

Re-Understanding Gender Relations About Authority Rights as Marriage Guardians : Arabic Grammatical Perspective

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Abstract

This study aims to find an Arabic grammatical analysis of several verses, both in the Koran and the Hadith that describe the authority of the rights as guardians of marriage. This type of research is a qualitative research in the form of literature review. The main data source, namely the foundation of the nas (al-Qur'an verse and Hadith) which describes the existence of a marriage guardian. Secondary data sources, namely various other relevant studies. The research analysis approach used is the linguistic approach (Arabic grammar). Meanwhile, the theory used as a knife of analysis is gender identity theory in Arabic. This study concludes that the use of verbs, both the commandment and prohibition of marriage in several verses of the Koran and Hadith cannot necessarily be claimed to be specifically aimed at men as long as there are no indicators that indicate their specificity.

Keywords: Gender, guardian of marriage, grammatical, Arabic

Abstrak

Penelitian ini bertujuan untuk menemukan analisa gramatikal Arab terhadap beberapa ayat, baik dalam al-Qur'an maupun Hadis yang menjelaskan tentang otoritas hak sebagai wali nikah. Jenis penelitian ini merupakan penelitian kualitatif yang berupa kajian pustaka. Sumber data utama, yakni landasan nas (ayat al-Qur'an dan Hadis) yang menjelaskan tentang eksistensi wali nikah. Sumber data sekunder, yakni berbagai penelitian lain yang relevan. Pendekatan analisis penelitian yang digunakan yakni pendekatan linguistik (gramatikal Arab). Sementara itu, teori yang digunakan sebagai pisau analisis, yakni teori identitas jender dalam bahasa Arab. Penelitian ini menyimpulkan bahwa penggunaan kata kerja, baik perintah maupun larangan menikahkan dalam beberapa ayat al-Qur'an dan Hadis tidak serta merta dapat diklaim ditujukan khusus kepada laki-laki selama tidak ada indikator yang menunjukkan kekhususannya tersebut.

Kata Kunci : Jender, wali nikah, gramatikal, Arab.

A. Introduction

It is important to realize and understand that sex differences between men and women are biological. However, in the context of social life in society, these biological differences often lead to discrimination between men and women in various aspects of life (Athoillah Islamy, 2020 : 20)

In the context of Islam, both in the Qur'an and Hadith as the main source of Islamic teachings, both have the same moral message in respecting and upholding the principle of gender equality in all aspects of life (Athoillah Islamy, 2017 : 181). Therefore, this gender bias does not have to occur.

According to Nasaruddin Umar, gender is a concept used to identify differences between men and women based on socio-cultural construction, not differences based on biological aspects (Nasaruddin Umar, 1999 :135). Kamla Bashin, as quoted by Rusli, also distinguishes between gender and sex. According to Kamla, gender is a socio-cultural thing, man-made, can change from time to time, from one culture to another in terms of responsibilities, roles, behavior patterns and others between men and women. Meanwhile, sex is a biological difference between men and women (Rusli, 2012 : 26).

The explanation above shows that gender is a biological and natural thing that is carried from birth. Meanwhile, gender is something that is formed from dynamic socio-cultural construction. However, in the context of religious teachings, the problem of gender bias does not have to be caused by biased social constructions, but can also be caused by biased interpretations of Islamic teachings, such as legal norms related to the authority of wali nikah in gender-biased Islamic law. Therefore, this study seeks to re-understand the pattern of gender relations in theological foundations (al-Qur'an and Hadith) which explain the existence of wali nikah through a linngusitik approach (Arabic grammatical).

B. Literatur Review

Based on the author's research, there are several previous studies that are relevant to the main discussion of this study, among others, Asrorun Ni'am Sholeh (2008) argues that based on the explanation of the al-Qur'an and Hadith, the existence of women in the marriage contract is very weak. Therefore, women do not have the right to marry themselves off and become guardians of marriage (Asrosrun Ni'am, 2008 :15-19). Mardiyah Danial (2009) in her dissertation said that based on the Hadith review and the opinion of the fiqh scholars, the existence of women as guardians of marriage is very weak (Mardiyah Danial, 2009:213-215).

Furthermore, Khoirudin Nasution (2009). Through the analysis of the interpretation of the jurisprudence experts on the Hadith that explains the guardian of marriage, Khoirudin concluded three views. First, the Hanafiah School, which does not require a marriage guardian. Second, the majority school (jumhur) requires the existence of a marriage guardian. Third, the development of thoughts on the existence of a marriage guardian and the freedom of candidates to determine their partners (Khoirudin Nasution, 2009:215).

Nasaiy Aziz (2012) states that in several verses of the al-Qur'an regarding the existence of the guardian of marriage, there are differences of opinion among scholars of interpretation in understanding it. Some of the commentators consider khithab in various verses of the al-Qur'an specifically addressed to wali. Meanwhile, some other commentators consider the khithab referred to as addressed to all people, including guardians (Nasaiy Aziz, 2012 : 135-136). In fact, Zaitunah Subhan (2008) firmly argues that in the Koran and the Hadith there is no qat'i explanation that the right as guardian of marriage is only owned by men (Zaitunah Subhan, 2008 :229-223).

Based on some of the previous studies above, no research has been found that focuses on examining the authority of guardian rights as marriage guardians in a linguistic (Arabic grammatical) approach. Therefore, there is a chance for writers to carry out further research.

C. Research Method

This research is a qualitative research. Meanwhile, this type of research approach, namely philosophical normative research (Peter Marzuki, 2007 :87). The main data sources, namely the basis of the passages (verses of the Koran and Hadith) which explain the existence of the guardian of marriage, are as follows, QS al-Baqarah verses 221, 232, Hadith Aisyah Hadith Aisyah narrated by Abu Daud, Tirmidhi, Ibn Majah and Imam Ahmad, and the Hadith of Abu Hurairah as narrated by Ibn Majah, Dar al-qutni and Baihaqi. Then the Hadith Ibn 'Abbas narrated by Imam Muslim. Meanwhile, the secondary data source used is various other relevant studies. The research analysis approach used is the linguistic approach (Arabic grammar). Meanwhile, the theory used as a knife of analysis is the theory of gender identity in Arabic.

D. Results and Discussion

Gender Identity in Arabic

Arabic has a very complex gender marker that affects the whole syntactic pattern (Yeni Ramidiani, 2014 :121), this is also because Arabic is the language of religion which has always been used as a standard in the formation of religious norms, including the norms of masculine versus feminine dualism which until now continues to be a controversial discourse (Muzdalifah Muhammadun, 2016 :48).

As a Semitic language, Arabic does not recognize gender division in the neuter form (Husni Mubarak, 2011 : 108). Arabic only recognizes two forms, namely *muzakkar* and *muannas*. *Muzakkar* is a word that shows a masculine type or what is considered masculine, while *muannas* is a word that indicates a type of feminine or what is considered feminine (Tb. Ace Fahrullah, 2010 :193-195).

The masculine and feminine classifications above are further divided into masculine *haqiqi* and *majazi*, as well as feminine *lafdzi*, *ma'nawi*, *haqiqi* and *majazi*. Mention of masculine *haqiqi* if the word has an antonym in the feminine form or refers to masculine and male animal types, such as the word *rajul* (male, Muhammad, Zaid and so on). On the other hand, masculine *majazi* is a word that does not have an

antonym in the female form or a word that is considered masculine, such as the word *babun* (door) and *qalamun* (pen). Like the masculine form, feminine haqiqi are words that have feminine gender markers, such as the word *mar'ah* (female) and so on. As for feminine majazi are words that are considered feminine, such as *shams* (sun) and *yad* (hand).

The gender identity classification in Arabic emphasizes the existence of masculine feminine dualism. The gender rule in Arabic shows that all nouns are masculine, if not feminine. There is no room in Arabic for neutral nouns. In Arabic rules, masculinity is the subject which is the subject. Meanwhile, femininity is a branch that does not have the ability as a subject. With this claim of subtlety, Arabic often treats the plural form as masculine plural, although formally it refers to a group of feminines, provided there is at least one male in the group (Muzdalifah Muhammadun, 2016 :48-51).

Re-examining the Theological Basis About the Existence of Marriage Guardians: A Linguistic Approach

There is an opinion among Muslim feminists in the thought of Islamic studies, which is an orientation to create a friendly understanding of the existence of women. For them, the Qur'an, as the main source of Islamic studies, is claimed to contain elements of gender language that prioritizes the existence of men. Therefore, it is not surprising that there has been an attempt to deconstruct gender language by reinterpreting words which are considered to contain gender bias (Henri Shalahuddin & Mohd. Fauzi bin Hamat, 2015 :70).

In connection with the theological basis of the existence of a wali nikah, there are several normative foundations in the Koran and Hadith regarding the authority of the right as a marriage guardian, as well as orders and prohibitions on marriage by using verbs that store *dhomir* (pronoun) for men, such as in the editorial section (al-Nur verse 32) (al-Baqarah verse 221) and also the word *فلا تعضلوهن* (al-Baqarah verse 232).

Then in some Hadith, the mention of the existence of guardians by using a noun (isim) which shows male characteristics, such as.

أيما امرأة نكحت بغير إذن وليها فنكاحها

(Hadith Aisyah Hadith Aisyah narrated by Abu Daud, Tirmidhi, Ibn Majah and Imam Ahmad). Then,

(Abu Musa hadith narrated by Imam Ahmad, Tirmidhi, Ibn Majjah)

الثيب أحق بنفسها من وليها

(Ibn 'Abbas hadith narrated by Imam Muslim)

Looking at several editors of the verses of the Koran and Hadith above, it is important to understand that in the use of Arabic, if what is meant is a man in particular, or a man and a woman simultaneously, then the masculine form (*mudhakkar*) is used as the verse commands. establish prayers (وأقيموا الصلوة). The commandment is addressed to both men and women even though it uses a verb that has a lot of *dhomir* for men (أنتم). In this case, Muzdalifah Muhammadun explained that in Arabic rules, masculine identity is more positioned as the subject of an action. Meanwhile, femininity identity is a branch of its weak position as a subject. Muzdalifah added that the claim of subtlety makes Arabic often positions the plural form as masculine plural, even though it actually refers to a group of feminines (Muzdalifah Muhammadun, 2016 :48-51).

Muzdalifah's opinion above is parallel with what was stated by Nasaruddin Umar. More theoretically, Nasaruddin explained that gender identity in Arabic can be seen in the aspects of the language used to denote men and women. Nasaruddin said that aspects of the language, among others, can be identified by the use of *dhomir* (personal pronouns) and gender identification. Further information as follows:

First, the use of *dhomir* follows the rule of Arabic in general that the mention of *khitab* (command) in a verb that stores male *dhomir* by itself is also binding on women, unless there is a special indicator aimed at men. It is different with the mention of *dhomir* for women which is only aimed at women.

Second, the signification of a noun (isim) between male and female, such as Muslim (male) and Muslimatun (female). The use of nouns intended for both (male and

female) is sometimes sufficient to use the male identity (*mudhakar*). It is different with nouns that are specifically intended for women. Furthermore, in this case, Nasaruddin also emphasized that not only in Arabic rules but also in other language rules, especially those belonging to the semitic language family, such as Hebrew, Syriac and Persian, even in other languages such as languages. English and various other European languages also exhibit gender bias, namely the tendency of masculine character in language expression (Nasaruddin Umar, 1999 :194-208).

The explanation above can be understood that the use of a verb that indicates the command and prohibition of marriage in several verses of the Koran and the noun in the mention of guardian in several Hadiths related to the authority of the right as marriage guardian cannot be claimed and understood to be specifically aimed at men. -men as long as there are no indicators that show specifically for men as guardians of marriage. Therefore, it should still be understood that both men and women have the right as guardians in the marriage contract.

The conclusion above is in line with what was conveyed by Nasaiy Aziz. According to Nasaiy, the *khitab* contained in various verses regarding the existence of a marriage guardian is not specifically aimed at the guardian, but for everyone including women. Therefore, men are not an absolute requirement as guardians of marriage (Nasaiy Aziz, 2012 : 144).

Then what about one of the Hadiths which literally shows the prohibition of women marrying other people where the Hadith is used as a normative basis for the opinion of the Imam of the School of Law on the prohibition of women marrying themselves (without a guardian) or other women (as guardians), namely the Abu Hurairah Hadith which narrated by Ibn Majah, Dar al-qutni and Baihaqi (Ibn Majah al-Quzwaini, 205).

عن أبي هريرة قال: قال رسول الله ص.م: لا تزوج المرأة المرأة ولا تزوج المرأة نفسها. (رواه ابن ماجه)

It is important to know that the understanding of the above Hadith still creates differences of opinion (*khilafiah*), that is, there has been no agreement of opinion, such as the opinion of Abu Hanifah which can be said to be different from the opinion of the

majority of Imams of other schools. This is because Abu Hanifah allowed adult women to marry themselves and based on the *istihsan* method. Abu Hanifah also allows adult women to become guardians of marriage when no marriage guardian is found from the *asabah bi al-nafsi* group (Ibn al-Humam al-Hanafi, 274-275)

Based on the normative basis, both the Qur'an and Hadith and the opinion of one of the Imam of the School (Abu Hanifah), the right authority as guardian of marriage is still open to understanding which shows that there is an opportunity for women to have the authority of the rights as guardians of marriage. However, the author realizes that the reinterpretation of opportunities for women to have rights as guardians of marriage can be viewed as liberalism of marriage law in the context of the state that prohibits women as guardians of marriage, so that this discourse can cause social problems in society. (Athoillah Islamy, 2020 :53).

E. Conclusion

The big conclusion of this research is that the use of verbs that indicate the orders and prohibitions for marriage in several verses of the Koran and several Hadiths related to the authority of the rights as guardians of marriage cannot necessarily be understood to be specifically aimed at men, as long as there are no indicators that show specifically for men as guardians of marriage.

Meanwhile, related to one of the Hadiths which literally shows the prohibition of marriage for women, namely the Abu Hurairah Hadith narrated by Ibn Majah, Dar al-qutni and Baihaqi, it is necessary to know that the understanding of this Hadith has not yet been agreed upon (*khilafiah*), as was the opinion of Abu Hanifah. which can be said to be different from the opinion of the majority of the Imams of other Schools. This is because Abu Hanifah allowed adult women to marry themselves and on the basis of *istihsan*.

References

- Al-Hanafi, Ibn Humam, 1424H. *Sharh Fath al-Qadir*, Beirut: Dar al-Kutub al-Amaliyah.
- Aziz, Nasaiy, 2012. "Ketidakmutlakan Laki-Laki dalam Perwalian Nikah," *Jurnal Substantia*, Vol. 14, No. 2.
- Danial, Mardiyah, 2009 "Kedudukan Perempuan Dalam Perspektif Hadis :Kajian Hadis-Hadis Tentang Bab Nikah Pada Kitab Bulugh al-Maram", Sebuah Disertasi Sekolah Pascasarjana UIN Syarif Hidayatullah Jakarta.
- Fahrullah, Tb. Ace, 2010. "Gender dalam Nomina Bahasa Arab: Kajian Morfosemantik," *Sosiohumaniora*, Vol. 12, No. 2.
- Hidayati, Nurzulia Febri, 2018. "Perempuan Sebagai Wali Nikah Larangan Atau Peringatan," *Palita: Journal of Social-Religion Research*, Vol.3, No.1.
- Islamy, Athoillah, 2020. "The Problem of Liberalizing Islamic Marriage Law In Indonesia : The Perspective of Science Phylosophy," *Al-Syakhshiyah: Jurnal Hukum Keluarga Islam dan Kemanusiaan*, Vol.2, No.1.
- Islamy, Athoillah, 2020. "Gender Mainstreaming in The Hermeneutics of Islamic Family Law," *Al-Bayyinah : Jurnal of Islamic Law*, Vol.4, No.1.
- Islamy, Athoillah, 2017. "Gender Mainstreaming dalam al-Qur'an dan Hadis serta Relevansinya Terhadap Epistemologi Hukum Islam," *Jurnal Hukum Islam*, Vol.15, No.1.
- Majah, Ibn, *Sunan Ibn Majah* (Riyad, Bait al-Afkar al-Dauliyah) Kitab al-Nikah, Bab La nikaha illa biwalyyin, Hadis No.1882
- Marzuki, Peter, 2007. *Penelitian Hukum*, Jakarta : Kencana.
- Moleong, Lexy J, 2017. *Metodologi Penelitian Kualitatif*, Bandung : Remaja Rosdakarya
- Muhammadun, Muzdalifah, 2016. "Penanda Gender dalam Perspektif Bahasa Arab dan Bahasa Indonesia," *Jurnal Al-Maiyyah*, Vol. 9, No. 1.
- Mubarak, Husni, 2011. "Asal Usul Bahasa Arab," *Jurnal Iqra*, ' Vol.5. No.1.
- Nasution, Khoirudin, 2009. "Wali Nikah Menurut Perspektif Hadis," *MIQOT* Vol.33, No. 2.
- Ramidiani, Yeni, 2014. "Sintaksis Bahasa Arab (Sebuah Kajian Deskriptif)," *EL-HIKAM: Jurnal Pendidikan dan Kajian Keislaman*, Vol.VII, No.1.

Rusli. 2012. "Isu-Isu Gender Dalam Bingkai Metodologi Studi Islam," *Musawa*, Vol.4 No.1.

Shalahuddin, Henri & Mohd. Fauzi bin Hamat, 2015. "Telaah Kritis Terhadap Dekonstruksi Gender dalam Studi Islam," *Jurnal At-Ta'dib*, Vol.10, No.1.

Sholeh, Asrosrun Ni'am, 2008. *Fatwa-Fatwa Masalah Pernikahan Dan Keluarga*, Jakarta : Elsas

Subhan, Zaitunah, 2008. *Menggagas Fikih Pemberdayaan Perempuan*, Jakarta : Elkahfi.
Umar, Nasaruddin. 1999. *Argument Kesetaraan Gender dalam Perspektif al-Qur'an*, Jakarta : Paramadina