

## REVIEW OF TASYRI' PHILOSOPHY ON KABUL REPRESENTATION IN MARRIAGE IN PALLANGGA DISTRICT, GOWA REGENCY

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### Abstract

This study aims to analyze and explore the philosophical aspects of the concept of Tasyri' in the context of Kabul representation in marriage, especially in Pallangga District, Gowa Regency. Tasyri' is an approach to Islamic law that covers various aspects of life, including marriage law. Kabul representation, as the guiding principle of marital property, has its roots in the philosophical views underlying Islamic law. This research uses a qualitative approach with textual analysis methods to explore a deep understanding of Tasyri's philosophical views regarding Kabul representation. The data was collected through in-depth interviews with religious leaders, Islamic jurists, and communities in Pallangga sub-district. In addition, primary sources such as Islamic law books and related literature are also used as references to support the analysis. The results showed that Kabul's representation in marriage had a deep philosophical basis in Tashri's view. This principle reflects aspects of equality, justice, and responsibility in the marital relationship. This philosophical view provides the foundation for the application of marriage law that accommodates individual and family interests in a balanced manner. In the context of Pallangga sub-district, Kabul representation still has relevance and is applied in marriage practice. However, there are also social and cultural dynamics that influence the interpretation and implementation of this principle. The study concludes that understanding Tasyri's philosophical views on Kabul representation can provide deeper insight into the cultural roots and values that shape the practice of marriage law in the society.

**Keywords:** Review of Tasyri' Philosophy; Kabul Representation; Marriage

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### INTRODUCTION

Marriage is defined as a contract to justify the bond between a man and a woman, not a *mahram*, and creates rights and obligations between the two. The word "marriage" comes from Arabic and is interpreted as "*pernikahan*" in the Indonesian language.

According to Sharia law, marriage is a contract that proves the relationship between a man and a woman without consanguinity. Therefore, with this contract, there are rights and obligations between them.<sup>1</sup>

The purpose of marriage is to form or create a *sakinah, mawaddah, and warahmah* family. It is mutual love, happiness, and eternity. Therefore, partners need to help and complement each other. As Article 3 of the Compilation of Islamic Law states: "The purpose of marriage is to achieve a *sakinah, mawaddah, and warahmah* family life (peaceful love and affection)."<sup>2</sup>

Marriage matters in Indonesia are covered by Marriage Law No. 1 of 1974, and its provisions are regulated in the Compilation of Islamic Law. The essence of Islamic rules regarding marriage, divorce, endowments, and inheritance comes from classical Islamic jurisprudence literature from various schools of thought, which are summarized and adapted to the needs of Indonesian society.<sup>3</sup> These two legal bases regarding marriage and family matters can become a legal basis for Indonesian people who wish to carry out marriages. However, in the practice of carrying out marriages that apply in society, many new things that are *ijtihad* in nature have emerged because there are no rules specifically stated to regulate these things.

*Falsafah* or philosophy, comes from the Greek word, namely "*philosophia*". The basic words are *philein*, which means love or *philia*, and *sophia*, which means wisdom. Thus, this ultimately gives rise to the English word philosophy, which is usually translated as "love of wisdom"<sup>4</sup> Meanwhile, *tasyri'* is taken from the pronunciation of the word "*Syariah*", which means the laws and regulations made by Allah SWT for His servants, both relating to actions or behavior, faith and morals. Therefore, *tasyri'* means making laws and making rules, both of which originate from religion (*tasyri' samawi*) and human behavior and thoughts (*tasyri' wadh'i*).<sup>5</sup>

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<sup>1</sup>Sabri Samin and Andi Nurmaya Aroeng, *Fikih II* (Makassar: Alauddin Press, 2010). h. 2.

<sup>2</sup>Soemiyati, *Hukum Perkawinan Islam Dan Undang-Undang Perkawinan (Undang-Undang No. 1, Tahun 1974, Tentang Perkawinan)* (Yogyakarta: Liberty, 1982).

<sup>3</sup> Andi Muhammad Akmal and Mulham Jaki Asti, "Problematika Nikah Siri, Nikah Online Dan Talak Siri Serta Implikasi Hukumnya Dalam Fikih Nikah," *Al-Risalah Jurnal Ilmu Syariah Dan Hukum* 21, no. 1 (2021): 45–59, <https://doi.org/https://doi.org/10.24252/al-risalah.v1i1.22247>.

<sup>4</sup>Muhammad Hasdin Has, "Kajian Filsafat Hukum Islam Dalam Al-Quran," *Journal Al-'Adl* 8, no. 2 (2015): 57–69.

<sup>5</sup>Mohammad Daud Ali, *Hukum Islam Dan Peradilan Agama* (Jakarta: Raja Grafindo Persada, 2002). h. 45.

From the explanation above, marriage is a sacred thing and should not be used as a joke. Marriage has pillars and requirements in the process of fulfilling the marriage contract, namely *ijab kabul* (offer and acceptance), which must be carried out in accordance with Islamic teachings. It must also be remembered that the marriage contract is a process where the bride's guardian transfers responsibility to the groom. *Kabul* accepts the statement submitted by the bride's guardian.<sup>6</sup> Islam, as a religion that has legal flexibility, is expected to be able to answer contemporary issues, including marriage issues. Apart from sharia solutions, the role of national legal instruments cannot simply be denied because marriage is not only legalized by religion but also by the state.<sup>7</sup>

One of the marriage problems that occurs in society in modern times is the representation of *ijab kabul* (offer and acceptance) in the marriage contract.<sup>8</sup> In this case, the issue of the absence of the groom in the marriage contract has been raised, and the view has emerged that the implementation of the marriage contract cannot be said to be valid, but the marriage must have a groom present. The marriage contract is enforced, but what happens if the groom is unable to attend due to something that is not possible at that time, then the marriage contract is finally represented by the appointed person. This raises issues in society and even debates issues such as whether marriage is valid or not. In this context, the author is very interested in conducting this study. The case of interrelationship studied in *Tasyri* philosophy is about representation in the marriage contract of the chosen person.

## **METHOD**

This study employed field research. Field research was a broad approach to qualitative research. The important idea of this study was that the researcher went directly to the field to make direct observations regarding a phenomenon that occurred

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<sup>6</sup> Nuzulia Febri Hidayati, "Rekonstruksi Hukum 'Iddah Dan Ihdad Dalam Kompilasi Hukum Islam (KHI)," *Mazahibuna*, July 23, 2019, <https://doi.org/10.24252/MH.V1I1.9663>.

<sup>7</sup> Muhammad Sabir, "Pernikahan Via Telepon," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 2, no. 2 (2015): 197–208, <https://doi.org/https://doi.org/10.24252/al-qadau.v2i2.2642>.

<sup>8</sup> M. Thahir Maloko and Arif Rahman, "Mengatasi Kejenuhan Suami-Istri Perspektif Ulama Mazhab," *Mazahibuna: Jurnal Perbandingan Mazhab* 2, no. 2 (2020): 230–40, <https://doi.org/10.24252/MH.V2I2.16059>.

or direct observation of the object being studied in order to obtain relevant data. Qualitative descriptive was a type of research that only contained an explanation of an object or group of people in the present. The approach used in this research was a legal sociology approach. The legal sociology approach was an approach used to find out how the facts that occurred in the field were related to the representation of consent in marriage that occurred in the local community. The data collection methods used to collect research data were observation, interviews and documentation methods. All required data has been collected both from the library and the field. Then, it is arranged qualitatively and presented systematically using a descriptive discussion method, namely a scientific discussion by using general words in nature into specific characteristics.

## **RESULT AND DISCUSSION**

### **1. Kabul Representative in Marriage**

Nowadays, many people want to get married but need help with several problems, such as distance and so on. A wedding is attended by the groom, who wants to carry out the marriage vows. However, what happens if the groom cannot be present for the marriage ceremony due to something such as the distance makes it impossible for him to attend at that time, and in the end, the marriage is represented by someone they have appointed.<sup>9</sup>

The marriage contract is a series of consents uttered by the guardian and vows pronounced by the groom or their representative, witnessed by two witnesses. Meanwhile, the marriage certificate represented is contained in the Compilation of Islamic Law (CIL) statutory book in Article 29, which consists of 3 paragraphs as follows:

- a. The person who has the right to say *Kabul* is the prospective groom personally.
- b. In certain cases, the marriage vow can be represented by another man provided that the prospective groom gives express authority in writing that the representative's acceptance of the marriage contract is for the groom.

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<sup>9</sup>Muhammad Noor dan Mufrida Zein, "Nikah Wakil Dalam Perspektif Hukum Negara Dan Hukum Islam," *Jurnal Humaniora Teknologi* 5, no. 2 (December 2019): 27–32, <https://doi.org/10.34128/JHT.V5I2.64>.

- c. If the prospective bride or guardian objects to the prospective groom being represented, the marriage contract may not take place.

Based on these articles, regulations have yet to be provided for the possibility of marriage vows being carried out in different places, as in the quite horrendous case of marriages via telephone or teleconference via the internet. However, it is emphasized that the prospective bride and groom can declare this through a specially authorized person.<sup>10</sup>

In Islamic law, we know the term *taukil*, which literally means representative. A person who has certain rights and authority may ask another person to represent them. In fact, this representation could be carried out by the prospective husband. A prospective husband may ask another person to act as a representative on their behalf in matters of marriage as long as the request is carried out correctly and in accordance with procedures. Therefore, the representative's actions in this case are legal according to sharia law.<sup>11</sup>

The law of representation in the implementation of the marriage contract in which the proxy pronounces the vows is valid. This is because there has been a proclamation from the husband to the person representing them in receiving the gift. In fact, in *fiqh*, this representative is called *al-wakalah*. Linguistically, the meaning is *al-hifzu* (maintenance) or *al-tafwid* (granting power).<sup>12</sup>

## **2. The Concept of *Kabul* Representatives in Weddings in Pallangga District, Gowa Regency**

The marriage contract is a binding legal obligation for husband and wife. The marriage contract also contains sacred elements and has a lasting impact on the woman being married. Therefore, everyone needs to be careful in carrying out the marriage contract in order to maintain the honor and future of the family. Marriage contract, as a determinant of the validity of the marriage, during its implementation, the husband, as the party giving the vows, is sometimes unable to attend. Thus, the husband is obliged

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<sup>10</sup>Abdurahman, "Kompilasi Hukum Islam Di Indonesia," *Akademika Presindo*, 1994.

<sup>11</sup>Zein, "Nikah Wakil Dalam Perspektif Hukum Negara Dan Hukum Islam."

<sup>12</sup>Yoga Reza Fahlevi, "Tinjauan Hukum Islam Terhadap Pelaksanaan Akad Nikah Tunawicara Di Kantor Urusan Agama Kabupaten Tanggamus" (Universitas Islam Negeri Raden Intan Lampung, 2021).

to send a representative or write a letter to the other party to request that the marriage contract be carried out for him.<sup>13</sup>

The *siqat* of the contract is the speech of the prospective groom or their representative in the marriage contract, namely by saying, "marry me to your daughter or the woman who has been given a will to you, *fulan binti fulan*. The female guardian said, I really marry you to my daughter. I accepted the marriage for myself".

The laws relating to this *siqat* include the following;

- a. The prospective groom is worthy of the prospective bride, namely someone who is independent, has good morals and religion, and is trustworthy. The Prophet SAW said, "When someone whose religion and character you are pleased with comes to you (with the aim of marrying his daughter), then marry (her to) him. If you do not do so, then there will be turmoil (*Fitnah*) in the land and discord (*Fasad*)."
- b. The representation is permitted in the contract, so the groom can represent whom he wishes. As for the bride, her guardian will carry out the marriage contract. In the Compilation of Islamic Law, Article 29, paragraph 1 states that the person who has the right to say *Kabul* is the prospective groom personally. Furthermore, paragraph 2 states that in certain cases, the marriage vow can be represented by another man provided that the prospective groom gives express authority in writing that the representative's acceptance of the marriage contract is for the groom. However, this ability can only be implemented if the prospective bride or guardian does not object to the prospective groom being represented. If they object to the prospective groom being represented, the marriage contract may not take place. If someone who is going to perform the marriage contract cannot attend but still wants to do it, then that person is required to send a messenger or write a letter to the second party to explain that he still wants to carry out the marriage contract. Apart from that, if the second party agrees to carry out the contract, he is required to bring a number of witnesses (at least two men or one man and two women). Then, he reads the letter written by the first party or informs him of the presence of a messenger and testifies in the assembly that he has accepted the marriage proposed by the first party. In this way,

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<sup>13</sup>Norwili, Maimunah, and Kartika Sari, "IMPLEMENTASI WAKALAH DALAM SIGHAT QABUL PERNIKAHAN (Analisis Pasal 29 Kompilasi Hukum Islam)," *Al-Iqtishadiyah* 4, no. II (2018): 175–84.

the *Kabul* pronounced by the second party is valid based on the presence of witnesses in the assembly.<sup>14</sup>

In Islam, it is recommended to carry out marriage to avoid actions that can harm oneself or others.<sup>15</sup> In relation to prospective husbands, there are two ways of contracting a marriage that the Prophet gave an example of, namely that the prospective husband is present with the female guardian at one place when carrying out the marriage contract or by representing (*taukil*) to someone he trusts when the prospective husband is unable to attend.

In fiqh, representing is called *al-wakalah*, which means *at-tafwidh* or submission, delegation or giving a mandate, namely the delegation of power by someone to another in matters represented such as buying and selling, renting, claiming rights, and marriage matters. *Wakalah*, according to language, is used for several meanings, including *hifzh* (to look after), *tafwidh* (to hand over), and *i'timad* (to lean on). Also, according to the term *fukaha*, someone puts another person in their position to carry out *tasharruf* (actions) that they own, know and can replace. The representative examples found in the hadith include the following:

*As narrated Uqbah ibn Amir, The Prophet SAW said to a man: "Would you like me to marry you to Fulanah? He said: "Yes", and The Prophet SAW also said to the woman: "Would you like me to marry you to Fulan? She said: "Yes". Then they married each other, and they became husband and wife". (HR. Abu Dawud).*

*"Mughirah bin Shubah wanted to marry a woman. The Prophet SAW said to him: "Go and look at her, for that is more likely to create love between you." (HR Bukhari).*

This hadith shows that the prospective husband agreed to be married by Rasulullah, in which Rasulullah was approved by the man to act as his representative in carrying out the marriage contract. Because this hadith shows the meaning of *taukil* like this, this hadith is proof of the validity of representatives in concluding a marriage. Thus, if one of the bridal couples is not present but still wants to continue with the marriage contract, then he is obliged to send his representative or write a letter to the other party to request

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<sup>14</sup>Muallim Hasibuan, "MEWAKILKAN KABUL NIKAH KEPADA ORANG LAIN DALAM PELAKSANAAN PERNIKAHAN," *AL-ILMU* 7, no. 1 (March 2022): 113–31.

<sup>15</sup>Asriani Asriani and Abdul Wahid Haddade, "Kedudukan Taklik Talak Dalam Pernikahan Perspektif Mazhab Zahiri Dan Kompilasi Hukum Islam," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab* 2, no. 2 (2021): 333–39, <https://doi.org/10.24252/shautuna.v2i2.19348>.



the marriage contract. If the other party is willing to accept, he must present witnesses and read the contents of his letter to them, or show them his representative and testify to them in his assembly that he has accepted the marriage contract. Thus, the agreement is considered to still be in one assembly.<sup>16</sup>

In general, when entering into a marriage contract, it can be represented. Humans need this in the field of public relations. Fiqh experts agree that every contract that one's own person can make means that one can also represent it to another person, such as sale and purchase contracts, leases, prosecution of rights and marriage cases, divorce and other contracts that are allowed to be represented. This is just as it is permissible for the groom to represent someone else to grant the marriage. This means that the groom is not present, but his representative is present to grant him the marriage. Thus, the marriage contract, whether the consent of the guardian or the *qabul* of the groom, is included in the ability of representatives. *Sighat ijab* and *kabul*, of course, there are slight differences in principle.

### **3. The Practice of *Kabul* Representatives in Weddings in Pallangga District, Gowa Regency**

In the process of *ijab kabul* (offer and acceptance), the prospective groom makes a power of attorney or letter to ask another person to represent him to say the *ijab kabul*. By looking at the pillars and conditions in the *ijab kabul*, both the person giving a power of attorney (the prospective groom) and those who are given authority really understand the matter being authorized, and the use of this power of attorney is only limited to a representative to say *sighat kabul* only.<sup>17</sup>

The *sighat Kabul* wedding must be pronounced by the groom himself. However, in Islam, it is permitted and even regulated in the Islamic Marriage Law in Article 29 of the Compilation of Islamic Law. In Islamic law, we know the term *taukil*, which literally

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<sup>16</sup>Sayyid Sabiq, *Fiqh Sunnah Jilid 1* (Republika Penerbit, 2017).

<sup>17</sup>Nanang Husni Faruk, "Analisis Hukum Islam Terhadap Pasal 29 Ayat 2 Kompilasi Hukum Islam (KHI) Tentang Qabul Nikah Yang Diwakilkan" (UIN SULTHAN THAHA SAIFUDDIN JAMBI, 2020), <http://eprints.walisongo.ac.id/id/eprint/11698/>.



means representative. A person who has certain rights and authority may ask another person to represent him.<sup>18</sup>

On the wedding day, before pronouncing the *ijab kabul* (offer and acceptance), the representing person who says  *kabul* must first say a statement based on a power of attorney entrusted by the groom to the representative in pronouncing the marriage vows. The *Shighat Kabul* represented is the *lafaz* or words of the guardian when he is going to marry off a daughter (future wife) who is under his guardianship with words such as "Yes Zaid, I marry my daughter Fatimah to Ali who has represented you with a dowry of one hundred thousand rupiah. "Then, the representative of the prospective groom answered: "I accept Fatimah's marriage to Ali with the dowry that has been mentioned." Islam requires the principle of *al-wakalah* to be implemented on condition that it does not run away from Islamic law.<sup>19</sup>

As a result of the author's interview at the Religious Affairs Office of Pallangga District with the head of the Religious Affairs Office of Pallangga District, there are 2 cases regarding Kabul representatives in Pallangga District.

The first case occurred in 2020, where the groom (MWA) was represented in pronouncing his marriage vows because the groom was abroad, more precisely in Arabia and did not have time to attend because of the Covid-19 pandemic, so the prospective groom had not can return to Indonesia to carry out the marriage contract process. Then, the prospective groom asked HR to represent him in accepting his marriage according to the power of attorney made by the groom. As for the practice of *Kabul* representatives applied at the time of the marriage contract, namely, HR, as the representative who received the marriage vows first said,

"Based on a power of attorney entrusted by MWA bin AAN to me, HR, I hereby accept NAN's marriage for him with a dowry, a set of 5 gram gold jewellery in Cash."<sup>20</sup>

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<sup>18</sup>Muhammad Noor et al., "Nikah Wakil Dalam Perspektif Hukum Negara Dan Hukum Islam," *Jurnal Humaniora Teknologi* 5, no. 2 (December 2019): 27–32, <https://doi.org/10.34128/JHT.V5I2.64>.

<sup>19</sup>Faruk, "Analisis Hukum Islam Terhadap Pasal 29 Ayat 2 Kompilasi Hukum Islam (KHI) Tentang Qabul Nikah Yang Diwakilkan."

<sup>20</sup>"Mulkan, Kepala Kantor Urusan Agama Kecamatan Pallangga Kabupaten Gowa, Wawancara Di Kantor Urusan Agama Kecamatan Pallangga Kabupaten Gowa, 26 Agustus," 2022.

The second case concerns the *Kabul* representative in Pallangga District. From the results of an interview with the headman or wedding officiant (Ahmad Saifullah, S.Ag, M.Pd.) at the Religious Affairs Office of Pallangga District, he once found a case like this, which occurred in 2017. However, the Religious Affairs Office of Pallangga District has yet to be able to find data because there have been many changes at the Religious Affairs Office of Pallangga District, both in terms of structure and positions and systems. According to Mr. Ahmad, the headman, he said:

“During the marriage contract process, it was true that there was a case of representing *Kabul* in Pallangga, more precisely in Mangalli Village. The groom was unable to attend because he was still on a sailing trip from Surabaya, and there was a delay in the sailing time. Hence, the marriage contract process took place represented by the person entrusted to pronounce the marriage vows. In practice, the *Kabul* representative is almost the same as the first case.”<sup>21</sup>

Meanwhile, Mrs Herawati Rahman, as a counsellor at the Religious Affairs Office of Pallangga District, added that:

“The case of *kabul* representation that has occurred at the Religious Affairs Office is very rare because many people do not understand this matter. They also prefer to postpone the schedule or day of the marriage contract by waiting for the prospective groom to come or be able to attend rather than having to be represented by someone else in the marriage contract process. As we know, in social life, it is feared that if the groom cannot attend, it is very certain that people around him will discuss the wedding event. He then added if the prospective bride and groom who registers their marriage wants to be represented by someone else, we as counsellors will definitely discuss and provide direction and input to the prospective bride and groom. If it is possible not to be represented, it would be better to do so in order to avoid negative news from people around you because this *Kabul* representation is something that does not usually happen in the marriage contract process.”<sup>22</sup>

#### **4. A Review of *Falsafah Tasyri'* on the *Kabul* Representatives in Marriages in Pallangga District, Gowa Regency**

Muslims are required to implement the teachings they bring, which are related to social interaction in the legal dimension. Therefore, the existence of Islamic law is to regulate human interactions in social life.<sup>23</sup> The definition of *Falsafah al-Tasyri'*, or

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<sup>21</sup>“Ahmad Saifullah, Penghulu Kantor Urusan Agama Kecamatan Pallangga Kabupaten Gowa, Wawancara 26 Agustus,” 2022.

<sup>22</sup>“Herawati Rahman, Penyuluh Kantor Urusan Agama Kecamatan Pallangga Kabupaten Gowa, Wawancara 26 Agustus,” 2022.

<sup>23</sup>Abdi Wijaya, “Daya Serap Lembaga-Lembaga Fatwa Terhadap Masalah-Masalah Hukum Kontemporer; Studi Komparatif Lembaga Fatwa MUI, Majelis Tarjih Muhammadiyah Dan Bahtsul Masail NU,” *Mazahibuna*, 2019.

commonly called *Hikmah al-Tasyri'*, is the values contained in every law decreed by Allah in the Al-Qur'an and the goals to be achieved from the enactment of a law. The opinions of *madhhab* scholars and contemporary scholars, as well as the author's opinion, are as follows:

a. Islamic school scholars' opinion regarding Kabul's representation in marriages

In the *Syafi'i Madzhab*, it is explained that marriage has various purposes, while marriage is a bond between families.<sup>24</sup> In a marriage contract, the guardian can act as a person who acts on behalf of the bride and can also be a person whose consent is sought for the continuation of the marriage.<sup>25</sup>

*Shafi'i* scholars define representation, or called *wakalah*, as representing someone to hand over what they do and may be done by other people during their lifetime. Being linked to life aims to differentiate *wakalah* from a will. Meanwhile, *Hanafi* scholars define representation or *wakalah* from a *syara'* perspective as representing someone as a representative to hand over or look after a matter. This includes all control or management of assets in the form of buying and selling and other matters that may be represented.<sup>26</sup>

Therefore, the representative agreement must be in accordance with *sharia* regulations as well as in accordance with applicable provisions, such as pillars, conditions, the case being represented or the object of the representation and whether there is an agreement or consent. The representative must attribute the marriage to the person he represents. As for the conditions set regarding representatives, they must be fit to take action, whether they are male or female. The *Hanafi* school of thought believes that the contract may be carried out with all the editors that indicate the intention of marriage as long as the contract is accompanied by a *qarinah* or link that shows the meaning of marriage. The *Maliki Madzhab* says that a guardian may represent himself to another guardian. The *Syafi'i Madzhab* says that a guardian can represent himself to other people, even if he is a *mujbir* guardian or not a *mujbir* guardian. The *Hambali*

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<sup>24</sup>Abdul Syatar and Chaerul Mundzir, *Tokoh Dan Ketokohan Imam Mazhab (Kontribusinya Terhadap Pengembangan Fikih Di Indonesia)* (Alauddin University Press, 2021).

<sup>25</sup>Amir Syarifuddin, "Hukum Perkawinan Di Indonesia," *Jakarta: Prenada Media Group*, 2009.

<sup>26</sup>Fahlevi, "Tinjauan Hukum Islam Terhadap Pelaksanaan Akad Nikah Tunawicara Di Kantor Urusan Agama Kabupaten Tanggamus."

*Madzhab* says that *mujbir* guardians and others may represent themselves to other people.<sup>27</sup>

Meanwhile, let's look at the practice of *Kabul* representatives in marriages that take place in Pallangga District, Gowa Regency, according to the results of interviews with the pronunciation author in pronouncing the marriage vows. The representative is more directed towards *Hanafi* clerics because the representative does not mention the name of the prospective groom during the marriage contract process, such as "Based on a power of attorney entrusted by brother: Muhammad Wahyu Apriliansyah Alfian in Nompoto. To me, H. Ramlah, with this: I accept Nur Annisah Nuchzin's marriage, for her with a dowry, a set of gold jewellery 5 grams in cash." Here, the representative only says "for him" and does not mention the name of the groom. Therefore, it is legal in the view of *Hanafi* scholars.

b. Contemporary scholars' opinion regarding Kabul's representation in marriages

According to contemporary scholars, marriage is a contract that provides legal benefits for the ability to enter into a family relationship (husband and wife) between a man and a woman who provide mutual assistance and, limit the rights of the owner and fulfil their respective obligations. In Law No. 1/1974, the purpose of marriage is also made explicit with the word happiness. In the end, marriage is intended so that every human being, both male and female, can obtain happiness.<sup>28</sup> An example of a case was experienced by one of the Indonesian ulama figures and the former 4th president of the Republic of Indonesia, K.H. Abdurrahman Wahid. One of the events that shocked the public during the period before Gus Dur's leadership was that it turned out that the 4th President of the Republic of Indonesia, KH Abdurrahman Wahid or Gus Dur, also had a long-distance marriage with his beloved wife, Sinta Nuriyah. He asked someone else to represent him in marrying Sinta Nuriyah. At that time, Gus Dur was still continuing his studies in Baghdad. Gus Dur married his future wife, Sinta Nuriyah, whom he had

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<sup>27</sup>Al Fian Jauhari, "Wakalah Wali Dalam Prosesi Pernikahan Masyarakat Desa Pelambik Kecamatan Praya Barat Daya Kabupaten Lombok Tengah" (UIN Mataram, 2019).

<sup>28</sup>Nur Hikmawati and Abdi Wijaya, "SANKSI TERHADAP PEMBATALAN RENCANA PERNIKAHAN AKIBAT PERJODOHAN MENURUT HUKUM ADAT DAN HUKUM ISLAM (Studi Kasus Di Desa Ma'minasa Kecamatan Pasimasunggu Kabupaten Kepulauan Selayar)," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum* 1, no. 3 (2020), <https://doi.org/https://doi.org/10.24252/shautuna.v1i3.14905>.

known for a long time. In fact, Gus Dur intended to get married when he returned to Indonesia. However, because he wanted to avoid being stepped on by his younger brother, Gus Dur asked his grandfather, Kiai Bisri Syamsuri, to help him propose and represent him at the wedding ceremony. At that time, Kiai Bisri was 81 years old. This wedding just made an uproar. Many residents were shocked and thought that Sinta Nuriyah, who was still very young, was married to an elderly *kiai*.

This unique wedding took place and was held at the Tambak Beras Islamic boarding school on July 11, 1968. However, this surprise was finally answered. After completing his studies in Baghdad, Iraq (after coming from Egypt), Gus Dur returned to Indonesia. They held a wedding reception, which answered various rumors in society. This incident occurred on September 11, 1971. Practically, for three years, Gus Dur and Sinta Nuriyah were in a long-distance marriage, aka LDM. Gus Dur and Sinta Nuriyah organized their household life from scratch. Even though they both come from prominent *Kiai* families, both have had difficult life experiences. Until the 80s, the two of them were still contracting. Even though, at that time, Gus Dur was already known as a public figure.<sup>29</sup>

The increasing development of technology makes the representation of vows in marriage very rare in today's society. Most of them prefer to use smartphones if it is not possible to be present to pronounce their marriage vows. Even though we can use other people or trusted people to represent the *Kabul* pronunciation, this does not mean you have to be arbitrary in carrying it out. There are rules and conditions for the bride and groom to be able to be represented. As for marriage vows representatives, they cannot be used carelessly or become a joke; there are provisions and rules for using marriage vows representatives. Just as it is true that the prospective groom is unable or is indeed unable to attend the marriage ceremony process, the person appointed as the representative must not be careless; there are provisions in it.

There are still many people who need to become more familiar with the use of representatives in pronouncing marriage vows. However, the Religious Affairs Office can help people with these marriage issues. But if the prospective bride and groom are

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<sup>29</sup>Suhaendi Salidja and Aan Anjani, "Ijab Qabul Perkawinan Yang Diwakilkan Berdasarkan Hukum Islam Dihubungkan Dengan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Yustitia* 2, no. 11 (2016): 242–46, <https://doi.org/10.31943/yustitia.v2i11.3>.

still able to rearrange the marriage process, it would be better that way. Regarding *Kabul's* representation, it has been explained in the Compilation of Islamic Law, and experts have given their opinions regarding this so that it becomes clear.

## **CONCLUSION**

Ijab is what the guardian calls a statement of obedience, while kabul is what the groom calls a statement of acceptance. It should be noted that the ijab kabul (offer and acceptance) itself can be represented by those who receive the rights of the groom or bride and the marriage guardian. The marriage contract is a binding legal obligation for both of them. The law of representation in the implementation of a marriage contract in which the proxy pronounces the vows is valid because there has been a pronouncement from the husband to the person representing him in receiving the vows. In the ijab kabul (offer and acceptance) process, the groom makes a power of attorney or writes a letter asking someone to represent him in pronouncing his marriage vows. Shafi'i scholars define a representative or what is commonly known as wakalah as a representative of someone who hands over what he has done in his life and who may be done by someone else. Meanwhile, from a sharia perspective, Hanafi scholars can define representation or wakalah as the transfer or protection of a case in the name of someone as a representative. This includes control or management of assets in the form of buying and selling and other cases that may be represented. Regarding the marriage contract, the Ulama agree that the marriage contract is valid by using the pronunciations "nikah" and "kawin" (tazwij) because these two words can clearly indicate the purpose of the contract, and there are different views regarding the use of pronunciations other than it.

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