

# Semiotic Analysis on Head Nod Ijab Qabûl of Deaf Groom in Islamic Marriage Law

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## Abstract

This article aims to analyze the semantic side of a deaf wedding contract which interprets the contract with a nod of the head as the sign language. This qualitative research uses a phenomenological approach that reveals the experiences of three people in Bengkulu in 2021. In this case, the phenomenon in question is a nod of the head as an ijab qabûl. This study is interpreted by Charles Sanders Peirce's semiotic theory, which states that a sign is something used by an icon through an object so that it can function as a meaning for the interpretant. The analysis concluded that Deaf who nodded their heads as the qabûl words meant approval. Looking at Muslim scholar's opinions, especially as-Syarqâwi and al-Malibari, if the head nod means acceptance like such a phenomenon, the marriage contract of the Deaf is considered valid in Islamic law because the essence of qabûl is receiving an offer from the guardian of the bride.

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*Partikel ini bertujuan untuk menganalisis sisi semantik akad pernikahan Tuli yang mengucapkan akadnya dengan anggukan kepala sebagai bahasa isyaratnya. Penelitian ini merupakan penelitian kualitatif yang menggunakan pendekatan fenomenologi yang mengungkap pengalaman kejadian ijab qabûl yang dilakukan oleh tiga orang Tuli di kota Bengkulu pada tahun 2021. Dalam hal ini, fenomena yang dimaksud adalah anggukan kepala sebagai ijab qabûl. Kajian ini dianalisis dengan teori semiotik Charless Sanders Peirce yang menyatakan bahwa tanda adalah sesuatu yang digunakan oleh suatu ikon melalui suatu objek sehingga dapat berfungsi sebagai pemaknaan bagi interpretan. Hasil analisis penelitian ini menyimpulkan bahwa Tuli yang menganggukkan kepalanya sebagai kata qabûl bermakna persetujuan. Sejalan dengan pendapat ulama fikih, terutama menurut as-Syarqâwi dan al-Malibari, perkawinan Tuli yang demikian dianggap sah dalam hukum Islam karena hakikat qabûl adalah mendapat izin dari wali pengantin perempuan.*

## A. Introduction

As a holy and great agreement, the Islamic marriage contract (*ijab qabûl*) must be pronounced in clear language to be understood by the bridegroom and his female guardian (Muhyi ad-Din, 2013, p. 10; Noor & Zein, 2019). To facilitate marriage, the sentences used in the contract do not always have to be in Arabic. Still, it is permissible for any regional or vernacular language of origin to be understood (Khalâf, 2016, p. 25). It is because if the contract uses inappropriate language, the agreement of a contract will not be reached, and the willingness of the bride and groom to bind themselves as husband and wife (Ghazaly, 2019). Whatever language is used in the marriage contract, including sign language, the most crucial thing is willingness; mutual acceptance between the couple (Sabiq, 2009, p. 89).

In Islam, the marriage contract is a strong agreement mentioned in the Quran of surah an-Nisâ: 21 as a “strong bond”. As stated in the Quran (33: 7), this is an excellent agreement aligned with the agreement between Allah and the prophet and the messenger with Ulul Azmi predicate including Nuh as, Ibrahim as, Musa as, Isa as, and Muhammad Saw (Amri, 2020). In the agreement with Israel’s descendants, the Quran said Allah raised Mount Turisina over their heads (Surah an-Nisâ: 154). *Misâqan galîza* is also a mandate from the wife that must be held firmly (Shihab, 1996, p. 287). In other words, *misâqan galîza* is a big commitment between husband and wife to maintain a happy, peaceful, and affectionate household (Wahyuninto, 2018).

Every Muslim who will carry out his marriage contract hopes that the implementation of his marriage will run smoothly, both in his marriage ceremony and the marriage process. The core of the marriage process that the prospective bride and her family have been waiting for is “*ijâb* and *qabûl* spelling “, which is a string of sentences from a female guardian which is then responded to directly by the prospective groom. The correct and valid spelling of the offer and acceptance is the final determinant of the forbidden thing to become halal; that is, an expression that officially marks a man and a woman to become husband and wife.

The statement of marital offer and acceptance which is commonly found in Muslim marriage contracts must have an understandable verbal message for the female guardian, the groom, and two witnesses. Language errors and inaccuracies in pronouncing the consent granted effected an invalid marriage contract. Hence, it is common to find the phenomenon of offer and acceptance spelling which is repeated two or three times because it is considered invalid. In fact, the verbal messages in question have generally been uttered with perfect sentences; namely the fulfillment of complete and meaningful communication components (Mulyana, 2003), not only messages in the form of types of symbols that use one or more words. This does not mean that the listener does not understand, but the message that is heard produces

a different meaning (Maclay & Newman S., 2017, p. 219). It seems that something affected the pronouncement of the *ijâb* and *qabûl* (offer and acceptance) utterance always considered invalid is the multiple interpretations and the spelling procedure considered inappropriate in the opinion of the Muslim scholars. Such invalid consideration is no time lag (al-Kihn et al., 2000, p. 53; Imam Nawawi, 2010, p. 474).

What if it is someone with a deaf who will carry out the marriage contract? Deaf people with the physical disorder also have the same rights, including the right to vote in politics and to marry (Nursyamsi et al., 2015). Smoothness in saying the utterance of offer and acceptance is certainly the hope of all men who are getting married, including men with disabilities such as deaf people. It's just that not all people have physical perfection that is able to make speech sounds and strings of sentences that can be understood by others. Those with disabilities—deaf and mute people—of course, are unable to pronounce the marital offer and acceptance (*ijab qabûl*) as usual in verbal language.

Deaf people have the same rights as the right to education, accessibility, health services, and social participation (Chataika et al., 2012). Educational institutions should provide them with the necessary support, such as sign language, translation, and technical assistance so that deaf people can access education in a way that suits their needs. In terms of accessibility, the Deaf is also entitled to public facilities such as workplaces, transportation, buildings, the availability of medical services with sign language, and public services that can be accessed easily. It may involve installing sign language translation, providing technical assistance, and removing physical barriers that hinder their flexibility in society. They deserve advocacy to communicate and interact with others through sign language.

Deafness is a person's inability to speak or the need for translation (Kisch, 2008). Due to forced circumstances, the Deaf need sign language as a language of communication. They are just not able to communicate verbally, but they are people who have communication skills with knowledge and experience; only their communication requires language signs. The marriage process for the deaf must use sign language. It means that the people involved in the marriage process, such as guardians, witnesses, and administration registrar of marriage, should ideally understand the sign language. The truth and accuracy of the meaning of the sign language that is conveyed determines the validity of marriage. In other words, the correctness of the meaning results in the validity of the contract, on the other hand, errors in interpreting sign language will result in the invalidation of the contract.

The study of marriage contracts for deaf or speech impaired persons has actually been observed and discussed by several scholars. An IAIN Ponorogo scholar, for example, observed the review of Islamic law on people with disabilities (Safi'i, 2020). The results of his study reported that speech impairments can make the marital offer

and acceptance by means of a sign language that their female guardian represents to a translator. There are also scholars from the Darul Ulum Jombang Islamic Boarding School who observed the permissibility of a speech impairment marriage contract in sign language (Kurniyawan, 2019). The research by the Islamic law degree at UIN Walisongo Semarang also explains that it is permissible for deafness to represent the marriage contract to a translator (Mahmudah, 2017).

These studies only focus on the marital offer and acceptance which is pronounced on behalf of the translator or by means of sign language according to Islamic law. What is studied is also the aspect of its validity according to the Islamic law. Whereas, in this study, what was examined was a marriage contract with a deaf or speech impaired who uttered his acceptance (qabûl) with a nod of his head. Therefore, the analysis used in discussing a marriage contract model like this is semiotic analysis, which is a linguistic study that studies the intricacies of the meaning of signs, symbols, or signs (Cullum-Swan & Manning, 1994). Furthermore, because this study is to analyze the nodding cues or symbols associated with their use of communication interpreters as expressed by Budiman (Sukarwo, 2019), this analysis is classified as a semiotic-pragmatic analysis which is drawn into the analysis of fiqh and ushul fiqh. This is very important to do because the understanding of the problem of Islamic law must be studied objectively from various points of view and the aspect that is very close to the study of ushul fiqh is the study of language (Syahnan et al., 2019).

## B. Methode

This study is qualitative research that uses a phenomenological approach. The participants' experiences assisted this research; a Civil servant registered marriage in Bengkulu in 2019. The participant is named Junaedi. He has recorded three Deaf marriages whose consent was accepted with a nod. From the events witnessed and experienced by the marriage registrar, it is not wrong if this research approach uses a phenomenological approach (Hadi et al., 2021).

The data collection technique used was in-depth interviews with the subject of the main actor, Junaedi, who was a marriage registrar who led the marriage process for three deaf people. To confirm the truth of the marriage of the deaf with a nod of the head, the researcher interviewed four witnesses simultaneously.

Meanwhile, the data analysis used is a flow analysis by Miles and Huberman, namely by collecting, reducing, displaying, and concluding research data. In concluding the data, the researcher uses and adopts the opinion of Charles Sanders Peirce in a semiotic analysis known as the meaningful triangle theory. Peirce said three elements in understanding a symbol are sign, object, and interpretant (Met-

ro-Roland, 2009). A sign is something visible, refers to something, and can represent the relationship between the sign and the recipient's sign which is representative and leads to interpretation. A sign serves to represent something else by showing something it represents. An object is something that references a sign or something that removes a sign. Meanwhile, the interpretant is the concept of thought from the person who uses the sign and gives meaning to the object that distinguishes a sign. Peirce calls a sign semiotic, meaning that everything in the world is a sign, a process of interpreting three stages (triadic).

## C. Result and Discussion

### 1. Communication Ability of Deaf Person

One of the basic needs of humans on this earth is the ability to communicate, both in verbal and nonverbal language. This is because this noble being has a natural desire and instinct to convey the desire for something to others to be accepted and vice versa. Hence, humans carry out the communication process; namely conveying the will, ideas, questions, news, and needs to others to provide understanding and also to be understood. Human communication is dynamic and constantly changes according to the conditions and situations at hand.

Seeing the terms of communication, Chomsky revealed that every human being is born with a set of language acquisition devices (Suharjito et al., 2017, p. 12). Naturally, humans will be able to communicate with other people because they tend to acquire language unconsciously from their family and neighbors. In fact, Chomsky added that they will be able to compose their own sentences grammatically even though they do not realize that the language they speak is grammatically arranged. Referring to the verses of the Al-Qur'an Surah Al-Baqarah: 31, Chomsky's theory is not contradictory because Allah Almighty taught a number of concepts and language terms to the Prophet Adam since he was in heaven. When a number of names (terms) were shown to the angels, even the creatures who always obeyed Allah during that time were unable to mention them, then said "Glory to be You, we have no knowledge except what You have taught us. You are truly All-Knowing and All-Wise". Therefore, it is very natural that these descendants of Adam are generally able to speak from birth according to their level of physical development.

By the will of Allah Almighty, not all humans have the ability to speak verbally, but there are those with hearing disabilities and those with speaking disabilities. Ahmad stated that disabled person in the world commonly consists of (1) deaf and mute disability, (2) physical disability, (3) mental health disability, and (4) vision impairment (Ahmad et al., 2022). Hearing-impaired persons are usually related to speech disorder, although not automatically because there is a congenital deaf

disability and some are due to a disease that causes hearing loss to the point of being totally unable to hear (Suharjito et al., 2017). The second one may still be able to speak, but because he is unable to hear voices, he finally finds it difficult to speak orally. The cause of this disability is the malfunction of part or all of the hearing aid so that he cannot use the hearing aid in his daily life. In addition, one of the causes of impairment in deaf individuals is the inhibition of children's language development (Triyanto & Permatasari, 2016), which is classified as (1) very mild hearing loss [27-40 decibel dB], (2) mild hearing loss [41-55 dB], (3) moderate hearing loss [56-70 dB], (4) severe hearing loss ([71-90 dB], and (5) extreme hearing loss/deafness [above 91 dB].

Ideally, the deaf people should be identified as early as possible from childhood and provided with appropriate services to make it easier for the child to attend school. With their limitations, teachers must have an accurate method of packaging material for them. Recent findings regarding the writing ability of the deaf concluded that their writing ability is limited to text that has been thematically recorded in their imagination (Gunawan et al., 2020). To help a person with hearing impairment communicate, he or she must use oral and manual communication methods, or a combination of both (Williams, 2004). Oral communication includes speech (vocal communication), lip reading and use of residual hearing. Manual communication includes sign language and fingers spelling.

How do you communicate with these deaf and mute people? Sign language is certainly the language most effectively used by them. There is no other way to communicate with them except in sign language because these deaf people have a hearing barrier and of course they will be hampered in speaking (Huda, 2019). This sign language uses hand, body, and lip movements to convey messages. In other words, sign language does not use sound patterns, but uses sign patterns with a combination of hand shapes, hand movements, arms, bodies, and even facial expressions so that they can form understandable meanings.

Sign language taught in schools for persons with disabilities (Sekolah Luar Biasa = Special Needs School or School for Disabled Children in Indonesia) is known as BISINDO (Bahasa Isyarat Indonesia/Indonesian Sign Language and SIBI (Sistem Isyarat Bahasa Indonesia=the Sign System of Indonesian Language). The two models of sign language have differences. SIBI, which was created by the head of SLB Widya Bakti Semarang (Anton Widyatmoko), is considered to have adopted American sign language, making it difficult for people with disabilities (deaf) to communicate because SIBI is too grammatical and structural (Yunanda et al., 2020). Meanwhile, BISINDO is more practical and easier to understand for deaf people to communicate on a daily basis because it is adopted from local culture. Gumelar said that BISINDO is a sign language that has been completely adapted from a regional language that develops naturally so that deaf people can follow it even though it is not completely



in accordance with Indonesian grammar rules (Gumelar et al., 2018).

Currently, many researchers have actually created aids to communicate for deaf people. In 2015, for instance, Badhe and V. Kulkarni created a sign language translation tool called ISL (Indian Sign Language). This tool can translate gestures that have been formatted in ISL into English (Badhe & Kulkarni, 2015). Al Mamun also created a communication technology tool for the deaf. The result of his research is a glove design that will make sign language understandable to everyone. The way it works, the android mobile application is used to receive sound which will convert it into sound and send it to the gloves via a wireless communication system. The results are displayed on the glove's LCD screen. When the hand is moved, the letters and words will move detected according to the valid movement. As a result, the output will be displayed on both the cellphone and the LCD screen (Mamun & Alamgir, 2017). The most recent is Alka Augustine et al, who have created a technology program that can help deaf people communicate. This tool is called Glide, which is a software that can convert hand movements into text (Augustine et al., 2020).

Speaking of sign language as the language of communication, Al-Qur'an has discussed the use of this language. As social beings who always need others, human being cannot be silent; not communicating. Therefore, when the Prophet Zachariah was not given the ability to speak verbally, he was given the ability to speak nonverbally, namely in sign language. It is said that the Prophet Zachariah prayed to Allah SWT to be given a sign that he would be given offspring. Then Allah swt answered with His words in Surah Ali Imran: 41 as follows:

Zachariah said, "My Lord! Grant me a sign." He said, "Your sign is that you will not be able to speak to people for three days except through gestures. Remember your Lord often and glorify Him morning and evening." Zachariah said, "My Lord! Grant me a sign." He said, "Your sign is that you will not be able to speak to people for three days except through gestures. Remember your Lord often and glorify Him morning and evening."

Al-Qurtubi explains that the meaning of "ramzâ" in the above verse is "sign", namely the sign of two lips, two index fingers, hands, eyes, and body gestures (Al Qurtubi, 1967, p. 61). it means that the meaning of "ramzâ" is any gesture in lieu of that the Prophet Zachariah was not speaking.

Our Prophet Muhammad PBUH also practiced sign language. In Sahih al-Bukhari number 6005, it was followed that "it was narrated by Abdullah bin Abdul Wahhab from Abd al-Aziz bin Abi Hazim from Sahl bin Sa'ad that the Prophet Muhammad PBUH said," I and those who care for children orphans in heaven like this (al-Bukhari, 2012, p. 9). He gestured his index and middle fingers and stretched them both out. This hadith gives the meaning that the Prophet PBUH and the person who took care

of the orphan were very close, as was the gesture used by the Prophet Muhammad with his two fingers.

## 2. Semiotic Analysis in Interpreting Sign Language

The first figure who pioneered the semiotic or semiological method was Ferdinand de Saussure (1857-19130) (Istiqomah, 2017). He thought that all human behavior would have meaning. The meaning of a sign is not an innate meaning, but it is a result from social interactions in the community. From Saussure's description, Sobur concluded that semiotics is the study of signs, namely the study of how these signs function and produce meaning (Sobur, 2002). Semiotics is the study of how humans interpret things. Interpreting something means that not only the object under study carries information, but also constitutes the structure into a sign.

Everything related to signs, symbols, or cues that are visual and verbal in nature deals with semiotics (Astuti, 2020). All these signs can be accepted by all human senses when these signs or symbols form a code that systematically conveys information on human activities. The logic used in capturing the meaning is the degree of logic, not the interpretation which is measured based on whether or not it is true.

Charles Morris revealed that semiotics can be divided into three branches of science, namely syntactic, semantics, and pragmatics (Budiman, 2011, p. 23). Syntax or syntax is a branch of semiotics that studies "the formal relationship between one sign and another". Semantics is a branch of semiotic inquiry that studies "the relationship between signs and the objects they refer to." For Morris, what is meant by designata is the meaning of signs before they are used in certain speeches. Pragmatics is a branch of semiotic inquiry that studies "the relationship between signs and interpreters or their users". Pragmatics specifically deals with aspects of communication, especially the situational functions that underlie speech.

Because deaf communication uses sign language—that is, communication that does not use voice, but uses hand, body, gesture, and lip movements to convey ideas and thoughts—to understand it must be done by semiotic analysis. In communicating, the deaf accustoms their mindset to understanding the meaning of words, namely by maximizing the remaining senses in the body that are still functioning optimally to receive external responses. For these deaf people, sign language is a nonverbal language that symbolizes their identity in communicating (Rashid et al., 2017). All of this potential is then applied in sign language as the main language in communicating. For deaf people in Indonesia, there are two models of sign language that are commonly taught in most special schools, namely SIBI and BISINDO.

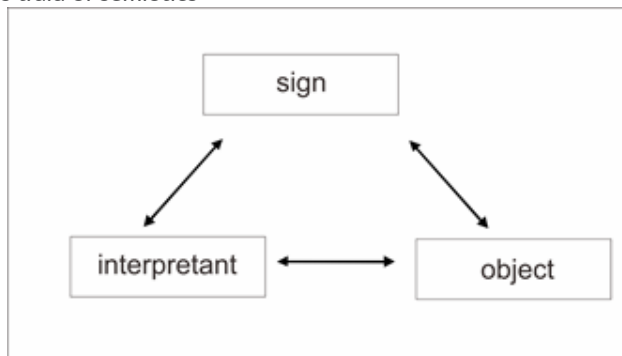
In interpreting symbols or signs, this study follows the theory of Charles Sanders Peirce (Peirce, 1991). This American pragmatic philosopher argues that



semiotics is based on logic because the logic learns how people state their mind and the reasoning as its result, according to Peirce, is done through signs (Peirce, 1991). With signs, we can find various things in this universe. Peirce added that the sign is related to the object. Its existence has a cause-and-effect relationship with the signs due to conventional correlation (Kaelan, 2009, p. 166). Therefore, based on mutual agreement, it was followed that a red light, for instance, is a “prohibition” for every motor driver to cross.

Peirce said that the sign “is something which stands to somebody for something in some respect or capacity.” Something that Peirce uses to make signs work called ground. Consequently, signs always exist in triadic relationships, namely ground, object, and interpretant as shown in the following concept map.

Figure 3  
Peirce's triad of semiotics



### 3. A Case of Marriage Contract with Nodding a Head in Bengkulu, Indonesia

Syafi'iyah scholars agree that there are five pillars of marriage consisting of (1) the presence of a groom, (2) a bride, (3) a guardian, (4) two witnesses, and (5) utterance of marital offer and acceptance (al-Malibari, 2004, p. 451). Meanwhile, Imam Malik argues that the dowry is one of the sixth pillars of marriage by analogizing the sale and purchase contract (Nugroho, 2014). Furthermore, Musda Mulia and Khoeruddin Nasution revealed that “marriage registration”, which is carried out by the marriage registrar officer of the Office of Religious Affairs, is a harmonious marriage (Sayyad, 2018). However, the majority of scholars agree that the utterance of marital offer and acceptance is a pillar of marriage that must be pronounced clearly and understandably.

There is no standard for the marriage contract, but the important thing is that it contains the keywords “marry” and “accept” or the synonym with the two keywords. Zainuddin Al-Malibari states that the sentence of offer (ijab) and acceptance (qabûl) is at least in the form of “ankahtuka” which means “I will marry you” (KUA Pasar Minggu, 2009). More specifically, an example of an expression of ijab in Indonesia

usually as follows:

“ Zaid bin Fulan, I marry off and I wed off my real daughter named Susanti binti Ahmad Syakir to you with a dowry of a set of prayer tools plus 10 grams of gold, in cash”.

Meanwhile, the bridegroom pronounces the sentence acceptance continuously at least by saying “I accept” or “I am willing to marry her”. A complete utterance of acceptance expression usually appears: “I accept the marriage and wedding of Susanti bint Ahmad Syakir’s with the dowry mentioned above, in cash”.

The problem is what if the bridegroom is deaf? In KHI article 13, paragraph 3, it is also stated that “For a prospective bride who is suffering from hearing impairment, the acceptance (qabûl) can be expressed in writing or a sign that can be understood”. This means, ideally the guardian of the bride pronounces the sentence of acceptance in sign language for the deaf groom. Furthermore, this deaf person understands the sign language and then says qabûl in sign language as well. If a deaf person is not able to make contracts with signs, the contract should be written if he is able (As-Syarqâwi, 1996, p. 255). If he is not able to write either, then the guardian is allowed.

The result of observation in Bengkulu, Indonesia showed that the interesting and unique thing to be analyzed is a practice of marital offer and acceptance undertaken with nodding a head. There is a deaf groom who carries out his acceptance agreement with his head nod, which is the nod of the groom’s head as a sign of approval.

Based on the interview with three official staffs of the Office of the Religious Affair (Kantor Urusan Agama, KUA) in Bengkulu City and the video documentation, it was followed that he had ever undertook three times the marriage contract with nodding a head since 2015 until 2019. The groom is a deaf person who carries out his acceptance contract with a nod of his head. This was done based on the direction of one of the KUA official staffs in Gading Cempaka District of Bengkulu City in mid-August 2019 (Junaidi, personal communication, August 8, 2019). The female guardian is directed to utter qabûl in verbal language perfectly while shaking hands with the groom. After completing the utterance of ijab, the deaf groom immediately nodded his head as a sign of marriage for himself with the dowry that was mentioned.

The case of ijab qabûl with a nod of the head has also occurred in Tuban, East Java (detikNews, 2013). At that time, the groom, who was a deaf man, had to be married off to a teenage girl who was also deaf because the man had obscured her. The marriage registrar for the Office of Religious Affairs named, Fathurrahman, decided to do the ijab qabûl with a nod as his sign language.

Can the head nod of a deaf bride be regarded as an acceptance expression?

The marriage registrar in Gading Cempaka district, Bengkulu city, who carried out a marriage contract for the deaf person, explained that after asking for advice from the local Muslim scholar and asking for an agreement from two witnesses then, he decided that the deaf bride was directed to nod instead of saying qabûl. According to him, if the witness agreed and declared it valid, then the nod of the deaf bride's head was also considered valid. Junaidi added that the important thing was that the two witnesses agreed and considered it valid also. The problem in the model contract is whether the nod of the head can be disguised with an answer to the consent; Can a nod of the head, for instance, have the same meaning as the sentence "yes, I accept the marriage of Fatimah binti Mastur for me with the dowry of a set of prayer tools and five grams of gold in cash," for instance.

The meaning of the head nod varies according to the culture and customs in an area. In several countries, such as Iran, Greece, Bahrain, Lebanon, Turkey, Palestine, and Albania, nodding by moving the head up means disagreeing (Saputra, 2015). However, a nod can generally mean approval (Puupponen, 2019), especially for the Javanese (Pranowo & Yanti, 2019). A head nod is a person's nonverbal language that agrees with the pragmatic meaning conveyed by the other person. A Japanese researcher said that the meaning of the head nod, which he studied with computer technology, resulted in a significant subjective liking tendency (Osugi & Kawahara, 2018). Thereby, nodding your head that shows liking is the same as approval.

The analysis is classified as semiotic-pragmatic to understand the relationship between the meaning of a sign between speakers and hearers (Nengah, 2020). In this case, there is a relationship between the sign and its conventionally formed reference, namely the nod of the head, which generally means agreeing. With a nod, the groom agreed and accepted everything the guardian said about the marriage. Based on the phenomenon, the registrar of KUA Gading Cepaka above concluded that the deaf marriage above is legal.

The essence of the qabûl greeting is receiving, which is receiving the consent of the female guardian who marries his daughter to the groom with a dowry (Hanapi & Yuhermansyah, 2020). In the case of the qabûl expression with a nod of the head, as-Syarqâwi said that the consent of the deaf bride (akhraş) could be carried out as flexibly as possible. The contract is considered valid as long as the bridegroom knows that the topic of his speech is the expression of consent. Therefore, if the deaf bride is notified by her family or friends who communicate with her daily in a semiotic-pragmatic manner, nodding can answer the meaning of the female guardian of the marriage contract.

The four Sunni schools of thought, Hanafu, Maliki, Syafi'i, and Hambali, agree

that for the deaf bride and groom, the most valid consent form is written (Ar-Ramli, 1992, p. 212). If the groom cannot write, he must pronounce it with that gesture with a hand demonstration. Second, a trusted translator is needed so that the qabul consent process runs smoothly. If the second option is also difficult to do, a nod of the head can be considered a solution for *ijab qabul*.

The nodding of the head means agreeing is a meaning that has developed according to the Indonesian culture. Nonverbal language such as head nods, and head shakes are symbols passed down by our ancestors. Nengah said that culture affects a person's behavior in communicating both linguistically and non-linguistically (Nengah, 2020, p. 40). He gave another example that saying "be quiet" can be hinted at by placing the index finger on the lips. In claiming an insane person, our society usually expresses it by obliquely placing the index finger on the forehead. This symbol has been passed off arbitrarily since long ago. Seeing such a phenomenon, nodding can mean agreeing and accepting the speaker's request, wish, or demand from the female guardian offer. Nodding the head in the marital contract of offer and acceptance can be categorized as a greeting of *qabûl* as long as the deaf groom understands the expression of the offer and acceptance of the female guardian.

For the sake of emergency, Islamic jurisprudence experts tolerated expressing consent for deaf people. Asy-Syarbini (2008) revealed that a marriage contract with a sign language containing allegory (possibly containing other marriage meaning) is considered invalid because it should be represent another person (Asy-Syarbini, 2008, p. 25).

If this who has contracted is the bridegroom, if the gesture is clear, he can act with that gesture. If the sign language is still allegoric (it appears other meaning of marriage) or if he can write, he should represent another person. However, if you cannot represent it, the contract can be done with a sign that is still present or in writing for emergency reasons.

The description above shows that the *ijab qabûl* with symbol language, which may contain various meanings, has the potential to invalidate the marriage contract. It means that if the deaf is not notified in advance of the meaning of the marriage guardian's words, the nod of his head cannot be considered a sign of acceptance. It is because what Christomy said does not fulfill the relationship between the vehicle of expression and content (Christomy, 2008). The nod of the head as a signifier is not related to the meaning of "accepting the marriage of Fulanah bint Zaid with a dowry of a set of prayer tools", for example, as significant as de Saussure's explanation (Sobur, 2002). In the analysis of *usûl al-fiqh* (Islamic law methodology), it is stated that every action must be following its intention, "*al-umûru bi maqâşidiha*" (Ibn Nujaim, 2013, p. 17). If the deaf person only nods his head, but he doesn't know what the nod meant, the contract is indeed invalid. That is because what is in a person's mind

precedes the utterances or expressions raised. If the utterance and expression serve the intended purpose, the form of the speech is correct. However, suppose there is a difference between what is uttered/expressed and what is intended, according to the legal maxims of Islamic law (*qawâid al-fiqhiyyah*). What is superior is intended in the heart. According to Ibn Nujaim (Ibn Nujaim, 2013, p. 39), such suitable rule. Hence, if someone intends to take wudu (ritual ablution), then what is said is “wow I’m hungry”, for example. He continues to do this ritual ablution until it is finished. His wudu remains valid because his wudu work accompanies the intention, while his speech is something spoken that his heart does not want.

If the head nod is considered a symbol of approval, Peirce argues that a symbol can be understood as a sign that has a meaningful relationship with one being indicated arbitrarily in accordance with the convention of a particular social environment (Peirce, 1991). An example of Peirce’s opinion is that the white flag in Java is interpreted as a symbol of death, but mostly in Sumatra, deaths are marked with a yellow flag. It means that, if it is generally agreed that the head nod is a symbol of approval, the *ijab qabûl* for deaf persons with a nod of the head is valid.

Peirce revealed that knowledge and the world related to the signs (McClave, 2000). Concerning the nod of the head of *ijab qabûl* of a disabled person (deaf), these are all phenomena based on universal categories, namely the existence of aspects of the reality of agreed social behavior. If the nod is adopted by society as a means of approval, semantic theory must accept it. In other words, the head nod as a “signifie” refers to approval as “significant”.

Something that appears in the world probably deals with experiences, thoughts, ideas, or feelings. If the sign of “A” is black smoke billowing over there, based on experience, it can represent “B”, namely something on fire. Such a mark can be called an index, a contiguity between “A” and “B”. A photo or picture is a sign called an icon. Photos represent a particular fact based on similarity. A sign can also be a symbol if has a relationship between the sign and what it represents based on convention (Pietarinen, 2006). The red light, for instance, is a symbol that represents the word “prohibition” based on social agreement. Therefore, the nod of the head also represents the expression “agreement”.

The use of the gesture depends on the intention. Suppose the nod of the head of the deaf person is intended to accept the consent spoken by the marriage guardian, according to Zakariya Al-Anshariy in the book *Fath al-Wahhâb bi Syarhi Minhaj at-Ṭullâb*. In that case, the gesture is considered valid because it means agreeing and accepting. In addition, the essence of *qabûl* is to accept all utterances of *ijab*. On the other hand, Al-Anshariy also said that these signals could not be used as a benchmark for divorce cases that use signs if a person’s heart does not match the signal. However, if a person intends to divorce, followed by a sign, the divorce can

fall according to his signal. Consider the following quote from Al-Anshariy's words (al-Anshariy, 1998, p. 147).

Discussion of divorce with fingers and other signs. If the husband says to his wife, "You are divorced," and she gestures with two or three fingers, then the amount of the divorce does not occur unless it is followed by the intention when she says so. There is no consideration by pointing or saying you like this; he shows it by what was said in his words. If he does not mean to mention a number and then pronounce talaq with two or three fingers, then two or three divorces fall because that is very clear in its purpose.

Contrary to the description above, if the deaf person is not informed in advance of what the female guardian means, nodding his head cannot be regarded as an utterance of qabûl. It is because what Christomy said did not fulfill the relationship between the vehicle of expression and the vehicle of content (Christomy, 2008). Head nod as a signifier is not related to the meaning of "accepting the marriage of fulanah binti Zaid with the dowry of a set of prayer tools", for instance, as significant as explained by de Saussure (Sobur, 2002, p. 39).

The problem lies in the "time lag" expression between the offer (ijab) and acceptance (qabûl). Many scholars think that in the process of marital expression of offer and acceptance should be no time-interrupted sentences (Imam Nawawi, 2010, p. 474). If there are intermittent intervals, the contract must be repeated. For example, Mustafa al-Khin must have a continuity of sentences between both expressions. In his book entitled *al-fiqh al-Manhajî* (al-Kihn et al., 2000, p. 53), he stated that:

One of the very legal requirements is the continuation of the ijab of the guardian with qabûl from the husband. If the guardian of the bride says, "I marry you to my child ... then the bridegroom is silent for a long time, then he answers that I accept his marriage ..., then the contract is invalid because of the long lag between the offer and acceptance regarding the possibility of the guardian withdrawing the marriage contract. As for the silence of the prospective husband, who is briefly breathing and sneezing, it will not be a problem in the validity of the marriage contract.

In referring to the opinion of the ulama above, the process of ijab and qabûl should not be paused. Accordingly, deaf marriage contracts that use sign language should apply this regulation. The groom's nod should not be done a few moments after the sentence has been pronounced. After the marriage guardian utters the sentence of ijab, the groom must continue to nod as a sign of accepting or approving all the remarks of the bride's ijab. Because of that, Junaidi, a staff of the Office of Religious Affairs in Gading Cempaka district, also ordered a repeat process of the ijab



qabûl because the nod of the groom's head was not done directly in response to the statement of ijab.

#### D. Conclusion

This study concludes that there were three marriage contracts (ijab qabûl) for deaf people with head nods in the City of Bengkulu as a place of this research in 2021. In understanding these nods' meanings, a semiotic analysis is needed to reveal their true meaning. The nod of the head of a deaf person is a symbol of the answer to the words of consent expressed by the bride's guardian. According to Peirce's theory, head nodding is a divine sinsign symbol that provides information that the deaf person agrees with everything the bride's guardian says. In this regard, in Islamic law, the essence of qabûl is to accept all contents disclosed by the bride's guardian. This acceptance form must be spoken in a language that ordinary people can understand orally and in sign language for persons with disabilities (deaf people). Islamic law accommodates mu'âmalah ijthâdiyyah issues in certain circumstances and emergencies. In line with that, based on the opinion of Muslim scholars such as al-Malibari, al-Kihn, and ash-Syarqawi, the expression qabûl with the head is unacceptable and valid if the deaf person is notified in advance of the intent and purpose of the statement. The head nod must represent the expression "I accept or qabilttu." The contract is invalid if the nod does not refer to an expression of acceptance.

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