

## Compliance with Religious and State Laws: The Practice of Dual and Single Marriage Contracts within the Shi'i Community

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### ABSTRACT

This article portrays the practice of dual and single marriage ceremonies within the Shi'i community in Indonesia, particularly in the context of compliance with both religious and state law. Data were primarily collected through interviews with members of the Shi'i community. The study reveals that both dual and single marriage ceremonies are influenced by actors' attitude toward the integration of *Ja'fari madhab* and state law. Individuals who adhere to *Ja'fari madhab* tend to perform dual marriage ceremonies to satisfy both religious and state legal requirements, whereas those who do not prioritize *Ja'fari madhab* opt for single marriage ceremonies in compliance with state law. Structurally, the implementation of dual and single marriage ceremonies is shaped by the different rules between *Ja'fari madhab* and state law.

[Artikel ini membahas praktik akad nikah ganda dan akad nikah tunggal di kalangan komunitas Syiah di Indonesia dalam konteks kepatuhan terhadap hukum agama dan negara. Data umumnya dikumpulkan melalui wawancara langsung dengan anggota komunitas Syiah. Penelitian ini mengungkapkan bahwa praktik akad nikah baik ganda maupun tunggal dipengaruhi oleh keinginan menjalankan fikih Ja'fari dan ketentuan hukum negara. Seseorang yang mengakomodir fikih Ja'fari cenderung melakukan akad nikah ganda untuk memenuhi tuntutan agama dan hukum negara; sebaliknya yang tidak mengakomodir memilih akad nikah tunggal untuk mematuhi hukum negara. Secara struktural, pelaksanaan akad nikah ganda maupun tunggal dipengaruhi oleh sikap terhadap aturan agama dan negara yang berbeda antara fikih Ja'fari dan fikih negara.]

### KEYWORDS

Religious law, state law, dual marriage ceremony, Shi'i community, legal compliance

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## Introduction

Plurality as Indonesia's unique identity is reflected through its diverse islands, ethnic communities, languages, and cultural heritage.<sup>1</sup> Diversity is also reflected in various communities, including the Shi'i community as an Islamic sect that has a different understanding from the majority sect, namely Sunni. Although the number of Shi'i adherents is less than Sunni, the Shi'i community remains part of the social diversity and beliefs in the country of Indonesia. The presence of Shi'i in Indonesia remains debated, with the belief that the sect was first introduced in Aceh in the eighth century by preachers from Hadramaut, Yemen. While it is difficult to distinguish the influence of Shi'i rituals absorbed by Sunni traditions without doctrinal implications, Shi'i in Indonesia has a complex history. Precise data on the number of adherents is also difficult to find, with estimates ranging from 2.5 to 4 million according to Jalaluddin Rakhmat of IJABI.<sup>2</sup>

Sunni Muslims consider the emergence of Shi'i Muslims in Indonesia as a danger that threatens the welfare of society,<sup>3</sup> so there is often discrimination from the majority group to the Shi'i minority group as explained in Formichi's research, the Shi'i community in Indonesia experienced cruel attacks and oppression.<sup>4</sup> In addition, Hasim's research also explains that there are negative reactions and efforts to reduce the growth of Shi'i in Indonesia through the publication of anti-Shi'i books.<sup>5</sup> Then in Syarif's research explained that the post-New Order Shi'i group fought for their community to be accepted publicly, get legal status and interact with the majority group, namely Sunnis.<sup>6</sup>

Despite being a minority Muslim community in Indonesia,<sup>7</sup> Shi'i people have essential rights, including the right to exist as a community and individuals, the right to protection, the right to have their identity recognised, and the right to play

<sup>1</sup> Sammy Ferrijana, Basseng, and Triatmojo Sejati, *Modul Wawasan Kebangsaan Dan Nilai-Nilai Dasar Bela Negara* (Jakarta: Lembaga Administrasi Negara Republik Indonesia, n.d.).

<sup>2</sup> Seyyed Abolhasan Navvab, "The Shi'i Minority in Indonesia: A Consideration of Its Historical and Cultural Links and Gaps with the Sunni Majority," *Journal of Shi'a Islamic Studies* 11, no. 2 (2018): 201–21, <https://doi.org/10.1353/isl.2018.0010>.

<sup>3</sup> Dede Syarif, "Contrasting Trajectories of Shi'a Emergence in Post-New Order Indonesia," *Journal of Shi'a Islamic Studies* 11 (2018).

<sup>4</sup> Chiara Formichi, "Violence, Sectarianism, and the Politics of Religion: Articulations of Anti-Shi'a Discourses in Indonesia," *Indonesia* 98 (2014).

<sup>5</sup> Moh. Hasim, "Syiah: Sejarah Timbul Dan Perkembangannya Di Indonesia," *Jurnal Analisa* 19, no. 1 (2012).

<sup>6</sup> Syarif, "Contrasting Trajectories of Shi'a Emergence in Post-New Order Indonesia."

<sup>7</sup> Zulkifli, "Sunni Responses to Shi'ism," in *The Struggle of the Shi'is in Indonesia* (ANU Press, 2013).

an active role in public life. In addition, minority groups also have the right to maintain cultural, religious and linguistic diversity,<sup>8</sup> including the right to marry. Article 1 of Law No. 39/1999 on Human Rights states that every individual has the right to form a family and continue offspring through legal marriage. The article states, “Every individual has the right to form a family and continue offspring through a legal marriage.” Article 2 also explains that “a valid marriage may only be entered into upon the free decision of the prospective husband and prospective wife involved, in accordance with the regulations set forth in law.”

In performing marriage, the Shi'i community has distinctive guidelines that differ from the Sunni community. As explained by FD, a figure in the Shi'i community in Yogyakarta, there are differences in the implementation of the marriage contract between the Shi'i and Sunni communities. According to his explanation, the implementation of the marriage contract in the Shi'i community involves both parties directly, namely the bride saying *ijab* and the man saying the *qabul* sentence. The guardian only witnesses the *ijab qabul* and is not involved in the marriage contract.<sup>9</sup> The sentence uttered by the bride is “I make myself your wife by agreement”, and then the man must immediately answer “I accept the marriage.”<sup>10</sup>

Furthermore, FD also explained that the Shi'i community conducts a marriage contract twice, a marriage contract according to the existing provisions in Shi'i and a marriage contract attended by a Marriage Registration Officer (PPN) in this case the KUA. In addition, there are couples who only carry out one marriage contract, namely only carrying out the contract attended by the VAT. The practice of marriage contracts involving husband and wife directly was carried out by OZ and her husband. In the implementation of marriage, OZ did two contracts. Firstly, OZ conducted the marriage contract with the wife delivering *ijab* and the husband accepting *qabul* in accordance with the provisions in Shi'i. After the first marriage contract, 3 months later, OZ performed the second marriage contract which was attended by the Marriage Registration Officer.<sup>11</sup> The Shi'i community in the implementation of religious practices refers to Ja'fari *fiqh* law including in matters of marriage,<sup>12</sup> while in the Marriage Law and the Compilation of Islamic Law, more emphasis is placed on the norms found in the Sunni school. Although there are differences in *fiqh* law, the Shi'i community in Indonesia still tries to comply with applicable state laws.

Yogyakarta is a diverse or pluralistic region and is often referred to as a miniature Indonesia because it embraces pluralism and accommodates all forms of diversity. This can be seen from the composition of its population which is very

<sup>8</sup> OHCHR, *Minority Rights: International Standards and Guidance For Implementation* (New York and Geneva: United Nation, 2010).

<sup>9</sup> Interview with FD, a Shia Member in Yogyakarta on November 20, 2023.

<sup>10</sup> Ali Al-Husaini Seestani, *Islamic Laws: English Version of Taudhihul Masae'i According to the Fatawa Ayatullah Al Uzama Syed Ali AlHusaini Seestani* (Qum: Ansariyan, 2006).

<sup>11</sup> Interview with OZ, a Shia Member in Yogyakarta on January 24, 2024.

<sup>12</sup> Maulidia Mulyani, “Pernikahan Pengungsi Syiah: Resiliensi Dan Akomodasi Hak Administrasi Keluarga Di Indonesia” (UIN Sunan Kalijaga Yogyakarta, 2023).

heterogeneous in terms of ethnicity, religion, race and customs. Yogyakarta encourages interfaith harmony through dialogue and cooperation facilitated by MUI.<sup>13</sup>

Shi'i began to be widely known and many people were interested after the Islamic Revolution in Iran, especially among intellectuals such as students, including students studying in Yogyakarta. The influence of Shi'i teachings and thoughts can be seen from the increasing purchase of books by Shi'i scholars such as Ali Shariati and Murtada Muthahhari, as well as other Shi'i scholars' books.<sup>14</sup>

According to Habib Yunus as quoted by Ansori, Shi'i in Yogyakarta is currently divided into 4 communities. The first community is IJABI which is located on Jalan Kaliurang km. 9, the second community is Rausyan Fikr which is on Kaliurang km. 5.7, the third community is the Arab descendants and the fourth is a community that is not part of the three previous communities and is generally difficult to trace its existence.<sup>15</sup>

Research on Shi'i groups in Yogyakarta has been conducted by several academics such as Saputra et al,<sup>16</sup> Masduki et al,<sup>17</sup> Makin,<sup>18</sup> Muhajir and Kamil.<sup>19</sup> Saputra et al.'s research discusses the Shi'i community that has long existed in Yogyakarta. The Shi'i community was able to survive after the statement 'Shi'i is not Islam' was made in 2013. Various ways both operational and structural have been done to prevent conflict.<sup>20</sup> In addition, research by Masduki et al. discusses media manipulation used by extremist communities in Yogyakarta Province to discredit the Shi'i community. Public perception of the Shi'i sect was negatively shaped by the propaganda. The media method of spreading propaganda involves strategically placing misguided Shi'i images to educate a wider audience.<sup>21</sup>

The following research by Makin discusses the homogenisation movement in Indonesian Islam and centres on the persecution of Rausyan Fikr, a Shi'i intellectual community in Yogyakarta by the radical community Front Jihad Indonesia (FJI) in November and December 2011. The plan to terrorise Rausyan

<sup>13</sup> Portal Berita Pemerintah Kota Yogyakarta, "Pluralisme Jogja Dijadikan Contoh Daerah Lain," Portal Berita Pemerintah Kota Yogyakarta, 2018.

<sup>14</sup> Ansori, "Syiah Di Kabupaten Sleman" (UIN Sunan Kalijaga Yogyakarta, 2015).

<sup>15</sup> Ansori.

<sup>16</sup> Riza Saputra et al., "Resolving Conflict Potential: The Preventive Action On The Shi'i Community In Yogyakarta," *Fikri: Jurnal Kajian Agama, Sosial Dan Budaya* 5, no. 1 (2020).

<sup>17</sup> Anang Masduki, Panqiang Niu, and Agus Triyono, "Media and Religion: Study of Anti-Shi'a Propaganda in Yogyakarta," *Komunikator* 13, no. 1 (2021), <https://doi.org/10.18196/jkm.131048>.

<sup>18</sup> Al Makin, "Homogenizing Indonesian Islam: Persecution of the Shi'i Group in Yogyakarta," *Studia Islamika* 24, no. 1 (2017).

<sup>19</sup> Muhammad Muhajir Muhammad Fadli Kamil, "Pandangan Tokoh Syiah Yogyakarta Tentang Nikah Mut'ah Dan Implementasinya Di Era Kontemporer," *Dialog* 44, no. 2 (2021).

<sup>20</sup> Saputra et al., "Resolving Conflict Potential: The Preventive Action On The Shi'i Community In Yogyakarta."

<sup>21</sup> Masduki, Niu, and Triyono, "Media and Religion: Study of Anti-Shi'a Propaganda in Yogyakarta."

Fikr was part of a larger homogenisation movement in Indonesia and not a singular act.<sup>22</sup>

The last research written by Muhajir and Kamil focuses on mut'ah marriage and how this marriage is viewed by Shi'i leaders at the Rausyan Fikr Foundation in Yogyakarta. There are three views expressed by Shi'i leaders in Yogyakarta: 1) prohibit it absolutely because Indonesia and Iran have different locations and circumstances; 2) allow it on condition that the marriage is between Shi'i adherents; and 3) allow it fully based on the *fiqh* of the Ja'fari Shi'i school without considering differences in location and circumstances.<sup>23</sup>

This research examines the marriage contract practices of the Shi'i community in Yogyakarta in the context of compliance with state and religious law. This research also identifies the underlying reasons for the Shi'i community in Yogyakarta to practice double and single marriage contracts in the concept of marriage.

### **The Marriage Contract in Shi'i Jurisprudence**

In terms of *fiqh*, the Shi'i community applies Ja'fari *fiqh*. Ja'fari *fiqh* is also the basis for Imamiyyah *fiqh*, both of which are inseparable from Imamiyyah Shi'i *fiqh*.<sup>24</sup> Therefore, in this study it is sometimes written Imamiyyah Shi'i, Shi'i *fiqh* or Ja'fari *fiqh*. There are two types of marriage recognised by the Shi'i: *munqat}i'* (contract marriage/mut'ah) and *da'im* (permanent marriage). In a permanent marriage, the duration of the marriage is unspecified and lasts forever. The woman in a permanent marriage is called *da'ima* (permanent wife). In mut'ah marriages, the duration of the marriage is determined, for example, marital relations are carried out with a woman for an hour, or a day, or a month, or a year, or more. However, the duration of the marriage must not exceed the normal life span of the husband and wife. Because in this case, the marriage is considered a permanent marriage.<sup>25</sup> The pillar of marriage in Shi'i *fiqh*, both *daim* and *munqati'*, is the *sighat* (Ijab and qabul) between the bride and the groom or their representatives.<sup>26</sup>

The conditions for marriage for both the bride and groom, both male and female, are to be of sound mind and to have reached puberty. The bride and groom must also be free from the prohibition of marriage, whether it is a prohibition due to family relations or other prohibitions, whether they are permanent or temporary.<sup>27</sup> Then the presence of a guardian in the marriage contract is

<sup>22</sup> Makin, "Homogenizing Indonesian Islam: Persecution of the Shi'i Group in Yogyakarta."

<sup>23</sup> Kamil, "Pandangan Tokoh Syiah Yogyakarta Tentang Nikah Mut'ah Dan Implementasinya Di Era Kontemporer."

<sup>24</sup> Izzuddin Washil and Ahmad Khoirul Fatah, "Hadits Ghadir Khum Dalam Pandangan Syiah Dan Sunnah," *Jurnal Studi Ilmu Al-Quran Dan Al-Hadits* 12, no. 1 (2018).

<sup>25</sup> Ali Al-Husaini Seestani, *Islamic Laws: English Version of Taudhihul Masae'i According to the Fatawa Ayatullah Al Uzama Syed Ali Al-Husaini Seestani* (Qum: Ansariyan, 2006).

<sup>26</sup> Ayatullah al-'Uzmā Sayyid 'Ali al-Husaini As-Sistāni, *Minhāj As-Ṣāliḥīn* (al-Hassanain, 1413).

<sup>27</sup> Mughniyah, *Al-Fikih 'ala Madzhab Al-Khamsah*.

considered sunnah if the woman who marries has reached puberty and has sufficient legal capacity or legal capacity.<sup>28</sup>

A girl who has reached the age of puberty, is a virgin and is mature (i.e. she can decide what is in her own interest) wants to get married, she must seek permission from her father or paternal grandfather, even if a woman can look after herself.<sup>29</sup> However, in certain circumstances, a woman does not need to seek the permission of her father or paternal grandfather before marriage. These are:<sup>30</sup>

1. If she is a widow;
2. If she is a virgin, but her father or paternal grandfather does not give her permission to marry a man who is suitable for her according to Shariah and custom;
3. If the father and grandfather are not willing to participate in the marriage at all;
4. If they are incapable of giving consent, such as in cases of mental illness etc; or
5. If their consent cannot be obtained due to their absence, or other reasons, and the woman wishes to marry immediately.

Imamiyah followers rely on sound reasoning. It demands that each individual has full autonomy over what he or she does and that no one, whether related or not, can force a woman to do something she does not want to do. In this regard, Ibn Al-Qayyim has an opinion: "How can a parent marry off his daughter to a person of his own choosing, while the daughter hates and rejects her father's choice? Yet, he still forces her to marry and imprisons her partner?"<sup>31</sup>

Imam Ja'far's opinion on the role of the marriage guardian, as explained in the books *Bada'i as-Shana'i*, *Bidayatul Mujtahid*, and *Nihayatul Muqtashid*, explains the reason behind marrying without the presence of a guardian, namely that a woman has freedom when she has reached the age of puberty, and has reason. She is allowed to marry herself to a man or the representative of another man in a marriage. In this case, the marriage of the woman or her husband will be considered valid according to Islamic teachings. According to the opinion of Imam Abu Hanifah, Zufar, and Abi Yusuf, a woman has the right to marry herself to someone who is suitable or unsuitable for her, with a lower or smaller dowry. However, if she marries someone who is not suitable for her, then her guardian has the right to prevent the marriage, especially if the marriage is for a low dowry.<sup>32</sup>

Then Ibn Rushy also has a view that refers to several scholars such as Abu Hanifah, Ja'far, Ash Sha'bi, and Az Zuhri, who argue that if a woman enters into

<sup>28</sup> Abu al-Qāsim Najm ad-Din Ja'far bin Ḥasan Al-Ḥilli, *Al-Mukhtaṣar an-Nāfi' Fi Fiqhi Al-Imāmiyah* (al-Hassanain, n.d.).

<sup>29</sup> Seestani, *Islamic Laws: English Version of Taudhihul Masae'i According to the Fatawa Ayatullah Al Uzama Syed Ali AlHusaini Seestani*.

<sup>30</sup> Seestani.

<sup>31</sup> Mughniyah, *Al-Fikih 'ala Madzhab Al-Khamsah*.

<sup>32</sup> Imam Alaudin Abi Bakar Ibnu Maskud Al-Kasani Al-KHanafi, *Bada'i' Ash-Shana'i'* (Beirut Libanon: Dar al-Fikr, n.d.).

marriage without a guardian, but the prospective husband chosen is equal or has equality with the woman, then the marriage is considered valid in their view. In other words, if the woman marries someone who is considered to be her equal, then the marriage is permissible even if it does not involve the woman's guardian.<sup>33</sup>

As for the testimony and the presence of two witnesses in the marriage contract in Shi'i Jurisprudence, it is *mustahab* or recommended, not an obligation. The marriage contract in Shi'i jurisprudence can be pronounced by the man or woman themselves, or by someone appointed as their representative to read it on their behalf. The proxy does not have to be a man; a woman can also be a proxy to pronounce the marriage contract. In the Imamiyah *madhab*, *ijab* must be said using words such as "*zawwajtu*" or "*ankahtu*" in the past tense (*madhi*). The marriage contract is not allowed to be done with words that are not past tense verbs, and only the words "*al-zawaj*" and "*al-nikah*" may be used. This is because these two words indicate the direct intention of marriage, while the past tense verbs provide certainty of the action that has been performed.<sup>34</sup>

According to the original ruling, the *ijab* is given by the bride and the *qabul* by the groom. The bride says: "I give myself in marriage to you", and the groom responds: "I accept your marriage." If it is a woman and a man who want to do the permanent marriage contract, the woman should first say: *zawwajtuka nafsi 'alas sidagil ma'lum* (I have made myself your wife based on an agreement), and then the man should immediately reply *qabiltuttazwij* (I accept the marriage). The man and woman may do the *mut'ah* marriage contract after an agreement has been reached on the duration of the marriage and the amount of the *mahr*.<sup>35</sup>

## The Marriage Ceremony Practices

Akad is an important aspect in marriage, a marriage can be said to be valid if there is a contract or *ijab qabul*. With the diversity of identities in Indonesia, the Shi'i community is part of the diversity that is classified as a minority in Indonesia. The Shi'i community is spread across various regions in Indonesia. There is no special village except in Madura there is a Shi'i community village. The Shi'i community in Yogyakarta is also scattered in various places. Therefore, in collecting research data, the authors did not pay attention to representatives in each region of Yogyakarta. There are six people who were interviewed in data collection, namely FD<sup>36</sup> (34<sup>37</sup>), OZ (30), IA (25), FK (35), RF (32) and MS (36).

Regarding *fiqh*, the Shi'i community adheres to the Ja'fari school of thought so that in the practice of marriage some of the Shi'i community accommodate the rules of Ja'fari *fiqh*. But it does not rule out the possibility that there are also those

<sup>33</sup> Ibnu Rusydi, *Kitab Terjemahan Bidayatul Mujtahid Wa Nihayatul Muqtasid* (Trigenda Karya, 1996).

<sup>34</sup> Mughniyah, *Al-Fiqh 'ala Madzhab Al-Khamsah*.

<sup>35</sup> Seestani, *Islamic Laws: English Version of Taudhihul Masae'i According to the Fatawa Ayatullah Al Uzama Syed Ali AlHusaini Seestani*.

<sup>36</sup> Respondent initial

<sup>37</sup> Respondent age.

who carry out marriage in accordance with the provisions in the Marriage Law without accommodating the rules of Ja'fari *fiqh*.<sup>38</sup> In conducting a marriage contract practice, a person who accommodates the rules of Ja'fari *fiqh* usually performs the marriage contract practice twice. Therefore, this data will be divided into two categories. The first category is for those who practice the marriage contract twice or multiple, the second category is for those who practice the marriage contract once or single.

### 1. *Double Marriage*

The data found, couples who did multiple marriage contracts were OZ (30), MS (36), IA (25), and FK (35). OZ is someone who is used to living in a multicultural environment and participating in the activities of the Indonesian Conference on Religion and Peace (ICRP) which is a non-profit organisation with an interest and concentration on religious peace, apart from participating in ICRP OZ is also active in the Fatimiyah organisation which is a Shi'i women's organisation. OZ is 30 years old and has known Shi'i since birth with her extended family being part of Shi'i adherents. OZ has also studied Arabic in formal education from elementary school to vocational school while her husband has never studied Arabic. OZ's daily activities or work is as a freelancer. OZ is married to her husband who is a Sunni believer, but then moved to become a Shi'i believer after marriage

OZ and her husband conducted two marriage contracts, the first based on Ja'fari *fiqh*, the second in front of a marriage registration officer (PPN). The first marriage contract conducted by OZ was a temporary marriage contract as she explained the stages of her marriage when interviewed:

The process leading up to the marriage was initially an introduction, not a courtship but we did get acquainted, a few months before getting married at the KUA we did a marriage contract which was carried out by myself and my husband answered it. The first marriage contract that was done was a temporary contract before doing the daim marriage contract, daim is forever and is attended by the KUA directly.<sup>39</sup>

OZ did a temporary marriage contract before the daim marriage. As explained earlier, there are two types of marriage in Shi'i: permanent and temporary. The temporary marriage contract performed by OZ refers to Shi'i jurisprudence, where a woman can perform the contract herself without a guardian. Although OZ's husband was from the Sunni community and converted to Shi'i after the marriage, at the time of the marriage contract they did a temporary marriage contract and OZ did the contract herself without being represented. OZ and her husband got married in 2012. Furthermore, OZ also explained how she did the temporary marriage contract before the daim or permanent marriage which was attended by the KUA.

<sup>38</sup> Mulyani, "Pernikahan Pengungsi Syiah: Resiliensi Dan Akomodasi Hak Administrasi Keluarga Di Indonesia".

<sup>39</sup> Interview with OZ on January 23, 2024.



The sentence that I said at the time of the contract was this, I marry myself to you, after which the groom replied "I accept", because at that time it was temporary, so I added the time agreed upon at the time of the contract, I marry myself to you for three months.<sup>40</sup>

The language used by OZ and her husband was Arabic. Then in the second contract where OZ was represented by her guardian at the time of the contract also used Arabic. OZ and her husband chose to use Arabic in the marriage contract as an adherence to Shi'i marriage customs.

Furthermore, the second respondent, MS (36) is a housewife while her husband works as a lecturer. In religion MS is very careful, when the author asked the reason for the language used at the time of marriage she confirmed to her Shi'i teacher when someone could use a language other than Arabic when doing a marriage contract. MS and her husband have known Shi'i since childhood, then MS married a fellow Shi'i and performed the wedding in 2011. She and her husband got to know each other at the place of study and MS felt that her husband at that time fulfilled the requirements as a prospective husband. MS also plans to marry a man with the same ideology so that marriage is easier to live because they have the same concept and purpose of marriage. MS and her husband have never studied languages specifically, but only learnt Arabic in high school. MS's marriage contract was carried out twice like OZ, but did not do a temporary marriage contract:

The marriage ceremony that I performed was in accordance with the provisions of Shi'ah fiqh, which was then followed by a marriage contract at the KUA.<sup>41</sup>

In this first contract, although she mentions that she is in accordance with Shi'i *fiqh* in that the MS is represented by her guardian, she considers that the only one who can marry herself is a widow, a woman who has never been married, married by her guardian. The meaning of in accordance with Shi'i provisions according to her is in the use of language. The Arabic language in the first marriage contract is considered in accordance with the provisions of Shi'i *fiqh*, while the second contract uses Indonesian.

The third respondent, FK (35), is a lecturer and her husband works as a teacher. FK has known Shi'i since she was a child while her husband is a Sunni. The only one who knows FK is a Shi'i believer is her husband, the family of the prospective groom at the time of marriage did not know about it. FK met her husband in 2015, one year later she got married. The time gap between the first marriage contract and the second is about 1 month. FK and her husband had studied Arabic at an Islamic boarding school and for now her husband is also taking Arabic courses at a non-formal institution. FK did the marriage contract twice, at the time she got married she was already a widow and her husband was also a widower:

At the time of marriage I did it twice, represented by my father at the time of marriage, at that time my husband and I were widows and widowers.<sup>42</sup>

<sup>40</sup> Interview with OZ on January 23, 2024.

<sup>41</sup> Interview with MS on March 22, 2024.

Even though FK is already a widow, the marriage contract is still represented by her father who is her guardian. In Shi'i Jurisprudence, adult women, especially widows, have the authority to marry themselves, this is based on every woman having the same rights as men and it is her right to marry anyone. In the use of language, FK used Arabic in both contracts, the contract that was not attended by the headman and also the contract that was attended by the headman.

The next respondents were Sunni-Shiite couple IA (25) and RA (29). IA is a housewife while her husband works in a company. IA is a Sunni follower while her husband is a Shi'i follower. IA's husband has known Shi'i since he was a child because his family is also a Shi'i believer. IA and RA's marriage ceremony was conducted twice. RA as her husband who had an agreement with the guardian of IA had learned Arabic since his childhood by studying in religious education in his neighbourhood. Conducting interviews with this couple, the compiler interviewed IA as the wife of a Sunni believer, IA explained about her marriage contract, namely:

I did the marriage contract with my husband twice, the first time I call it nikah sir, in which my husband did the contract with my guardian, namely my own brother, after that 5 months later I did the contract which was attended by the KUA and also married by my brother.<sup>43</sup>

In the use of language, RA and her guardian IA used Arabic in the first contract and also the second contract. The use of Arabic in the marriage contract was also chosen because the family has a strong religious education background.

## *2. Single Marriage*

The second category presents data on the Shi'i community in Yogyakarta who performed the marriage contract (akad nikah) only once. Those who conducted the akad nikah once include FD (34) and RFM (32). FD is someone who teaches at a pesantren alongside his wife while also selling books and providing book printing services. FD and his wife got married in 2020, having first met during their university years. They became acquainted through an organization and attended study sessions together before committing to marriage. FD and his wife were introduced to Shi'i Islam during their time at university when they attended religious study sessions. The surrounding community is unaware that he is a follower of Shi'i Islam. FD once studied Arabic through a course program but is still not very proficient in the language. He performed the akad nikah only once, which was attended by a penghulu, as he explained during the interview:

I got married only once in front of a penghulu.<sup>44</sup>

FD used Arabic during the akad nikah ceremony. The sixth respondent, RFM (32), is a former chairman of IJABI Yogyakarta and currently works as a diplomat

<sup>42</sup> Interview with FK on March 19, 2024.

<sup>43</sup> Interview with IA on February 10, 2024.

<sup>44</sup> Interview with FD on March 2, 2024.

in the European I division of the Ministry of Foreign Affairs. RFM married someone from the Ahlusunnah community in 2015. He does not consider himself a Shi'i but feels more comfortable identifying as a follower of Ahlul Bayt:

Actually, I do not consider myself a Shi'i. I feel more comfortable identifying as a follower of Ahlul Bayt. People's perceptions of Shi'i are not uniform—some believe that Shi'i have a different Qur'an, that they excommunicate the companions, and so on. On the other hand, the term 'follower of Ahlul Bayt' is, in my opinion, clearer to convey. From a fiqh perspective, it is also easier to understand, as it follows the Ja'fari school of thought, which has been recognized by the majority of scholars.<sup>45</sup>

RFM performed the akad nikah directly with his wife in front of a penghulu, in accordance with Indonesian marriage regulations:

I conducted the akad just like a regular marriage, ma'am. The KUA (Religious Affairs Office) was brought in for the akad nikah ceremony at my in-laws' house, only once, with the recitation of the sighth taklik, and so on.<sup>46</sup>

During the akad nikah, RFM used the Indonesian language. He had previously studied Arabic during his formal education in elementary and high school, as well as through Arabic language training provided by his workplace.

### **The Parties Involved in the Marriage Contract**

In a marriage contract ceremony conducted by the Shi'i community in Yogyakarta, several parties are significantly involved. OZ, 30 years old, in his first marriage contract, carried out the marriage directly between the husband and wife without the presence of formal witnesses and without the involvement of a guardian in the contract, with the guardian only acting as a witness. Then, in his second marriage contract, OZ involved two witnesses from both parties, the bride's guardian, the prospective bride and groom, as well as the penghulu (marriage officiant), family, and the surrounding community, in accordance with the provisions of the Compilation of Islamic Law.

Meanwhile, respondents MS (36 years old), FK (35 years old), and IA (25 years old) had only one difference between their first and second marriage contracts: the first marriage contract was not attended by the Office of Religious Affairs (KUA). The KUA was present at the second marriage contract for all four couples. On the other hand, FD (34 years old) and RFM (32 years old) conducted their marriage contract with the presence of two witnesses, a marriage guardian, the prospective bride and groom, and the KUA, as well as being attended by family and the surrounding community. FD and RFM performed the marriage contract only once, directly in front of the penghulu.

### **The Utterances Used in the Marriage Contract**

In Ja'fari *fiqh*, the use of Arabic in the marriage contract is mandatory for individuals who are capable of using the Arabic language. The use of languages

<sup>45</sup> Interview with RFM on March 23, 2024.

<sup>46</sup> Interview with RFM on March 23, 2024.

other than Arabic is only permitted for those who are unable to recite the phrases in Arabic. Among the six respondents in this study, five used Arabic when pronouncing the *ijab* and *qabul* (offer and acceptance) in the marriage contract, while one person used Indonesian. The respondents who used Arabic were OZ, MS's husband, FK's husband, IA's husband, and FD. Meanwhile, RFM, the only respondent who did not use Arabic, chose to use Indonesian in his marriage contract, despite having basic knowledge of Arabic from formal training and education he received at his workplace.

Views on the use of Arabic in the marriage contract differ between two respondents, MS and FD. According to MS, the first marriage contract was conducted in Arabic, while the second was in Indonesian. For MS, this was in accordance with Shi'i *fiqh*, as the first contract was performed in Arabic as an effort to comply with religious jurisprudence.<sup>47</sup> On the other hand, FD performed the marriage contract only once in Arabic but felt that it did not fully accommodate the regulations of a marriage contract according to Shi'i *fiqh*. FD emphasized that, in Shi'i *fiqh*, a person conducting a marriage contract should do so personally without a representative, with the guardian acting only as a witness, while the presence of additional witnesses is recommended but not obligatory.<sup>48</sup>

OZ and her husband used Arabic, even though her husband had never studied Arabic. The same was true for FD, MS's husband, FK's husband, and IA's husband. Despite not having proficiency in Arabic, they still made an effort to use Arabic in the marriage contract as a form of adherence to Ja'fari *fiqh* regulations. This contrasts with RFM, who, despite having an educational background in Arabic, chose to use Indonesian in his marriage contract.

The use of Arabic in marriage contracts within the Shi'i community, even among respondents who were not highly proficient in the language, reflects their commitment to complying with Ja'fari *fiqh* rules. According to Tyler's theory, compliance with the law increases when individuals feel they are treated fairly and have a voice in the decision-making process. In this context, despite variations in the use of Arabic and Indonesian, they still strive to practice their religious rituals in a manner deemed legitimate by their faith.

The utterances used in the marriage contract also show variation. For example, OZ and her husband chose to pronounce their marriage contract themselves without a representative, in accordance with the rights granted to women in Shi'i *fiqh*. The bride recited the phrase, "*I marry myself to you for three months,*" and the groom responded with, "*I accept the marriage with you.*"<sup>49</sup>

In marriage law according to Shi'i *fiqh*, a woman has the right to conduct her own marriage without requiring a representative from her guardian. This concept is affirmed in the work of Abdul Jawa Mughniyyah, which states that the *ijab* (offer) comes from the woman, while the *qabul* (acceptance) is carried out by the

<sup>47</sup> Interview with MS on March 22, 2024.

<sup>48</sup> Interview with FD on March 2, 2024.

<sup>49</sup> Interview with OZ on January 23, 2024.

man.<sup>50</sup> According to Tyler's theory, compliance with the law is highly influenced by the legitimacy and perception of fairness of the applicable rules. In Shi'i *fiqh*, women have significant autonomy in marriage, which can enhance the perception of justice and the legitimacy of the law within the Shi'i community.

## **Reasons and Compliance with State and Religious Law**

### **1. Agency: Personal Reasons and Adaptive Practices**

Individuals in the Shi'i community in Yogyakarta play an active role in fulfilling their personal needs and beliefs. Some choose to perform dual marriage contracts to meet both the requirements of Shi'i *fiqh* and Indonesian legal regulations. This practice reflects how individuals negotiate normative structures while maintaining their religious identity.

#### ***Strategic reasons***

Couples like OZ and her husband performed a temporary marriage contract (*nikah mut'ah*) before the permanent marriage contract (*nikah da'im*) as a strategy to get to know each other better and to avoid social stigma during the administrative process at the Office of Religious Affairs (KUA). This decision was based on their commitment to proceeding with a permanent marriage, despite their agreement not to engage in sexual relations before the *nikah da'im*. This practice reflects an adaptation to the social and economic structures influencing their decisions. Similarly, couples like IA and OZ conducted an initial marriage contract to get to know each other first.

#### ***Theological reasons and religious obedience***

Some individuals, such as MS, performed dual marriage contracts as an act of obedience to both religious and state laws. The first contract was conducted in accordance with Shi'i *fiqh*, while the second was performed at the Office of Religious Affairs (KUA) for official registration. This practice reflects compliance with religious principles and the desire to ensure the legal validity of the marriage in the eyes of the state.

### **2. Compliance with State and Religious Law**

The practice of both dual and single marriage contracts by the Shi'i community in Yogyakarta is influenced by Indonesia's normative structures, including the dominant Sunni religious norms, marriage laws that lean toward Sunni practices, and prevailing social traditions. In Ja'fari *fiqh*, which is followed by the Shi'i community, there are specific understandings of marriage, such as *nikah mut'ah* (temporary marriage) and the recitation of the marriage contract in Arabic directly by the bride and groom. To obtain official recognition from the state, marriages must be registered at the Office of Religious Affairs (KUA). Therefore, the Shi'i community must adapt to existing legal and social structures to ensure their marriage is legally recognized while maintaining their religious identity and beliefs.

<sup>50</sup> Mughniyah, *Al-Fiqh 'ala Madzhab Al-Khamsah*.

In the context of religious pluralism in Indonesia, the Shi'i community in Yogyakarta faces challenges in conducting marriage contracts that align with Ja'fari *fiqh* while also complying with state regulations. Adherence to both legal systems often involves either dual marriage contracts (religious and state-sanctioned) or a single contract (state-sanctioned only). According to Tom R. Tyler's theory of legal compliance, individuals are more likely to obey the law if they perceive it as legitimate and fair.

The Shi'i community balances compliance with both Ja'fari *fiqh* and state law. Legal legitimacy from the state is obtained through official marriage registration at the KUA, while religious legitimacy is ensured through a marriage contract that aligns with Ja'fari *fiqh*. All respondents in this study registered their marriages at the KUA. This registration by the Shi'i community demonstrates compliance with state law, which is crucial for obtaining legal recognition and protection for married couples.

### **3. Social and Cultural Influences in Marriage Practices**

Marriage practices within the Shi'i community in Yogyakarta are also influenced by social and cultural factors, such as efforts to prevent societal stigma and adaptation to local traditions. Dual marriage contracts are often chosen to navigate social challenges and ensure that the marriage is both socially and legally accepted. Overall, the practice of both dual and single marriage contracts in the Shi'i community of Yogyakarta reflects a complex interaction between normative structures, individual agency, and socio-cultural contexts. The adaptations and negotiations undertaken demonstrate how this community maintains its religious identity while also complying with state laws and existing social traditions.

## **Conclusion**

Marriage contract practices within the Shi'i community in Yogyakarta vary, with some individuals accommodating the rules of Ja'fari *fiqh* by performing dual marriage contracts, while others opt for a single contract. The Shi'i community in Yogyakarta also demonstrates compliance with both state and religious laws in conducting marriage contracts, reflecting an integration between Ja'fari *fiqh* principles and national legal provisions. The Shi'i community acknowledges the importance of legal legitimacy through marriage registration at the Office of Religious Affairs (KUA), while simultaneously adhering to religious practices such as *nikah mut'ah*, the use of Arabic in the contract, and the recitation of the marriage contract by both the bride and groom. The reasons behind the implementation of dual and single marriage contracts within the Shi'i community in Yogyakarta can be analyzed through Anthony Giddens' structuration theory, which emphasizes the interaction between structure and agency. In this context, structure includes Shi'i norms, Indonesian state law, and existing social traditions, while agency refers to individuals within the community who not only comply with but also modify these structures through their actions.

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