5:32): "Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely." *Siyahi* marriage, which often involves rapid partner changes and lacks long-term commitment, poses serious risks to the physical and mental health of those involved. One of the primary risks of this practice is the increased likelihood of contracting sexually transmitted infections (STIs). Frequent partner changes without proper health checks heighten the risk of spreading STIs such as HIV/AIDS, gonorrhea, syphilis, and others. These diseases not only threaten physical health but can also have profound psychological impacts, including depression and anxiety.

Islam strongly emphasizes the importance of maintaining individual health and well-being. Sharia advocates for legitimate and stable marriages as a way to ensure safe and protected sexual relationships. Legal marriages are well-regulated under Islamic law and existing legislation, ensuring that couples undergo necessary health checks before marriage, aimed at preventing the spread of infectious diseases. *Siyahi* marriages, being temporary and often unregistered, disregard these procedures, thereby increasing the health risks for those involved. In Indonesia, existing marriage laws require marriages to be officially registered with the Office of Religious Affairs (KUA). (Halim et al., 2023) This official registration not only ensures the legal recognition of the marriage but also ensures that couples undergo necessary health checks. As such, legitimate marriages provide better protection for individual health. *Siyahi* marriages, being unregistered, do not offer the same level of protection, thereby increasing the risk of sexually transmitted infections.

Aside from physical health risks, *Siyahi* marriage can also have negative impacts on the mental health of those involved. Uncertainty about the future of the relationship, emotional instability, and insecurity in the marriage can lead to stress, anxiety, and depression. Women left behind by husbands returning to their home countries after *Siyahi* marriage often face significant psychological burdens, especially if they are pregnant or have children. The absence of emotional and financial support from the husband can result in serious mental distress.

Islam teaches the importance of protecting both mental and physical health and avoiding harm. Sharia regulates marriage in a way that ensures maximum protection for those involved. *Siyahi* marriage contradicts these principles as it increases the risks to physical and mental health. Thus, protecting life through the enforcement of legitimate and enduring marriages is essential to safeguard the well-being of individuals and society. Therefore, it is crucial for Muslims to avoid *Siyahi* marriage and choose legitimate, legal, and enduring marriages in accordance with the principles of Islamic

law and the prevailing laws. By maintaining legitimate and enduring marriages, Muslims can protect their lives from the risks of sexually transmitted infections and other negative impacts, thereby fulfilling Sharia's objective of safeguarding individual health and well-being.

c. *Hifz al-'Aql (Protection of the Mind)*

Hifz al-'Aql, or the protection of the mind, is one of the primary objectives of Shariah, aimed at safeguarding the mental and intellectual well-being of individuals. The practice of *nikah Siyahi*, which is often unofficial and temporary, can lead to significant stress and mental burden for the wife, who is left without legal certainty and protection. In the context of *nikah Siyahi*, women often face great uncertainty. This uncertainty stems from not knowing the future of their relationship, whether the husband will return or leave them permanently. This uncertainty can lead to ongoing anxiety and stress, negatively affecting the mental health of the woman. They may feel unsafe and unprotected, both legally and emotionally, ultimately resulting in mental health issues such as depression, anxiety disorders, and post-traumatic stress.

Moreover, women involved in *nikah Siyahi* often feel isolated and lose the social support that is typically present in a legitimate and lasting marriage. This lack of certainty and support can impair their ability to function optimally in daily life, both personally and professionally. They may struggle with decision-making, maintaining emotional balance, and preserving a good quality of life. In Indonesia, legal and recognized marriages provide protection and certainty for both parties. The official registration of marriages at the Office of Religious Affairs (KUA) ensures that the rights and obligations of the couple are legally acknowledged. This includes the right to financial support, legal protection, and social recognition (Hastuti & Aini, 2016). With official registration, women have strong legal guarantees in case of disputes or problems in the marriage. In contrast, *nikah Siyahi*, which is not officially registered, does not provide this legal assurance, leaving women in a very vulnerable position.

Beyond the psychological and emotional impacts, the legal uncertainty in *nikah Siyahi* can also disrupt the intellectual and mental stability of women. They may feel burdened by social stigma and pressure from the community, especially if they are pregnant or have children from the marriage. Children born from *nikah Siyahi* may also experience negative psychological impacts due to the uncertainty of their legal and social status. The protection of the mind in Islamic Shariah not only covers protection from mental disorders but also ensures that individuals can live in a healthy and stable mental state. Shariah encourages legitimate and enduring marriages to ensure that couples can live in a stable and supportive environment. The practice of *nikah Siyahi* contradicts this principle as it creates an environment filled with uncertainty and instability.

Thus, it is important for Muslims to avoid the practice of *nikah Siyahi* and choose marriages that are legitimate, legal, and enduring according to the principles of Islamic Shariah and the prevailing laws. By maintaining legitimate and lasting marriages, Muslims can protect their minds from the stress and mental burdens caused by

uncertainty and instability, thereby achieving the Shariah objective of safeguarding the mental and intellectual well-being of individuals.

d. *Hifz an-Nasl (Protection of Progeny)*

Hifz an-Nasl, or the protection of progeny, is one of the five primary objectives of Sharia (Maqasid al-Shariah), focusing on preserving and safeguarding legitimate and honorable generations. In the context of *Siyahi* marriages, this protection becomes highly threatened. Children born from such marriages often face serious issues concerning their legal status and social protection. *Siyahi* marriages, which are often unofficial and temporary, create situations where the children born from these unions may not have a clear legal status. In Indonesia, the registration of marriages with the Office of Religious Affairs (KUA) or other official institutions is a crucial requirement to ensure the marriage is recognized legally. The uncertainty of legal status can result in these children not being officially recognized, impacting their rights, including the right to identity, inheritance, and legal protection.

This legal uncertainty also has significant psychological impacts on the children. They may face social stigma and discrimination due to their unclear birth status. In many cases, they might not receive full recognition from society, which can affect their psychological and emotional development. Children growing up in unstable and uncertain environments often struggle with building a sense of identity and feeling secure. Furthermore, the legal uncertainty of children born from *Siyahi* marriages affects their rights to inheritance and financial protection. In both Islamic law and Indonesian civil law, children have the right to inherit from their parents. However, if the parents' marriage is not legally registered, these rights become difficult to enforce. As a result, these children may lose their rightful inheritance, impacting their financial well-being and future security.

Additionally, the protection of progeny in Sharia also includes the responsibility of parents to raise children in a healthy and stable environment. *Siyahi* marriages, with their temporary and unstable nature, often fail to provide the necessary environment for optimal child development. Children need the continuous presence and support of both parents to ensure their physical, mental, and spiritual growth. The uncertainty and instability resulting from *Siyahi* marriages undermine this foundation, disrupting efforts to raise and protect legitimate and honorable progeny. From the perspective of Maqasid al-Shariah, protecting legitimate offspring is key to building a healthy and sustainable society. Legitimate, registered marriages not only provide legal certainty for the spouses but also ensure that their children have a clear and recognized status in the eyes of the law. Thus, protecting legitimate progeny is an effort to maintain the integrity and continuity of the Muslim community.

Therefore, it is crucial for Muslims to avoid the practice of *Siyahi* marriages and instead choose marriages that are legally recognized and legitimate in accordance with both Sharia principles and Indonesian law. By doing so, Muslims not only protect their children's legal status and well-being but also ensure that they build a strong and stable foundation for future generations. The protection of legitimate progeny reflects a

commitment to Sharia principles that emphasize justice, legal certainty, and the protection of all members of society, including the most vulnerable. Children born from *Siyahi* marriages are at risk of lacking legal protection and a clear status, which contradicts the Sharia's aim of safeguarding legitimate progeny.

e. *Hifz al-Mal (Protection of Wealth)*

Hifz al-Mal, or the protection of wealth, is one of the five main objectives of Sharia (Maqasid al-Shariah) that emphasizes the importance of preserving and safeguarding wealth and assets from being wasted or misused. In the context of *Siyahi* marriages, this protection becomes highly relevant, as these marriages often lack clear arrangements regarding the rights and obligations of the spouses, potentially leading to various financial issues. *Siyahi* marriages, which are often temporary and not legally registered, create legal uncertainties for both parties. This uncertainty can lead to serious problems regarding the division of assets, both during the marriage and after divorce. In Indonesia, marriage law clearly regulates the rights and obligations of spouses, including the division of joint property (*gono-gini*) in the event of a divorce. However, in *Siyahi* marriages, the unclear legal status makes this regulation difficult to enforce.

This ambiguity can result in one party, usually the wife, being in a highly vulnerable financial position. Without clear arrangements, the wife may not receive her rightful share of the property after a divorce. This not only harms the wife financially but also affects the well-being of any children born from the marriage. The uncertainty regarding property rights can cause significant financial instability for the wife and children. Additionally, the lack of clarity over the division of assets in *Siyahi* marriages can lead to prolonged conflicts between both parties. These conflicts might involve the extended families of both sides, potentially damaging their social relationships. In many cases, disputes over property can result in prolonged divisions and hostility, which contradicts the Sharia's objective of maintaining harmony and peace within society.

From the perspective of Maqasid al-Shariah, the protection of wealth also includes the husband's responsibility to provide adequate financial support for his wife and children. *Siyahi* marriages, with their temporary nature, often do not guarantee a long-term commitment from the husband to fulfill his financial obligations. This can result in the wife and children not receiving adequate financial support, threatening their well-being. Furthermore, in the context of legally registered marriages, the law provides protection and legal certainty regarding financial rights and obligations. This includes the wife's right to support during the marriage and after divorce, as well as the children's right to inheritance and financial support from their father. However, in *Siyahi* marriages, the uncertainty of legal status can prevent the wife and children from obtaining these rights. This financial uncertainty is detrimental and contradicts the Sharia's principles of justice and the protection of individual rights.

Therefore, it is essential for Muslims to avoid the practice of *Siyahi* marriages and choose legally recognized marriages that align with the principles of Sharia and the laws of Indonesia. By doing so, Muslims not only protect their financial rights but also

ensure that they build stable and secure lives for their families. The protection of wealth reflects a commitment to Sharia principles that emphasize justice, legal certainty, and the protection of all members of society, including the most vulnerable. In order to safeguard *Hifz al-Mal*, Muslims must ensure that their marriages are officially registered and that the rights and obligations of both spouses are clearly defined. This will not only provide legal certainty and financial protection for the wife and children but also help prevent conflicts and instability that can disrupt family and societal harmony. Indirectly, *Siyahi* marriages can also create financial issues, especially if there are no clear arrangements regarding the rights and obligations of the spouses.

In Indonesia, the legal principles governing marriage strongly support the protection of individual and family rights. Based on the Compilation of Islamic Law (KHI), marriages must be conducted in accordance with principles established by both Islamic law (Sharia) and the state's legal system. Several key points of relevance are: *First*. Legality and Registration, According to the KHI, every marriage must be registered and have clear legal status. This is intended to protect the rights of the wife and children born from the marriage. *Nikah Siyahi* (unregistered marriage), which lacks proper registration, clearly violates this principle. *Second*. Protection of Women's Rights, Indonesia places great emphasis on protecting women's rights within marriage. *Nikah Siyahi*, which often disadvantages the wife, contradicts the legal efforts in Indonesia to safeguard women from harmful practices. *Third*. Public Health, Given the risk of sexually transmitted diseases, *nikah Siyahi* also opposes public health initiatives in Indonesia. The Indonesian government works hard to reduce the spread of sexually transmitted infections and promote responsible and healthy sexual behavior.

According to the author, *nikah Siyahi* is a controversial and high-risk marital practice. Its legitimacy is still questioned by Islamic scholars and legal experts. Its standing is very weak, as it is not officially recorded at a civil registry office or the Office of Religious Affairs (KUA). Moreover, this practice is highly susceptible to the transmission of sexually transmitted diseases and harms the woman and her family. From the perspective of *Maqasid al-Shariah*, *nikah Siyahi* cannot be justified, as it contradicts the primary objectives of Islamic law, which aim to protect religion, life, intellect, lineage, and property. In Indonesia, this practice also conflicts with the legal principles that emphasize legality, registration, and the protection of individual rights. Therefore, *nikah Siyahi* should be avoided by Muslims. Avoiding such controversial and ambiguous marriage practices will help preserve the sanctity of marriage, protect individual rights, and ensure the overall well-being of society.

Conclusion

The phenomenon of *Siyahi* marriage, or "tourist marriage/summer marriage," generates various opinions among scholars based on Islamic law. Some endorse it as a solution to distinguish sexual relations from adultery, while others reject it due to the loss of commitment, purity, and noble intentions in marriage, especially when accompanied by the motive of satisfying sexual desires. For example, Ibn Uthaymeen,

the Arab Council for Fatwa and Research, and the Islamic Fiqh Academy endorse it but prohibit its practice. In contrast, some scholars, particularly from the Hanbali School, al-Auza'i, and the fatwa of the Permanent Committee for Scientific Research, argue that such a marriage is invalid. *Siyahi* marriage is clearly controversial; it may formally meet the requirements of marriage, but its intentions and objectives are clearly not ideal. Despite differing opinions among scholars regarding the validity of *Siyahi* marriage, the author believes that this practice should not be permitted in Indonesia, given the greater harm it poses compared to its benefits from any perspective if practiced.

From the perspective of Maqasid Syariah, *Siyahi* marriage contradicts the principles of Islam that govern family stability and sanctity. This practice is believed to have significant negative implications, including: 1) Protection of Religion: This practice undermines the concept of marriage in Islam and threatens the honor of women and family stability. 2) Protection of Life: The risk of sexually transmitted diseases increases due to partner changes, while uncertainty in relationships can lead to stress and depression. 3) Protection of Intellect: Uncertainty and isolation of women in *Siyahi* marriage disrupt mental health, while disputes over property can affect individual mental well-being. 4) Protection of Lineage: Children from *Siyahi* marriages risk losing clear legal status, disrupting their identity and rights related to inheritance and financial protection. 5) Protection of Property: Legal uncertainties in *Siyahi* marriage can lead to injustices in property distribution. Therefore, in the context of Indonesia, where marriage law has been clearly regulated, it is essential for Muslims to comply with legal provisions and choose marriages that are legitimate and legal according to the principles of Islamic law. This will ensure protection for religion, life, intellect, lineage, and property, in line with the main objectives of Islamic law.

References

- Afnah, N. (n.d.). *Studi Kritis Nikah Misyar Studi Kasus Di Kecamatan Cicarua Bogor*. Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta.
- Akoridis, M. S. (2022). The Islamic FIQH Council of the Muslim World League. *Политикологија Религије*, 16(1), 111–123.
- Ardi, S. (2017). Konsep Masalah dalam Perspektif Ushuliyyin. *An-Nahdhah | Jurnal Ilmiah Keagamaan Dan Kemasyarakatan*, 10(2), 233–258.
- Darmalaksana, W. (2020). Metode Penelitian Kualitatif Studi Pustaka dan Studi Lapangan. *Pre-Print Digital Library UIN Sunan Gunung Djati Bandung*.
- Halim, A., Bugis, S. H., Syahputri, I. A., Harahap, F. A., Hidayah, A., Yusasni, E., Jannah, M., Dito, K., & Lubis, Z. A. (2023). Peranan Kantor Urusan Agama (KUA) Dalam Menangani Pernikahan dan Kepentingan Keagamaan Masyarakat di Kecamatan Medan Timur. *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga*, 5(1), 293–300.
- Hastuti, P., & Aini, F. N. (2016). Gambaran terjadinya pernikahan dini akibat pergaulan bebas. *Jurnal Riset Kesehatan*, 5(1), 11–13.
- Irawan, I., Jayusman, J., & Hermanto, A. (2019). Studi Fatwa Al-Lajnah Al-Daimah Li

- Al-Buhus Al-Ilmiyah Wa Al-Ifta': Kritik Atas Larangan Mahar Pernikahan Berupa Hafalan Al-Qur'an. *Kodifikasia*, 13(2), 299–320.
- Korbatieh, S. (2019). *The law of evidence in the Islamic criminal justice system: a critical appraisal in the light of modern technology*. Macquarie University.
- Mattson, I. (2018). Gender and sexuality in Islamic bioethics. In *Islamic Bioethics: Current Issues & Challenges* (pp. 57–84). World Scientific.
- Nugrahani, F., & Hum, M. (2014). Metode penelitian kualitatif. *Solo: Cakra Books*, 1(1), 3–4.
- Saputera, A. A., & Lamunte, N. (2020). Indikator Terjadinya Pernikahan dalam Masa Iddah di Kecamatan Bolangitang Barat. *El-USRAH: Jurnal Hukum Keluarga*, 3(1), 17–35.
- Sugiyono, D. (2013). *Metode penelitian pendidikan pendekatan kuantitatif, kualitatif dan R&D*.
- Wahab, A. J., Kustini, K., & Ali, M. (2018). Fenomena Kawin Kontrak Dan Prostitusi 'Dawar'Di Kawasan Puncak Bogor. *Al Qalam*, 35(1), 127–152.
- Yakin, A. (2015). Urgensi Teori Maqashid Al-Syari'ah Dalam Penetapan Hukum Islam Dengan Pendekatan Mashlahah Mursalah. *AT-TURAS: Jurnal Studi Keislaman*, 2(1).
- Yasin, H., Saputera, A. R. A., & Polapa, S. (2020). Tinjauan Hukum Terhadap Poligami Pegawai Negeri Sipil Tanpa Izin Istri di Kecamatan Atinggola Kabupaten Gorontalo Utara. *Jurnal Tana Mana*, 1(2), 138–156.