

## Marriage Registration in the Qur'an: Historical Insights and Contemporary Legal Relevance

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### ABSTRACT

**Purpose** – Explicitly, the rules for registering a marriage in the Al-Qur'an are not explained. However, if we trace the text through historical and interpretive aspects, some texts refer to marriage registration. This research presents two questions related to the historicity of marriage registration in Islam, the texts of marriage registration in the Al-Qur'an and its legal relevance in the contemporary era.

**Methods** – This qualitative analysis is based on library research data that traces the history and texts of the Al-Qur'an related to marriage registration.

**Findings** – This research concludes several findings: First, legal regulations for marriage registration in Islam are rarely found, but texts have been found that have meaning, even though they do not lead to marriage registration, so interpretation is needed. Second, marriage registration is then carried out in law to provide protection within the scope of family law practice.

**Research implications** – Marriage registration is needed as a form of protection in family law practice in Indonesia. The background of the Al-Qur'anic texts is not explained due to certain conditions in the past, but in the search, it is implied that recording something makes things easier.

**Keywords:** *Marriage Registration, Al-Qur'an, Historical Studies, Islamic Law.*

### Introduction

The pillars and terms of marriage are the result of the *ijtihad*, or scholarly interpretations, of *ulama*. The formulation of these terms and pillars is an effort to bridge the principles stated in the texts of the Qur'an and the Sunnah of Prophet Muhammad, allowing them to be put into practice in everyday life. The texts of the Qur'an and the Sunnah cover various aspects of life, including *mu'amalah* (social transactions), worship, and marriage. *Mu'amalah* texts can be generally grouped into two major categories: normative-universal texts and practical-temporal texts. Normative-universal texts are at the abstract philosophical level (*maqasid*, goals, objectives) and principles. This contrasts with practical-temporal texts, where practical law is referred to as clinical law. Practical-temporal texts appear at two levels:

the general law level (regular law, regular rule, and law/ahkam) and the exceptional law level, which includes exceptional law, exceptional rule, and *istishna*.<sup>1</sup>

Marriage registration is a new legal issue because, historically, during the time of the Prophet, there was no recording or bookkeeping of marriage, divorce, or reconciliation. The only well-known bookkeeping during the Prophet's time was related to the documentation in the Qur'an, which includes a written directive to record and document transactions in the context of *mu'amalah*, or buying and selling transactions. This instruction is found in Surah al-Baqarah, verse 282.<sup>2</sup> The order to register a marriage is neither expressly nor explicitly mandated in the texts of the Qur'an and the Sunnah of Prophet Muhammad SAW. However, several texts emphasize the importance of notifying the public about wedding events. Similarly, the texts also mandate recording in matters of *mu'amalah*.

The text of the Qur'an is a guideline (*Hudan*) and a principled, fundamental moral and ethical reference that is perfect and capable of addressing all the dynamics of problems that arise over time. This means that for any problem that arises, there is a principle or basic answer in the Qur'an. Bridging these principled or fundamental moral and ethical instructions into practical rules and addressing operational technical problems requires *ijtihad*. This *ijtihad* necessitates sharpness of mind and honesty of heart.<sup>3</sup>

Reflecting on historical practices, marriage registration in the contemporary era can be seen as an adaptation of the traditions established during the time of Prophet Muhammad and his companions. In that period, public awareness of a marriage was achieved through the announcement of the *walimatul 'ursy*.<sup>4</sup> Marriage registration is not directly regulated in the Qur'an. However, the registration of marriages offers several benefits, including legal protection for both parties. Conversely, if a marriage is not registered, it lacks legal certainty, and there are difficulties in proving the legal validity of the marriage.

Regarding the Qur'an and its relevance to law, Indonesia, for example, has incorporated the rules of marriage practice into formal laws such as the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 (Marriage Law). Prior to the issuance of these regulations, the rules were based on material law derived from the Qur'an and the Sunnah. The Qur'an, as a comprehensive guide, addresses various aspects of marriage. However, the specific issue of marriage registration requires interpretation of the Qur'anic texts.

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<sup>1</sup> Khoiruddin Nasution, "Rekaman sebagai Syarat atau Pilar Pernikahan: Sebuah Studi tentang Kesatuan Tematik dan Holistik," *Musawa* 12, No. 1 (2013): 166–185.

<sup>2</sup> Toha. Ma'arif, "Pencatatan Nikah: Analisis dengan Pendekatan Qiyas, Istihsan, Sadd Al-Dzari'ah, Maslahah Mursalah dan Hukum Positif di Indonesia," *FONDASI; Jurnal Hukum Ekonomi Syariah* 11, No. 01 (2019): 119–141.

<sup>3</sup> Masdar F Mas'udi, *Islam dan Hak Reproduksi Perempuan: Dialog Fiqh Pemberdayaan* (Bandung: Mizan, 1997).

<sup>4</sup> Emir. Syarifuddin, *Hukum Perkawinan Islam di Indonesia Antara Fiqh Munakahat dan Hukum Perkawinan* (Jakarta: Kencana, 2011).

There have been many works related to marriage in the Al-Qur'an, such as in Hilim,<sup>5</sup> Hati nurani<sup>6</sup> Amin<sup>7</sup> Habibi,<sup>8</sup> Dahwadin,<sup>9</sup> Fitria,<sup>10</sup> Fiatna, Filipina<sup>11</sup> Overall, it tends to discuss practices related to marriage, such as acceptance, dowry, guardians and so on. However, it does not specifically explain its relationship to the historicity of marriage registration and its relevance in legal practice in the contemporary era.

In this research, the existence of marriage registration in the Qur'an and its relevance in contemporary legal practice are examined. This article begins by explaining the historical context of marriage registration in Islam, followed by an exploration of marriage registration as presented in the Qur'an. It concludes with an analysis of the current understanding and implications of marriage registration.

## Methods

The researchers employed library research, drawing from library data sources. The nature of this study is descriptive-analytical, aiming to objectively describe the historical texts related to marriage registration in the Qur'an and their relevance to contemporary legal practices. The research relies on written sources such as books, commentaries, articles, and scholarly works that contribute to the understanding of marriage registration. Data analysis employs qualitative methods, involving thorough research steps to ensure precision and accuracy in data interpretation.

## Results and Discussion

### The Historical of Marriage Registration in Islam

Marriage is one of the stages that is considered important in human life. This event is not lost on human life and has been carried out on humans for centuries. Some people consider marriage to be a very sacred event.<sup>12</sup> As a result of being considered a sacred event, efforts need to be made to prove that the event has been carried out.

Regarding evidence, the law of proof of marriage during the time of the Prophet Muhammad SAW refers to the sources of Islamic law and its practices at that time; in this case, those who can be traced are witnesses and *walimah al-'ursy*.<sup>13</sup> Witnesses are the most dominant evidence and are always used to prove events, including marriage cases. Before the Prophet Muhammad SAW, witnesses were generally used as marriage evidence. When the

<sup>5</sup> Abdul. Hilim, "Administrasi Pembelajaran Melalui Al-Al-Qur'an: Adanya Pendaftaran Akta Nikah" (IAIN Palangkaraya, 2017).

<sup>6</sup> Sifa Mulya Nurani, Ade Winanengsih, dan Ida Farida, "Larangan Menikah Menurut Kompilasi Hukum Islam dan Relevansinya dengan Al-Al-Qur'an," *Jurnal Hukum Pelita* 2, No. 2 (2021): 45–58.

<sup>7</sup> Muhammad Amin, "Penerimaan Umum Al-Al-Qur'an," *Jurnal Ilmu Agama: Mempelajari Doktrin, Pemikiran, dan Fenomena Agama* 20, No. 1 (2020): 290–303.

<sup>8</sup> Muhammad Habibi, "Ayat-ayat Al-Al-Qur'an sebagai Mahar Nikah Menurut Perspektif Islam dan Imam Mazhab," *Edisi Khusus Action Search Literate* 4, No. 1 (2020).

<sup>9</sup> Dahwadin dan Muhibban, "Penafsiran Ayat-ayat Al-Al-Qur'an tentang Wali dalam Pernikahan Menurut Ulama," *Ubah Pikirkan Jurnal* 1, No. 2 (2022): 203–218,

<sup>10</sup> Mufidatul. Fitriah et al., "Hak Prioritas Keluarga dalam Al-Al-Qur'an (Studi Tafsir Maqshidi)," *Relinesia: Jurnal Studi Agama dan Multikulturalisme Indonesia* 9, No. 2 (2023): 104–114.

<sup>11</sup> Agus Fiatna, "Esensi Wali Perkawinan dari Perspektif Al-Al-Qur'an Surat An-Nisa' dan Relevansinya dengan Kehidupan Masyarakat Modern," *Ide sintaksis* 6, No. 2 (2024): 542–554.

<sup>12</sup> Wasman dan Wardah Nuroniyah. *Hukum Perkawinan Islam di Indonesia*, cet 1. 1st (Yogyakarta: CV. Citra Utama, 2011).

<sup>13</sup> Sabarudin Ahmad, *Transformasi Hukum Pembuktian Perkawinan dalam Islam* (Surabaya: Airlangga University Press, 2020).

Prophet married Khadijah, Muhammad was not yet a Messenger. Several witnesses witnessed the marriage. In Al Hamid Al Husain's History, it is stated that Abu Talib was present to guard his adopted son, Muhammad SAW and was also one of the witnesses at the wedding.<sup>14</sup> Apart from Abu Talib, Hamzah was also a witness from Muhammad's family. Meanwhile, Khadijah's family members were present: Amer bin al-Asad and Waraqah bin Naufal.<sup>15</sup> Other witnesses who were also present included Quraish leaders.<sup>16</sup> From this sacred event, it can be understood that it is true that the marriage was carried out because of a testimony.

Apart from testimony, proof of marriage that can be traced is the practice of *walimah*. *Walimah* comes from the word *Al-Walim*, the synonym *Ijtama'a* (Congregation) means gathering. The word *walimah* is not used in anything other than weddings.<sup>17</sup> Apart from that, *walimah* is also interpreted as food provided at a party (*bajat* or *kenduri*), meaning the crowd cannot be separated from the various dishes.<sup>18</sup> Searches related to this *walimah* are found in several hadiths of the Prophet Muhammad, as narrated by Imam Bukhari, where the Prophet Muhammad held a *walimah* when he married Zainab. Then the Prophet Muhammad SAW strongly recommended *walimah* even with just a goat.<sup>19</sup>

Meanwhile, on another note, it is explained that there is a tradition of announcing a wedding at the beginning of the arrival of Islam, known as *i'lān al nikah* or announcing a wedding in the local community. *I'lān al nikah* is one of the legal conditions for a marriage contract. This means that when a marriage is not announced, then the marriage is invalid; according to some scholars, the difference between marriage and adultery is that marriage is announced while adultery is not announced.<sup>20</sup> From the description above, it can be understood that the implication of witnesses and *walimah* in people's lives is a form of providing news and an understanding that a sacred event has occurred. In this period, marriage registration forms have yet to appear.

Furthermore, there is an opinion that Arabs, in general, have limited writing practices, and this occurred in the period before the arrival of Islam and during the life of the Prophet Muhammad SAW. It was also emphasized that during the Jahiliyah period, the ability to memorize was relied upon as a measure of the breadth of knowledge because of the difficulty of writing instruments. They had the opinion that those who were good at writing were considered to have weak memory, which was an indicator that they did not have much knowledge.<sup>21</sup> Based on these facts, it can be understood that writing problems in the era of the Prophet Muhammad SAW did not exist, which means that registering marriages was not carried out because they were not used to carrying out writing activities, including taking notes.

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<sup>14</sup> Alhamid Alhusaini, *Membangun Peradaban: Sejarah Muhammad SAW Sejak Sebelum Diutus Sebagai Rasul* (Bandung: Pustaka Hidayah, 2000).

<sup>15</sup> Moenawar Chalil, *Kelengkapan Nabi Muhammad SAW Tanggal 1* (Jakarta: Gema Insani Press, 2002).

<sup>16</sup> M. Quraish Shihab, *Membaca Nabi Muhammad SAW: Dalam Sorotan Al-Al-Qur'an dan Hadits Sahih* (Jakarta: Lentera Hati, 2011).

<sup>17</sup> Al-Asqalani, *Fathul Baari 25: Shahih Bukhari*, ed. Amir Hamzah (Jakarta: Pustaka Azzam, 2008).

<sup>18</sup> Rahmat Hakim, *Hukum Perkawinan Islam* (Bandung: Pustaka Setia, 2000).

<sup>19</sup> Abi Abdillah Muhammad, *Sahih Bukhari Juz 7-9* (Dar al-Hadiist, tt).

<sup>20</sup> Dian Mustika, Pencatatan Perkawinan dalam Hukum Keluarga di Dunia Islam, *INNOVATIVE Journal of Law*, Vol.4. 2011, 54.( 52-64).

<sup>21</sup> Shihab, Amerika Serikat *Membaca Nabi Muhammad SAW: Dalam Sorotan Al-Al-Qur'an dan Hadits Sahih*.

Regarding registration, initially registering a marriage according to Sharia was not a requirement that determined the validity of the marriage. However, with authentic written evidence, marriage records can be a tool to strengthen the commitment built by a couple.<sup>22</sup> Classical Islamic law has no regulations regarding the need to register a marriage. Explicitly, the rules for registering marriages are not regulated in the Al-Qur'an and Hadith.<sup>23</sup> As mentioned above, searches related to marriage practices carried out by the Prophet Muhammad SAW can be discovered through witnesses and guardians.

Another opinion was emphasized that the marriage practice during the time of the Prophet Muhammad SAW did not have a recording device that accommodated marriage practices. This was because there was an opinion that the practice of marriages at that time usually only took place in one area, which meant that the bride and groom were still in the same area, so no evidence (other than witnesses) was needed.<sup>24</sup>

Then, in the hadiths of the Prophet, it is stated that the conditions for the validity of a marriage include 1) the existence of two prospective bridegrooms; 2) the presence of a female marriage guardian; 3) the presence of two witnesses; 4) the existence of a Qabul agreement; 5) The existence of a dowry of a certain amount and *walimatul yours* does not imply that marriage registration must be carried out. Nurun said that the hadith should not be separated from its historicity because marriage registration was not and has not been carried out during the prophetic period. Formal legality at that time was the presence of the Prophet as a community figure who legalized marriage, which became formal legality in community life.<sup>25</sup> This means that the validity of a marriage at that time was only based on these conditions. In contrast, marriage registration still needed to be included and was part of the validity of the marriage.

Meanwhile, several factors are thought to be the cause of marriage registration that escaped the attention of the ulama in the early days of Islam: 1) There was the Prophet's prohibition on writing anything other than the Al-Qur'an. This aims to avoid mixing the Al-Qur'an with other people. So, at that time, the culture of writing was less developed than the culture of memorizing, 2) In the early days of Islam, they relied heavily on rote memorization (memory), so remembering wedding events was relatively easy. 3) The *walimah ury* tradition carried out is considered a witness to the Shari'a regarding marriage.<sup>26</sup>

From the description above, tracing the practice of registering marriages in Islam starts from tracing traces of historicity. From this investigation, it can be seen that the registration of marriages in Islam was not carried out in the era of the Prophet Muhammad SAW. There are several reasons. First, they need to be used for writing activities. Second, the Prophet is a legal figure; third, there is a prohibition on writing because it is feared that it could be mixed with the writing of the Al-Qur'an.

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<sup>22</sup> Departemen Agama Republik Indonesia, *Asosiasi Hukum dan Peraturan di Lingkungan Peradilan Agama*, (Jakarta: Direktorat Jenderal Pelembagaan Agama Islam, 2001).

<sup>23</sup> Asep Saepudin Jahar. *Hukum Keluarga, Pidana dan Bisnis, Yurisprudensi Indonesia dan Hukum Internasional*, (Jakarta: Kencana, 2013).

<sup>24</sup> Fauzi. Et.all, "Legalitas Pernikahan dari Perspektif Teori Gerakan Ganda Fazlur Rahman," *Ijtihad* 39, No. 1 (2023).

<sup>25</sup> Nurun Najwah, *Perempuan dalam Perkawinan: Mengkaji Kembali Wacana Agama*, Yogyakarta: TH. Tekan, 2008.

<sup>26</sup> Amiur Nuruddin & Azhari A.T. *Hukum Perdata Islam di Indonesia, Sebuah Studi Kritis Perkembangan Hukum Islam dari Fiqh, UU No. 1 Tahun 1974 sampai KHI*, (Jakarta: Kencana, 2004).

## Marriage Registration in the Texts of the Al-Qur'an

The existence of marriage registration is not clearly found in the Al-Al-Qur'an or a specific interpretation. It is reiterated that the intention of the Al-Qur'an is not to regulate marriage registration directly; this does not mean that these regulations are not in the Al-Qur'an at all. On the other hand, it is known that among the verses of the Al-Qur'an, certain information is shared and is general. The verse that explains registration does not explicitly indicate the meaning of marriage registration.

Several verses of the Al-Qur'an were found that discuss recording or documenting an event. The verses of the Al-Qur'an are as follows:

Allah says in Surah al-Baqarah verse 282 as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُم بِدِينِ إِلَيْ أَجْلٍ مُسَمًّى فَالْكُتُبُ وَلِيَكْتُبْ بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ وَلَا يَأْبَ كَاتِبٌ أَنْ يَكْتُبْ  
كَمَا عَلِمَ اللَّهُ قَلِيلُكُتُبٌ

Meaning: O you who have believed, when you contract a debt for a specified term, write it down. Moreover, let a scribe write [it] between you in justice. Let no scribe refuse to write as Allah has taught him. So let him write and let the one who has the obligation dictate.

The verse fragment written like فَالْكُتُبُ in Surah al-Baqarah above is the verb form or Fi'il Amr. The original is اكتبوه, while the letter (ف) is referred to as Fa' Al-Jawaban (answer) of (تم) in the previous line. The verb form comes from كتب -يكتب With Isim Masdar, which, if seen from the meaning, is "note" in the verb form and recording in the Isim Masdar form.<sup>27</sup>

From some of the texts above, it can be seen that the sentence editor is a verb request or command that comes from Allah to humans to carry out records in mu'amalah relationships. So humans also must carry out or carry out according to orders. If seen in fragments, the recording order is stated as just an ordinary recommendation, and it can cause huge losses; this will be experienced and seen in various kinds of current business transactions.

For those who think that recording is important as an effort to avoid disputes and to achieve a level of legal certainty, So based on this, Allah continued His written word, namely:

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<sup>27</sup> Abdul Helim, *Administrasi Pembelajaran Melalui Al-AlQur'an: Adanya Pencatatan Akta Nikah*, (Yogyakarta: Penerbit K-Media, 2017).

<sup>28</sup> Muhammad Rasyid Rida, *Tafsir al-AlQur'an al-Hakim*, dikutip dari Abdul Helim, *Learning Administration Through the Al-Qur'an: The Existence of Marriage Contract Registration*, (Yogyakarta: Penerbit K-Media, 2017).

وَلَيَكُذَّبْ بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ

Allah says in Surah an-Naba' (78:29) as follows:

وَكُلَّ شَيْءٍ أَخْصَيْنَاهُ كِتَابًا

Meaning: Everything that We have recorded in the book (record of human actions).

Tafsir experts think that Surah an-Naba' above is related to Allah's activities with angels who are in charge of writing or recording to record and write down activities carried out by humans. According to commentators, this recording or writing is carried out by Allah and the angels, who are tasked with carrying out tasks accurately, clearly and in detail.<sup>29</sup>

As mentioned above, the work system that supports orderliness in recording administration does not appear to create errors in the recording process. Because Allah and the angels assigned to him know with certainty the actions of humans, the understanding that can be drawn from Surah An-Naba' and related to human life is illustrated in Surah al-Baqarah verse 282, where Allah not only encourages humans to record all activities carried out, but Allah also records humans and then makes documentation of all human records, both and bad. In the eyes of Allah, this record is very important because it can be used as evidence or referred to as evidence that can be used later.<sup>30</sup>

So, from this verse, it can be understood that recording has an important meaning. Apart from the importance of records and documentation, in God's view, it also provides legal protection for humans who do good deeds. With the completeness of this record, whatever decision God takes when calculating the future is not a conspiracy of the interests of God's substance but rather the realization of human interests when living in the world, whether they hope for His blessing or stay away from Him.<sup>31</sup>

Likewise, in Surah al-Qamar (54:52):

وَكُلُّ شَيْءٍ فَطُلُوْهُ فِي الزُّبُرِ

Meaning: And everything they have done is recorded in a notebook.

These are some of the views of the Al-Qur'an regarding registration or recording and documentation, both relating to the world of transactions and all human actions carried out.

<sup>29</sup> M. Quraish Shihab, *Tafsir al-Misbah: Pesan, Kesan dan Keselarasan Al-Al-Qur'an*, Vol XV, (Jakarta: Lentera Hati, 2003).

<sup>30</sup> Abdul Helim, *Belajar Administrasi Melalui Al-Al-Qur'an: Adanya Pencatatan Akta Nikah*.

<sup>31</sup> *Ibid.*

From the interpretation above, it can be understood that recording every event is very important in human life. By recording this, it is hoped that what humans do will avoid conflict because everything is recorded. Recording can be used to achieve legality and legal certainty, which can later provide legal protection to parties carrying out transactions when proof is needed for all events or for all people who make transactions. With this recording, everything can be proven, and there is clear legal evidence.

Initially, marriage registration, according to Sharia, was not a condition that determined the validity of the marriage. However, with authentic written evidence, marriage records can be a tool to strengthen the commitment built by a couple.<sup>32</sup> Classical Islamic law has no regulations regarding the need to register a marriage. Explicitly, the rules for registering marriages are not regulated in the Al-Qur'an and Hadith.<sup>33</sup>

Based on the explanation above, it seems inappropriate when people think that all these events do not need to be recorded because, from the interpretation above, it is clear that Allah has also practised recording even though the context is very different. The magnitude of God's contribution in the recording indicates to humans that recording several events in human life, including marriage registration, is highly recommended and even mandatory.

### **The Existence of Marriage Registration and the Relevance of Law in the Contemporary Era**

Marriage registration is, in principle, important and is a basic right in the family. On the other hand, marriage registration is a form of effort to protect basic rights in the family. Several countries in the world have implemented regulations regarding marriage registration, such as Indonesia<sup>34</sup>, Malaysia<sup>35</sup>, Brunei Darussalam<sup>36</sup> and the other countries.

Why, then, is marriage registration important? The existence of a marriage event can be considered clear and recognized by the state, and it is an important part of determining a person's legal position. A legal position carries certain rights and authority to act within the law. Meanwhile, if marriage laws are not recorded, this will give rise to marriage practices that do not have permanent legal force.<sup>37</sup> This means that the practice of registering marriages is indirectly a form of protecting those whom family binds.

If marriage registration is not carried out, it will have several impacts; firstly, the state will not recognise marriages. Second, it affects the child's position because the child only has

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<sup>32</sup> Departemen Agama Republik Indonesia, *Asosiasi Hukum dan Peraturan di Lingkungan Peradilan Agama*, (Jakarta: Direktorat Jenderal Pelembagaan Agama Islam, 2001).

<sup>33</sup>Asep Saepudin Jahan. *Hukum Keluarga, Pidana dan Bisnis, Studi Legislasi Indonesia Fiqh dan Hukum Internasional*, (Jakarta: Kencana, 2013).

<sup>34</sup>Law Number 1 of 1974 concerning Marriage, Article 2 Paragraph (2), states that applicable laws and regulations must record every marriage.

<sup>35</sup>Article 22 Paragraph (1) of the Penang Law reads: "After the marriage contract is executed, the Registrar must record the specified details and the specified talaq or other ta'lil for the marriage in the marriage register".

<sup>36</sup> Mosque imams carry out marriage registration, because they receive a power of attorney as a marriage officer from the sultan or which is legalized by law for Muslims. See Kholis Bidayati Kholis, Muhammad Alwi Al Maliki Alwi, dan Suci Ramadhan Suci, "Dinamika Reformasi Hukum Keluarga Islam di Negara-Negara Muslim," *ADHKI: Jurnal Hukum Keluarga Islam* 3, No. 1 (2021): 51–68.

<sup>37</sup>Aninditda & Sulistiani. Pratama, "Dinamika Regulasi Pencatatan Perkawinan di Indonesia pasca Permendagri No.9 Tahun 2016," *Mediasi: Media Ilmu Syariah dan Ahwal Al-Syakhsiyah*. 5, No. 2 (2022): 110–121.

a civil relationship with the mother and the mother's family. The basis for this regulation is decision no. 46/PUU-VIII/2010 dated 17 February 2012.<sup>38</sup> Third, it affects the status of property; if the marriage is registered, the assets arising from the marriage can be referred to as joint property.<sup>39</sup>

Meanwhile, in terms of implementation, it turns out that there are still several challenges and problems in the practice of registering marriages. One example is registering marriages that occur among the Shiite-Sampang refugee group, who then have to register their marriages with a courier's help without a marriage registrar's direct presence at the wedding location due to certain conditions.<sup>40</sup> The problem of workers in Kinabalu and other Indonesian citizens abroad who then still need access to their marriage registration due to customs in certain customs.<sup>41</sup> These two examples are a sign that, in certain circumstances, registering marriages becomes complicated to access.

Then, the impacts and challenges faced have triggered several regions to emerge with innovations to provide easy access to marriage registration procedures. One occurred in Surabaya, *Lontong Kupang*. Innovation was initiated to shorten time and make it easier to get a marriage certificate. If previously, when someone performed the marriage bat, they had to go to the court office first to register their application, now there is no need to do this.<sup>42</sup> Several other regions in Indonesia have implemented SIMKAH, namely the "*Sistem Manajemen Perkawinan*", a system used to administer marriage registration at the KUA.<sup>43</sup> The emergence of innovation and access in obtaining marriage registration is to make things easier for the public.<sup>44</sup> So that the reasons related to the complexity of registering marriages can be slowly minimized.

Changes in legal and societal paradigms regarding marriage registration have triggered various aspects. For example, if it is related to religion, people think that marriage is valid if the pillars are met. As stated above, if we trace the historicity of the Prophet Muhammad SAW, the paper recording concept had not yet been implemented, so the evidence was witnesses and *walimah al-ury'*. However, this practice later led to public belief that marriage was valid as practised by the Prophet Muhammad.

Likewise, the interpretation of several verses needs to be explored because there are no verses that actually lead to an order to register a marriage. Because of these special

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<sup>38</sup> Imam Faishol, "Pencatatan Perkawinan dalam Hukum Keluarga di Indonesia," *Uhlumul Syar'i : Jurnal Hukum dan Ilmu Syariah* 8, No. 2 (2019): 1–25.

<sup>39</sup> Maulidia Mulyani, "Dampak Hukum Putusan Mahkamah Konstitusi Terhadap Perjanjian Perkawinan dalam Perkawinan Campuran," *Ayy-Syi'ah: Jurnal Syari'ah dan hukum* 55, Nomor 2 (2022): 287.

<sup>40</sup> Maulidia Mulyani, "Praktik Perkawinan Pengungsi Syiah Sampang di Puspa Agro, Sidoarjo: Hambatan dan Tantangan untuk Mendapatkan Hak Administrasi Keluarga," *Ayy-Syi'ah : Jurnal Syariah dan Hukum* 56, Nomor 1 (2022): 55–74.

<sup>41</sup> Kustini Kosasih, "Dinamika Penerapan Syariah, Perkawinan dalam Kontestasi Negara dan Agama," *Keselarasan* 20, No. 2 (2021): 330–338.

<sup>42</sup> Bahari YWidiyanto MHartono Supri, "Inovasi Pelayanan dalam Pengelolaan Pencatatan Perkawinan di Kantor Kependudukan dan Catatan Sipil Kota Surabaya" 4, no. 02 (2016): 1–23.

<sup>43</sup> Novita Sri Junadi, Ahmad Suprastiyo, "Inovasi Sistem Informasi Manajemen Perkawinan (SIMKAH) dalam Pelaksanaan Pelayanan Publik (Studi Kasus di Kantor Urusan Agama, Distrik Gondang, Kabupaten Bojonegoro)," *Jurnal Ilmu Administrasi Negara* 8, No. 1 (2024): 109–120.

<sup>44</sup> Zezen Zainul Ali and Mega Puspita, *Pembaharuan Hukum Keluarga Di Asia Tenggara: Dari Negara Mayoritas Sampai Minoritas Muslim* (Yogyakarta: Jejak Pustaka, 2023).

conditions, the historical aspect is important to explain why marriage registration was not clearly ordered in the Al-Qur'an and was also practised by the Prophet Muhammad SAW.

Even so, special efforts have been made to provide an understanding of marriage registration linked to the propositions of the Al-Qur'an. Like the isobath of Islamic law, the Al-Qur'an then orders testimony in important matters carried out by humans, such as marriage. Then, in the explanation of verse 2 of Surah at-Talaq, which explains that there is testimony in the reference, but if the explanation is linked to the rules of Islamic law, "*Mafhum Aulawi*", which means that lowercase letters have been regulated in the Al-Qur'an and hadith, then the matter that higher must be recognized by law applicable to lower case letters. This can be interpreted to mean that only if the reference must be witnessed, especially in the context of marriage, does this also apply to the Mu'amalah contract, which must also be recorded.<sup>45</sup>

From the description above, it can be concluded that marriage registration and its legal relevance in the contemporary era have experienced various dynamics. One of the obvious things is that the marriage registration process continues to be implemented in various aspects, as well as how to provide understanding in society. Because marriage is part of religion, special ways are needed to understand that there is a country that is part of it as a form of protection and a religion as a way of life.

## Conclusion

Historically, marriage registration can be traced back to the marriage practices during the time of Prophet Muhammad SAW. However, during that period, marriages were not formally registered; instead, evidence relied on witnesses and the observance of *walimah al-uryy*. The absence of formal registration stemmed from it not yet being a customary practice. Regarding the Qur'anic perspective on marriage registration, explicit mandates for registration are not found. However, several verses emphasize the importance of documentation in matters of social transactions, as seen in al-Baqarah (2:282). In contemporary legal practice, the institution of marriage registration has evolved significantly, with various practices, impacts, and innovations shaping registration procedures to ensure legal clarity and protection for parties involved.

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<sup>45</sup> Adrianto Anto, "Pengertian Pencatatan Perkawinan dalam Peraturan dan Perundang-undangan yang Diulas dalam Hukum Islam," *TARUNALAW: Jurnal Hukum dan Syariah* 2, No. 01 (2024): 12–24.

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