



The Position of Women in Nikah *Mut'ah* and *Milku Al-Yamin* Islamic Law and Positive Law Perspectives

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Abstract

The practice of *mut'ah* marriage was one of the patterns of life of the Arab community before Islam came. But it still exists today. Likewise, the concept of *milku al yamin* has been abolished since the heyday of Islam. However, the practice is still often found today. The practice is called modern slavery. This is very important to be researched because these two practices are no longer relevant to be carried out in the present. This research uses the library research method with data sources of articles, journals, and literature related to *nikah mut'ah* and *milku al yamin*. The practice of *mut'ah* marriage and the concept of *milku al yamin* that exist today include trafficking in the context of exploitation. This practice puts women in a subordinate position. Even women do not have the share to speak up about their rights in marriage and even in life. So that in the Indonesian context, the practice of *mut'ah* marriage and *milku al yamin* has been prohibited because it is a violation of human rights. Positive law and Islamic law uphold human dignity. Humans, both men and women have the same position for Allah. what distinguishes them is only piety.

Keywords: *Nikah Mut'ah*; *Milku al Yamin*; Position of Women

Abstrak

Praktik *nikah mut'ah* merupakan salah satu pola hidup masyarakat Arab sebelum Islam datang. Namun masih eksis di masa sekarang. Begitu juga dengan konsep *milku al yamin* yang sudah dihapuskan sejak masa kejayaan Islam. Namun praktiknya masih sering dijumpai pada masa ini. Praktik tersebut dinamakan perbudakan modern. Hal ini menjadi sangat penting untuk diteliti sebab kedua praktik ini sudah tidak relevan untuk dilakukan di masa sekarang. Penelitian ini menggunakan metode kepustakaan (*library research*) dengan sumber data artikel, jurnal, serta literatur yang berkaitan dengan *nikah mut'ah* dan *milku al yamin*. Praktik *nikah mut'ah* dan konsep *milku al yamin* yang eksis di masa sekarang termasuk *trafficking* dalam konteks eksploitasi. Praktik tersebut menempatkan posisi perempuan menjadi subordinat. Bahkan perempuan tidak memiliki andil untuk *speak up* tentang haknya dalam perkawinan bahkan dalam hidup. Sehingga dalam konteks Indonesia, praktik *nikah mut'ah* dan *milku al yamin* telah dilarang karena termasuk pelanggaran Hak Asasi Manusia. Hukum Positif dan hukum Islam menjunjung tinggi harkat dan martabat manusia. Manusia, baik laki-laki maupun perempuan memiliki kedudukan yang sama bagi Allah. yang membedakan mereka hanyalah ketakwaan.

Kata Kunci: *Nikah Mut'ah*; *Milku al Yamin*; Kedudukan Perempuan

Introduction

Nikah mut'ah or contract marriage is one of the lifestyles of the Arab nation. However, the practice of *nikah mut'ah* still exists today. As is known, the ability of *nikah*

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mut'ah is still controversial. Because according to the Sunnis, nikah mut'ah is clearly forbidden until the Day of Judgment. Meanwhile, according to the Shi'ah, nikah mut'ah is still allowed. In Indonesia, the practice of nikah mut'ah can be found in the peak area of Bogor, West Java. According to previous research, the perpetrators of the mut'ah marriage were tourists from the Middle East. Meanwhile, the wives are local residents who are not very lucky in economic problems.¹

Slavery also cannot be separated from world civilization, especially the Arabs. Please note that slavery is not a product of Islam. Because, slavery has existed long before the time of the Prophet Muhammad PBUH. Although in the Qur'an there is a verse that indicates that having sex with a female slave has the same status as having sex with a wife.² Both are halal and do not include adultery. The concept of *milku al yamin* has been abolished since the heyday of Islam. So that in today's era, all human beings, especially women, have the status of independence. But apparently, even though slavery has been abolished, the practice of slavery is still found in Arabia. The large number of female workers (TKW) who are raped in Arabia is proof that there is still a practice of slavery on this earth.

Marriage is a sacred ceremony that occurs in the lives of a husband and wife. The purpose of marriage is to achieve a harmonious family or *sakinah mawaddah warahmah*. Meanwhile, to achieve a harmonious family, a good relationship between husband and wife is needed. And it must be based on love and affection based on the One Godhead. This is in accordance with Law No. 1 of 1974. Therefore, marriage does not only involve physical aspects, but also spiritual.³

The problem of nikah mut'ah and *milku al yamin*, which incidentally has been banned and abolished for a long time, but still exists today, makes it important to be researched. The practice of nikah mut'ah is carried out only to vent sexual desires. And the concept of *milku al yamin* is the reason for rape for migrant workers, where employers are considered halal to associate with their workers. From this statement, a common thread can be drawn that these two concepts make the position of women subordinate. They don't even have a

¹ Muhammad Hilmi Ajjahidi and Ayu Lika Rahmadhani, "Nikah Mut'ah in Indonesian Muslim Society and Positive Legal Views on Its Implementation," *Journal of Indonesian Comparative of Syari'ah Law*, Vol 5, No. 2, (December 24, 2022), p. 214, <https://doi.org/10.21111/jicl.v5i2.8912>.

² Fini La Maa, Abdul Mutalib, and Abu Sahman Nasim, "Modern Slavery in Saudi Arabia: Female Employer and Slave Sexuality in the Age of Jahiliyah," *Indonesian Journal of Shariah and Justice*, vol. 4, No. 1 (July 11, 2024), p. 85, <https://doi.org/10.46339/ijsj.v4i1.79>.

³ Shinta Nurul Arfiana and Abd Rouf, "Mui's View of Nikah Mut'ah: Perspective Analysis of M. Quraish Shihab", *Muslim Heritage Journal*, Vol.9, No. 1. June 2024, p. 104.

hand in *speaking up* about their rights in marriage or even in life. If the practice of nikah mut'ah and the concept of *milku al yamin* are not immediately completed, then women will be exploited. That way, the researcher will examine how the position of women in nikah mut'ah and *milku al yamin* in the perspective of Islamic law and Positive law.

Method

This study uses a qualitative method with a critical analysis approach. The research is carried out in the form of library research, where all data is obtained through a review of relevant literature. Primary data sources include the Qur'an, Hadith, and works of classical scholars that directly discuss the topic of nikah mut'ah and milku al-yamin. Meanwhile, secondary data sources come from contemporary books, scientific journals, articles, and other academic documents that support thematic and contextual analysis. Data collection techniques are carried out through document studies and literature review, by identifying, organizing, and classifying data based on the theme of the study. The data obtained was then analyzed using a descriptive-critical analysis method, namely by describing the views of scholars and comparing them critically in a historical and contemporary scientific context. This approach aims to see how the issue of nikah mut'ah and milku al-yamin is understood normatively and how its relevance is viewed from the current socio-religious dynamics.

Results and Discussion

The Concept of Nikah Mut'ah and Milku al Yamin in the Time of the Prophet

In its history, marriage was divided into 2. Namely *daim marriage* or permanent marriage and mut'ah marriage or contract marriage. The difference between the two lies in the duration of the time. Marriage *can* only be broken in the event of divorce or death. Meanwhile, nikah mut'ah can be broken at any time according to the agreed contract. Etymologically, mut'ah comes from the Arabic word *mata'a – yamta'u* which means to carry an item. Mut'ah can also be interpreted as bringing pleasant things. Taken from the Arabic language, *istmta'* which means to have fun, or something that is used happily. Meanwhile, in terms of terminology, several figures have different definitions of nikah mut'ah.

Manzur argues that mut'ah is an activity to have fun with women, but not the desire to continue together. The jurists argue that mut'ah is called nikah *inqita'* or a broken marriage. Ibn Qudamah argued that nikah mut'ah is marrying a woman only for a certain time. Ibn Hajar al-Asqalani argued that nikah mut'ah is the marriage of a person who is

limited in time, and when the time is over then the two separate. Shaykh Muhammad Ali al Sabani defines *nikah mut'ah* as a form of hiring women by giving dowry by mutual agreement until a specified deadline. Sayyid Sabiq defines *nikah mut'ah* as a marriage for a day, a week or a month.⁴ So it can be concluded that in terminology, *nikah mut'ah* is a marriage that has a certain time limit.

Nikah mut'ah was initially only an alternative to marriage in Islam. *Nikah mut'ah* is permissible only at certain times. Like in times of war. Because usually wars last for a long time. As mentioned in the following hadith of the Prophet:

حَدَّثَنَا عَمْرُو بْنُ عَوْنٍ حَدَّثَنَا خَالِدٌ عَنْ إِسْمَاعِيلَ عَنْ قَيْسٍ عَنْ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ قَالَ كُنَّا نَغْزُو مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَلَيْسَ مَعَنَا نِسَاءٌ فَقُلْنَا أَلَا نَخْتَصِي فَتَهَا نَا عَنْ ذَلِكَ فَرَحَّصَ لَنَا بَعْدَ ذَلِكَ أَنْ نَتَزَوَّجَ الْمَرْأَةَ بِالنُّثْبِ ثُمَّ قَرَأَ يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تُحَرِّمُوا طَيِّبَاتٍ مَا أَحَلَّ اللَّهُ لَكُمْ

From 'Abdullah ibn Mas'ud (may Allah be pleased with him) he said: We fought with the Prophet (peace and blessings of Allaah be upon him) but did not accompany our wives, so we said: O Messenger of Allah, have we not been castration? But the Prophet (peace and blessings of Allaah be upon him) forbade us to do so. But after that he gave us leniency to marry women within a certain time. Then he recited the verse; O you who have believed, do not forbid anything good that Allah has made lawful for you, and do not go beyond the limits. Indeed, Allah does not like those who go beyond the limits. (Al Maidah:87).

Meanwhile, the reason for the permissibility of *nikah mut'ah* was that at that time, the Arabs were in a transition from the era of jahiliyyah to the era of Islamic civilization. So that *nikah mut'ah* is mentioned as a preventive step for adultery. Because adultery was a very natural thing to happen at that time. Then after the faith of the jahiliyyah who had just entered Islam began to be strong, *nikah mut'ah* was forbidden. However, before it was permanently banned, there were several changes in the law regarding *nikah mut'ah*. The first time it was banned was during the Khaibar War.

حَدَّثَنِي عَنْ عَبْدِ اللَّهِ وَالْحَسَنِ ابْنَيْ مُحَمَّدٍ بْنِ عَلِيٍّ عَنْ أَبِيهِمَا عَنْ عَلِيٍّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ مُتْعَةِ النِّسَاءِ يَوْمَ خَيْبَرَ وَعَنْ أَكْلِ لُحُومِ الْحُمُرِ الْإِنْسِيَّةِ .

⁴ Muhammad Hilmi Ajjahidi and Ayu Lika Rahmadhani, "Nikah Mut'ah in Indonesian Muslim Society and Positive Legal Views on Its Implementation," *Journal of Indonesian Comparative of Syari'ah Law*, Vol. 5, No. 2 (December 24, 2022), p. 210, <https://doi.org/10.21111/jicll.v5i2.8912>.

From 'Ali ibn Abu Talib (may Allah be pleased with him) that the Messenger of Allah (peace and blessings of Allaah be upon him) forbade the marriage of mut'ah during the battle of Khaibar and also forbade the eating of tame meat. (HR. Bukhari and Muslim)

Then it is allowed again but with a time limit at the time of *the fathu of Makkah* and then it is forbidden forever. It was narrated from Rabi' ibn Sabrah, from his father (may Allah be pleased with him), that he was with the Messenger of Allah (peace and blessings of Allaah be upon him), and he said: "O people. Previously I have allowed you to do mut'ah with women. Indeed, Allah Subhanahu wa Ta'ala has forbidden it until the Day of Judgment. Whoever has something on them, then let it! Do not take any of what has been given". From him, it was also said: "The Messenger of Allah (peace and blessings of Allaah be upon him) ordered us to mut'ah at the time of the conquest of the city of Mecca, when we entered Mecca. Before we came out, he (peace and blessings of Allaah be upon him) has forbidden it for us"⁵ This indicates that the Islamic sharia is very concerned about the readiness of its people so that the sharia can be implemented properly and correctly.

Speaking of *milku al yamin*, in the study of thematic interpretation, *milku al-yamīn* is defined as a female slave obtained through war. Historically, having sex with them was meant to achieve the status of slaves equivalent to freedom, not for the indulgence of sexual desire. This concept can be considered as an additional method of preventing discrimination against accusations of adultery. ⁶ In the Qur'ān, the word "milku al-yamīn" refers to a slave or slave owned as a result of victory over the enemy.

Quraish Shihab argues that *milku al yamin* was a slave girl owned by a man who was later referred to as her master. Ibn al Sikkit argues that the word *malaka* means the same as *al malaku* which means *ma mulika*, something that is owned. Traditionalist scholars argue that *milku al yamin* is a woman who comes from a servant family that is not independent and halal to have.⁷ Imam al-Tabari and Ibn Kathir are of the opinion that the so-called *milku al yamin* is a woman who is a prisoner of war. The captive was directed to be by his master. As mentioned in surah al Mu'minun verses 5-7 below:

⁵ Siti Desi Hidayati, "The Problematics of the Law of Mut'ah Marriage in the Perspective of Mansukh Hadith," *Al-Court: Islamic Law Journal*, Vol. 1, No. 1 (November 29, 2023), p. 25, <https://doi.org/10.61166/mahkamah.v1i1.6>.

⁶ Maizul Imran, "Explanation of the Concept of Milku Al-Yamīn in the Qur'ān with Non-Marital Sex Thematic Interpretation Study," *Al-Bayan: Journal of Qur'an and Hadith Science*. Vol. 5, No. 2 (June 12, 2022), p. 251, <https://doi.org/10.35132/albayan.v5i2.173>.

⁷ Fini La Maa, Abdul Mutalib, and Abu Sahman Nasim, "Modern Slavery in Saudi Arabia: Female Employer and Slave Sexuality in the Age of Jahiliyah," *Indonesian Journal of Shariah and Justice*, Vol 4, No. 1 (July 11, 2024), p. 89, <https://doi.org/10.46339/ijjs.v4i1.79>.

وَالَّذِينَ هُمْ يُغْرَوْهُمْ حِفْظُونَ إِلَّا عَلَىٰ أَرْوَاحِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ فَمَنْ ابْتَغَىٰ وَرَاءَ ذَلِكَ فَأُولَٰئِكَ هُمُ
الْعَادُونَ ۚ

And those who guard their genitals, except for their wives or the servants they have. Indeed, they are not reproached (for associating with him). So, those who seek (the outpouring of orgasm) other than that, they are the ones who go beyond the limit.

The servant of sahaya in this verse is a servant of sahaya who is obtained from religious wars or who is born from a mother who is a servant of sahaya status. This is in accordance with the prevailing customs at that time. So terminology, *milku al yamin* is the right of ownership of slaves. The classification of slaves in question is slaves produced by prisoners of war. Slaves are the same as slaves who have been deprived of their freedom to work with others. The above verse also contains the understanding that it is obligatory by law to protect *Farj*. For a man, he is obliged to take care of *Farj* except for his wife and female slaves. Which means it is halal for a husband to have sexual relations with his wife and female slaves. So, if the concept of *milku al yamin* applied in this day and age is only to satisfy sexual desires, then of course it deviates from the shari'a of Islam. So this verse is very suitable as a benchmark to continue to do good to female slaves owned by their masters.

Islam teaches to remain fair for *milku al yamin* in accordance with the shari'a. They should be treated well. In the mention of *milku al Yamin*, Allah juxtaposes the word *al yamin* (right) which indicates a commendable nature after the word *milku* which means possession. The specialization of the word *al yamin* aims to treat well what one has.⁸ That way, *milku al yamin* is not necessarily allowed to be associated. There are several conditions that must be met,⁹ including the following. A man should not associate with a slave who belongs to a common property. No matter how small the person's ownership of the slave is. The same goes for slaves with semi-independent status. Because his property rights are not full. *Milku al yamin* does not apply to women who have male slaves. The existence of Muslim slaves or kitabiyyah (Jews and Christians) if their masters are Muslims. Thus, a Magi slave should not be owned by his Muslim master, even if he is tied with *milku al yamin*.

⁸ Fini La Maa, Abdul Mutalib, and Abu Sahman Nasim, "Modern Slavery in Saudi Arabia," Sexuality of Employers and Female Slaves in the Age of Jahiliyah," *Indonesian Journal of Shariah and Justice*, Vol 4, No. 1 (July 11, 2024), p. 91, <https://doi.org/10.46339/ijssj.v4i1.79>.

⁹ Fini La Maa, Abdul Mutalib, and Abu Sahman Nasim, "Modern Slavery in Saudi Arabia," Sexuality of Employers and Female Slaves in the Age of Jahiliyah," *Indonesian Journal of Shariah and Justice*, Vol 4, No. 1 (July 11, 2024), p. 94, <https://doi.org/10.46339/ijssj.v4i1.79>.

The reason for allowing him to marry a female slave is to protect his honor from adultery, to protect the honor of his year, the child born will have a free status, and the freedom of the female slave is after the death of his master. Slave girls are not related by blood to their masters. There is a prohibition on marrying the mother or child of a female slave that he owns.

Although Islam acknowledges its existence, it also has the spirit to abolish it. In a slow way. Verses that show the spirit of Islam in abolishing the slavery system include those related to the distribution of zakat, one of which is aimed at freeing slaves. Freeing slaves is one of the fines for killing or having intercourse during the day in the month of Ramadan. Even in the intimate relationship of a master with his slave, if the slave later gives birth to a child, the child must be set free, and the slave himself must be freed after the master dies. Even Islam gave inheritance rights to slaves. The spirit of abolishing slavery is because Islam highly upholds humanity. Which, Islam views that all human beings have the right to equal freedom.¹⁰

The Concept of *Nikah Mut'ah* and *Milku al Yamin* in the Present

The existence of nikah mut'ah is no longer in accordance with the basic principles of marriage in Islam. The ability to nikah mut'ah in the time of the Prophet was only an alternative to marriage when it was in wartime. However, the practice of nikah mut'ah that exists today is nothing but a distribution of sexual desire. However, many people argue that nikah mut'ah is a preventive measure to prevent adultery. In the narration of Abu Bakr bin Muhammad al Azdi, it is stated that women who are married in mut'ah are considered hired women, so it is permissible to marry women indefinitely, even up to 100 women. This opinion is also supported by the narration of zurarah from his father, from Abdullah it is stated that marrying a thousand women is permissible because women who are married mut'ah are the same as rented goods.¹¹

The practice of mut'ah marriage in the past was the same as the practice of renting goods at this time, women who were married mut'ah were treated as rented goods and then returned without any dependents (women did not get the right to maintenance or inheritance). The mandatory conditions that must be present in the contract marriage contract are a certain time and a certain payment (dowry). From the mandatory requirements, the practice of nikah mut'ah is the same as the practice of renting goods in

¹⁰ La Maa, Mutalib, and Nasim, "Perbudakan Modern Di Arab Saudi," July 11, 2024.

¹¹ Ahmad Alamuddin Yasin, "Masile Journal of Islamic Studies Vol. 5 NO. 1 2024," n.d.

today's era. As is the case with bicycle rentals in tourist spots. What must be present in the rental transaction process is the time limit and the rate determined based on the duration of the time. In addition to having no limit on the number of women to marry, no inheritance and maintenance rights, the purpose is only to release sexual desire, *nikah mut'ah* also allows to extend and repeat the marriage contract with the same woman. This is very contrary to the basic principle of marriage in Islam that it is permissible to remarry a partner (both husband and wife) after *talaq* 3, so the woman must first marry and *duhul* with another man and then divorce unintentionally. Which can then be called *muhallil*. The rules that exist in *nikah mut'ah* are no longer relevant to be carried out today. Especially for the Indonesian people who incidentally participate in the applicable law. Marriage has been strictly and clearly regulated in Law Number 1 of 1947. And of course those who violate it will be sanctioned.

Likewise with the concept of *milku al yamin* whose meaning is distorted by some people. One of the concepts of slavery that occurs today is forced sexual relations by masters against their female slaves. Until now, slavery is still often practiced in several countries. Benjamin Skinner discovered the enactment of slavery in Mali, Africa. Slaves who had converted to Islam and returned to their homeland were forced to become slaves again if they did not want to leave Islam. In addition, Gus Dur also mentioned that the number of rapes of migrant workers in Arabia is the assumption of Arabs that migrant workers are *halal* slaves to be mixed by their masters.¹² Nowadays, the ability to associate with slaves is no longer used because it does not have a legal object. Likewise, Islam has abolished slavery either through motivational commands or through *kafarat*. Until now, anyone who has sexual relations without a marital bond is called adultery. As the meaning contained in the following rules

الأصل في الأُبْضَاعِ واللِّحَامِ وَالنَّفْسِ لِلْمَعْصُومِ تَحْرِيمُهَا حَتَّى يَجِيءَ الْحَلُّ فَافْهَمْ هَذَاكَ اللَّهُ مَا يَحِلُّ

The law of origin of biological relations and flesh, as well as the blood and property of the person who is guarded is *haram* until there is evidence that shows its *halal*, then understand what has been dictated.

The rule explains that the law of origin of biological relationships is *haram* until there is a reason that makes it *halal*. The reason referred to here is marriage. So, if sexual intercourse occurs without the cause of marriage, then the law is *haram*. And that includes

¹² la Maa, Mutalib, And Nasim, "Perbudakan Modern Di Arab Saudi," July 11, 2024.

adultery.¹³ Associating with slaves is not haram. But in the current context, slaves no longer exist. It can be interpreted that Islam has forbidden the practice of slavery against free people. As stated in the following hadith of Qudsi: "Three persons, I will be his enemies on the Day of Judgment: the one who promises in My name and then he breaks the promise, the one who sells a free person and then enjoys the proceeds of his sale, and the one who employs someone else, but after that person has done good work his wages are not paid."

Modern slavery is depicted in a situation that cannot be resisted by threats, violence, fraud or abuse of power. Modern forms of slavery are worse than those before Islam came. Among them are the practice of slavery in general, human trafficking, forced labor, and trafficking in minors. Quoted from Okezone News, a café owner sold 4 of his employees for 80 million per person. He did this because the café he started went bankrupt. The employees were also forced to serve guests. And if they refuse to do so, the money that the new owner has paid to the owner of the café must be returned. This incident just happened in early 2022. This indicates that modern slavery practices still exist.

The Position of Women in Nikah Mut'ah and *Milku al Yamin* Reviewed from Islamic Law and Positive Law

The practice of nikah mut'ah in modern times as it is today does not have a useful purpose. Mut'ah marriage makes the position of women subordinate. Because in nikah mut'ah, women's rights are not fulfilled. Such as the right to get an inheritance after separation. Not only women, children born from mut'ah marriages also do not have legal clarity. In the Indonesian context, nikah mut'ah is very inappropriate to be carried out because it is not in accordance with the views of religious experts. The purpose of mut'ah marriage is only limited to expanding the desire for sexuality. Meanwhile, in the Qur'an it is clearly stated that the purpose of marriage is to obtain *sakinah*.¹⁴

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَعْتَكَرُونَ

Among the signs of His greatness is that He created for you pairs of your own so that you may feel at peace with Him. He has made among you a sense of love and affection. Indeed,

¹³ Asri Asri et al., "The Slavery Controversy in the Perspective of the Rules of al-Aṣl fī al- Abḍā' al- Tahrīm," *Bustanul Fuqaha: Journal of Islamic Law*, Vol. 2, no. 3 (December 3, 2021), p. 465, <https://doi.org/10.36701/bustanul.v2i3.409>.

¹⁴ Ahmad Alamuddin Yasin, "Culture and Historical Track and Record of Mut'ah Marriage in the Shia View: Socio-Cultural Review and Islamic Law", *Masile Journal of Islamic Studies*, Vol. 5 N0. 1. 2024. p. 3.

in such things there are signs (of Allah's greatness) for those who think. (Q.S al-Rum (30): 21).

In addition to not getting rights, *nikah mut'ah* can harass the dignity and dignity of women. It is marked by a *mut'ah* marriage being carried out under the hands or the marriage is not recorded in the KUA. To follow up on the *mut'ah* marriage that occurred in Indonesia, the Indonesian Ulema Council (MUI) issued fatwa No. 02/MUNAS/2010 concerning the prohibition of *mut'ah* marriage on the basis of surah al-Mu'minun verses 5-6.¹⁵ Modern slavery, such as what happened in Arabia, also made the position of women subordinate. Because, in the context of *milku al yamin*, the object is women. Slavery in the time of the Prophet Muhammad and modern slavery today have made the dignity and dignity of women abused. The exact reason for the still existence of the practice of slavery to this day is because of the patriarchal system that is still adopted by some countries. The patriarchal system makes women inferior to men. Women are still considered as helpers and fulfillers of sexual desires for men. In fact, after Islam came, Islam has liberated all women, Islam has given rights to women, and Islam has paid attention to the existence of women.

Budaya perbudakan berkaitan erat dengan eksploitasi dan dominasi manusia terhadap manusia lainnya. Hal ini tidak dipandang sesuai dengan nilai-nilai kemanusiaan yang dibawa oleh agama islam.¹⁶ Berikut adalah Ayat yang menunjukkan ketidaksetujuan terhadap praktik perdagangan orang dan eksploitasi.

وَجَاءَتْ سَيَّارَةٌ فَأَرْسَلُوا وَارِدَهُمْ فَأَدْلَى دَلْوَهُ قَالَ يَبُشْرَىٰ هَٰذَا غُلَامٌ وَأَسَرُّوهُ بِضَاعَةً وَاللَّهُ عَلِيمٌ بِمَا يَعْمَلُونَ وَشَرُّوهُ بِتَمَنٍّ بَخْسٍ دَرَاهِمٍ مَّعْدُودَةٍ وَكَانُوا فِيهِ مِنَ الزَّاهِدِينَ

A group of travelers came. They sent for a water drawer, and he lowered the bucket. He said, "Oh, it's fun! Here's a young man." Then they hid it as merchandise. Allah is Aware of what they do. They sold him (Yusuf) at a low price, (that is) only a few dirhams because they were not interested in him. (Q.S Yusuf (12): 19-20).

In Indonesia, the law on the prohibition of slavery is regulated in Law Number 39 of 1999 concerning Human Rights (HAM). Article 4 of the Human Rights Law states that freedom from slavery is a human right that cannot be negotiated by anyone. Then, in Article

¹⁵ Ajjahidi and Rahmadhani, "Nikah Mut'ah in Indonesian Muslim Society and Positive Legal Views on Its Implementation," December 24, 2022.

¹⁶ Andi Firdaus Eka Putra, "Diskursus Penafsiran Milkul Yamin di Kalangan Ulama Klasik dan Kontemporer: Teks dan Konteks," *USRATY: Journal of Islamic Family Law*, Vol. 2, No. 1 (September 20, 2024), Hal. 16, <https://doi.org/10.30983/usraty.v2i1.8385>.

20 paragraphs (1) and (2) of the Human Rights Law, it is emphasized that there is no door for anyone to enslave others and any form of slavery or the like is prohibited. From the legal rules that have been explained, it can be understood that the practice of nikah mut'ah and the concept of *milku al yamin* or modern slavery are no longer relevant to be enforced at this time. Islam has expressly banned the practice of nikah mut'ah and abolished slavery. Because both contain more mudhurat than their benefits. Especially for women. The spirit of abolishing these two practices is inseparable from the ethical principles in Islam that uphold humanity.

All human beings are equal before Allah who differ only in piety. Islam opposes tribal culture, which often leads to conflict and death. All people are seen as part of one great family of humanity, according to the teachings of Islam. It is an ideal depiction of human values and is relevant to be applied anywhere and anytime. Therefore, Islam seeks not only to regulate the relationship between man and God vertically, but also the relationship between each other horizontally. By instilling the principles of justice, compassion, and respect for the dignity of each person.

In fact, even though Indonesia has issued laws on the prohibition of nikah mut'ah and the concept of *milku al yamin*, the practice is still often encountered in various regions in Indonesia. This shows the government's lack of seriousness towards the laws it has issued. On the one hand, the government wants to pay attention to women's rights and position, so that exploitation of women is reduced. On the other hand, the government may receive a large income from these places of practice. According to the author, the government should be firm about the laws it issued. If it is absolutely forbidden, then the practice of nikah mut'ah and *milku al yamin* must be stopped. It doesn't matter about the *large income* that is obtained from these practice places. If the victims (men and women) lose their economy, then the government should provide them with decent jobs. In fact, the government should also conduct legal socialization regarding the haram and fascism accepted if they practice marriage mut'ah and *milku al yamin*. That way, the public began to be aware of the law and the eradication of the practice was successfully carried out.

Conclusion

The practice of nikah mut'ah and the concept of *milku al yamin* or modern slavery are allowed in ancient times. These abilities are also limited to certain things only. Later, after the heyday of Islam, the practice of nikah mut'ah was banned and *milku al yamin* was abolished. Positive laws in Indonesia also often prohibit the practice of nikah mut'ah and

modern trade. Both practices are included in Trafficking in the context of exploitation. Meanwhile, exploitation is a violation of Human Rights. Likewise, Islam is very uplifting of human dignity and dignity. Both men and women have equal standing with Allah. The only difference is the level of piety.

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