

LAVENDER MARRIAGE FROM THE PERSPECTIVE OF ISLAMIC LAW AND POSITIVE LAW: A COMPARATIVE STUDY ON THE VALIDITY AND OBJECTIVES OF MARRIAGE

Jamilatus Sholehah
Universitas Islam Madura
jamilatussholehah84@gmail.com

Abstrak: Penelitian ini mengkaji diskursus lavender marriage dalam perspektif hukum Islam dan hukum positif di Indonesia, khususnya terkait keabsahan dan tujuan perkawinan. Kajian ini dilatarbelakangi oleh adanya kesenjangan antara keabsahan formal perkawinan dan realitas sosial yang menunjukkan praktik perkawinan tanpa dasar hubungan yang autentik. Penelitian ini menggunakan pendekatan hukum normatif dengan metode kualitatif melalui studi kepustakaan. Hasil penelitian menunjukkan bahwa secara formal, lavender marriage dapat dinyatakan sah apabila memenuhi rukun dan syarat perkawinan. Namun secara substantif, praktik ini berpotensi bertentangan dengan tujuan perkawinan, terutama dalam aspek kejujuran dan keharmonisan. Dalam hukum Islam, praktik ini dapat dikategorikan sebagai *tadlis* yang dapat menjadi alasan fasakh, sedangkan dalam hukum positif dapat menjadi dasar pembatalan perkawinan karena cacat kehendak. Penelitian ini menyimpulkan bahwa lavender marriage sah secara formal tetapi bermasalah secara substantif.

Kata Kunci: Lavender Marriage; Hukum Islam; Hukum Positif; Keabsahan Perkawinan; Tujuan Perkawinan.

Abstract: *This study examines the discourse of lavender marriage from the perspectives of Islamic law and Indonesian positive law, focusing on the validity and objectives of marriage. The study is motivated by the gap between formal legality and social reality, where marriage may lack an authentic relational basis. This research employs a normative legal approach with qualitative methods through library research. The results show that formally, lavender marriage may be considered valid if it fulfills legal requirements. However, substantively, it contradicts the objectives of marriage, particularly in terms of honesty and harmony. In Islamic law, it may be categorized as *tadlis* (fraud), while in positive law it may constitute grounds for annulment due to defect of consent. This study concludes that lavender marriage is formally valid but substantively problematic.*

Keywords: *Lavender Marriage; Islamic Law; Positive Law; Validity Of Marriage; Objectives Of Marriage.*

INTRODUCTION

Marriage is a fundamental institution in both Islamic law and Indonesian positive law, serving as a legal and moral framework for establishing a harmonious and sustainable family life. (Ardi, et al., 2024; Adawiyah, et al., 2025). In Islamic teachings, marriage is not merely a legal contract but also a spiritual bond aimed at achieving tranquility (*sakinah*), affection (*mawaddah*), and compassion (*rahmah*). Similarly, in Indonesian positive law, marriage is defined as a legal union between a man and a woman with the objective of forming a happy and enduring family based on the belief in the Almighty God. (Novianti, et al., 2025; Widyawati, et al., 2024).

However, contemporary social developments have given rise to new phenomena that challenge the ideal concept of marriage, one of which is lavender marriage. (Lorimer, et al., 2023; Chen, et al., 2025). This term refers to a form of marriage entered into by individuals who do not possess heterosexual orientation but choose to marry in order to maintain social status, fulfill family expectations, or avoid societal stigma. This phenomenon reflects the tension between individual identity and prevailing social norms, where marriage is used as a social instrument rather than a genuine relational commitment. (Sadeghian, et al., 2025; Pettier, et al., 2022).

Normatively, the validity of marriage in Islamic law is determined by the fulfillment of pillars (*rukun*) and conditions (*syarat*), including the presence of the bride and groom, guardian, witnesses, and the *ijab kabul*. (Candra, et al., 2025; Nurbaya, et al., 2025). Likewise,

Indonesian positive law recognizes the validity of marriage when it is conducted according to religious law and officially registered. From this perspective, lavender marriage may appear legally valid in a formal sense. However, such formal validity raises a fundamental legal question: can a marriage be considered valid if it fulfills procedural requirements but contradicts the essential purpose of marriage?

In Islamic jurisprudence, the concept of *tadlīs* (fraud or concealment of defects) plays a significant role in assessing the validity of contracts, including marriage. (Bantekas, et al., 2024). If a marriage is based on deception or the concealment of essential facts, it may affect the validity of consent and provide grounds for annulment (*fasakh*). (Sheibani, et al., 2023; Erkok, et al., 2023). Similarly, in Indonesian positive law, defects of consent such as fraud or misrepresentation may lead to the annulment of marriage through judicial mechanisms. This indicates that both legal systems emphasize not only formal legality but also substantive honesty and mutual consent. (Budiono, et al., 2022; Wardhani, et al., 2022).

Several studies have examined issues related to marriage and sexual orientation, primarily focusing on sociological or psychological dimensions. Research by Wahbah Az-Zuhaili highlights the importance of honesty and good faith in marital contracts within Islamic law. Meanwhile, legal studies in Indonesian context emphasize that marriage must not only fulfill formal requirements but also align with its intended purpose. However, most previous studies have not specifically addressed lavender marriage through a comparative analysis between Islamic law and positive law, particularly in relation to both validity and the objectives of marriage. (Lurgain, et al., 2024; Mohammadi, et al., 2023).

The novelty of this research lies in its comprehensive comparative analysis of lavender marriage from both Islamic law and Indonesian positive law perspectives, focusing on the intersection between formal validity and substantive purpose. This study integrates normative legal analysis with contemporary social realities, thereby contributing to the development of family law discourse in addressing emerging social phenomena.

This study aims to analyze the validity of lavender marriage in Islamic law and Indonesian positive law, as well as to examine its conformity with the objectives of marriage in both legal systems.

This research argues that although lavender marriage may fulfill the formal requirements of marriage, it is substantively problematic as it contradicts the fundamental objectives of marriage, particularly in terms of honesty, harmony, and the establishment of a genuine family relationship. Therefore, a more substantive legal approach is required, one that not only emphasizes formal legality but also upholds the ethical and social values underlying the institution of marriage.

This research is significant as it contributes to the development of family law studies, particularly in bridging the gap between legal norms and social realities. Furthermore, the findings are expected to provide recommendations for strengthening legal interpretations of marriage validity in order to ensure justice, legal certainty, and the realization of the true objectives of marriage in contemporary society.

RESEARCH METHOD

This study employs a normative legal research approach combined with a qualitative method to examine the discourse of lavender marriage from the perspectives of Islamic law and Indonesian positive law. The normative approach is chosen because this research focuses on analyzing legal norms, principles, and doctrines related to the validity and objectives of marriage as regulated in statutory provisions and Islamic legal sources. (Peter, 2017). Meanwhile, the qualitative method is used to explore and interpret legal concepts, arguments, and scholarly perspectives in depth.

The approach used in this study includes the statutory approach (statute approach) and the conceptual approach (conceptual approach). The statutory approach is applied to analyze relevant legal provisions, particularly Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, as well as the Compilation of Islamic Law. The conceptual approach is used to examine legal doctrines such as *tadlīs* (fraud), consent, and the objectives of marriage in both Islamic and positive law systems.

The data sources in this study consist of primary and secondary legal materials. Primary legal materials include statutory regulations and authoritative Islamic legal sources such as the Qur'an, Hadith, and classical *fiqh* literature. Secondary legal materials are obtained from books, academic journals, and previous research relevant to the topic of marriage and legal validity. (Soerjono, 2014). These materials are selected purposively to ensure their relevance and credibility in supporting the analysis.

Data collection techniques are conducted through library research, which involves reviewing, identifying, and analyzing relevant legal materials and literature. (Sugiyono, 2019). This method allows the researcher to comprehensively understand the legal framework governing marriage and its application to contemporary discourse such as lavender marriage.

The data analysis technique follows a qualitative legal analysis model, which includes data reduction, data display, and conclusion drawing. (Matthew B. Miles & A. Michael Huberman, 2014). Data reduction is carried out by selecting and focusing on legal materials that are directly related to the research problem. Data display is conducted by systematically organizing the materials to facilitate comparative analysis between Islamic law and positive law. The final stage involves drawing conclusions through interpretative analysis, particularly using grammatical and systematic interpretation of legal norms. This study does not employ grand theory but relies on legal doctrines and principles within Islamic law and positive law as the basis of analysis.

To ensure the validity and reliability of the findings, this study applies a triangulation approach by comparing various legal sources, doctrines, and scholarly opinions. (Norman K. Denzin, 2017). This method aims to strengthen the accuracy of the analysis and to provide a comprehensive understanding of the legal issues surrounding lavender marriage in both Islamic and positive law contexts.

RESULTS & DISCUSSION

A. Concept of Lavender Marriage

The findings indicate that lavender marriage is understood as a form of marriage between a man and a woman that is formally recognized but not based on heterosexual orientation. This practice is generally influenced by social pressure, family expectations, and the desire to maintain social image within society. (Anthony Giddens, 1992).

This discourse shows that marriage is not always based on an authentic relational foundation but can function as a means to fulfill social expectations. This condition raises legal issues, particularly concerning the validity and objectives of marriage.

B. Validity of Lavender Marriage in Islamic Law

In Islamic law, the validity of marriage is determined by the fulfillment of its pillars (*rukun*) and conditions (*syarat*), namely the presence of the bride and groom, guardian,

witnesses, and the *ijab kabul*. (Wahbah az-Zuhaili, 2011). As long as these elements are fulfilled, the marriage is considered formally valid.

However, Islamic law also emphasizes the importance of honesty and mutual consent in the marriage contract. This is in line with the Qur'anic verse:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ
يَتَفَكَّرُونَ

“And among His signs is that He created for you mates from among yourselves that you may find tranquility in them, and He has placed between you affection and mercy.” (Qur'an 30:21)

This verse indicates that the purpose of marriage is to create tranquility (*sakinah*), affection (*mawaddah*), and mercy (*rahmah*). If there is concealment of essential facts, such as sexual orientation, it may be categorized as *tadlis* (fraud). which is recognized in classical Islamic jurisprudence (Sayyid Sabiq, 2008).

In addition, the Prophet Muhammad (peace be upon him) said:

فَقَالَ لَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " يَا مَعْشَرَ الشَّبَابِ مَنْ اسْتَطَاعَ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغْضُ لِلْبَصَرِ،
وَأَحْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ، فَإِنَّهُ لَهُ وَجَاءٌ

“O young people, whoever among you is able to marry, let him marry...” (Narrated by Bukhari and Muslim)

This hadith emphasizes that marriage aims to preserve morality and establish a healthy life both physically and spiritually. Therefore, if dishonesty exists within the contract, the injured party has the right to seek annulment (*fasakh*).

Thus, lavender marriage in Islamic law is formally valid but may be substantively problematic if it lacks honesty and alignment with the objectives of marriage.

Validity of Lavender Marriage in Indonesian Positive Law

In Indonesian positive law, the validity of marriage is regulated under Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019. A marriage is considered valid if it is conducted according to religious law and officially registered.

Within this framework, lavender marriage may also be considered formally valid if it fulfills these requirements. However, positive law recognizes defects of consent, such as fraud or misrepresentation, which may serve as grounds for annulment. (R. Subekti, 2005).

If one party conceals essential facts that affect the other party's consent, the marriage may be annulled through judicial proceedings. This indicates that positive law also considers not only formal legality but also the substantive validity of consent.

C. Objectives of Marriage in Islamic Law and Positive Law

In Islamic law, the objective of marriage is to establish a family characterized by *sakinah*, *mawaddah*, and *rahmah*, as emphasized in Qur'an 30:21. This objective highlights the importance of emotional connection, honesty, and mutual responsibility between spouses (Wahbah az-Zuhaili, 2011).

Meanwhile, in Indonesian positive law, marriage aims to form a happy and enduring family based on the belief in the Almighty God. This demonstrates that marriage carries both legal and social dimensions in ensuring family stability within society.

Thus, both legal systems view marriage not merely as a formal institution but as a means to achieve a harmonious and sustainable family life.

D. Comparative Analysis of the Validity and Objectives of Lavender Marriage

Based on the analysis, it can be concluded that both Islamic law and Indonesian positive law recognize the formal validity of lavender marriage as long as it fulfills the required legal conditions. This means that procedurally, lavender marriage is not automatically considered invalid.

However, substantively, both legal systems also provide mechanisms for annulment if there is a defect of consent or elements of deception. In Islamic law, this is addressed through the concept of *tadlis*, which may lead to *fasakh*, while in positive law it is regulated through

provisions on annulment due to fraud (Peter Mahmud Marzuki, 2017).

Furthermore, when viewed from the perspective of the objectives of marriage, both Islamic law and positive law emphasize that marriage should lead to the formation of a harmonious, happy, and sustainable family. In this regard, lavender marriage may not fully align with these objectives, as it is not based on an authentic relationship and openness between the parties.

Therefore, it can be affirmed that lavender marriage may be formally valid, but it is potentially inconsistent with the substantive objectives of marriage, and under certain conditions, it may serve as grounds for annulment in both Islamic law and positive law.

CONCLUSION

This study demonstrates that the discourse of lavender marriage presents a complex legal issue when examined from the perspectives of Islamic law and Indonesian positive law, particularly concerning the validity and objectives of marriage. The findings show that, from a formal standpoint, lavender marriage may be considered legally valid as long as it fulfills the required pillars and conditions of marriage in Islamic law, as well as the legal requirements stipulated in Indonesian positive law, including religious compliance and official registration.

However, from a substantive perspective, both legal systems emphasize the importance of honesty, mutual consent, and the underlying purpose of marriage. In Islamic law, the concealment of essential facts within the marriage contract may be categorized as *tadlīs* (fraud), which can serve as grounds for annulment (*fasakh*). Similarly, in Indonesian positive law, such concealment may constitute a defect of consent, providing a legal basis for the annulment of marriage through judicial mechanisms.

Furthermore, this study finds that the objectives of marriage in both Islamic law and positive law share a fundamental orientation toward the establishment of a harmonious, stable, and enduring family. Islamic law emphasizes the realization of *sakinah*, *mawaddah*, and *rahmah*, while positive law focuses on the formation of a happy and lasting family based on the belief in the Almighty God. In this regard, lavender marriage may not fully align with these objectives, as it is not grounded in an authentic and transparent relationship between the spouses.

Thus, this study concludes that lavender marriage possesses a dual legal character: it may be formally valid but substantively problematic. This duality highlights the tension between procedural legality and the ethical-substantive foundations of marriage in both legal systems. The significance of this research lies in its contribution to understanding how contemporary social discourse challenges traditional legal concepts of marriage.

Based on these findings, this study suggests the need for a more contextual and responsive legal approach that not only emphasizes formal validity but also considers the substantive integrity and objectives of marriage. Future research is recommended to further explore the intersection between evolving social realities and legal norms, particularly in relation to family law, consent, and the protection of parties within marriage.

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