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Exploring the Differences in Views of Jalaluddin Al-Suyuti and Ayatollah Khomeini on the Law of Mut'ah Marriage: A Comparative Study Analysis

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Abstrak

Artikel ini membahas tentang berbagai perbedaan persepsi yang terjadi dalam menanggapi praktek nikah mut'ah, yaitu antara Jalaluddin al-Suyuti dan Ayatullah Khomeini. Kedua tokoh ulama besar ini memiliki cara dan dasar hukumnya masing-masing dalam menetapkan hukum nikah mut'ah. Penelitian ini menggunakan metode yang bersifat deskriptif analisis dengan jenis penelitian kualitatif. Teknik analisis yang digunakan dalam penelitian ini adalah mengkaji dan mendeskripsikan gagasan primer terkait ayat-ayat al-Qur'an yang berbicara mengenai perbedaan pandangan hukum nikah mut'ah. Teknik pengumpulan data yang dilakukan dalam penelitian ini yakni menggunakan penelitian kepustakaan (library research) dengan mengadakan penelaahan terhadap buku/kitab, artikel, jurnal, dan karya ilmiah serta mendapatkan gambaran atau penjelasan tentang perbedaan pandangan hukum nikah mut'ah antara Jalaluddin al-Suyuti dan Ayatullah Khomeini yang menjadi objek kajian penelitian. Hasil penelitian menyebutkan bahwa menurut Jalaluddin al-Suyuti, nikah mut'ah hukumnya adalah haram, karena surah an-Nisa ayat 24 yaitu ayat tentang nikah mut'ah telah di nasakh oleh surah al-Mu'minin ayat 6-7 dan beberapa hadis dalam kitab Shahih Bukhari dan Muslim tentang keharaman nikah mut'ah yang dijadikan rujukan oleh mazhab sunni. Sedangkan menurut Ayatullah Khomeini, nikah mut'ah hukumnya adalah sah (halal), karena tidak terdapat dalil keharamannya di dalam al-Qur'an, surah an-Nisa ayat 24 adalah dasar hukumnya yang didukung oleh hadis-hadis yang diriwayatkan oleh ahlulbait.

Kata Kunci: *Nikah Mut'ah, Komparasi, Jalaluddin al-Suyuti, Ayatullah Khomeini.*

Abstract

This article discusses the various differences in perception that occurred in response to the practice of mut'ah marriage, namely between Jalaluddin al-Suyuti and Ayatullah Khomeini. These two great ulama figures have their own methods and legal basis for determining mut'ah marriage laws. This research uses a descriptive analysis method with a qualitative research type. The analytical technique used in this research is to examine and describe primary ideas related to the verses of the Koran which talk about different legal views on mut'ah marriage. The data collection technique used in this research is using library research by conducting a review of books, articles, journals and scientific works and getting an overview or explanation of the differences in views of mut'ah marriage law between Jalaluddin al-Suyuti and Ayatullah Khomeini is the object of research study. The results of the research state that according to Jalaluddin al-Suyuti, mut'ah marriage is haram, because surah an-Nisa verse 24, namely the verse about mut'ah marriage, has been interpreted by surah al-Mu'minun verses 6-7 and several hadiths in Sahih Bukhari and Muslim's book about the prohibition of mut'ah marriage which is used as a reference by the Sunni school of thought. Meanwhile, according to Ayatullah Khomeini, mut'ah marriage is legally valid (halal), because there are no arguments for its haraam in the Koran, Surah an-Nisa verse 24 is the legal basis which is supported by the hadiths narrated by the Ahl al-Bayt.

Keywords: Mut'ah Marriage, Comparison, Jalaluddin al-Suyuti, Ayatullah Khomeini

INTRODUCTION

It is undeniable that in marriage there are still problems that from the past until now have become controversial issues, where there is a form of marriage that is limited by a certain time, which is called mut'ah marriage (Lubis, 2020). This marriage is also still widely practiced by society until now for various reasons, one of which is to avoid adultery or in urgent needs (bogor.suara.com, 2023). Especially among young people and students. Sometimes someone even chooses this form of marriage intentionally only to channel their desires in the name of religion.

Although in essence the practice of mu'tah marriage has been permitted since the time of the Prophet Muhammad SAW, it did not last long before the practice was also prohibited. With the prohibition of mut'ah marriage, it caused disputes among scholars. The validity of the halal and haram practice of mut'ah marriage has reaped much controversy among scholars, including Jalaluddin al-Suyuti and Ayatullah Khomeini. According to the majority of Ahlu Sunnah scholars, including Jalaluddin al-Suyuti, they are of the opinion that the permissibility of mut'ah marriage has been revoked, meaning that it is now haram. However, this is different from the view of Shiite scholars who allow and legitimize mut'ah marriage, including Ayatullah Khomeini, who said that mut'ah marriage is valid and permissible on the grounds that the marriage is not invalidated due to invalid conditions (Muhajir and Kamil,

2021).

Every scholar certainly has a certain basis and evidence, which is used as a guide in expressing an opinion. Of course their opinion cannot be blamed, but it is also necessary to examine what evidence and legal basis are used. If we look at the results of previous studies, many have discussed the law of mut'ah marriage and various views on it. One of them is a study conducted by Rudi Santoso, in his research he stated that there was no difference of opinion among the fuqaha from the Ahlu Sunnah and Shi'a circles regarding the permissibility of mut'ah marriage during the time of the Prophet Muhammad, but then mut'ah marriage became a difference (*ikhtilaf*) among them. According to the Ahlu Sunnah fuqaha, mut'ah marriage is forbidden in the era after the prophet until now and even until the Day of Judgment, as the Prophet had forbidden it up to six times in different events (Mulyanti and Sari, 2021). Meanwhile, the Shia Imamiyah fuqaha allow mut'ah marriage on the grounds that there is not a single verse that prohibits mut'ah marriage and it is permissible for men both in a state of *safar* (traveling) and *muqim* (settling), and the law of mut'ah marriage is still permitted to this day. Although recently, some Shia figures have the view that not everything that is permissible must be carried out (Santoso, 2020).

Likewise with research conducted by Liky Faizal and Abd. Qohar, who revealed that Mahmud Syaltut gave a view regarding marriage, required the intention to live together forever, so that Mahmud Syaltut gave an understanding that mut'ah marriage was considered haram, because it did not meet the conditions he mentioned. The prohibition of mut'ah marriage formulated by Mahmud Shawtut is in line with the purpose of marriage as stated in the Compilation of Islamic Law, Chapter II, Article 2, which emphasizes that marriage is not temporary but permanent, the ultimate goal of which is to form a *sakinah, mawaddah and rahmah* family. However, the content of Article 2 paragraph (1) of Law Number 1 of 1974 which reads "Marriage is valid, if it is carried out according to the laws of each religion and belief", seems to provide an interpretation of the validity of mut'ah marriage, even though the concept of mut'ah marriage is contrary to KHI and the purpose of marriage as explained by Mahmud Syaltut. Therefore, improvements are needed in the marriage law, so that "marriages must be registered" is stated in the pillars of marriage in the formulation of the Marriage Law (Faizal dan Qohar, 2021).

Not much different from what was found by Miftahul Qalby in his research entitled Al-Zamakhsharī's View on Mut'ah Marriage: Ideological Analysis in the Book of Tafsir Al-Kashshāf. The results of his research stated that Al-Zamakhsharī's view when explaining and interpreting the letter an-Nisa verse 24, did not explain about mut'ah marriage, but rather the obligation to pay a dowry to women in marriage. Meanwhile, the narration that mentions

the basis of mut'ah marriage in the letter an-Nisa verse 24 is a narration that is considered weak, because it is not tsiqqah. Meanwhile, Al-Zamakhshari's tendency in interpreting the verse seems to support the argument of the Shia. If we only look at his opinion which acknowledges that men and women who perform mut'ah marriage are also referred to as a valid marriage, before the prohibition of mut'ah marriage. However, then his last opinion about the prohibition of mut'ah marriage becomes a benchmark that his opinion tends towards Sunni (Qalby, 2020).

In response to various research results on the differences in views among scholars in interpreting verses on the law of mut'ah marriage, it shows that even though discussing the same argument, if understood by different people will produce a different argument and although differences in understanding the verses of the Qur'an are actually commonplace, they are caused by different backgrounds. Therefore, as explained and seeing several previous studies that discuss this, researchers are increasingly interested in conducting a more in-depth study of the differences in views in determining the law of mut'ah marriage, both in terms of arguments and legal basis, namely between Jalaluddin al-Suyuti and Ayatollah Khomeini.

RESEARCH METHODS

This study uses a descriptive analysis method, namely a method that is directed at studying the problem of mut'ah marriage by describing ideas. The type of research used is qualitative. The data sources that the compiler uses as a reference for this study are primary data which are the main data in this study, namely the verses of the Qur'an related to differences in legal views on mut'ah marriage. The secondary data or data sources that support this study include translated books, books, research results, and scientific papers related to the research (Kaelan, 2012). The analysis technique used in this study is that the data in this study are described descriptively by connecting various theoretical statements and methods that are directed at studying and describing primary ideas related to the verses of the Qur'an that talk about differences in legal views on mut'ah marriage (J. Moleong, 1999). The data collection technique used in this study is using library research, namely research that is intended to study and collect theories and concepts that are relevant to the discussion material in order to be used as a basis for assessing and comparing research that has been carried out by conducting a review of books/books, articles, journals, and scientific works and getting a picture or explanation of the differences in legal views on mut'ah marriage which is the object of the research study (Kartini, 2000).

RESULTS AND DISCUSSION

A. Definition of Mut'ah Marriage in Various Views

Etymologically, mut'ah means to have fun. Mut'ah marriage is also called contract marriage (Lubis, 2020). Sometimes it is also called intermittent marriage. In general, mut'ah marriage can be interpreted as a marriage that is carried out with a certain contract and period, which is commonly known as contract marriage or contract marriage, namely the marriage of a man with a woman within a certain time limit, with something given to her, in the form of property, food, clothing or others. If the period is over, then they automatically separate without the word talak and without inheritance. This form of marriage, a person comes to a woman without having a guardian or witness. Then they make an agreement on a dowry (wage) and a certain time limit; three days or more, or less. Usually no more than forty-five days; with the provision that there is no dowry except that which has been agreed upon, no maintenance, no inheritance between the two and no iddah except *istibra`* (i.e. one menstrual period for a menopausal woman, two menstrual periods for a normal woman, and four months and ten days for those whose husband has died), and no lineage except if stipulated (al-Adawi, 2000).

It is also called a contract marriage because a man marries a woman for a period of one day, one week, one month, or is limited to a certain time. It is called mut'ah because a man marries a woman just for fun which has been determined by a time limit. Mut'ah marriage does not have the effect of mutual inheritance between husband and wife and also does not limit the maximum number of wives. Mut'ah marriage can be carried out without a guardian and witnesses (Shomad and Eko, 2015). Definition of mut'ah marriage as stated by scholars of the Syafi'i and Maliki schools which basically indicate the existence of a certain time limitation. According to scholars of the Syafi'i, Hanbali, and Maliki schools, mut'ah marriage is also called *muaqqat* marriage (marriage with a time limit). However, scholars of the Hanafi school of thought distinguish between mut'ah marriage and *muaqqat*, where the contract in mut'ah marriage uses the word mut'ah (Mulyanti and Sari, 2021).

The requirements for mut'ah marriage according to Shi'ah scholars are; a) attain maturity, b) be sensible, and c) there are no *syar'i* obstacles to carrying it out, such as the existence of a lineage, blood relatives or still being someone else's wife. Meanwhile, the pillars of mut'ah marriage that must be fulfilled are; a) *sighat* (mut'ah marriage vow), b) prospective wife, c) dowry/dowry, and d) certain time limit. Several things that must be considered, first, the prospective wife should be a Muslim woman or a *Kitabiyyah* woman (Nasrani or Yahudi). In this case, it is recommended to marry a good woman, while prostitutes are punished with immorality. Second, the time limit must be determined at the

time the contract takes place. Third, the size of the dowry is also stated at the time of the contract, according to the agreement of both parties (Dahlan, et al., 1996).

In the life of a husband and wife who are engaged in a mut'ah marriage, there are several rules that must be obeyed, such as if during the contract only the amount of wages is mentioned, not the dowry, then the contract is void. If the dowry is mentioned, but the determination of the time limit is not determined, then the law becomes a regular marriage. Children resulting from this marriage are the responsibility of the husband and only have a lineage to the father. In the relationship between husband and wife, the wife is not allowed to refuse to have sexual intercourse, but is allowed to refuse pregnancy by taking preventive measures. The husband is not obliged to provide for his wife. There is no divorce for husband and wife, because with the end of the specified period, their marriage bond ends without the utterance of divorce. Between husband and wife there is no right to inherit. Children have the right to inherit from the father and mother, and both have the right to receive inheritance from the child (Muhajir and Kamil, 2021).

B. Biography of Jalaluddin al-Suyuti

His full name is Abdul Rahman bin al-Kamal bin Abu Bakar bin Muhammad bin Sabiq al-Suyuthi. Some add Al-Hafizh Abdurrahman ibn Al-Kamal Abi Bakr bin Muhammad bin Sabiq ad-Din Ibn Al-Fakhr Utsman bin Nazhir ad-Din al-Hamam al-Khudairi al-Sayuthi, and was given the title Jalaluddin, and called by the name Abdul Fadhal. The title al-Suyuthi was taken from the name of the area where he was born, Suyuth, which is an inland area in Egypt (al-Suyuti, 2008). He was also given the title Ibn Al-Kutub because he was born among his father's books and because when he was born, his mother placed him on a book. He lived during the Mamluk dynasty in the 15th century AD and came from a Persian family who initially lived in Baghdad and then moved to Asyuth. This family was a respected person in its time and was placed in important positions in government (Jauhari, 2018).

He was born in an area located in Egypt, namely Suyuth at the beginning of the month of Rajab in the year 849 H, and lived as an orphan after his mother died shortly after he was born, and after he was only five years old, his father also left to follow his mother. He lived in an environment full of knowledge and piety. His eyes were opened to knowledge and piety because his father diligently taught him to read the Qur'an and science. When his father died in the year 855 H, he had memorized the Qur'an up to the letter of al-Tahrim even though he was less than 6 years old, and when he was less than 8 years old, he had memorized the entire Qur'an. After his father died, he was guided by Muhammad bin Abdul Wahid until the age of 11 (Abdullah, 2004).

After al-Suyuthi was 40 years old, namely around 809 H, he began to be busy

worshiping and getting closer to Allah, turning away from the world and all its luxuries, for a time he did not even know the people around him. Apart from worship, at that age he also left his profession as a mufti, teaching, while reducing his writing activities. Imam Jalaluddin al-Suyuti died on Friday night, 19 Jumadil Awal 911 H/ 1505 M, he was 61 years 10 months 18 days old, a week before he died he suffered from pain in his left hand which resulted in him passing away to Rahmatullah. Imam Jalaluddin al-Suyuti was buried in Khusy Qusun outside the gates of Qarafah Cairo, Egypt. It is located close to the graves of Imam Syafi'i and Imam Waqi' (Imam Syafi'i's teacher). The tomb is always closed, you cannot go inside except by contacting the caretaker (Abdullah, 2004).

Imam Jalaluddin al-Suyuti received a lot of education from several great scholars of his time. Among the scholars he visited were: Imam Sirajuddin al-Qalyubi and Shaykh al-Islam Ilmu al-Din al-Bulqaini, from both of whom he studied fiqh, fara'id knowledge from Taqiyuddin al-Samni and Syihabuddin, Hadith knowledge and Arabic from Imam Taqiyuddin al-Hanafi, in the science of Tafsir he studied from a great scholar who was very famous among the Shafi'i school of thought, namely Imam Jalaluddin al-Mahalli, who was one of the writers of Tafsir Jalalain (Ghofur and Salamullah, 2008). In gaining knowledge, Imam Jalaluddin al-Suyuti always moved from one country to another. Some of the countries visited by al-Suyuthi were Sham (Syria), Hijaz, Yemen, India, Morocco, and others. Apart from being busy writing various written works, Imam Jalaluddin al-Suyuti also worked as a teacher at the al-Syaikhuniqah madrasah for 12 years and served as a mufti for a very long time. In the matter of ijtiḥad, Imam Jalaluddin al-Suyuti argued that the knowledge he possessed had reached the level of a mujtahid (Jauhari, 2018)

He also held the view that the door to ijtiḥad is always open in every era and there should never be an era that is empty of mujtahids, because the text is limited, while the problems that require legal answers are unlimited. According to al-Suyuthi, there are several scientific disciplines that must be mastered by someone who carries out ijtiḥad, including; knowledge of the Koran, knowledge of hadith, knowledge of ushul fiqh, knowledge of Arabic, knowledge of Ijma' Khilafiyah, knowledge of arithmetic, knowledge of al-Nafs, and knowledge of Morals. Al-Suyuthi has mastered these sciences using the rote method. However, as he approached his old age, he abandoned the duties of teaching and giving fatwa, and preferred to retire from the hustle and bustle of the world to just worship and compose (Ghofur and Salamullah, 2008).

C. Biography of Ayatullah Khomeini

His full name is Imam Ruhullah al-Musawi al Khomeini was born on the 20th of Jumadi akhir 1320 (September 24, 1902) coinciding with the birthday of Fatimah al-Zahra, the

daughter of the Great Prophet SAW, in Khomein which was formerly called Kamareh Province, about 300 km south of Tehran. His family had a tradition of scholars and struggle against injustice, the second trait is the most prominent character of the family of the Prophet SAW and 'Ali bin Abi Talib. Thus this family, which is a descendant of Imam Musa bin Ja'far, has maintained the main characteristics of the Shi'ite tradition and the heritage of the Ahlul Bait (Anshari, 2001).

Sayyid Musththafa was eight years old when his father died. He began his education in a traditional school for children known as maktub khaneh and after that he studied with Aqa Mirza Ahmad Khawansari. Then he went to Isfahan to continue his studies under the guardianship of scholars in that city. Then he married the daughter of Mirza Ahmad, Hajar Agha Khanom, and then with his wife and baby daughter (born 1305/1887) went to Najaf (Algar, 1991). There he studied until he became a mujtahid. Then he became a special scholar, as seen in his famous title "Fakhr al-Mujtahidun" (pride of the mujtahids). Then in 1894 he returned to Khomeini. Coinciding with that time the government was held by the oppressive Qajar dynasty (Anshari, 2001).

One day in 1320/1902, at that time he rode to the city of Arak to meet the provincial governor whose government included Khomeini, to report Khomeini's unsafe condition in the city of Khomeini. Ja'far Quli and Ridha Quli confronted and attacked him. He was 42 years old when the bullet penetrated his heart. This crime made Khomeini's people so angry about the crime that they attacked and burned the houses of the murderers. Because of the public's demand to catch the killers. Then the murderers were executed on the orders of Muhammad 'Ali Mirza, the crown prince. After years of effort and pursuit, under the guidance of Aqa Sayyid Muhammad Khareh'i (Sayyid Mushthafa's son-in-law), the family including Imam Khomeini's own mother, an aunt and two older brothers, returned to Khomeini around 1905. At that time Khomeini was two year abandoned. The government then confiscated the assets of the murderers which were then returned to their heirs at the appeal of Imam Khomeini's family (Moin, 1998).

From 1922 to 1936 Imam Khomeini studied under several teachers in Qum, almost all of the leading scholars. His first teacher was Ayatullah Aqa Mirza Muhammad Ali Adib Tehrani 1884-1949, he taught Arabic, fiqh and ushul at the Qum religious education institution (hauzah). The second, Ayatullah Aqa Mirza Sayyid 'Ali Yatsrib Kasyani (1311-1379/1893-1959), a student of Sayyid Muhamad Kazhim Yazdi, Syari'at Ishfahani. As for the third, Ayatullah Hajj Sayyid Muhamad Taqi Khawansari (/1887-1951), a student of Akhund Khurasani, Sayyid Muhammad Kazhim Yazdi, Syari'at Ishfahani, Dhiya'uddin, 'Iraqi, Mirzan Na'ini, and Haji Syaikh 'Ali Kuchani. He came to Qum in 1922, and Imam Khomeini studied

fiqh with him. The author only describes three teachers and there are many more teachers. Imam Khomeini had a strong interest in studying. He received special education not only in fiqh, ushul, hadith and the Koran but also in morals, philosophy and 'irfan. He also had a lifelong interest in Persian treasures, especially poetry (and he himself wrote several fine poems, many of which were lost during the SAVAK attack on his home) (Saefuddin, 2003).

Throughout Imam Khomeini's youth and his years of study in Qum he was very aware of the political developments taking place in Iran and in the Islamic countries. One year before coming to Qum, Reza Khan who controlled the Persian Cossack army through British efforts, staged a coup in Tehran on February 23, 1921. For about 15 years, until September 16, 1941 when he was forced to abdicate by the British because of his relations with Germany until Reza Khan acted to destroy the Islamic identity of the Iranian people. However, at the beginning of his reign he pretended to be close to Islam in order to gain the support of the people (Yamani, 2001).

Throughout Imam Khomeini's youth and his years of study in Qum he was very aware of the political developments taking place in Iran and in the Islamic countries (Yamani, 2001). When he was thirty years old, he married the daughter of a prominent religious figure and until his death had two sons and three daughters. His son, Musthfa Khomeini, was a prominent young Hujjatul Islam. While the second, Ahmad Khomeini was also a Hujjatul Islam, who later replaced his grandfather as one of the influential figures in the Islamic Republic of Iran (RII). Among his daughters, Zahra Mushafawi was a doctor and lecturer in philosophy at one of the universities in Iran (Tamara, 1984). Imam Khomeini was not a follower of the ushuli jurists of the past. Like Ayatollah Murtadha Ansari or Ayatollah Na'ini, they mastered the opinions of the ushuli and institutions of that era. Khomeini died on Sunday, June 3, 1989 AD/ 29 Shawwal 1409 H after being treated for several days in a Tehran hospital. The Iranian nation and all Muslims in the world were immersed in sadness (Asawa, 1984).

D. Comparison of the Thoughts of Jalaluddin al-Suyuti and Ayatollah Khomeini on the Law of Mut'ah Marriage

After being investigated, the difference of opinion that occurred between Jalaluddin al-Suyuti and Ayatollah Khomeini was in interpreting the Qur'an, Surah an-Nisa verse 24 which is the legal basis for mut'ah marriage. According to Imam Jalaluddin al-Suyuti in his Tafsir book, in explaining verse 24 of surah an-Nisa, he quoted a hadith originating from Ibn Abbas which means the following:

From Ibn Abbas said; "Mut'ah was once permitted at the beginning of Islam. There was a man who came from a far country, who did not know. He married a woman with a period

of stay in that place. So that the woman would take care of her jewelry and take care of her needs until the verse was revealed; "Except for their wives or the slaves they own." Ibn Abbas said; "All private parts (vagina) other than those of both (the wife's and her slave's private parts), are forbidden."

According to this statement, mut'ah marriage is something that was once permitted at the beginning of Islam based on the verse of Surah an-Nisa verse 24. Then another law came after that which removed the permissibility of mut'ah marriage and made it something forbidden by mentioning Surah al-Mu'minun verse 6 which reads:

إِلَّا عَلَىٰ أَرْوَاحِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ

"Except with regard to their wives or the slaves whom their right hands possess; then surely they are not blameworthy".

With the understanding that the farj that is permissible to be enjoyed is only the farj of a legitimate wife and a slave who is owned, while a woman in a mut'ah marriage is neither a wife nor a slave who is owned. Jalaluddin al-Suyuti in his book of interpretation that the verse in the an-Nisa verse 24 above has been annested after the verse from the al-Mu'minun verse 6 was revealed. In addition, in the same book, he also explained that the same verse, Abu Dawud, Ibn Mundzir and an-Nuhas narrated from Atha' from Ibn Abbas, he said that the verse (فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً) in Mansukh by the following verses:

1) Q.S. at-Thalaq verse 1

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَحْشَةٍ مُّبِينَةٍ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

"O Prophet! If you divorce your wives, then you should divorce them at a time when they can (face) their (reasonable) idah, and count the time of that idah, and fear Allah, your Lord. Do not take them out of their homes and do not (permit) them to go out unless they commit a clearly abominable act. These are the laws of Allah, and whoever violates the laws of Allah, then indeed, he has done wrong to himself. You don't know, maybe after that Allah will make a new provision."

2) Q.S al-Baqarah verse 228

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَجُلُ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنَنَّ بِاللَّهِ وَالْيَوْمِ
الْآخِرِ وَبِعَوْلَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ
عَزِيزٌ حَكِيمٌ

"And the wives who are divorced (must) restrain themselves (wait) three times quru'. It is not permissible for them to hide what Allah created in their wombs, if they believe in Allah and the Last Day. And their husbands have more right to return to them in that (period), if they want improvement. And they (women) have rights balanced with their obligations in

an appropriate manner. But husbands have advantages over them. Allah is all-powerful, all-wise.”

3) Q.S at-Thalag verse 4
وَالَّذِي يَبِيسَنَ مِنَ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ أَرْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةَ أَشْهُرٍ وَالَّذِي لَمْ يَحِضْنَ وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ أَمْرِهِ يُسْرًا

“For women who no longer menstruate (menopausal) among your wives, if you are in doubt (about the period of iddah) then the iddah is three months; and so (also) women who do not menstruate. Meanwhile, for women who are pregnant, their iddah period is until they give birth. And whoever fears Allah, surely He will make things easy for him in his affairs”.

Meanwhile, according to Ayatullah Khomeini's view, the argument regarding mut'ah marriage law is very clear in the Qur'an as stated by Allah in Surah an-Nisa verse 24. The argument of this verse is truly Allah's clear law and is not erased by other verses, then the law remains valid until the end of time, because what is halal for Muhammad is also halal until the Day of Resurrection and what is haram is haram until the Day of Resurrection. In Surah An-Nisa verse 24, the law on *istamta'* (enjoying) women and paying the required dowry is explained, and this *istamta'* is mut'ah marriage or mu'aaqqat marriage. Meanwhile, the third form of marriage law is marrying owned slaves. Allah says in the Qur'an surah an-Nisa verse 25.

وَمَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مِمَّا مَلَكَتْ أَيْمَانُكُمْ مِّن فَتْيَتِكُمُ الْمُؤْمِنَاتِ

“And whoever among you does not have the means to marry a free woman who is a believer, then (it is permissible to marry a woman) who is a believer from a slave you have”.

According to Ayatollah Khomeini, if *istamta'* only includes marriage that is forever, surely the laws of marriage contained in one letter are the same and repeated, this is impossible to be intended only for a game because the word of Allah is free from something that is in vain (Muhajir and Kamil, 2021). In addition, as is known that according to Sunni scholars in the Qur'an there is a verse that abolishes mut'ah marriage, namely the word of Allah in the letter al-Mu'minun verse 6, as follows:

إِلَّا عَلَىٰ أَرْوَاحِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ

“Except with regard to their wives or the slaves whom their right hands possess; then surely they are not blameworthy”.

However, Ayatollah Khomeini stated that the verse does not indicate the abolition of the law of mut'ah marriage, but the verse explains the rights of marriage. The verse contained in the letter al-Mu'minun was also revealed in Mecca while the prescription of mut'ah marriage is found in the letter an-Nisa which is a Madaniyah letter. Therefore, how is it possible that the abolishing verse was revealed earlier than the abolished verse? (Lubis,

2020).

In addition, according to Ayatollah Khomeini, in a marriage inheritance and maintenance are not included in the custom. Scholars from the Shia and Sunni circles have issued a fatwa that the wife of the people of the book and the *nuzuz* woman, who kills her husband does not receive an inheritance and is not supported, but she knows that the law of marriage still applies. Therefore, the wife is still not allowed to marry another man. She is obliged to perform iddah death for 4 months and ten days after her husband dies (Nurlimah, 2014). Ayatullah Khomeini added that as for divorce in mut'ah marriages, the iddah period ends if the marriage has reached the specified time, or if the husband withdraws from the marriage even though the time is still remaining and renounces his rights. A wife who is divorced like that experiences an iddah period of forty-five days, or what is better known as "the woman experiences the holy period twice". However, if the man dies before the specified time ends, it is obligatory for the woman to perform Iddah for four months and ten days and this is the same as a wife whose husband dies (Muhajir and Kamil, 2021).

Ayatollah Khomeini also responded to Sunni scholars who narrated stories that stated that the Prophet abolished the law of mut'ah marriage, some indicated that the abolition occurred when the city of Khaibar was opened, and some others said the abolition of the law of mut'ah marriage occurred when the city of Mecca was opened and some others said the abolition of the law of mut'ah marriage occurred during the Farewell Pilgrimage. Some others stated that it was done during the Tabuk war and some others said that it was done during the implementation of Qadha Umrah (Nurlimah, 2014). Ayatollah Khomeini argued that because of the time difference in the narration of the hadith, it shows that the hadith is weak and false, the purpose of which is to support and legalize Umar's opinion. If the news is compared with the narrations taken from the authentic books of Sunni scholars, as well as from the references of the great Sunni scholars, he found that the hadiths were weak and had no power whatsoever. Likewise, Umar's statement which he took from Sunni books was "There were two mut'ahs during the time of the Messenger of Allah and I have forbidden both of them. Other words of Umar mention it, both have been removed, also in other narrations it is said, "I forbade them" (Shihab, 2022).

In addition, Ayatollah Khomeini also stated that if observed further, if the words were in the form of a verse of the Qur'an that was in the nature of abolishing the verse of mut'ah, of course he would also rely on it. And if it were the words of the Prophet of course he would also make it an argument for the abolition of mut'ah marriage (Lubis, 2020). However, the problem is that the words were spoken personally by Umar bin Khatab directly. So, is it possible that Umar's words could abolish the verse of the Qur'an? According to Ayatollah

Khomeini, it is not possible.

CONCLUSION

The legal basis for the difference in views regarding the law of mut'ah marriage between Jalaluddin al-Suyuti and Ayatullah Khomeini lies in the way or method of interpreting Surah an-Nisa verse 24. According to Jalaluddin al-Suyuti, the law forbidding mut'ah marriage is because of Surah an-Nisa verse 24, namely the verse about mut'ah marriage, has been narrated by Surah al-Mu'minin verses 6-7 and several hadiths about the prohibition of mut'ah marriage which are used as references by the Sunni school of thought are the hadiths contained in the books of Sahih Bukhari and Muslims where the Prophet SAW forbade mut'ah during the Khaibar war as well as the hadith forbidding mut'ah marriage during the conquest of Mecca and the Year of 'Autas until it was forbidden until the Day of Judgment. Meanwhile, the legal basis for halal mut'ah marriages according to Ayatullah Khomeini and the Shi'a school of thought is the proposition of the Koran surah an-Nisa verses 23-24 and prioritizes the hadiths narrated by the ahl al-bait. Jalaluddin al-Suyuti and the Sunni ulama reject the practice of mut'ah marriage because this marriage is not in accordance with Islamic teachings and is clearly stated as forbidden in the hadith of the Prophet. But Ayatullah Khomeini and the Shi'a ulama think that mut'ah marriage does not have any proof of being haram as stated by Jalaluddin al-Suyuti. According to Ayatullah Khomeini, mut'ah marriage and marriage in general are the same, the only differences are the time limit, the obligation to provide support, mutual inheritance or the existence of pregnancy, all of which are regulated according to their mutual agreement before entering into marriage.

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