

## Islamic Family Law Perspective on Marrying Pregnant Women

Farid Anfasa,<sup>1</sup>

A. Kumedhi Ja'far,<sup>2</sup>

<sup>1,2</sup> Fakultas Syariah, Hukum  
Keluarga Islam, Universitas  
Islam Negeri Raden Intan  
Lampung

Email:

[farid.anfasa5@gmail.com](mailto:farid.anfasa5@gmail.com)

[khumeidi.jafar@radenintan.ac.id](mailto:khumeidi.jafar@radenintan.ac.id)

### Abstract

**Background.** Sexual intercourse between a man and a woman without a valid marriage contract is called zina. Zina does not differentiate between a girl, a man, a husband or a widow, a wife or a widower. Islamic law strictly forbids zina, never even approaching zina. One of the consequences of zina is pregnancy outside of marriage..

**Aims.** This article examines pregnant marriage from the perspective of Islamic law in the four imams of the school of thought, and the Compilation of Islamic Law.

**Method.** The study uses a normative legal approach.

**Results.** Pregnant marriage is a marriage with a woman who is pregnant outside of marriage, either married to the man who impregnated her or to the man who did not impregnate her. The Marriage Law only implicitly regulates the marriage of pregnant women, namely in Article 2 paragraph (1). The Compilation of Islamic Law regulates the marriage of pregnant women in Article 53. The differences of opinion among scholars regarding the marriage of pregnant women due to adultery do not bring blessings to the community. The Compilation of Islamic Law states that children resulting from adultery legally do not have a kinship relationship with their father, even though the father formally acknowledges and legitimizes that the child is his own child. They do not have the intended relationship, be it family relationships, guardianship in marriage or inheritance issues. The child only has a bloodline relationship with his mother.

**Keywords:** Islamic Family Law; Marriage; Pregnant Women

## INTRODUCTION

Adolescent and adults who are trapped in free association result in women getting pregnant before marriage. The increasingly sophisticated development of the era, increasingly supports two people of the opposite sex not to be ashamed to sit together, hold hands, and so on, and can lead to intercourse and pregnancy before marriage.<sup>1</sup> Sexual relations between a man and a woman without the bonds of a legitimate marriage are called adultery.<sup>2</sup> Adultery does not differentiate between the perpetrator, a girl, a man, a married woman or a widow. Islamic law very firmly and strictly prohibits committing adultery, Islam even prohibits approaching adultery.<sup>3</sup> Allah SWT says in the al-Qur'an surah Al-Isra verse 32: وَلَا تَقْرَبُوا الزَّوْجَ إِنَّهُ كَانَ فَحِشَةً وَسَاءَ سَبِيلًا. Do not come near to adultery. Indeed, it is an abomination and an evil way.

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<sup>1</sup> Haris Hidayatulloh and Siti Lailatul Munawaroh, 'Pandangan Tokoh Masyarakat Terhadap Hukum Perkawinan Wanita Hamil (Studi Kasus Di Kecamatan Pangarengan Kabupaten Sampang)', *Jurnal Hukum Keluarga Islam*, 2.1 (2017), 1–20.

<sup>2</sup> Ali Mohtarom, 'Kedudukan Anak Hasil Hubungan Zina Menurut Hukum Islam Dan Hukum Positif', *Jurnal Al-Murabbi*, 3.2 (2018), 193–202.

<sup>3</sup> Agus Salim Nst, 'Menikahi Wanita Hamil Karena Zina Ditinjau Dari Hukum Islam', *Jurnal Ushuluddin*, 17.2 (2011), 131–44.



Marriage is an inner and outer bond between a man as a husband and a woman as a wife with the aim of forming a happy and eternal family (household) based on belief in the Almighty God, and creating harmony in the household (*sakinah, mawaddah warahmah*).<sup>4</sup> The Holy Qur'an states that marriage is the holiest, most solid, most firm and most powerful covenant bond (*miṣâqan ghalizân*).<sup>5</sup>

Marriage aims to avoid committing adultery, to inherit offspring (children) and also for the purpose of worship.<sup>6</sup> Marriage is the path chosen by Allah SWT to preserve offspring. According to Islamic law, the purpose of marriage is to make the relationship between men and women honorable and mutually pleasing, maintain good offspring, and create an orderly and safe atmosphere in social life.<sup>7</sup> Marriage can legitimize social intercourse and limit the rights and obligations between a man and a woman who are not *mahram*.<sup>8</sup> Marriage is a legal and dignified way to express sexual desire for everyone, both men and women, but currently there is an anomaly in sexual behavior among adolescents. Many adolescents deliberately express their sexual desire outside of marriage. Free sex behavior is widespread almost all over the world today.<sup>9</sup>

Allah SWT. menetapkan perkawinan sebagai sarana untuk membangun rumah tangga Islami. The relationship between men and women as husband and wife in marriage is established with honor, biological psychic desires are channeled, psychological-emotional satisfaction and happiness can be achieved according to human nature.<sup>10</sup> Marriage serves to fulfill physical (biological) and spiritual needs, as well as to form a family as a means to continue and maintain clear descendants, because Islam highly protects the purity of descendants, and is even one of the *maqashid sharia*.<sup>11</sup>

Sociologically, because they feel ashamed, parents whose daughter happens to be pregnant out of wedlock, try as hard as possible so that their grandchild who will be born has a father.<sup>12</sup> Parents try to marry their daughter to a man, whether he impregnated her or not. Practices like this are very relevant to discuss, so that we can know what the Islamic law actually views on this issue. Actually, this issue is not a new problem, because it also happened during the time of the Prophet Muhammad. However, scholars have different opinions based on their respective understandings of the verses of the Qur'an and the hadiths, so that various opinions are found regarding the determination of the law in this matter.

Usually, after a woman who has premarital sex becomes pregnant, several problems arise, because Indonesian society has an Eastern culture that considers it taboo for a woman to become pregnant without a previous legal marriage.<sup>13</sup> Both men and women will be confused when facing this problem. Some choose to solve it in a despicable way, going to a doctor or shaman to abort their pregnancy, and there are also those who marry a partner who impregnates or someone else as a

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<sup>4</sup> Muhammad Lutfi Hakim and others, 'Implementasi, Kendala Dan Efektifitas Kursus Pranikah Di KUA Kecamatan Pontianak Tenggara', *Al-Istinbath: Jurnal Hukum Islam*, 5.2 November (2020), 311–28.

<sup>5</sup> Padlan Padil Simamora, Dinda Difia Madina, and Muhammad Adib Alfarisi, 'Islamic Legal Values in the Angkola Batak Community Marriage Onang-Onang Dance Tradition, Sumatra, Indonesia', *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam*, 8.2 (2023), 227–36.

<sup>6</sup> Ahmad Nur Wahyudi and others, 'Hukum Adat Sebagai Pertimbangan Hakim Dalam Mengabulkan Permohonan Dispensasi Nikah Dan Akibatnya (Studi Kasus Pengadilan Tulang Bawang Tengah)', *Bulletin of Islamic Law*, 1.1 (2024), 1–12.

<sup>7</sup> Ani Khomsatun, 'Hukum Pernikahan Istri Yang Disebabkan Suami Mafqud Menurut Perspektif Hukum Islam', *Jurnal Al-Wasith: Jurnal Studi Hukum Islam*, 6.1 (2021), 30–51.

<sup>8</sup> Husin Hasbi, Sukardi Sukardi, and Arif Wibowo, 'Penerapan Kafaah Dalam Perkawinan Di Kalangan Syarif Dan Syarifah Perspektif Hukum Islam', *Al-Ushroh*, 1.1 (2021), 28–42.

<sup>9</sup> Habib Ismail and Nur Alfi Khotamin, 'Faktor Dan Dampak Perkawinan Dalam Masa Iddah (Studi Kasus Di Kecamatan Trimurjo Lampung Tengah)', *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam*, 2.1 (2017), 135–60.

<sup>10</sup> Anjarwati Anjarwati and Dulsukmi Kasim, 'Nikah Hamil Menurut Fikih Dan Hukum Islam Indonesia', *AS-SYAMS*, 2.1 (2021), 165–75.

<sup>11</sup> Bagas Mustopa, 'Pernikahan Hamil Di Luar Nikah Perspektif Hukum Islam', *MADDIKA: Journal of Islamic Family Law*, 4.1 (2023), 1–12.

<sup>12</sup> Mustopa.

<sup>13</sup> Asman Asman and others, *Pengantar Hukum Perkawinan Islam Indonesia* (PT. Sonpedia Publishing Indonesia, 2023).

substitute for the person who impregnates, with the aim that the pregnancy is considered by society as a legitimate pregnancy and is the result of sexual intercourse within the bonds of marriage.<sup>14</sup> The problem of pregnant marriage still often occurs today, the author will review it from the perspective of Islamic law from the four imams of the school of thought, and the compilation of Islamic law.

## METHOD

The literature study uses a normative legal approach, analyzing and interpreting theoretical aspects related to the principles, concepts, doctrines, and legal norms relevant to the issue of pregnant marriage. The normative legal approach aims to reveal the legal principles underlying the relevant regulations, as well as their implications in practice. The literature study examines various sources of literature, books, articles, notes, and reports related to the problem being studied. The study presents a comprehensive analysis based on a strong legal basis to provide a deeper understanding of the topic discussed.

## RESULTS AND DISCUSSION

### General view of marriage in islamic law

Marriage is one of the phases in life that a Muslim can go through after finding a life partner and being mentally and financially ready. If one is able and emotionally mature, then by getting married, one can perfect half of one's religion.<sup>15</sup> Marriage makes lawful a relationship that was previously forbidden, prohibited, and sinful. The relationship between husband and wife is recorded as worship in the sight of Allah SWT.

According to Sajuti Thalib, marriage is a sacred, strong and solid agreement to live together legally between a man and a woman to form an eternal, polite, loving, peaceful and happy family.<sup>16</sup> According to the Marriage Law in force in Indonesia, "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>17</sup> According to the Compilation of Islamic Law, marriage is a very strong contract or *mitsaqan ghaliizhan* to obey Allah command, carrying out marriage is an act of worship to Allah SWT, and marriage aims to create a household life that is *sakinah, mawaddah* and *rahmah*.<sup>18</sup>

Marriage is a *sunnah syar'iyah* that has been carried out by the Prophets and Rasul, as well as the early and late generations who followed the guidance of the Rasul. Marriage is also a *sunnah kauniyah* that is definitely needed by humans. Marriage is the basis for the formation of a society and the good of society. Marriage makes souls calm, souls pair up, natures unite, the human population increases and the birth of future generations. Marriage has a very noble place in the great sharia. Unlike the conditions during the time of ignorance (*jahiliyah*) where prostitution, adultery and homosexuality occurred, even in general the form of marriage known during the time of ignorance was based on freedom and adultery.<sup>19</sup>

Marriage is a *sunnatullah* that was deliberately created by Allah with the aim of continuing the lineage and other purposes, so that the lives of His servants in the world become peaceful. Allah says

<sup>14</sup> Muhammad Irfan AD, 'Analisis Dampak Hukum Terhadap Perkawinan Wanita Hamil Karena Zina Perspektif Hukum Islam', *MADANIA Jurnal Hukum Pidana Dan Ketatanegaraan Islam*, 13.1 (2023), 44–50.

<sup>15</sup> Lisnawati Lisnawati and Zulfi Imran, 'Makna Pernikahan Dalam Perspektif Tasawuf', *El-Mujtama: Jurnal Pengabdian Masyarakat*, 4.2 (2024), 1191–1206.

<sup>16</sup> Tetty Marlina Tarigan, 'Perkawinan Dalam Berbagai Perspektif Di Indonesia', *Kalam Keadilan*, 3.2 (2015).

<sup>17</sup> Ani Mardiantari and others, 'Tradisi Masyarakat Adat Jawa Terhadap Pantangan Pernikahan Di Bulan Muharam Perspektif Hukum Islam', *At-Tahdzib: Jurnal Studi Islam Dan Muamalah*, 10.2 (2022), 69–78.

<sup>18</sup> Ahmad Mukhlisin and Iwannudin Iwannudin, 'The Legal Assistance of Eligible Age for Marriage in Law Number 16 of 2019 as an Effort to Prevent Child Marriage', *Bulletin of Community Engagement*, 2.2 (2022), 89–96.

<sup>19</sup> Siti Aisyah, 'Kajian Hermeneutika Maqashid Al-Syari'ah Sebagai Hikmah Al-Tasyri'Hukum Wali Pernikahan Dalam Kitab Al-Umm', *Asy-Syari'ah: Jurnal Hukum Islam*, 2.2 (2016), 255–76.

in the al-Qur'an, Surah Ar-Ru'um, verse 21: وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ. Meaning: "Among the signs of Allah is that Allah created for you mates from yourselves, that you may find rest in them. Allah has placed between you love and mercy. Verily in this are signs for a people who give thought."

According to the *madzhab* Shafi'i, marriage is "a contract that makes sexual relations between a man and a woman permissible. Whereas according to the meaning of the *majazi*, marriage means sexual relations."<sup>20</sup> According to the *madzhab* Maliki, marriage is "*Aqad* (agreement) made to obtain pleasure from women." *Aqad* keeps a person from committing adultery. According to the *madzhab* Hanbal, marriage is "*Aqad* in which there is a clear marriage phrase, so that it is permissible to mix."<sup>21</sup> According to the *madzhab* Hanafiyah, marriage is "A contract that gives the right of ownership to have fun intentionally, meaning the permissibility of a man having fun with a woman who is not forbidden to be married according to sharia intentionally. Ulemas of Islamic jurisprudence agree that marriage is a contract regulated by religion to give a man the right of ownership of the use of a woman's private parts and her entire body as a primary goal."<sup>22</sup>

The conditions of marriage are the basis for the legitimation of a marriage, namely following its pillars, as stated by Kholil Rahman:<sup>23</sup> 1) Prospective groom 2) Prospective bride 3) Marriage guardian 4) Marriage witnesses 5) *Ijab* and *qabul*. If the requirements are met, then the marriage is legitimate and gives rise to all rights and obligations for the husband and wife. In general, pillars are interpreted as something that must exist and determine whether or not the marriage is legitimate, so it must be stated through *Ijab* and *qabul*. *Ijab* is the first statement from one party and *qabul* is a statement from the other party who fully accepts the *ijab*. Therefore, the *fuqaha* say that the pillars of marriage are *ijab* and *qabul* as the core.

### Review of Islamic law on marrying pregnant women

Pregnancy can occur through legal marriage or through extramarital relationships. Pregnant marriage is often interpreted in Arabic studies with the term *Al-tazauwaju bil hamil*, meaning the marriage of a man with a pregnant woman. Pregnant marriage occurs due to two possibilities. First, being impregnated first and then married. Second, being impregnated by someone else and then married by someone who did not impregnate her. The marriage of a woman who is pregnant is a marriage that is preceded by the pregnancy of the bride, married to the man who impregnated her or not the man who impregnated her.

Islam demands that the Muslim community be free from very destructive social diseases such as adultery. Islam tries to eliminate the places where corruption grows and close the gaps that lead to corruption. Islam prescribes various *al-hudud* (criminal sanctions) to prevent all of this. Islam guides Muslim individuals to remember Allah, both when alone and when with others. Indeed, Islam has forbidden adultery and things that give rise to adultery, such as forbidden associations and closed meetings (*khalwat*) which have negative consequences.<sup>24</sup> Allah says in the Qur'an surah an-Nur Verse 3: **الزَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ وَحُرْمٌ ذَلِكَ عَلَى الْمُؤْمِنِينَ**. Meaning: "Adulterers are not fit to marry, except with adulterous women, or with a polytheist (*musyrik*) woman, and adulterous women are not fit to marry, except with male adulterers, or with polytheistic men. This is forbidden for Mukmin"

The Compilation of Islamic Law is of the opinion that it is lawful to marry a pregnant woman due to adultery if the one who marries the woman is the man who impregnated her, if the one who marries her is not the man who impregnated her, the law becomes illegitimate, because article 53

<sup>20</sup> H A Kumedi Ja'far, *Hukum Perkawinan Islam Di Indonesia* (Arjasa Pratama, 2021).

<sup>21</sup> Ali Hasan Muhammad, 'Pedoman Hidup Berumah Tangga Dalam Islam', *Siraja, Jakarta*, 2016.

<sup>22</sup> Ibrahi Husen, 'Fiqh Perbandingan Dalam Masalah Nikah, Thalaq Dan Rujuk Dan Hukum Kewarisan (Jilid Ke I)', *Jakarta: Yayasan Ihya Ulumudin Indonesia*, 1998.

<sup>23</sup> Rizqi Suprayogi, 'Reformasi Hukum Perkawinan Islam Di Indonesia', *Indonesia Journal of Business Law*, 2.1 (2023), 29–37.

<sup>24</sup> Yahya Abdurrahman Al-Khatib, *Fikih Wanita Hamil* (Qisthi Press, 2016).

paragraph 1 does not provide an opportunity for that. There are several things that regulate the law of marrying a pregnant woman, namely based on the compilation of Islamic law.

Emergency marriages that still occur in Indonesia, namely marrying random men, which are done only to cover up shame (because they are already pregnant) are considered illegitimate by the Compilation of Islamic Law. The opinion of the Compilation of Islamic Law is similar to the opinion of Abu Yusuf and Za'far from the *madzhab* Hanafiyah. Both are of the opinion that a woman who is pregnant due to adultery can be married to the man who impregnated her, but not to another man who was not the one who impregnated her. It's just that there is a difference of opinion between the two.

The marriage of a pregnant woman out of wedlock is thus stipulated by the Compilation of Islamic Law, that a pregnant woman out of wedlock can be married to a man who impregnates her, and the word "can" can also be interpreted that a pregnant woman out of wedlock can be married to another man who does not impregnate her. A pregnant woman out of wedlock, therefore, may be married to any man who is willing to take responsibility, because if a pregnant woman cannot be married to another man who does not impregnate her, while the man who impregnates her is not responsible, and the marriage is not carried out within certain limits, it will have a psychological impact on the woman's family.

Law Number 1 of 1974 concerning Marriage, does not clearly explain the permissibility of pregnant marriage in a separate format. This conclusion was drawn after considering the law which only discusses the status of children from extramarital marriages. The status of children is divided into two: first, legitimate children and second, illegitimate children. Legitimate children as stated by law are children born in or as a result of a legitimate marriage.

### **The law of marriage of pregnant women according to Ulemas**

Basically, a legitimate marriage is a marriage that is in accordance with the procedures that have been set by religious and state rules. The marriage of a person or couple who is pregnant is invalid according to the opinion of the *Imam* of the *Madzhab*, namely the *madzhab* of Hambaliyah and Malikiyyah, but this opinion is rarely used as a legal basis because Indonesian citizens tend to adhere to the *madzhab* Shafi'iah teachings.

Pregnant marriage is marriage with a woman who is pregnant outside of marriage, whether married to the man who impregnated her or to a man who was not the one who impregnated her.<sup>25</sup> The marriage of a pregnant woman is a marriage preceded by the existence of a cause of adultery which results in pregnancy outside of a legal marriage. The Marriage Law only implicitly regulates the marriage of pregnant women, namely in Article 2 paragraph (1) that "marriage is legitimate, if it is carried out according to the law of each religion and belief." According to Islamic law, a marriage is considered valid if it is carried out by fulfilling the pillars and conditions according to Islamic law. The pillars and conditions determine a legal act, especially those concerning the legality or invalidity of the act from a legal perspective..

*Imam* Syafi'i and the *madzhab* Syafi'iyah are of the opinion that it is permissible or considers the marriage of a pregnant woman due to adultery legitimate, whether married to the man who impregnated her, or another man, without having to wait for the baby carried by the woman to be born. Marriage carried out by a woman even though she is pregnant, is permissible according to the *madzhab* Syafi'iyah as long as the marriage meets the requirements of marriage and there is an *ijab* and *qabul*. There is no law requiring *iddah* for a woman who is pregnant due to adultery, and it is permissible to marry her and also have intercourse with her.<sup>26</sup>

*Imam* Abu Hanifah also expressed almost the same opinion, that marriage for a pregnant woman is valid on the condition that the one who marries her is the man who impregnated her. As for the man who did not impregnate her, it is still valid to marry a pregnant woman due to adultery, but he

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<sup>25</sup> Asman Asman, 'Hamil Di Luar Nikah Dan Status Nasab Anaknya', *Shar-E: Jurnal Kajian Ekonomi Hukum Syariah*, 6.1 (2020), 1–16.

<sup>26</sup> Sadari Sadari and Muhammad Abdulloh Rohmad Azis, 'Nalar Fikih Mazhab Syafi'i Dalam Kasus Pernikahan Wanita Hamil Dan Status Anak Yang Dilahirkan', *Shakhsiyah Burhaniyah: Jurnal Penelitian Hukum Islam*, 8.1 (2023), 19–42.

is not allowed to have sexual intercourse until the woman gives birth to the baby she is carrying. Hanafi scholars are of the opinion that a woman who is pregnant due to adultery is not required to have an *iddah* period, because the *iddah* aims to maintain lineage, so it is permissible to marry a pregnant woman without having to wait for the *iddah* period. This is because a woman who is pregnant due to adultery is not included in the category of women who are forbidden to marry, so marriage to a pregnant woman is permitted.

Another legal basis that is used as a basis, namely when Rasulullah SAW was asked about a man who committed adultery with a woman, then the man intended to marry her, at that time Rasulullah SAW answered "Forbidden acts (*Haram*) do not forbid *halal* ones" (Hadith History. Baihaqi from 'Aisyah ra.). This hadith explains that 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 make a *halal* act (*marriage*) unlawful. Thus, the prohibition of adultery cannot prohibit the *halal* of marriage, even if the person carrying out the marriage is the adulterer, namely the couple who committed adultery, causing the woman to become pregnant.

Unlike the *madzhab* Shafi'i and Hanafi, the *madzhab* Maliki of thought is very different. Imam Malik bin Anas absolutely forbade the implementation of pregnant marriage. The law of marrying a pregnant woman due to adultery is illegitimate, whether the one who marries is the man who impregnated her or not. A woman who is pregnant out of wedlock must wait until the baby she is carrying is born first, only then can the pregnant woman carry out the marriage contract. Ulemas of Maliki are of the opinion that the law of a woman who is pregnant due to adultery is the same as having intercourse due to doubt (*syubhat*), whether based on a void (*bathil*) or illegitimate contract (*fasid*), she must undergo the *iddah* period as the *iddah* period in general.

The think of the *madzhab* Hanbali is similar to the *madzhab* Maliki. Imam Ahmad bin Hanbal opine that it is illegitimate (*haram*) to marry a woman who is known to have committed adultery, both the man who committed adultery and the man who did not commit adultery. An adulterous woman, whether she is pregnant or not, cannot be married by a man who knows her condition, except under two conditions: 1) Her *iddah* period has expired, but if she becomes pregnant, her *iddah* expires when she gives birth to her child, and he cannot marry her before the time of his *iddah*, and; 2) The woman has repented of her immorality, and if she has not repented, then she cannot marry him. If those two conditions have been fulfilled, i.e. her *iddah* period has ended and she has repented of her sin, then it is legitimate (*halal*) to marry the woman to the man who committed adultery with her or another man.

### **Legal status of children born out of wedlock**

The status of legitimate children is clearly regulated in the Marriage Law and the Compilation of Islamic Law. According to Law Number 1 of 1974 Article 42, legitimate children are children born from a legitimate marriage, including children born, even from a woman who is pregnant less than six months after marriage. Meanwhile, children born out of wedlock only have a civil relationship with their mother and their mother's family, as regulated in Article 43. In accordance with Article 44, if the husband can prove that the child is not the result of adultery, then the husband can deny the civil status of the child born to his wife

The Compilation of Islamic Law also provides a similar explanation, Article 99 states that a legitimate child is a child born from a legitimate marriage or the result of fertilization in the womb of a legitimate wife. Article 100 emphasizes that a child born out of wedlock only has a blood relationship with his mother. Article 100 states that an illegitimate child does not have a civil relationship with his biological father. The Marriage Law and the Compilation of Islamic Law clearly separate the legal status of children. The rights and obligations of parents only apply between the child and the mother and her family, without any legal relationship with the biological father.

### **CONCLUSION**

Pregnancy marriage is marriage with a woman who is pregnant outside of marriage, whether married to the man who impregnated her or to a man who did not impregnate her. The Marriage Law only implicitly regulates the marriage of pregnant women, namely in Article 2 paragraph (1).

Meanwhile, in the Compilation of Islamic Law, the regulation regarding the marriage of pregnant women is regulated in a separate chapter, namely Chapter VIII, specifically Article 53 paragraphs (1), (2), and (3). Regarding pregnancy marriage, there are differences of opinion among the majority of scholars.

The *madzhab* Syafi'i view that a marriage carried out by a pregnant woman is *halal*, whether with the man who impregnated her or another man, without having to wait for the woman to give birth first. The *madzhab* Hanafi opine that it is *halal* to marry a pregnant woman, whether with the man who impregnated her or another man, with the proviso that if the one who married her was not the man who impregnated her, then the man may not have sexual intercourse with the woman until the child is born. According to the *madzhab* Maliki, pregnancy marriage is absolutely *haram*, whether with the man who impregnated her or not. A pregnant man or another man may marry a pregnant woman if the pregnant woman has given birth to the baby. The *madzhab* Hanbali believes that it is *haram* to marry a woman who is known to have committed adultery, whether the man who committed adultery with her or another man. A man may marry a pregnant woman if the woman has completed her *iddah* period and has repented from immoral acts.

The difference of think among *madzhab* about marrying a pregnant woman due to adultery, brings a little mercy to the people. Because with the opinion that allows marrying her, not with the person who committed it, it can cover up her disgrace in the world, even though it is not permissible to have intercourse with her. However, this should not be considered good, but only because of an emergency, and in any case the act of adultery is condemned. Children resulting from adultery in Islamic law, legally do not have a blood relationship with the father, even though the father acknowledges and formally validates that the child is his child. Does not have the intended relationship, be it blood relationship, guardianship in marriage or inheritance issues. The child only has a blood relationship with his mother.

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