

Nobility criteria as a measure of Kafa'ah in marriage

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ARTICLE INFORMATION	ABSTRACT
<p>Article History: Received: November 02, 2024 Revised: November 30, 2024 Accepted: December 10, 2024 Published: December 13, 2024</p> <p>Keywords: Nobility, Kafa'ah, Marriage</p> <p>*Corresponding Author: baiqmaya06@gmail.com</p> <p>DOI: 10.5281/zenodo.14438521</p>	<p>During the royal era, it was common for marriages to require both partners to come from the nobility. This practice could be based on access to education and aspects of life worth that were more available to the nobility. So, a nobleman's marriage must be with a nobleman to get pure offspring. As in Indonesia, women with noble status are "pressured" according to unwritten rules to marry men from noble circles. This may be caused by the patriarchal system that regulates a person's nasab or lineage. Interestingly, the status of nobility has shifted and is no longer legitimized from aspects of life worthiness in the form of education, wealth, moral security, and position. This research uses the library research method, where researchers use literature materials such as books, articles, journals, magazines, and verses in the holy Koran related to this research. This research concludes that the jurists agree that the priority in kafa'ah is religion because religion is the axis for marriage, which brings the household to an eternal and harmonious ship. Nobility as a measure of kafa'ah has less and less relevance in the modern era; for some groups, this criterion is not the main thing. Even though it has a long history and certain values attached to it, this criterion is no longer a priority when choosing a partner.</p>

INTRODUCTION

In life and living in this world, all humans want a family life. Things like this have been part of human nature since Adam and Eve were first created by Allah SWT. It is unimaginable what would happen to human life on this earth if the provisions for family life did not apply. By starting a family, humans place their prominent social feelings, namely lust, under the power and influence of reason for the sake of life itself as khalifatullah whose task is to improve the welfare of human life on earth.

There are many people who are married but do not have harmony in the household, because the husband and wife in the family do not carry out their respective functions as they should. This is a sign that in order to get married, it is necessary for the prospective husband and wife to choose their life partner well. and appropriate so that the two candidates in the future when sailing the ship can live in peace and harmony. One of the considerations recommended by the Islamic religion when concluding a marriage is kafa'ah. Kafa'ah means the same, equal, equal, or proportionate, which means that the man and his future wife are the same in terms of position, equal in social rank and equal in morals and wealth.

Kafa'ah is considered important in marriage because it concerns the continuity of life between husband and wife. Kafa'ah is a problem that has been debated among scholars since time immemorial, because there are no arguments that regulate it clearly and specifically in

either the Qur'an or hadith. In fact, this kafa'ah problem also extends to things that lead to racism and casteism

During the royal era, it was very common for marriages to require both partners to come from the nobility. This practice could be based on access to education and aspects of life worth that were more available to the nobility. So a nobleman's marriage must be with a nobleman to get pure offspring.

If it is related to today's plural and multicultural life, one of the criteria for kafa'ah that is being debated is the issue of nobility. In reality, this criterion occurs not only in Arab countries, but in countries whose people adhere to Islam, such as in Indonesia. .

As is the case in Indonesia, women with noble status are "pressured" according to unwritten rules to marry men from noble circles. This may be caused by the patriarchal system that regulates a person's nasab or lineage. What is interesting is that currently the status of nobility has shifted and is no longer legitimized from aspects of life worthiness in the form of education, wealth, moral security, position. So what is the relevance of nobility as a measure of kafa'ah in marriage?

RESEARCH METHODS

The research method used in this research uses library research, where researchers use literature materials such as books, articles, journals, magazines, verses in the holy book of the Koran which are related to this research.

RESULT AND DISCUSSION

1. Definition of kafa'ah

The word kafa'ah comes from Arabic, from the word kafi-a which means the same or equivalent. This word is a word used in Arabic and is found in the Koran with the meaning 'same' or 'equal'. The words kufu or kafa'ah in marriage imply that women must be the same or equal to men. The nature of kafa'ah means that the characteristics of the woman in the marriage are considered to be the same or must be present in the man who marries her. The purpose of kafa'ah in marriage is the adjustment of the situation between the husband and his woman, equal status, the husband being equal to his wife in society, the same morals and his wealth. Equality in the position of husband and wife will lead to a prosperous household, avoiding misfortune.

The word kafa'ah in the Qur'an is only expressed once with the expression kufuan, which comes from the word kufu as found in the Qur'an:

وَلَمْ يَكُنْ لَهُ كُفُوًا أَحَدٌ

“and there is no one equal to Him”

2. The party entitled to kafa'ah

Jumhur fuqaha believes that kafa'ah is a right for women and guardians. A guardian may not marry a woman to a man who does not agree with her, except with her blessing and the pleasure of the other guardians. As for marrying her to a man who does not share her means of bringing disgrace to her and her guardians, it is not permissible, except with the pleasure of all of them. However, if she is pleased and her guardians are also pleased, then the guardians are allowed to marry her to that man. This prohibition was established to protect their rights. If they are pleased then this prohibition disappears.

3. History of kafa'ah in marriage

Talking about the origins of this concept, at least 2 theories have emerged. The first theory by M.M. Bravman believes that this concept emerged since pre-Islamic times. To support this theory, Bravman wrote about several cases that had occurred. For example, the case of Bilal's wedding plans. Apart from that, he also wrote about two other cases, where in the marriage itself it can be seen that kafa'ah was clearly mentioned.

Meanwhile, the second theory monitored by Caulson and Farhat J. Ziadeh said that this concept originated in Iraq, especially Kufa, where Abu Hanifah lived. According to this theory, the concept of kafa'ah is not found in Malik's book, Al Muwatta'. This concept was first found in the Maliki school of thought book Al-Mudawwanah. In this book itself it is touched on very little, in fact it is noted that Imam Malik himself never discussed it.

From this case it was concluded that Malik himself did not know the concept of kafa'ah. This concept emerged according to this theory, because of cosmopolitan demands and the complexity of the problems of society living in Iraq at that time. The complexity of society emerged as a result of urbanization that occurred in Iraq at that time. Urbanization has given rise to the mixing of a number of ethnicities, such as the mixing of Arabs and non-Arabs who have recently converted to Islam. To avoid choosing the wrong partner in marriage, the theory of kafa'ah has become necessary. Thus, according to Prof. Dr. Khoiruddin Nasution in his book Contemporary Issues of Islamic Law explains that the example of the Bilal case was used as an example by Bravman. According to him, the existence of this case shows that differences are not recognized based on anything except religion and devotion. Therefore, kafa'ah did exist before Islam, but one of the goals of Islam was to destroy kafa'ah based on social strata. Therefore, the author suspects that this concept emerged back during Abu Hanifah's lifetime in an effort to answer the problems of pluralism, ethnicity, ethnicity, language and the like. This concept has existed since pre-Islam, but the emergence of this theory has become a legal concept (legal doctrine) as a result of efforts Iraqi scholars, to answer the problems and conditions of Iraq that require this. This means that the homogeneous condition of Iraq is answered with this concept to ensure the integrity and peace of family life.

4. Legal basis for kafa'ah in marriage

One of the rules of Islam is about kafa'ah in marriage. The efforts presented in the matter of kafa'ah are useful for harmonizing husband and wife relationships in particular. In determining kafa'ah there are several arguments from both the Al-Qur'an and hadith. These arguments can be seen both generally and specifically

a. The legal basis for kafa'ah in the Qur'an

أَفَمَنْ كَانَ مُؤْمِنًا كَمَنْ كَانَ فَاسِقًا ۗ لَا يَسْتَوُونَ

“Are the believers the same as the wicked? They are not the same”.

From the explanation, it is firmly stated that between the fasiq people are not the same as the people who believe and do good deeds in all forms of life including in marriage. Indeed, this verse does not clearly mention the issue of marriage, but mentions it in general. Because marriage is a worship that is highly recommended in Islam, of course people will carry out looking for candidates who have the same goals and visions for the future in influencing happiness which is often called the Qur'an, a sakinah, mawaddah, warahmah family.

Qur'an surah Al-hujurat verse 13

يٰۤاَيُّهَا النَّاسُ اِنَّا خَلَقْنٰكُمْ مِنْ ذَكَرٍ وَّاُنْثٰى وَجَعَلْنٰكُمْ شُعُوْبًا وَّقَبَاۤىِٕلَ لِتَعَارَفُوْۤا اِنَّ اَكْرَمَكُمْ عِنْدَ اللّٰهِ اَتْقٰىكُمْ اِنَّ اللّٰهَ عَلِيْمٌ حَبِيْرٌ ﴿١٣﴾

“O people, indeed We have created you from a man and a woman. Then, We made you into nations and tribes so that you might know each other. Indeed, the noblest among you in the sight of Allah is the one who is most pious. Indeed, Allah is All-Knowing, All-Compliant”.

b. The legal basis for kafa'ah in the hadith of the Prophet

إذا جاءكم من ترضون دينه وخلقه فأنكحوه ، إلا تفعلوا تكن فتنة في الأرض وفسادٌ

“If a man comes to you whose religion and morals you approve of, then marry him. If not, there will be slander and damage on the face of the earth” (HR. Tirmidhi No. 1085)

5. Elements of kafa'ah in marriage

a. Free from the shame of marriage

Meaning that a woman who is free from the shame of marriage is considered not equal to a man who has shame. Because psychologically a person will be reluctant to associate with people who have shame such as insanity and so on. The shames of marriage are as follows (discussion can also be seen in the chapter on khiyar as follows:

- 1) Insanity, whether the insanity only recurs or continues. Therefore, for a man who is crazy it is not appropriate to marry a woman who is psychologically healthy.
- 2) Leprosy, a disease characterized by red spots on the skin, then eventually turning black and can cause limbs. Therefore, for men who suffer from leprosy, it is not ideal to have a healthy woman.
- 3) Barash disease, a skin disease characterized by a change in skin color to solid white and can cause bleeding on the skin. Therefore, for men whose parents or themselves suffer from Barash disease, it is not equivalent to a woman who is free from the disease.
- 4) Severed penis.

If women also have the same disgrace of madness, leprosy or barash, whether the type is different or the same or even the woman's disgrace is worse, it still cannot be considered sekufu. Because human psychology cannot tolerate the disgrace of others even though he can tolerate similar disgrace in his own body. The five indicators of disgrace apply to women. While for guardians only three indicators apply. Namely madness, leprosy or barash. if the husband is impotent or his penis is cut off and the woman is willing, if her guardian refuses to marry her then it is included in the "adlal guardian"

b. Free

A free woman is not equal to a male slave, or a free man but has a father who holds slave status or has a relative of a slave from the father's line not from the mother's line. That is, a free woman is still considered equal to a man who has a relative of a slave from the mother's line. Because a person's lineage follows the father's line, not the mother's.

c. Lineage

Lineage or descent is important because it has a value of superiority that is proud of. The parameters of kafaah lineage based on the standard ethnic strata are as follows:

- 1) A woman who has a father of Arab descent is not equal to a man who is not of Arab descent, even though the man's mother is of Arab descent
- 2) A woman from the Quraish tribe is not equal to a man who is of Arab descent but not from the Quraish tribe.
- 3) Women who are descendants of the Prophet Muhammad (Bani Hasvim) are not equal to men who are not descendants of the Prophet, even though they come from the Quraysh tribe.

Apart from ethnic parameters, kafaah in nasab also talks about status Islam. This means the religious status of the prospective bride and groom's parents too is an element considered

in kafaah. A Muslim who is not from the Islamic lineage (his father or grandfather is non-Muslim) not as strong as a woman whose father or most of her parents are Muslim.

d. Religion

There are several details regarding the level of religiosity of the prospective bride and groom, among others:

- 1) A pious woman is not equal to a wicked man.
- 2) Women who adhere to the Sunni faith do not agree with men who adhere to other beliefs

What is meant by wicked is the connotation of a man who has no status fair in the sense of never committing major sins, continuously commit small sins and the good is not more dominant than the bad his little sin. A person who is a wicked person cannot automatically change into a pious or just person by repenting. However, he must undergo a period of one year to determine that he is truly just and does not return to his dark deeds.

e. Work

Women who themselves or their parents have decent jobs are not sekufu to marry a man who has a low job, namely a job that can lower a person's self-esteem or dignity. The details are as follows:

- 1) A man whose father's profession is a cupping worker, a cleaner and a shepherd is not equal to the son of a tailor.
- 2) Children a tailor is not equal to a merchant's daughter.
- 3) A merchant's child is not equal to a daughter of a pious person or judge

Five indicators are mapped in more detail, namely: Religiosity, work and avoiding the shame of marriage applies to the candidate and his/her father and mother. While the indicators of lineage and independence applies to the candidate and his father only. This means that for example the mother of the man is wicked while both of the woman's parents religious then it is not sekufu. In another aspect, for example, the mother of the man is of Arab descent while the father of the woman is of Arab descent then it is not considered sekufu.

6. Summary of kafa'ah according to the 4 schools of thought

Problem	Hanafi	Maliki	Syafi'i	Hanbali
Kafa'ah	<ul style="list-style-type: none"> • Religion • Lineage • Occupation • Freedom • Free from defects • Wealth • Age (not too much difference) 	<ul style="list-style-type: none"> • Religion 	<ul style="list-style-type: none"> • Religion • Lineage • Work • Freedom • Free from defects (physical/mental) • Wealth • Age is not too different Similar 	to the opinion of Syafi'i, the second opinion in this school of thought only emphasizes: religion and work.

Someone who marries someone who is not of the same sex is not haram.

Relevance of Nobility as a Measurement of Kafa'ah in Marriage in The Modern Era

In the past, at the beginning of the development of Islam, nobility was considered a priority in marriage. This is related to the social system that was in effect at that time. The social status of nobility has a very important influence in determining a person's status. The community's understanding of nobility as a measure of kafa'ah in marriage is caused by the community following unwritten rules made by the traditional leaders.

Each society has customs and traditions that differ from one place to another. These customs and traditions also influence a person's marriage decisions. In a society, there are those who do not allow their descendants to marry men who come from outside their family, or those who forbid their daughters from marrying men who come from a certain place, or forbid their daughters from marrying descendants who are not nobles. The existence of this prohibition can usually have an impact on the child's position in the family. They could be expelled or not considered as their descendants anymore, and they will not even be given an inheritance if they dare to oppose the traditions of the family or society. Perhaps the implementation of these traditions and customs will sound quiet and taboo among advanced societies or urban communities. This kind of tradition used to be very fanatical in rural communities, and most people still uphold the implementation of this kind of tradition.

The existence of customary rules regarding marriage between nobles aims to preserve cultural values, strengthen relationships between families and expand networks of power, speech, manners, as a sign of high social status, resulting in marriage between nobles being suppressed for women. However, suppose marriage is associated with the criteria of nobility in this modern era. In that case, the criteria of nobility are no longer a priority for determining the standardization of prospective partners, because aspects of life eligibility such as education, position, wealth can be accessed by anyone, both from the nobility and non-noble circles, so that what is more prioritized in determining prospective partners is religion, education, work, personality, and similarity in life vision.

The relevance of nobility in the modern era today is as follows:

1. Shifting values

Changes in values adopted by society due to external influences, the younger generation is increasingly losing its cultural roots and identity, losing noble values, not recognizing the legacy of ancestral traditions and customs

2. Education and work

Women can now access higher education, making them think more critically and rationally in determining life partners and roles
women who are increasingly active in the world of work have the freedom to make decisions.

3. Discrimination

Marriage with the concept of nobility is considered discriminatory, all humans are the same on this earth, the only difference is piety to Allah SWT

CONCLUSION

The description of kafa'ah in marriage actually teaches equality and equality, among the criteria for kafa'ah include Religion, Lineage, wealth, Job, freedom, The fuqaha agree that the priority in kafa'ah is Religion, because Religion is a pivot for marriage that brings the household ship eternal, harmonious. Nobility as a measure of kafa'ah has decreasing relevance in the modern era, this criterion for some people is not the main thing. Even though it has a long history and certain values in it, this criterion is no longer a priority in choosing a partner because nobility and piety are only in the sight of Allah, not because of descent or nobility.

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