

## Approaching the Maqashid Sharia of Marriage from the perspective of Al-Qur'an Fiqh

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### Abstract

*Placing marriage from the perspective of divine norms (Fiqh al-Qur'an) is a logical and spiritual reference that is always relevant for humans. According to the Qur'an, desires are paired with the instincts of all creatures, including humans. The confirmation is in surah Yasin/36: 36 and al-Zariyat/51: 49. The repetition of the word "marriage" in the Qur'an along with three other words that are equivalent in meaning to the word marriage (zauj, istimta', and ma 'aqadat aymanukum) establishes five meanings in the word marriage, namely sexual intercourse, strong bond, pairing, uniting, and gathering. The use of the word marriage in the Qur'an is only directed at humans. Before the hijrah, the marriage verses that came down talked more about the philosophical meaning and purpose of marriage. After the hijrah, the marriage verses talked more about technical matters of marriage, such as details about which women could and could not be married. In addition, three main things are maqashidunnikah according to the Qur'an, namely: 1) A means of channelling lust that is permitted by religion/sharia; 2) A way to maintain human descendants on earth so that their civilisation remains sustainable and is protected from extinction; 3) A medium to achieve peace of life (sakinah) and happiness in the world and the hereafter. This finding is relevant to the theory of maqashid sharia that marriage is part of hifzhuddin, hifzhunnafl and hifzhunnasl, all of which are included in daruriyyat for humans. This paper contribute to reinterpret the meaning of marriage in the Qur'an as an integration of spiritual, social, and maqashid sharia values in human life.*

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### 1. Introduction

Living in a couple is one of the natural needs of humans. There is no human being called a normal human being who does not need a life partner and has an interest in the opposite sex. Since the creation of the first human being named Adam, the need for the presence of a partner has been a strong urge that continues to disturb the mind in

his solitude, until finally causing God to create a second type of human being in the form of a woman who was later named Eve.<sup>1</sup>

This desire or instinct is not only experienced and found to apply to humans but also includes all of God's creatures. Animals and plants also have the same instinct. That's why they were created in pairs. There are males and females. Even inanimate objects are the same. Don't atoms and magnets have negative and positive sides that try to meet and attract each other to maintain their respective existences? This instinct shows that the desire to pair has become a law laid down by the creator for everything (*sunnatullah*).

On two occasions, the Qur'an even confirms the existence of the law of pairs covering everything. Look, for example, at Surah Yasin/36: 36.

سُبْحَنَ الَّذِي خَلَقَ الْأَزْوَاجَ كُلَّهَا مِمَّا تُثْبِتُ الْأَرْضُ  
وَمِنْ أَنْفُسِهِمْ وَمِمَّا لَا يَعْلَمُونَ.

Glory be to Allah who created all things in pairs, from what the earth grows and from themselves and from that which they do not know.<sup>2</sup> (QS. Yasin/36: 36)

When the concept is confronted with the reality found in modern society today, it seems that the law is still trying to break it until it goes beyond its natural or normal nature as a human being who is called a thinking creature and a social creature. Lately, there have been efforts to weaken the natural and sacred institution with the institution of lust that recognises the existence of other tendencies in this life and wants to legalise same-sex marriage, as has happened in Europe (the Netherlands) and Thailand. In fact, such actions cannot deny the natural nature of those who still need a partner to share happiness and complaints in this life.

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<sup>1</sup> As told in the word of Allah in Surah an-Nisa'/4: 1. The sentence "*khalaqakum min nafsin wahidah wakhalafa minha zaujaha*". According to M. Quraish Shihab in Tasir al-Misbah, the majority of classical commentators understand the word "*nafsin wahidah*" to be Adam as., and the word "*zaujaha*" to be Eve. They state that Adam's partner was created from Adam's left rib which was crooked based on information from the hadith of the Prophet saw. which was narrated by al-Bukhariy through Abu Hurairah :

حَدَّثَنَا إِسْحَاقُ بْنُ أَصْرِ، حَدَّثَنَا حُسَيْنُ الْجُعْفِيُّ، عَنْ زَائِدَةَ، عَنْ مَيْسَرَةَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ فَلَا يُؤْذِي جَارَهُ، وَاسْتَوْصُوا بِالنِّسَاءِ خَيْرًا، فَإِنَّهُنَّ خُلِقْنَ مِنْ صَلَاحٍ، وَإِنْ أَغْوَجَ شَيْءٌ فِي الصِّلَعِ أَغْلَاهُ، فَإِنْ ذَهَبَتْ نَفْسُهُمْ كَسَرْتُهُ، وَإِنْ تَرَكَتُهُ لَمْ يَزَلْ أَغْوَجَ، فَاسْتَوْصُوا بِالنِّسَاءِ خَيْرًا»

“Ishak bin Nashr told us that Husain al-Ja'fiy told us from Zaidah from Maisarah from Abi Hazim from Abi Hurairah from the Prophet. He said, "Whoever believes in Allah and the Last Day, do not harm neighbors and make a testament to each other to do good to women because they were created from crooked ribs and the most crooked of the ribs is the topmost part, if you force it to straighten it you will break it, and if you let it remain crooked, then make a promise to each other to do good to women”.

Lihat, Muhammad bin Ismail Abu Abdullah al-Bukhariy, *al-Jami' al-Musnad al-Shahih; Sahih al-Bukhariy*, Juz. 2 (Cet. I; Mesir: Dar Thauq al-Najah, 1422 H.), h. 26. Bab al-Wusah bi al-Nisa'. Lihat pula, M. Quraish Shihab, *Tafsir al-Mishbah*, Volume: 2 (Cet.X; Jakarta: Lentera Hati, 2007), h. 331

<sup>2</sup> Kementerian Agama Republik Indonesia, *Al-Qur'an dan Terjemah Dilengkapi Tajwid*, (Jakarta: Dharma Art, 2015), h. 442.

Therefore, Islam provides a way for everyone to find their partner and, at the same time, guides those who are physically and mentally ready to fulfil these needs through the right and natural door, namely the door of marriage.

Marriage in Indonesia applies the concept of Jasser Auda's System Approach, consisting of Cognition, namely regarding marriage registration in Indonesia is a new thing resulting from the *ijtihad* of the *mujtahids* because there are no verses in the Qur'an and *hadith* that explain marriage registration; Wholeness, namely in viewing the regulations on marriage registration, it is necessary to see all the regulations; Openness, namely marriage must be able to see the development of the era because the Qur'an and *Hadith* do not explain marriage registration; Hierarchy, namely the existence of marriage registration provides legal validity and certainty in marriage.<sup>3</sup>

For this paradigm of marriage to be clear and satisfy the thirst for the search for the ultimate truth by humans, it would be wise to examine it from the perspective of the Qur'an. In addition to being a holy book for humanity that guarantees the validity of its contents and originality since the 7th century AD until now, it is also the main reference for Islamic law using the approach of the Qur'anic *fiqh*. Namely, a study that tries to explore and explore the Sharia laws contained in the Qur'an, which is carried out by referring to the *tafshili* arguments contained in the Qur'an. According to the theory, this study of the Qur'anic *Fiqh* is also called the interpretation of *fiqh*, namely a study that tries to explain the contents of the Qur'an related to important themes of the laws of *fiqh* using the method of interpretation analysis. Ahzami Samiun Jazuli introduced this theory through his book entitled "*Fiqh al-Qur'an: Study of Important Themes in the Qur'an*", which was published in Kuala Lumpur by Pustaka Noor in 2005.<sup>4</sup>

## 2. Method

This study uses a qualitative method with a library research approach to examine the concept of Maqashid Syariah of marriage from the perspective of Al-Quranic *Fiqh*. This method was chosen because this study focuses on the analysis of the main texts of the two figures and various related literature to understand their views on marriage in the context of Qur'anic *fiqh*. Data were collected from primary sources, such as the works of Quraish Shihab (*The Bride of the Qur'an*) and Wahbah al-Zuhaili (*al-Fiqh al-Islamiy wa Adillatuh*), as well as from various secondary literature that supports this study. Data analysis was carried out using a comparative approach to identify similarities and differences in the views of the two scholars, both in terms of classical *fiqh* and contemporary applications. In addition, the hermeneutic method is used to interpret the concept of Marriage in Al-Qur'anic *fiqh* by considering its relevance in responding to the current Maqasid Syariah of marriage.

A literature study is conducted by reviewing various types of literature, either in the form of books, scientific journals, or other reliable sources that support the study of

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<sup>3</sup> Mubarak, A., & Hidayati, T. W. (2022). Pencatatan Pernikahan di Indonesia Ditinjau dari Maqashid Syariah Jasser Auda. *Adhki: Journal of Islamic Family Law*, 4(2), 157-170.

<sup>4</sup> M. Quraish Shihab, *Pengantin Al-Qur'an; Kalung Permata Buat Anak-anakku* (Cet. I; Jakarta: Lentera Hati, 2007), h. 4

the research topic. The data obtained is then analysed qualitatively to find patterns, meanings, and relationships between concepts that are the focus of the research. Qualitative research is also called a naturalistic method because it is carried out in natural conditions and based on the context of the subject being studied. In this approach, the researcher plays an important role as the main instrument, where the subjectivity of the researcher is an inseparable part of interpreting data and drawing conclusions. Therefore, the theoretical basis used in this study also considers the researcher's personal experience, intuition, and interpretation of the sources being studied.

### 3. Results and Discussion

#### a. Marriage Verses in the Qur'an

After conducting a search on the book *Fathu al-Rahman Li Thalibi Ayati al-Qur'an* by *Faidhullah al-Hasaniy al-Maqdisiy*, it was found that the word "nikah" along with various forms of words or derivatives were found 23 times in the Qur'an, which are listed in 19 verses and spread across six surahs. After further checking, the data is in accordance with the results of the manual search conducted by the author. Then, the data is also in accordance with what was stated by M. Quraish Shihab in the book *Wawasan Al-Qur'an*.

The distribution of the 19 verses referred to above is as follows: Al-Baqarah/2: 221, Al-Baqarah/2: 230, Al-Baqarah/2: 232, Al-Baqarah/2: 235, Al-Baqarah/2: 237, An-Nisa'/4: 3, An-Nisa'/4: 6, An-Nisa'/4: 22, An-Nisa'/4: 25, An-Nisa'/4: 127, Al-Ahzab/33: 49, Al-Ahzab/33: 50, Al-Ahzab/33: 53, An-Nur/24: 3, An-Nur/24: 32, An-Nur/24: 33, An-Nur/24: 60, Al-Qashash/28: 27 and Al-Mumtahanah/60: 10.

Marriage or pairing has been known to humanity since the beginning of its presence on this earth, and it has spread to all levels of society. Not only through God's law, through customary law, which is the result of human creation and creation alone, the law and marriage procession is also presented themselves solely to emphasise how important this instinct pair up is to be realised and regulated in such a way in life for the continuation of human civilisation on earth.

That is why M. Quraish Shihab considers the institution of marriage a natural and proper way of life for humans that is in line with their nature. Therefore, the Qur'an commands every parent to immediately marry off their child who is single (bachelor) without having to consider or question the material ability of their prospective partner. Still, at the same time, the Qur'an also commands those who do not yet have the material ability to restrain themselves and remain consistent in maintaining their purity. Allah says in:

وَأَنْكِحُوا الْأَيْمَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ  
وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ  
فَضْلِهِ وَاللَّهُ وَسِعُ عَلِيمٌ. وَلَيْسَتَغْفِرَ الَّذِينَ لَا  
يَجِدُونَ نِكَاحًا حَتَّىٰ يُغْنِيَهُمُ اللَّهُ مِنْ فَضْلِهِ...

“And marry those who are still single among you, and also those who are worthy (to marry) of your male and female servants. If they are poor, Allah will empower them with His grace. And Allah is All-Encompassing (His gifts) and All-Knowing. (33) And those who are unable to marry should maintain their (self) purity until Allah gives them the ability with His grace....”<sup>5</sup> (QS. an-Nur: 32-33).

In the book "Asbab al-Wurud" by Imam al-Wahidy, it is stated that when Rasulullah saw. Gave an ultimatum and a warning to the companions. Ten people gathered, namely Abu Bakr, Umar, Ali, Ibn Mas'ud, Abu Dzar, Salim Maula Abi Hudzaifah, Miqdad, Salman, Abdullah bin Amr bin al-'Ash, and Ma'qal bin Muqrin at Uthman bin Madzh'un's house. They agreed to fast during the day and pray all night without sleeping, not eat meat, and not approach women.

### **b. The Essence of Marriage According to the Qur'an**

Based on the distribution of the verses above, it can be stated that the Qur'an uses several forms of words when discussing the issue of "marriage". There are *isim* (noun) forms and *fi'il* (verb) forms. In each isim form, there are two words, namely: *nikahan* (its form is *nakirah*), which is repeated 2 times, and the word *al-nikah* (its form is *ma'rifah*), which is mentioned 3 times. According to al-Fairuz Abadiy in *al-Qamus al-Muhith*, the word "*nikah or al-nikah*" means *al-wath'u wal 'aqdu lah* (having sexual intercourse or making a contract/promise to a partner).<sup>6</sup> Meanwhile, in the book *Mu'jam al-Fadzu al-Qur'an* and the book *al-Mu'jam al-Mufahras li Ma'ani al-Qur'an*, the words *nikah* and *al-nikah* each mean *zawaj* and *al-zawaj* (partner or pairing).<sup>7</sup>

According to Ibn Faris, the word composed of the letters *nun-kaf-ha* has the meaning *al-dhammu wa al-jam'u* (unification or gathering), often interpreted as *al-budh'u* (intercourse) because it unites or connects the sexual instincts between two parties. This word is also often used for the meaning of *'aqd al-tazwij* (bond/promise of a couple) because it unites the commitment of two parties to live together.<sup>8</sup>

Meanwhile, in the Great Dictionary of the Indonesian Language, the word "*nikah*" is interpreted as an agreement between a man and a woman to establish a household relationship or an agreement between a man and a woman to establish a husband and wife relationship officially/legally witnessed by several people and guided by the guardian of the woman.<sup>9</sup>

Therefore, based on information from several Arabic language experts and guidebooks (*mu'jam/dictionary*), it can be concluded that the essence or meanings contained in the word "*nikah*" consist of five things, namely: 1) Having sex/intercourse. 2) Bond/promise. 3) Unification. 4) Gathering.

<sup>5</sup> Kementerian Agama Republik Indonesia, *Al-Qur'an dan Terjemah Dilengkapi Tajwid*, h. 354

<sup>6</sup> Majduddin Muhammad bin Ya'qub al-Fairuz Abadiy, *al-Qamus al-Muhith* (Beirut: Dar al-Fikr, 1999), h. 223.

<sup>7</sup> Lihat, Mu'jamma' al-Lughah al-'Arabiyyah, *Mu'jam al-Fadzu al-Qur'an*, Juz. 1 (Cet. II; Mesir: al-Idarat al-'Ammah li al-Mu'jamat, 1988), h. 1124-1125. Lihat pula, Muhammad Bassam Rusydi al-Zain, *al-Mu'jam al-Mufahras li Ma'ani al-Qur'an al-'Azhim*, Jilid. 2 (Cet. I; Damaskus: Dar al-Fikr, 1995), h. 1263.

<sup>8</sup> Lihat Abu al-Husain Ahmad ibn Faris ibn Zakariya, *Mu'jam Maqayis al-Lughah*, Jilid. 5 (Cairo: Ittihad al-Kitab al-'Arab, 2002), h. 383. Lihat pula Muhammad ibn Mukrim ibn Manzhur al-Masriy, *Lisan al-'Arab*, Jilid. 2 (Cet. I; Beirut: Dar Shadir, t.th.), h. 625.

<sup>9</sup> Tim Penyusun Kamus Pusat Pembinaan dan Pengembangan Bahasa, *Kamus Besar Bahasa Indonesia*, (Cet. II; Jakarta: Balai Pustaka, 2002), h. 371. Bandingkan dengan Umi Culsum dan Indi Novia, *Kamus Besar Bahasa Indonesia* (Cet. I; Surabaya: Kashiko, 2006), h. 482

Thus, the five elements above are the essence that must be created or present in every marriage. It is called sexual intercourse or intercourse because that is the act that is commonly found in every marriage that wants to be formalised, or its implementation is permissible in the eyes of religion. Furthermore, it is called a promise or bond because it is a space/place where two parties (husband and wife) build a joint commitment and bind themselves physically and mentally to share love and live together.

As is understood in the rules of the household, normative provisions bind men and women differently. Men are bound to provide for and provide physical and spiritual protection for the woman, and women are also bound so that they may not marry another man unless the bond has been released.<sup>10</sup>

Marriage is also called a pair because it makes the man and woman who are married each have a partner and become a pair of humans who complement each other's shortcomings and advantages. Then, it is understood as a union because it unites the souls, minds, hopes, ideals, and commitments of both partners. It is called gathering because it gathers ideas, affection, and love that are scattered to meet and unite in one institution called marriage.

Meanwhile, in the form of fi'il, there are 14 words listed in 14 verses, 2 of which are in the form of madhiy, namely the words nakaha nakahtum. The word means tazawwaja (already paired/married) and tazawwajtum (you are paired/married).<sup>11</sup> Then, 8 times in the mudhari' form, namely the words yankiha, tankiha, yankihna, tankihu, yankihuha, tankihuhunna, unkihaka, yastankihuha; and in the amar form 2 times, namely the words ankihuhu and ankihuhunna.

In addition, several words in the Qur'an are often used to indicate the meaning of "marriage", including:

1. The word "zawwaja" is from the word "zauj". This word is repeated 80 times in the Qur'an
2. The word "istimta'" or its root. This word is repeated 6 times in the Qur'an.
3. The word "al-Ladzina 'aqadat ayman" or its root. This word is repeated 7 times in the Qur'an but is repeated 80 times in the Qur'an.

In addition, there is another word that the Qur'an also uses to describe the establishment of a legal husband and wife relationship, namely "wahabat", which is found in QS. al-Ahzab / 33: 50. However, seen from the context of the discussion of the verse in question, the word "*wahabat*" seems to be specifically used by Allah to refer to the action of a woman who comes to the Prophet in order to submit herself to be made a wife.<sup>12</sup> So, the word is specifically intended and only applies to the Prophet in this case.

Therefore, of the four words, only three of the above words are most often used by the Qur'an to indicate the meaning of marriage. Namely, the word "zauj". This word originally meant "partner". Based on the results of the linguistic study above, this word is indeed one of the essences of marriage, namely being a couple/life partner. Then the word *istimta'* and its various derivations, which means having fun. This meaning essentially wants to indicate that the essence of a marriage is that each partner must feel

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<sup>10</sup> M. Quraish Shihab, *Tafsir al-Mishbah*, Volume. 3, h. 7.

<sup>11</sup> Lihat, Mujamma' al-Lugah al-'Arabiyyah, *Mu'jam al-Fadzhu al-Qur'an*, h. 1124-1125.

<sup>12</sup> M. Quraish Shihab, *Wawasan Al-Qur'an; Tafsir Tematik Atas Pelbagai Persoalan Umat*, h. 253.

pleasure for their partner and strive to create a harmonious atmosphere continuously so that each party between husband and wife does not feel forced, coerced, or treated unfairly.

According to M. Quraish Shihab, the sentence "*fama istamta'tum bihi minhunna*" in QS. An-Nisa / 4 verse 24 is understood by the majority of Ahlussunnah scholars as a normal marriage relationship because of its emphasis on the pleasure and pleasure of physical relations.<sup>13</sup> This point is in line with one of the meanings of the language obtained from the word nikah above, namely, having sex and intercourse. Then, the word "*al-Ladzina 'aqadat aymanukum*" means the person who is contracted by your right hand. According to Abu Muslim al-Ashfahaniy and Muhammad Abduh, as quoted by M. Quraish Shihab, the word means a promise of loyalty between husband and wife. Thus, this word is also in accordance with one of the essential meanings of the word nikah above, namely, a promise or bond.

Suppose the philosophical meaning and essence of marriage mentioned above are brought together with the terminological understanding of marriage as expressed by fiqh scholars. In that case, the editorial and meaning are not much different from the etymological meaning. Wahbah al-Zuhailiy, for example, stated that marriage, which is often termed *al-tazwij*, is a contract or agreement that Allah has established as a way for a man to have *istimta'* (have fun) with a woman and, conversely, allows a woman to "have fun" with a man. Likewise, according to the Hanafiyah school of thought, marriage is *'aqdun yufidu milka al-mut'ah qasdan* or an agreement which aims to give a woman the right to have fun intentionally/seriously. In fact, article 2 of the Compilation of Islamic Law (KHI), which is a legal regulation that regulates marriage in Indonesia and is summarised from various classical and contemporary fiqh books, defines marriage as "a strong contract (*mitsaqan ghalizhan*) to obey the commands of Allah and His Messenger and doing it is worship". This principle is in line with the Law of the Republic of Indonesia Number 1 of 1974 that "marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God."<sup>14</sup>

### c. Existence of Marriage According to the Qur'an

If we look more closely at the use of the word nikah in the Qur'an, it can be stated that this word is always directed to humanity only. This word is never once directed to anyone other than humans. In surah al-Baqarah/2: 221 the word marriage is juxtaposed with the words al-musyrikin and al-musyrikat (polytheists), in al-Baqarah/2: 230 and 232 it is juxtaposed with the words zauj and azhadapunna (husband/wives), in al-Baqarah/2: 235 with the words al-nisa' (woman), al-Baqarah/2: 237 with the words al-mutallaqat (divorced wives), in al-Nisa'/4: 3, 6, and 127 with the words al-yatama (orphans), in surah al-Nisa'/4: 22 with the words aba' (father), in surah al-Nisa'/4: 25 with the words al-muhsanat al-mu'minat (free woman again believer), in surah al-Ahzab/33: 49 and 50 with the words al-mu'minat and imra'ah mu'minah (believing women), in surah al-Ahzab/33: 53 with the words azhadapu (the Prophet's wives), in surah al-Nu'r/24: 3 with the words al-zanin and al-zaniyah (adulterous men and

<sup>13</sup> M. Quraish Shihab, *Tafsir al-Misbah; Pesan, Kesan dan Keserasian Al-Qur'an*, Volume. 2, h. 403.

<sup>14</sup> Direktorat Jenderal Peraturan Perundang-undangan Departemen Hukum dan HAM RI, *Undang-undang RI Nomor 1 Tahun 1974 Tentang Perkawinan* (Jakarta: Trinity, 2007), h. 8



women), in surah al-Nur/24: 32 with the words al-ayama (people who are alone/single), in surah al-Nur/24: 33 with the words al-ladzina la yajiduna (incapable person), in surah an-Nur/24: 60 with the words al-qawa'id min al-nisa' (old women), in surah al-Qasas/28: 27 with the words ibnah (daughter), and in surah al-mumtanganah/60: 10 with the words al-mu'minat muhajirat (a believing woman who emigrated). Likewise, 'aqadat ayma<nukum is always addressed to humans only and not to other people.

While the word zawj and its derivatives are words that are addressed to humans, animals, and also plants. An example of a verse that contains the word zawj that is addressed to mankind is Adam in Surah al-Baqarah/2: 35 which reads:

وَقُلْنَا يَا آدَمُ اسْكُنْ أَنْتَ وَزَوْجُكَ الْجَنَّةَ وَكُلَا  
مِنْهَا رَغَدًا حَيْثُ شِئْتُمَا وَلَا تَقْرَبَا هَذِهِ  
الشَّجَرَةَ فَتَكُونَا مِنَ الظَّالِمِينَ.

And We said: “O Adam, dwell you and your wife in the Garden and eat from it plentifully wherever you wish, and do not approach this tree, lest you become of the wrongdoers” (QS. Al-Baqarah/2: 35)

Furthermore, in terms of the classification of the period when the verses of marriage were revealed, both in the Makkiyah or Madaniyah era, the author sees that the verses of marriage that are categorised as Makkiyah verses talk more about the philosophical meaning and purpose of marriage. As can be seen in the surah al-Syura/42: 11 above, which states *yadzra'ukum fih*, so that you can reproduce in the earth, is one of the surahs in the Quran that talks about this principle. Then, in the surah al-Rum/30: 21, which states *li taskunu ilaiha* (so that you tend and feel at ease with him).

On the other hand, the verses of marriage that were revealed in the Madaniyah era are more related to the commands and technicalities of marriage. For example, ordering guardians not to reject the proposal of a man who is religious and morally good just because of economic considerations, aka not yet capable, especially because he has the status of an enslaved person. The verse in question is QS. Al-Nur/24: 32.

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ  
عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ  
اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ

“And marry those who are alone among you, and those who are worthy (to marry) of your male servants and your female servants. If they are poor, Allah will enable them with His grace. And Allah is all-encompassing and all-knowing”. (QS. Al-Nur/24: 32).

The third classification is the existence of people who are allowed to marry and people who are not allowed to marry. All the verses related to this are mentioned in the Madaniyah verses because the Madaniyah verses emphasise more on the technical aspects of marriage, including the marriage process and various technical conditions of marriage in the event of a divorce.



The verses that discuss people who are forbidden to marry are QS. al-Baqarah/2: 221, which mentions the prohibition for Muslim men to marry polytheistic women and vice versa. Then, in QS. al-Nisa'/4: 22 and 23 states the prohibition on marrying women who have been married by the father (biological mother and stepmother) and 13 other people (biological mother, daughter, sister, father's and mother's sisters (aunts and aunts), nieces (from brothers and sisters), nursing mothers, half-brothers, in-laws, stepchildren, sons-in-law, and wife's sisters (collected in one marriage). In QS. al-Ahzab/33: 53, It is also stated that there is a prohibition on marrying the Prophet's ex-wives forever, as well as a prohibition on entering into a marriage contract with a woman whose husband has just divorced her in secret or expressing his desire to marry her before the end of her iddah period, as stated in the QS Baqarah/2: 235.

Furthermore, the Qur'an also discusses people who are allowed to be married. In QS. an-Nisa'/4: 3, it mentions the permissibility of marrying any woman we like (maa thaaba lakum mina al-nisaa'). The mention of the words' matsnaa wa tsulaatsa wa rubaa' (two, three, four) in this verse is essentially a demand to be fair to orphans, not to make rules about polygamy (requiring or encouraging). Various religious adherents and customs already knew the implementation of polygamy in society before this verse was revealed. This verse only talks about a prediction (assumption) if worried about not being able to be fair to the orphan's property and information about the permissibility of polygamy if forced; even then, it is only a small/emergency door that can be passed by anyone who is in dire need, even with conditions that are not easy.<sup>15</sup>

Apart from that, in QS. an-Nisa'/4: 23, there is an order for guardians to marry people who are alone/single (free) and people who are fit to marry from the slave group (people who are under the control of their master). Then, in QS. an-Nisa'/4: 6 ordered to test orphans until they were old enough to marry. And in QS. al-Mumtahanah/60: 10 explains the technicalities of marrying believer women who emigrate (read: converts to Islam in the current context) so that they test their faith first until their faith is truly confirmed, then after that they are allowed to marry by giving a dowry. Her marriage relationship with her previous husband, who was still an unbeliever, ended after they believed. And there are many more technicalities for carrying out marriages that are stated in the Al-Qur'an.

From the results of the classification above, it can be stated that the discussion of marriage in the Qur'an includes the philosophical meaning, the purpose of marriage, and technical rules of marriage regarding who is allowed to marry and who is not allowed, as well as when it is permissible to marry and when it is not permissible.

#### **d. Urgency and Maqashidunnikah According to the Qur'an**

Maqashid of marriage is a branch of the study of maqashid al-syariah. Unlike ushul fiqh, which emphasises more on the external aspects of the text, the study of maqashid focuses more on the meaning behind the text. According to Ibn Asyur, as quoted by Hammadi, every form of sharia imposition must contain meaning, wisdom and benefits, all of which return to one point to realise benefits and welfare for all humanity. From here, it is known that the maqashid of marriage are the goals and

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<sup>15</sup> M. Quraish Shihab, *Tafsir al-Mishbah*, Volume: 2, h. 341

benefits behind the determination of sharia marriage for the good of the husband and wife and their families, both in the world and in the hereafter.<sup>16</sup>

In terms of urgency, the Qur'an discusses marriage as an important norm for human civilisation in order to carry out its nature and caliphate duties. After examining various verses related to marriage, the author can compile several sacred goals that God wants to realise behind the "marriage" law, including:

1. Means to channel sexual desire

The presence of sexual urges in humans cannot be avoided as they grow into adults. This urge is getting bigger day by day until it requires each individual to find an outlet and a place to channel their sexual desires. However, it should be noted that this impulse could lead humans to destruction (disadvantage) if the release mechanism is not wisely managed properly. Basically, the existence of sexual desires in every human being has no other purpose than so that humanity is able to continue its generations and develop this world.<sup>17</sup>

The magnitude of sexual drive and desire is described in the Qur'an when it prescribes fasting and I'tikaf. In the early days of the law, people at that time believed that eating, drinking and sexual relations between husband and wife could only be done before going to bed at night. So if one of them is asleep, then eating, drinking and sexual intercourse are no longer allowed. For this reason, Qays ibn S{urmah, one of the companions of the Prophet from the Ansar group, once in the month of Ramadan, went straight to sleep after performing the Isha prayer while he had not eaten or drank. Finally, when he woke up from his sleep, he continued fasting without eating or drinking beforehand, so he felt quite tired and hungry. Likewise, 'Umar ibn al-Khattab, one time, had sex with his wife at night in the month of Ramadan after she had gone to sleep. And what was done by the two of them - Qays and 'Umar - was conveyed to the Prophet, and then the word of Allah SWT came down, namely QS. al-Baqarah/2: 187.

Muhammad Mutawalli al-Sya'rawiy, when interpreting the verse above, said that the sentence *takhtanuna anfusakum* (can betray yourself/cannot restrain your lust) teaches us that humans are not strong enough to restrain themselves all the time from sexual desire and lust, so Allah gives *rukhshah* (relief) for them to channel these desires at night.<sup>18</sup>

This interpretation means that fulfilling sexual needs is an urge that must be channelled. Therefore, Allah regulates it in such a way because Allah knows that humans sometimes betray themselves, and this can interfere (complicate) His servants in carrying out worship. So, the path of marriage was created as a means to channel this urge. At the same time, it proves the nobility of humans, which is different from other creatures. From here, it is also understood that marriage for humans in the view of religion is not limited to a way of having sex, but more than that, marriage is a means to serve and worship Allah.

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<sup>16</sup> Nurcholis, M. (2020). Usia Nikah Perspektif Maqashid Perkawinan: Telaah Syarat Usia Minimum Perkawinan Pasca Putusan Mahkamah Konstitusi Nomor: 22/PUU-XV/2017. *Tafâqquh: Jurnal Penelitian Dan Kajian Keislaman*, 8(1), 1-18.

<sup>17</sup> M. Quraish Shihab, *Pengantin Al-Quran; Kalung Permata Buat Anak-Anakku*, h 78-79

<sup>18</sup> Abu 'Abdillah Muhammad ibn Isma'il al-Bukhariy, *al-Jami' al-Shahih*, Jilid. 4 (Cet. III; Beirut: Dar ibn Katsir, 1987), h. 1639.

Imam al-Alusiy, when interpreting the verse, stated that the sentence *anna syi'tum* (however you wish) has three meanings, namely, *min ayna syi'tum* (from any position you wish), *kayfa syi'tum* (however you wish), and *mataa syi'tum* (whenever you wish).<sup>19</sup> In other words, each couple is given the opportunity by Allah to choose the direction, method, and when they want to have intercourse with their partner, as long as it is in line with the provisions of Allah SWT.<sup>20</sup>

In another language, the Qur'an also uses the word *libas* to refer to each partner (husband/wife) as stated in QS. al-Baqarah/2: 187 above. According to M. Quraish Shihab, this verse not only implies that husband and wife need each other as clothes do to the body but also means that each partner must function like clothes that cover the shortcomings of their partner or beautify their partner. Thus, it is clear that one of the main maqasid of the presence of the sharia of marriage for humans according to the Qur'an is so that they can make each other's wives/husbands as partners, places to grow crops and clothes. Although in a figurative form, what is actually intended is for each to make their partner a place to channel sexual desires that are permitted by religion.

## 2. Means for Generational Sustainability

This purpose is hinted at by Allah when He introduced Himself to humans as the creator of the heavens and the earth, as stated in QS. Al-Shura/42: 11 above.

In order to carry out this aspect later, as a form of Allah's love for His servants, various signs and steps are set so that this regeneration process is different from the regeneration method adopted by animals, which are also said to have the same purpose of pairing according to the verse above. Therefore, there are several verses of the Qur'an whose messages can be contemplated in order to guide how to regenerate, namely:

### a. Be smart in choosing your partner.

What needs to be considered by everyone who wants to channel their sexual desire is to channel it in a pure state. Didn't Allah remind Adam and his wife of the devil's interference and call him an enemy who must be watched out for at all times through QS? Thaha/20: 117. In fact, in QS. Al-Isra/17: 64, Allah clearly informs the authority of the devil to associate with humans in their property and children.

Fertile soil must also be regulated for the planting period and season; do not force it to produce at any time. Therefore, one must also be clever in managing the planting period; do not plant seeds every time there is an opportunity. Because what is expected from farmers is a quality harvest which can survive all weather challenges, and which is delicious and full of nutrition. Parents must also be able to produce healthy, faithful and pious children and be able to face all kinds of life's challenges.

### b. Channelling lust to your partner in a pure state

<sup>19</sup> Syihab al-Din Mahmud ibn 'Abdillah al-Husayniy al-Alusiy, *Ruh al-Ma'aniy fi Tafsir al-Qur'an al-'Azim wa al-Sab'i al-Matsaniy*, Jilid. 2 (Cet. III; Beirut: Dar al-Kutub, t.th.), h. 225.

<sup>20</sup> Wahbah al-Zuhailiy, *al-Fiqh al-Islamiy wa Adillatuh*, Jilid. 9, h. 76

What needs to be considered by everyone who wants to channel their sexual desire is to channel it in a pure state. Didn't Allah remind Adam and his wife of the devil's interference and call him an enemy who must be watched out for at all times through QS? Thaha/20: 117. In fact, in QS. Al-Isra/17: 64, Allah clearly informs the authority of the devil to associate with humans in their property and children.

... وَشَارِكْهُمْ فِي الْأَمْوَالِ وَالْأَوْلَادِ وَعِدْهُمْ وَمَا يَعِدُهُمُ الشَّيْطَانُ إِلَّا غُرُورًا

“... and associate yourself (O Satan) with them (humans) in wealth and children, and give promises (seduce) them. And nothing is promised by Satan to humans except mere deception”. (QS. al-Isra/17: 64)

This verse suggests that Satan can play a role in human property and children. Therefore, sexual intercourse must begin in a clean and holy atmosphere; it should not be done in a dirty state or a dirty situation. Even the Prophet Muhammad SAW taught us to pray before starting sexual intercourse because a holy situation will arouse spirituality and a sense of the presence of God in a married couple when they have sex.

These two pieces of information also differentiate the way humans regenerate by pairing and regenerating animals. Because satisfying biological needs accompanied by spiritual values will give different results from fulfilling them without spiritual values.

c. Pray for your partner and offspring.

This step is obtained through the signs of the verses listed in the QS. al-Furqan/25: 74. Even though this verse in context speaks about the criteria for *ibaadurrahmaan* (loving servants), according to M. Quraish Shihab, this verse is a prayer teaching for all humans who have been and will be paired as husband and wife so that they read it often in order to pray for themselves and their descendants.<sup>21</sup>

3. Means of Achieving Peace of Life (*Sakinah*)

The third purpose of marriage, according to the Qur'an, is to achieve and find peace (*sakinah*). As described by Allah in QS al-Rum/30: 21, the word "*sakinah*" is taken from the root word *sakana*, which means *al-waqar wa al-wada'ah* (calmness). It's just that the calmness referred to here is the calmness of something after being agitated, or in terms of al-Sahib ibn 'Ibad, the author of the monumental Arabic dictionary *al-Muhit fi al-Lughah*, that something is called *sakana* when its movement has disappeared (*idza dzahabat harakatuh*). This word is used to describe calmness and tranquillity after previously having been agitated, whatever the form of the agitation.<sup>22</sup> Meanwhile, Ibn Faris, in his *Maqayis*, mentions that the word composed of the letters *sin*, *kaf*, and *nun* has an antonymous meaning with the words chaos and movement. That is why the knife is called a *sikkin* because it is a tool that makes the slaughtered animal calm and immobile after previously struggling.

<sup>21</sup> <sup>21</sup>M. Quraish Shihab, *Pengantin Al-Qur'an; Kalung Permata Buat Anak-Anakku*, h. 199

<sup>22</sup> Al-Sahib ibn 'Ibad, *al-Muhith fi al-Lughah*, Jilid. 2 (Beirut: Dar al-Kutub, t.th.), h. 31.

Marriage is called a way to find *sakinah* because the instinct for the opposite sex or a partner, especially after humans enter adulthood, is so urgent that it gives rise to anxiety if it is not fulfilled. That is why love that is turbulent in the heart and is filled with uncertainty, which leads to anxiety, will produce *sakinah* or peace and tranquillity of the heart if continued with marriage.

However, to achieve this goal, the Qur'an provides several steps, namely:

- a. The need for physical and mental readiness (see QS. an-Nisa'/4: 6 and QS. al-Mumtahanah/60: 10) as well as economic readiness for those who want to get married.

However, guardians are asked not to use the groom's economic weaknesses as an excuse to reject his proposal. As QS. al-Nur/24: 32.

Al-Qurtubiy emphasised that this verse is a promise of wealth from Allah for people who marry in order to gain His pleasure and protect themselves from the doors of disobedience. In fact, al-Nasa'iy narrated one of the sayings of the Prophet Muhammad.

It's just that, on the other hand, people who do not yet have material abilities and are still able to control their lust are asked to restrain themselves and maintain their purity. As information in QS. An-Nur/24: 33. From here, it is understood that economic considerations need to be considered for people who want to get married because willingness from an economic aspect is one of the paths to *sakinah* or peace in marriage. Therefore, it is recommended for people who are sure they cannot finance and prepare for their marriage to refrain from the marriage temporarily.

- b. Instilling a commitment in each individual to maintain the bonds of marriage, which the Qur'an terms *mitsaqan galizhan* or a strong and solid bond.

As in QS. an-Nisa'/4: 21. Efforts to perpetuate marriage are carried out by trying to *mu'asyarah* or socialise with a partner in a *ma'ruf* (good) manner. As emphasised in QS an-Nisa'/4: 19, the word *mu'asyarah* originally meant mixing and entering something into something else. Something that has been mixed is impossible or very difficult to separate. That is the life of a husband and wife; it is necessary to maintain *mu'asyarah bi al-ma'ruf* because the bonds of marriage are not only bound by the factor of love, but there are other factors, namely, grace and mandate.

- c. Show each other *mawaddah* and mercy in domestic life.

As instructed in QS al-Rum/30: 21, to achieve *sakinah* Allah bestows upon humans two potentials that have been given within them that they must fight for their actual manifestation. Whoever is able to realise it will never think of ending the relationship, no matter what happens. Because love and mercy are gifts from Allah, married couples are required to be more obedient in fulfilling the values mandated by Allah, including by increasing prayer so that their relationship becomes stronger and they are able to give and receive love. Carrying out divine guidance that is manifested through faith and good deeds is a way that must be taken to be able to receive and give love so that the person concerned will not be unrequited. This principle can be understood from the words of Allah, as in QS. Maryam/19 96. This

verse means that divine assistance must always be expected because Allah is always involved. However, efforts to achieve success must always be fought for. This verse also contains a hint that a husband and wife must be able to be their partner's "self", meaning that each must feel and think what the other feels and thinks. Husbands and wives must feel that they need each other and try to fulfil their partner's needs.

If a person has economic readiness and then creates a determination/commitment to maintaining the bonds of marriage as *miitsaaqan galizhan*, accompanied by a serious effort to always pour out love and mercy to each other, then, of course, the foundation of the household will be stronger. Its joints will be stronger, so it is hoped that *sakinah* will be achieved in the household. The three purposes of marriage that have been revealed in the Qur'an, if associated with the concept of *maqashid sharia* in the theory of *Usul Fiqh*, which is one method of discovering law substantially, then it can be stated that God presents the *sharia* of marriage contained in the Qur'an as a critical, important, and irresistible subsystem (*sunnatullah*) to ensure the maintenance and sustainability of religious aspects in human life, which is the purpose of marriage above it is stated that marriage is a means of channelling lust that is justified by religion/God. That means marriage is a way to maintain the sustainability of one's religion (*hifzhuddin*). In other words, marriage is part of an effort to save one's religion because marrying according to what Allah has commanded means carrying out what Allah has permitted and avoiding what He has forbidden, and that is the essence of religiosity.

Then marriage also ensures the preservation and sustainability of a human soul that tends to be psychologically unstable, which, in the purpose of marriage, according to the Qur'an above, refers to achieving peace of mind in one's life. If so, it means that marriage is one of the elements that can ensure the continued existence and maintenance of the human soul itself. This interpretation is relevant to the concept of *hifzhunnafs* in the theory of *maqashid sharia*.

Finally, marriage, in addition to ensuring the preservation and sustainability of humans based on *maqashidunnikah* according to the Qur'an above, which in the theory of *maqashid sharia* is relevant to the concept of *hifzhunnasl* or maintaining descendants. Marriage is also a way to maintain the preservation of property or *hifzhul mal*. One of the legal implications of marriage is the emergence of mutual inheritance rights between husband and wife and children born from the marriage relationship.

#### 4. Conclusion

The repetition of the word "marriage" in the Qur'an with its various derivations with three other words that have the same meaning as the word marriage, namely *zauj*, *istimtaa'*, and *al-Ladzina 'aqadat aymaanukum* can be found in many verse Quran, is formulated into five philosophical meanings contained in the word marriage, namely sexual intercourse, strong bond, pairing, uniting, and gathering. From the perspective of the *fiqh* of the Qur'an, the use of the word marriage in the Qur'an is apparently only intended for humans. The verses of marriage that were revealed before the *hijrah* talk more about the philosophical meaning and purpose of marriage, while after the *hijrah*, the verses of marriage talk more about the technical issues of marriage, such as details about which women are allowed and which are not allowed to be married. In addition, three main things are *maqashidunnikah*

according to the Qur'an, namely as a means of channelling lust that God permits, A way to preserve the human race on earth, and a medium to achieve peace of mind in life. These three purposes of marriage are relevant to the four concepts of maqashid sharia, namely *hifzhuddin*, *hifzunnafs*, *hifzhunnasl* and *hifzhul mal*. *This study is limited to a thematic interpretation approach and has not compared it with the social practices of marriage in various contemporary Muslim communities.*

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