

# Compilation of Islamic Laws Regarding Marrying Pregnant Women: The Case of Biau Regency, Central Sulawesi

Isman Isman<sup>1</sup>, Lukman S. Thahir<sup>2</sup>, Adam Adam<sup>3</sup>

<sup>1,2,3</sup> Department of Islamic Family Law, Universitas Islam Negeri Datokarama Palu

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## ABSTRACT

Previously, in Indonesia, there was no written law regarding the settlement of premarital pregnancy married. Society usually uses a solution by carrying out a marriage between the pregnant woman and the man who impregnated her without waiting for the birth of the child she is carrying. This method aims to cover up the disgrace so that it is not known to the wider public. As long as the perpetrators of adultery and their families are able to keep this secret, then the adulterers and their children will be safe from society's response. This used qualitative method to study compilation of Islamic laws regarding marrying pregnant women in Biau district, Buol regency. The results of this study show that premarital pregnancy married can be recorded and made a marriage certificate during the marriage procession at the religious courts, even though the marriage ceremony was not carried out at that time or was carried out at that time. When a prospective bride is pregnant and then immediately married, the shame of both the prospective bride and her family should be covered. This is also based on the hadith narrated by Muslims, which reads: "Whoever covers the disgrace of another Muslim, then Allah will cover his disgrace in this world and in the afterlife."

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## ARTICLE INFORMATION

### Keywords:

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## 1. Introduction

Marriage will produce a peaceful and harmonious family and community life (Zhu, Zhou, Lau, & Welch, 2020). It is forbidden to use forbidden methods and arouse lust in any way because marriage is an honorable way to channel sexual desires to keep them on the straight and narrow. As a result, it is against the law for men to have sexual relations with unmarried women. so that anything that could be detrimental to the household and disrupt family life can be avoided.

Islam forbids adultery and considers it a vile act (Bello, 2011) and is hated by Allah SWT because adultery contains the intention of seeking pleasure alone, says Allah SWT in Q.S Al-Furqan (25): 68

وَالَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا آخَرَ وَلَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَلَا يَزْنُونَ وَمَنْ يَفْعَلْ ذَلِكَ يَلْقَ أَثَامًا ﴿٦٨﴾

Translation:

"And those who do not worship other gods along with Allah and do not kill a soul which Allah has forbidden (to kill) except for the right (reason), and do not commit adultery, whoever does that, surely. He will receive (retribution) for sin (his)."

Legally and socially, it is normal for a woman to become pregnant in a legal marriage. The Qur'an and Al-Hadith contain legal provisions that support it, and even legislation views it as usual. There are different views among fiqh experts regarding a woman who becomes pregnant due to an invalid relationship in marriage (Serrano-Ruano, 2022). There are those who allow pregnant women to marry, and there are also those who prohibit it until the woman gives birth. Because of their belief that sperm in a woman's womb is useless, some scholars are of the opinion that a woman who becomes pregnant out of wedlock can still be legally married to the man who caused the pregnancy.

There are two types of women who get pregnant out of wedlock, according to professors who believe marriage is acceptable. First, pregnant women can have sexual relations with other men immediately after they get married. Secondly, even though they are married, they cannot have sex until the woman gives birth the cause of the diversity of perceptions is because they have different opinions in understanding the word of Allah SWT in Q.S An-Nisa (4): 3

الرَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ وَحُرْمٌ ذَلِكَ عَلَى الْمُؤْمِنِينَ

Translation :

*A man who commits adultery does not marry a woman who commits adultery or a woman who is an idolater, and a woman who commits adultery is not married to a man who commits adultery or a man who is an idolater, and this is prohibited for those who are believers.*

Most scholars categorize this verse as a condemnation of the act of marrying an adulterous woman, not the prohibition of this act. This kind of pregnancy does not justify the marriage, Imam Syafi'i, Hanafi, Maliki, and Hambali all allow marriage to a woman who becomes pregnant due to adultery, as long as the man who marries her is the man who married her and impregnate her (Faqir, 2001).

Fiqh scholars justify their decision to allow a pregnant woman to marry the man who caused her pregnancy on the fact that both are adulterers (Dow, 2016). According to the Qur'an Surah an-Nur verse 3 above, believers are not allowed to marry adulterers; only adulterers or polytheists were eligible partners. According to Imam Abu Yusuf, marriage is prohibited if a woman becomes pregnant due to someone else's activities (Altorki, 1980).

This is also based on Surah an-Nur, verse 3. However, according to Imam Abu Hanifah and Imam Syafi'i, it is legal to marry a woman who is already pregnant with a man. other men because they are not tied to other people's marriages, and it is also permissible to collect them because newly planted seeds will not harm pre-existing fetuses. Meanwhile, according to Abu Hanifah, a marriage contract is still valid if it can be confirmed that the woman committing adultery is not pregnant. The marriage contract remains valid even if the woman is pregnant, but her husband cannot have sexual intercourse with her until she gives birth to a child as a result of her adultery.

Islam teaches humans how to live in a society so that they do not develop into individuals who act freely and deviate. Therefore, it is expected that everyone treats each other with respect, whether members of the same sex or not. Of course, there must be laws that can prohibit or limit promiscuity to avoid adultery related to pregnancy.

## 2. Literature Review

### 2.1 Islamic Law Compilation

Religious courts are social institutions that have the power to examine, adjudicate and adjudicate cases filed by people who believe that other people have violated their rights (Heehs, 2013). Therefore a discussion of the history of the KHI is incomplete without mentioning it (Article 49 of Law No. 7 of 1989 concerning Judiciary Religion). Before the formation of the Indonesian Law Compilation, the Religious Courts experienced significant and fundamental changes as a result of the passing of the PA Bill into Law Number 7 of 1989, which was submitted to the DPR session by the Minister of Religion Munawir Sjadzali. Its contents are as follows:

- 1) Religious Courts are separated from General Courts and given the same status as Military Courts and State Administrative Courts.
- 2) Throughout Indonesia, the name, organization, level of authority (power), and procedural law are the same and consistent. The realization of order and legal certainty that has justice as its core in the religious court environment will be made easier by the unification of the legal regulations for religious court procedures.
- 3) Wives have been given equal rights in the legal system, and their interests have been protected before religious courts, among other things.
- 4) Efforts to study different Islamic legal concepts and regulations are increasing and strengthening as a starting point for developing national law through fiqh.
- 5) Implementation of the provisions of the Basic Law on Judicial Power year 1970.
- 6) Implementation of the Religious Courts Law, a national legislation with an Indonesian perspective and a *Bhinneka Tunggal Ika* perspective.

Difficulties related to the implementation of Islamic law in Indonesia have not been resolved, even though Indonesian Muslims (Minister of Religion, Ulama) won in passing the religious court bill into Law on Religious Courts No. 7 of 1989 (Cammack, 2008). Consistency between judges in making decisions on the legal problems they face. This is caused by the absence of relevant Islamic legal texts. 13 books were found, all based on the Shafi'i school of thought and used as references in court cases. However, this still raised the issue of inconsistencies in the judge's assessments. Given this reality, it

becomes increasingly important to create a collection of "Islamic law books."

The preparation of this compilation was motivated by the need for consistent references to Indonesian religious courts' legal decisions. Still, it was also inspired by the need to complete judicial instruments, especially Islamic law books used in the judicial process. One of the tangible laws applied in religious courts is KHI. KHI arises when there is a difference of opinion between the decisions of different religious courts. There are often different decisions in the same case. This is because religious judges often use reference materials that are still in the yellow book to decide cases. Indeed, the expression "different statements in other courts" (other judges have different decisions) has been used. Still, the differences between the decisions of one religious court and the decisions of other ecclesiastical courts are absolute and significant. Therefore, based on the Religious Courts Bureau circular no. 45/1957 concerning establishing religious courts using the 13 Yellow Books as a decision-making framework.

### 2.2 Legal Provisions for Marrying a Pregnant Woman

In the compilation of Islamic law, there are articles containing legal development through 'urf; the development referred to here is development in the broadest sense. This means that it includes developments for which there are no clear provisions in the text of the Qur'an and hadith or for which there is no equivalent in the provisions of classical jurisprudence books, including Article 53 concerning the provisions for pregnant marriage. In article 53, 'urf is used as a consideration in implementing the provisions in the article KHI. This means that the articles whose implementation rules are based on community habits. In other words, it functions as a consideration for adjustments in implementing the rules.

However, on the other hand, Article 53 of the KHI does not provide sanctions or punishment for adulterers, but instead provides a solution for someone who becomes pregnant as a result of adultery to immediately get married. It is not uncommon for the marriage to take place when the woman is pregnant due to adulterous relations. The goals are varied. Sometimes, it is to cover up the disgrace of the woman's family. Or the woman's family is afraid that the man who got her pregnant will run away and be

irresponsible. Because it is not uncommon for a man to impregnate a woman out of wedlock ran away to escape his responsibilities.

Adultery is a haram act, while marriage is a halal act, so in the context of this hadith, it shows that a haram act (adultery) cannot forbid a halal act (marriage). Thus, the prohibition of adultery cannot prohibit the implementation of marriage, even if the person carrying out the marriage is the couple who previously committed adultery, causing the woman to become pregnant.

#### **a. Philosophy Factor**

Every law, regulation, or legal provision must be based on a philosophical basis. A philosophical foundation is necessary because it explains the aims, ideals, or objectives of a law, regulation, or provision. Suppose a law, regulation, or provision is not based on this philosophical foundation. In that case, the product of the law, regulation, or provision will be empty and lose meaning because it will experience disorientation. The same thing also applies to the provisions of Article 53 KHI.

The provisions of Article 53 have a philosophical basis to protect the survival of pregnant women out of wedlock, as well as safeguard the survival of their children, so that after birth they can continue their lives normally and not lose their rights as individual human beings or as members of society. Based on this spirit, the provisions of Article 53 of the KHI allow women who are pregnant before married to enter into marriage with the man who impregnated them, to avoid other negative impacts that will be received, especially by women and children as the parties who feel the consequences the most (Furstenberg Jr., 1976).

The existence of the provisions of Article 53 KHI is also a basis for women to demand that men be willing to take responsibility, and this is realized by entering into a marriage and carrying out their obligations as husbands as in a normal family. Furthermore, this philosophical foundation will be supported by other foundations, which logically form the basis for the provisions of Article 53 KHI.

#### **b. Sociology Factor**

Previously, in Indonesia, there was no written law regarding the settlement of premarital pregnancy married (Izugbara, Ochako, & Izugbara, 2011). Society usually uses a

solution by carrying out a marriage between the pregnant woman and the man who impregnated her without waiting for the birth of the child she is carrying. This method aims to cover up the disgrace so that it is not known to the wider public. As long as the perpetrators of adultery and their families are able to keep this secret, then the adulterers and their children will be safe from society's response (Schapera, 2012).

Society usually responds to adultery by alienating or isolating the perpetrator of adultery, their descendants, and even their family. This public response certainly does not humanize the perpetrator of adultery, the family, and even the child who should not have committed the sin but must receive the punishment. So, in order to maintain the survival of adulterers and especially their children, a legal umbrella is needed in the form of provisions that regulate the permissibility of marriage for women who become pregnant due to adultery. Apart from that, the provisions of Article 53 of the KHI can be said to adopt society's solution by carrying out a marriage between the adulterous couple. This adoption system is supported by historical reality which shows that the products of thought which are often considered Islamic law are nothing more than the result of interactions between legal thinkers and the socio-cultural or socio-political environment that surrounds them.

Such legal products can be accepted as positive law and part of the development of *ijtihadiah* law. This adoption system is also supported by the rules of *ushul fiqh*, which say:

*"These customs can become law"*

The rules of *ushul fiqh* show the ability to adopt the customs of a particular community to be implemented into legal provisions. Imam al-Qarafi allows the adoption of customs or customs of the community by examining the habits that apply in the local community so that the law that is set does not conflict with or eliminate the benefit of the local community. Laws with a specific nature and application can override the application of laws with a general nature and application. Through this step, the provisions of Article 53 of the KHI have a strong sociological basis so that they will be effectively implemented in Indonesian society.

#### **c. Psychological Factor**

A woman's pregnancy due to adultery is an unwanted pregnancy. Faced with this situation, women are the ones who feel the most

vital psychological pressure. If such conditions are allowed to drag on and marriage is not immediately carried out with the man who impregnated her, it is feared that a worse situation will occur. Like cases of suicide and abortion, psychological pressure is usually dominant due to pregnancy out of wedlock. Both cases can occur because women feel their lives are uncomfortable, constantly haunted by shame, low self-esteem, feelings of guilt, depression, pessimism, and so on. But, later, The pregnant woman continues to live her life as before and chooses to become a single parent. This step also cannot provide a guarantee for the child's mental health. Like the mother, the child will also experience the same psychological pressure. The child's psychological development becomes unhealthy apart from the disgraceful background of his birth so that his existence is labeled as an "illegitimate child," but also because his family is not intact.

### 3. Methodology

This study uses qualitative methods. In qualitative research, the use of theory is only a guide so that the research focus is in accordance with the facts in the field (Nurdin & Pettalongi, 2022; Nurdin, Stockdale, & Scheepers, 2016). The data was collected through direct observation, in-depth interviews, and written document analysis at the research site (Rusli, Hasyim, & Nurdin, 2021; Rusli & Nurdin, 2022). The object of this research is premarital pregnancy married cases in Biau district, Buol regency.

The interviews involved ten local figures who know the cases of premarital pregnancy married within the ditrict. We also interview five figures from the Department of Religious Affairs. The interviews were recorded and transcribed. The results of the transcripts were consulted with the participants to obtain their consent (Nurdin, Scheepers, & Stockdale, 2022). The data analysis technique in this research used a deductive thinking technique, which can be interpreted as a research procedure that produces deductive data from the interviews and field notes. Data analysis was conducted using thematic analysis from Strauss and Corbin (1998). The analysis started with open, axial, and selective coding. The final result of the data analysis is themes found from the data.

### 4. Results and Discussion

#### 4.2 Causes of Women Getting Pregnant Before Marriage

The phenomenon of adultery between female and female brothers is very worrying because of the three phenomena that are behind it, namely Juvenile, Social, and Economic Delinquency. So there needs to be special attention to the legal regulations in force because the aim of Islamic law (maqashid asy-syariah) itself is in the context of maintaining benefits and as much as possible avoiding mafsadat in the midst of society so that legally binding regulations are needed in order to reduce actions that can cause mafsadat or damage to social life, in this case this function must exist and be owned in the KHI which has been applied nationally, the implementation of regulations regarding According to researchers, the permissibility of pregnant marriage in article 53 of the KHI reduces the values contained in Islamic law itself, so that it cannot have the function as intended. As an implication, it is easy for someone to enter into a marriage due to adultery, such as the phenomenon that occurred in Biau District from 28 marriages as of January 2025, including pregnant marriages. The following data on pregnant marriages is in the table below:

Table 1. Marriage Data in Biau District in 2022

No	Description	Number	Note
1	Number of Marriage	28	
2	Pregnacy Marriage	5	
3	Average age of Pregancy Marriage	18-25 Year old	

From the data in the table above, it can be concluded that the vulnerable age of married people who become pregnant is 18-25 years, where we know that this age is a productive period for humans to work and progress, but it is damaged by disgraceful actions, even worse when researchers are out in the field at the same time that this happens. The phenomenon of a pregnant marriage carried out by a grade 1 high school student and his future wife being heavily pregnant, the rules that apply in the sub-district regarding this pregnant marriage, have experienced a shift in the values of completing the intended pregnant marriage, as shown in the

following results of our interview with one of the traditional leaders in the village. :

*In the past, pregnant married people were taken to the traditional leaders for processing and if they were brought to the traditional leaders, it would definitely become a topic of discussion in the community so that everyone knew and there was an effect on the perpetrators, usually they were embarrassed, especially the family, and if they were taken to the traditional leaders, they were usually immediately married off. The procession is carried out by the family in order to resolve problems (taking responsibility for their actions).*

Of course, this shift in cultural values is an implication of the development or dynamics of social change, but what needs to be noted is that this dynamic consists of two, namely, dynamics that lead to improving the order of good social values and dynamics which takes the form of a shift from good values to values which tend to be wrong. , what the researchers witnessed in the Biau sub-district was a shift from positive values to bad ones, the number of cases of pregnant marriages was one clear proof of this shift, because initially, when a pregnant marriage occurred, it was immediately announced in the mosque and this was so that there would be a deterrent effect or at least it would provide social sanctions in the form of shame because their adulterous acts are discovered in the midst of many people. Currently, people are no longer embarrassed when they find out about their pregnancy, and people around them ignore things like this, as in the statement from an informant below:

*I see that nowadays, the young people here are no longer ashamed of doing this kind of thing; the proof is that if someone gets married, they usually get pregnant and have a big stomach when they come to the KUA and are given to marry.*

This is one of the focus points of researchers, namely that the law must regulate this so that the objectives of Islamic law can be achieved. If it is not completely capable, then there is a need for creativity by lawmakers to formulate a rule that has a deterrent effect on the problem of pregnant marriage.

The Biau District KUA has been implementing the Compilation of Islamic Law in dealing with the issue of pregnant marriages. The provisions regarding pregnant marriage are in

the Compilation of Islamic Law Article 53 paragraphs 1 to 3 which includes

1. A woman who becomes pregnant out of wedlock can marry the man who impregnated her.
2. A marriage with a pregnant woman referred to in paragraph (1), can take place without waiting for the birth of the child.
3. By carrying out the marriage while the woman is pregnant, there is no need for remarriage after the unborn child is born.

The provisions mentioned above serve as proof or reference for KUA officers in carrying out their marriage duties. So that when there is a case of marriage while pregnant, the bridesmaids entrusted with the mandate by the bride's guardian continue to carry out the marriage, provided that the administrative requirements have been fulfilled. The process of carrying out a pregnant marriage is the same as the administrative provisions for a non-pregnant marriage.

Prospective grooms and pregnant women can be married first, provided the man gets them pregnant. To determine that he is the one who impregnated her, the headman asks the prospective male a question *bi zahirī* or *zahir* with the words: "Is it true that you impregnated this *fulānah* (future bride)?" When the male candidate answers yes, both male and female candidates can carry out a wedding procession. Thus, the implementation of pregnant marriage in the Biau District community is in accordance with the provisions of the Compilation of Islamic Law, Article 53, paragraphs 1 to paragraph 3, with the provisions for the administration of non-pregnant marriages.

#### 4.2 Causes of Pre-Marital Pregnancy

The higher frequency of globalization in the modernization era has a big influence on free association. This kind of condition also has a big influence on society's ideology, so some people think that if they don't socialize with people of the other sex, they will be considered behind the times. This is one of the impacts of globalization. Therefore, in conditions like this, humans are required to be more careful in their actions.

Basically, society is a group of people who form a system that interacts between individuals and each other. The act of dating is an action that clearly opens fertile ground for committing immorality. By dating, it means deliberately throwing oneself into adultery. As wise Muslims,

we should be aware of the dangers that can arise as a result of dating. Islam teaches that women are a people whose honor should be glorified, not used as an arena for immorality.

Now, many teenagers are falling into adultery and cannot control themselves well; they can't close their eyes to embarrassing incidents happening. By dating, it means that two people of the opposite sex who are not legal partners meet and are alone. Both of them are walking close to adultery. Adolescents who have sexual relations can have several consequences, such as unwanted pregnancies outside of marriage, infectious diseases, depression, and anxiety about their fate, all of which are caused by low knowledge, adopted norms, relationship status, and low self-esteem.

#### 4.3 Maqasid Ash-Syariah Analysis of Marrying Pregnant Women

There are a number of reasons based on the objectives of the sharia or maqāsidasy-syari'ah, which allow pregnant women to marry based on the results of interviews with respondents, especially the head of the Biau District religious courts.

1. Covering the disgrace or shame of the prospective bride and her family. When a prospective bride is pregnant and then immediately married, the shame of both the prospective bride and her family should be covered. This is also based on the hadith narrated by Muslims, which reads: "Whoever covers the disgrace of another Muslim, then Allah will cover his disgrace in this world and in the afterlife."
2. Protecting children or offspring, namely maintaining offspring or *hifz an-nasl*. Caring for offspring is included in the ranks of *dharūriyyat*. Immediately carry out the marriage/marriage at the KUA, it will be legally valid state administration so that children will be protected by their descendants.
3. *Maṣlahah murlahah*, namely establishing another law, for which there is no text yet. In this case, what is stipulated is to immediately marry a prospective bride who is pregnant due to adultery, and they assume that this has many benefits from an administrative, social, and psychological perspective. For this reason, celebrants dare to carry out marriages if they are given the mandate of their guardian to marry them.

4. Delaying goodness means that if you don't get married immediately or wait until the uterus is clean, then that will delay goodness.
5. Legal according to administration and religion. If a marriage takes place even though she is pregnant, it is considered legal according to religion and state administrative law. So with this explanation, the KUA/penghulu officer who is entrusted with the task of marrying or the guardian of the prospective bride and groom immediately carries out the marriage/pregnant marriage. This has many advantages and benefits.

However, the view regarding the permissibility of pregnant marriage as conveyed by respondents, especially the KUA chief, above is basically not in accordance with the *maqāsid asy-syariah* according to Imam Asy-Syatibi. Imam Asy-Syatibi stated that the sharia is to realize the human benefit in the world and in the hereafter, or the laws. It is prescribed for human benefit. Human benefit can be realized if the five main elements can be realized and maintained. The five points are: *hifz al-dīn*, *hifz al-nafs*, *hifz al-'aql*, *hifz al-nasl*, *hifz al-māl*.

The first reason is to cover disgrace based on the hadith about covering disgrace.

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَمُحَمَّدُ بْنُ الْعَلَاءِ الْهَمْدَانِيُّ وَاللَّيْثُ لِيَحْيَى قَالَ  
يَحْيَى أَخْبَرَنَا وَ قَالَ الْأَخْرَانِ حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنْ الْأَحْمَشِ عَنْ أَبِي صَالِحٍ عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ  
رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ نَفَسَ عَنْ مُؤْمِنٍ كُرْبَةً مِنْ كُرْبِ الدُّنْيَا نَفَسَ اللَّهُ عَنْهُ كُرْبَةً مِنْ  
كُرْبِ يَوْمِ الْقِيَامَةِ وَمَنْ مَسَّرَ عَلَى مُعْسِرٍ يَمَسِّرَ اللَّهُ عَلَيْهِ فِي الدُّنْيَا وَالْآخِرَةِ وَمَنْ سَتَرَ مُسْلِمًا سَتَرَهُ اللَّهُ  
فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ فِي عَوْنِ الْعَبْدِ مَا كَانَ الْعَبْدُ فِي عَوْنِ أَخِيهِ وَمَنْ سَلَكَ طَرِيقًا يَلْتَمِسُ فِيهِ عِلْمًا  
سَهَّلَ اللَّهُ لَهُ بِهِ طَرِيقًا إِلَى الْجَنَّةِ وَمَا اجْتَنَعَ قَوْمٌ فِي بَيْتٍ مِنْ بُيُوتِ اللَّهِ يَتْلُونَ كِتَابَ اللَّهِ وَيَتَذَكَّرُونَ  
بِهِ يَتَذَكَّرُ اللَّهُ عَلَيْهِمُ الْمَلَائِكَةُ وَغُشِّيَتْهُمْ رَحْمَتُهُمْ وَخُطِّبَتْ لَهُمُ الْمَلَائِكَةُ وَذَكَرَهُمْ اللَّهُ عِنْدَهُ وَمَنْ نَطَّأ بِهِ  
عَمَلَهُ لَمْ يُسْرَخْ بِهِ نَسِيَهُ

#### Translation:

Has told us Yahya bin Yahya At Tamimi and Abu Bakr bin Abu Syaibah and Muhammad bin Al 'Ala Al Hamdani- and this lafadh belongs to Yahya- he said; has told us, and said others, has told us Abu Mu'awiyah from Al A'masy from Abu Salih from Abu Hurairah he said; The Prophet sallallahu 'alaihi wasallam said: "Whoever frees a believer from a worldly difficulty, Allah will free him from a difficulty on the Day of Resurrection. Whoever makes things easy for people who are in trouble, Allah will make things easy in this world and the hereafter. Whoever covers the disgrace of a Muslim, Allah will cover his disgrace in this world and the hereafter. Allah will

*always help His servants as long as the servants help their fellow Muslims. Whoever takes the path to seek knowledge, Allah will make the path to heaven easy for him. It is not a group of people gathered in a mosque (God's house) to read the Qur'an, but they will be filled with calm and grace and surrounded by angels, and Allah will mention them to the angels who are by His side. Whoever lags in his deeds, his fate will not improve him."*

The above hadith is a hadith in Sahih Muslim with the number 4867. This hadith has reinforcements, namely Sunan Abu Daud, number 4295; Sunan Tirmidhi, number 1345, number 1853, and number 2869; Sunan Ibnu Majah, number 221; and Musnad Ahmad, number 7118, number 10091, and number 10260. Regarding this hadith, Imam Nawawi stated:

*"In this hadith, there is a proposition regarding the recommendation to hide the condition of a Muslim if he sees him committing a heinous act. Allah Ta'ala says: "Indeed, those who want the news of such abominable acts to spread among the believers will bring them a painful punishment in this world and the hereafter (An-Nur: 19). If someone commits a sinful act, then he is advised to hide as for people who witness adultery. So, in this matter, they have two different opinions: firstly, it is advisable for them to hide it, and secondly, to give testimony. Others detail it: if they see benefits; in their testimony, they should give testimony, or if there is benefit in hiding it, they should hide it*

There is confirmation in Imam Nawawi's explanation above, namely: "When there are benefits to being a witness in a case of adultery, they should do so." So, with the presence of pregnant married cases in this research, it becomes mandatory to resolve this problem. So, the violation of adultery is not just a matter of covering up the disgrace and then ending it. Adultery in this context is related to serious moral problems, especially in KUA Biau, where almost 10% of couples who get married do it by marrying pregnant. This indicates quite acute moral decadence in society.

Thus, the issue of pregnant marriage needs to be raised, and then a solution is sought in the context of Islamic law in Indonesia. The study of the law of pregnant marriage using the distinct al-ahkam method of four schools of thought generally shows that every problem is taken from the Koran. If the law is not contained in the Koran, then it is taken from the hadith. If one

hadith still requires explanation, then look for another hadith to explain it. If the Koran and hadith no longer provide answers, then other methods are used, such as ijmak, kias, istishab, istishsan, and others. Through the istimbat method, it can be concluded that the view that allows pregnant marriage is provided that they have a stronger position. This means that if there is a man and a woman who commit adultery and then become pregnant, then both of them should repent first, then the woman should wait for her womb to be clean, then marry. Under these conditions, such a marriage is haram.

The research findings above are thus different from the view that differences in the views of ulama regarding marriage and pregnancy are a blessing. This view was expressed, among others, by the following informant as follows:

*"The difference in opinion of the ulama regarding marrying a pregnant woman for adultery brings a little grace to the people because having the opinion that it is permissible to marry someone who is not the one who impregnated her can cover the disgrace of the world, even though it is not permissible to have sex with her. However, this should not be considered a permanent marriage, but only because of an emergency. Likewise, marrying someone after first being pregnant, even though it is permissible, should not become a tradition. However, this act is still reprehensible.*

The findings of this research also contradict the opinion regarding Muhammad Syahrur's milk al-Yamin as the basis for the validity of non-marital sexual relations. This opinion is not entirely correct if it is returned to Muhammad Syahrur himself. In a television interview explaining al-Yamin milk, Muhammad Syahrur firmly denied that al-Yamin milk was associated with adultery. In Islam, sexual relations without marriage are strictly prohibited. Al-Quran Surah Al-Isra verse 32 expressly prohibits this: "And do not approach adultery; Indeed, adultery is an abominable act, and a bad way."

The second reason given by the respondents was to protect children or offspring. The state is obliged to protect children born legally and provide life guarantees in a legal administrative manner. This can be recorded/made a marriage certificate during the marriage procession at the religious courts, even

though the marriage ceremony was not carried out at that time or was carried out at that time.

The second reason given by respondents was the use of *maṣlahah murlah*. Abdul Wahab Khallaf defines it as: "...benefits for which there is no spare argument to acknowledge or accept." The legal provisions they carry out, which do not have any text, are to hasten the implementation of the marriages they carry out, considering that this has many benefits. Marriage is a high form of worship, which in Surah An-Nisa verse 21 is referred to as *mītsāqan galīzan* or a firm agreement. The marriage contract is referred to as *mītsāqan galīzan* because it changed the legal status, from initially touching the bodies of a man and a bride-to-be being haram to halal. Marriage should not be tainted by adultery because it is a significant agreement and noble worship.

## 5. Conclusion

In Islam, sexual relations without marriage are strictly prohibited. Al-Quran Surah Al-Isra verse 32 expressly prohibits this: "And do not approach adultery; Indeed, adultery is an abominable act, and a bad way. However, the state is obliged to protect children born legally and provide life guarantees in a legal administrative manner. This can be recorded/made a marriage certificate during the marriage procession at the religious courts, even though the marriage ceremony was not carried out at that time or was carried out at that time. When a prospective bride is pregnant and then immediately married, the shame of both the prospective bride and her family should be covered. This is also based on the hadith narrated by Muslims, which reads: "Whoever covers the disgrace of another Muslim, then Allah will cover his disgrace in this world and in the afterlife."

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