

Mashlahah Married Pregnant Perspective Article 53 Compilation of Islamic Law

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Abstract. This study aims to see how Mashlahah Based on Syara' and the (KHI) regarding the marriage of pregnant women out of wedlock. In this modern era, many women are pregnant even though they are not married. Islam provides all provisions for the benefit of mankind, so its teachings are called Salih likulli Zaman wa Makan. In Mashlahah Based on Syara' (Mashlahah Mu'tabarah, Mulgah, Mursalah) and Article 53 of the KHI indicate that this is a means to maintain the honor of women and their families after an opportunity that damages honor, namely pregnancy out of wedlock. This is also reinforced by the closeness of marriage without having to wait for the birth of a child in the womb. Based on the description above, it can be seen that the benefits listed in Article 53 of the KHI tend to be related to human interests to eliminate difficulties or narrowness that befall humans. Mashlahah seen from KHI regarding women who are married pregnant is the protection of lineage rights. Protection of honor, pregnant women out of wedlock who do not immediately marry the person who impregnated her will have an impact on the loss of honor for herself and her family.

Keywords: Mashlahah, Married Pregnant, KHI

Introduction

Marriage aims to make humans holy and high, therefore for those who are about to marry, they must have the ability in the true sense, not just to vent their lusts. Because one of the many factors that plunge people into crime is the influence of uncontrolled sexual desire and to channel this lust, it should be through the best and most appropriate way according to Islamic teachings, namely the Qur'an and Sunnah, namely through marriage. Thus, if men are unable to marry, they should fast so that their lust can be controlled.

In Arabic marriage is also called marriage and zawaj, the word ina-ka-ha an iza-wa-ja i is found in the Qur'an with the meaning of marriage which means joining, sexual relations, and also means contract. Contracts or agreements that contain the aim of allowing sexual intercourse by using lafaz Nakaha and jawaza (Ghozali, 2008). While in Indonesian, marriage comes from the word marriage which means to form a family with the opposite sex to have sex or have sex. Marriage is also said to be marriage, derived from the word marriage which according to the language means to collect, include each other and is used to mean intercourse. The word marriage itself is often used for the meaning of intercourse, also for the meaning of the marriage contract (Ghozali, 2008).

In terms of marriage, it is a contract of surrender and acceptance between a man and a woman that aims to satisfy themselves with each other to make an ark of a sakinah household and a prosperous society. Islam views that marriage is a very

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sacred bond, the existence of two people of different sexes can live together with the blessing of religion, relatives, and society (Ghozali, 2008). Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Godhead (UU Perkawinan No 1 Tahun 1974, n.d.).

Fiqh experts usually use the definition of marriage with the following definitions: 1. The use of lafas 'contract is to explain that marriage is an agreement made by people or parties involved in marriage. The marriage is made in the form of a contract because it is a legal event, not a biological event or merely a sexual relationship between a man and a woman; 2. The use of lafas 'akad to explain that marriage is an agreement made by the people or parties involved in the marriage. Marriage is made in the form of a contract because it is a legal event, not a biological event or merely a sexual relationship between a man and a woman; 3. The use of expressions that contain the intention of allowing sexual relations, because basically the relationship between men and women is forbidden, unless there are things that allow it under sharia law. Among the things that allow sexual intercourse is the existence of a marriage contract between the two. Thus the contract is an attempt to allow something that originally was not allowed to become permissible; 4. Using the lafaz na-ka-ha or za-wa-ja implies that the contract which allows sexual intercourse between a man and a woman must use the words nakaha and zawaja, because in early Islam, the contract was not included. In marriage, there is another business that allows the relationship between a man and a woman, namely the ownership of a man over a woman or also called slavery. It is permissible for sexual relations in this form not to be called marriage or marriage, but to use the word (Syarifuddin, 2010).

Marriage is a contract that justifies association and limits rights and obligations as well as mutual assistance between a man and a woman where both are not married (Sulaiman Rasjid, 2010). Marriage in Chapter II Article 6 of the Marriage Law must be based on the approval of the two prospective brides. To carry out a marriage, a person who has not reached the age of 21 (twenty one) years must obtain permission from both parents (Rofiq, 2013). A marriage will be considered valid if it is carried out according to the marriage law of each party's religion and belief and is also registered by the competent authority according to the established regulations.

Today, there are many incidents of pregnancy outside of marriage that cause panic, both for the woman concerned and the woman's family. To eliminate embarrassment to the community, the person concerned should immediately marry while pregnant (Sulaiman Rasjid, 2010). A woman who is pregnant before marriage is more likely to marry a man who impregnates her. In addition, it also indicates that it is forbidden for a good man to marry this woman (Rofiq, 2013).

The issue of marriage of pregnant women out of wedlock requires careful and thoughtful attention, especially marriage registrar employees. This is due to the looseness of the moral and ethical norms of some of our society, especially those who are still teenagers and unstable religious awareness. In addition, the above provisions are also difficult to implement considering the way to ensure that the man who married a pregnant woman out of wedlock is the man who impregnated her. This is because there is no regulation that explains further about the process used in determining a man who impregnates a pregnant woman out of wedlock.

The current reality is the occurrence of pregnancy out of wedlock due to adultery, which is called an accident. in association. Accidents of freedom given by parents, accidents of parents who do not educate their children, accidents that are generally related to not practicing Islamic teachings. Ironically, when parents get a child pregnant out of wedlock, the solution spontaneously is to marry off. Pregnancy out of wedlock is specifically and is known to be a sin, whether it is a man who abuses it or a woman who is pregnant. And that is a big sin. The consequence for those who are not married is to be lashed a hundred times and for those who are married is to be stoned to death. The existence includes the hudud law which is not applied and provides a sense of security for pregnant women to go through the days of pregnancy until the child is born by covering the shame to the family's disgrace. But at the same time the act of marrying is included in the ijfihad part.

Several previous studies have discussed those related to Pregnant Marriage with certain problems, including: The law that regulates marriage is Law Number 1 of 1974 concerning Marriage. However, to carry out a marriage in the Marriage Law, conditions have been regulated, such as regarding the age limit to be able to marry (material requirements), one of which is the provision regarding the minimum age limit contained in Article 7 paragraph (1) of Law Number 1 of 1974 which states that marriage is only allowed if the man has reached the age of 19 years and the woman has reached the age of 16 years. From the age limit, it can be interpreted that Law Number 1 of 1974 does not require the implementation of underage marriages that have been determined by Law Number 1 of 1974. (Angling, 2022)

Normatively, scholars agree that the marriage of a pregnant woman is considered valid, but must be performed again after giving birth. There is a legal reform related to the legality of the marriage contract for pregnant women. In this case, Indonesian Islamic scholars consider sociological and psychological elements, especially the local culture of the Indonesian people, but KHI is a compromise approach to customary law. This compromise can be seen from the fact that there are deviations in the teaching of fiqh related to sociological and psychological factors. In addition, the ultimate goal of the principle of permission to marry pregnant women is to provide definite legal protection to the child in the womb, even though the child's status is out of wedlock (Ja'far et al., 2020).

The formulation of article 53 of the Compilation of Islamic Law, a pregnant woman can be married to a man who impregnates her. And article 53 provides a solution for pregnant women who marry the man who impregnated her. Meanwhile, in relation to the status of the child, it is considered valid because there has been a legal marriage. However, in sharia, the status of children is still debated. Regarding the issue of which opinion is used, it can be seen from which opinion is greater for the benefit of the community (Wulandari et al., 2020).

Implementation of Article 53 of the KHI on pregnant marriage, its implications, and the analysis of religious court judges on Article 53 of the KHI on pregnant marriage from the perspective of mashlahah related to pregnancy. Marriage from the point of view of the judge of the religious court. The affairs of pregnant women

are not specifically handled by religious courts; On the other hand, cases of marriage isbat and marriage dispensation are related to pregnant women. The status of the child conceived by a woman is influenced by her marriage. The child's lineage, inheritance, and guardianship of the children it contains will be maintained by the pregnant woman and the man who impregnates her by maintaining the marriage. Pregnant women and their unborn children benefit greatly from the provisions of Article 53 of the Compilation of Islamic Law (Tarmizi, 2022).

Compilation of Islamic Law Article 53 a pregnant woman out of wedlock, can be married to a man who impregnated her. The prohibition against marrying adulterous women is not only in the Qur'an, but also in the hadith. That is a hadith that tells about the incident of a friend asking permission from the Prophet Muhammad SAW to marry someone who commits adultery. However, the Messenger of Allah forbade the Companions for married women i.e. meanwhile, the prohibition on marrying adulterous women is expressly revealed by Allah in Surah an-Nur verse 3. The scholars are of the opinion: The first opinion says that a woman who is pregnant out of wedlock can have a marriage contract either with the man who got her pregnant or with another man. The second opinion says that only women who are pregnant out of wedlock may only have contract marriages with men who impregnate them. This opinion is the opinion of Imam Abu Yusuf (Dedi, 2019).

In article 53 of the KHI, there is no line that explicitly explains whether or not a pregnant woman is allowed to marry a man who did not impregnate her. But many mean that it is not allowed. Meanwhile, a legitimate child in the KHI is a child born in legal bonds. So, if the proof of DNA testing or the like is not carried out to see the validity of the child, then the child is still considered a legitimate child by both because he was born in a marriage bond. In short, pregnant marriages in lottery marriages with men who do not impregnate women have many facets of ambiguity. So, there must be a revision of article 53 and article 99 of the KHI (Sofiana & Suni, M. I., 2021).

The law on pregnant marriages by the scholars differs, Imam Hanafi and Syaff'i allow marrying her, but Hanafi does not allow sexual intercourse until the child is born. Meanwhile, Imam Malik and Imam Hanbali do not allow marrying pregnant women due to adultery except after repenting and passing the iddah period. While the compilation of Islamic law allows a woman to marry a man who impregnates her, without waiting for the birth of her child. and there is no need for remarriage after the child is born (Azmi, 2021).

Pregnant marriage is a marriage that occurs between a man and a woman who is pregnant because of adultery. The opinion of the problem in this paper about married pregnancy in the perspective of the four schools of thought and the compilation of Islamic law is not the same. The Hanafi and Shafi'i schools allow pregnant women to marry, but in terms of sexual intercourse they have different opinions. The Hanafi view when married is that conceiving intercourse is permissible after the marriage contract without waiting for the wife to give birth first, but if it is not the one who is married, then the husband is not allowed to have intercourse

with his wife to give birth first. Shafi'i is of the opinion that a man who marries a pregnant woman is absolutely allowed to have sexual relations, whether it is a man who is pregnant or not. On the other hand, Maliki and Hanbali implicitly prohibit married pregnancy, having to wait for the woman to give birth. Even in the Hanbali sect, additional conditions apply, women must repent significantly to Allah SWT. Both schools have emphasized that the law of an illegitimate pregnancy is marriage. The Compilation of Islamic Law has its own opinion. Provisions regarding pregnancy and marriage in the Compilation of Islamic Law based on Article 53 (Sholikhin, 2018).

The fatwa of the Muhammadiyah Tarjih Council is to allow pregnant marriages with men who impregnate them. In this case the method of the Tarjih Council is qiyas, namely by following the example of remarriage (reconciliation) between the ex-husband and his ex-wife who is pregnant during the iddah period. A man who impregnates a woman can be likened to a man who causes his wife to become pregnant. A woman who is pregnant can be compared to a woman who is in a state of iddah because she is pregnant, as well as the sperm contained by the two pregnant women is the sperm of the man who causes pregnancy, so that the genitals of both women are places for sowing seeds. those two people (Afiyah & Mutmainah, 2020).

Imam Al-Syatibi's view that the law of marriage for pregnant women due to adultery is permissible and legal. The reasons for the permissibility are (1) Considering the benefit of pregnant women as well as hifdz al-nasl (the child they are carrying); (2) stop adultery with Sadd al-dhari'ah and urf (custom) solutions; (3) reduce shame and psychological embarrassment for pregnant women and their children in the flow of life in society (Komaruzzaman, 2022).

Nearly a third of the study women had an unintended pregnancy which was found to be higher than in other studies. The main reasons given by study participants for unwanted pregnancies were not using contraception, being forced by the husband, and being forced by the husband's mother. Education level, decision-making power in the household, age at first marriage, respondent's employment status, discussion with partner about family planning, fear of contraception side effects, never heard of and used contraception, and visits by health care providers for other services were factors that significantly significantly associated with unwanted pregnancy. Therefore, emphasis should be placed on married youth especially on empowering women, encouraging couples discussion, and providing appropriate counseling about the side effects of contraception by paying attention to those who marry at a younger age (less than 18 years). Further large-scale studies are recommended to explore the underlying causes of unwanted pregnancies among married adolescents (Merga, J., Bekumal, D.W.T., 2020).

There are four forms of parenting, namely democratic parenting, authoritarian parenting, permissive parenting, and parenting. Different parents will adopt different parenting styles as well. However, young family mayors use democratic parenting because they prioritize the interests of children but are still under the supervision of parents, parents are more rational, realistic, open, and

able to communicate well with children. Democratic parenting is mainly used to produce the characteristics of children who are independent, obedient, honest, good communication and cooperative with others. There are several important questions in this paper, first. What is the ideal parenting method. Second. What is the impact of the lack of attention of parents on children. Third. What is the solution to unite a broken home family. Interview methods, data collection, and documentation are used in this paper to get maximum and concrete results. So that this paper can be used as a solution for families who are experiencing problems both internally and externally (Hadi & Rahman, 2020).

In this discussion, which is different from the previous discussion, the author wants to discuss Mashlahah based on Syara', namely Mashlahah Mu'tabarah, Mashlahah Mulgah and Mashlahah Mursalah.

Method

This research is a series and process of knowledge enrichment. Research is inseparable from the methods, concepts, truths and values that have been collected to form a good scientific form.(Arikunto, 1998) This study uses a descriptive method, namely research conducted to determine the existence of independent variables, either only one or more variables (self-contained variables) without making comparisons and looking for relationships between these variables and other variables (Aristiono, 2008). The purpose of research using descriptive methods is to systematically describe certain facts. An empirical juridical approach is an approach that refers to written regulations or other secondary legal materials, to see the application or implementation through a field research conducted sociologically so that clarity is obtained about the thing being studied (Ali, 2014).

Results and Discussion

Marriage is an act that is commanded by Allah and also ordered by the Prophet. Some of Allah's orders in the Qur'an to carry out marriages. as in the letterian-Nur 32:

Meaning: And marry those who are alone among you and those who are worthy (for marriage) among your male peers and female servants of your age. If they are poor, Allah will give them the ability by His grace (Depag, 1984). The interpretation of the verse is to marry those who are alone among you. The pronunciation of Ayaama is the plural form of the pronunciation of Ayyimun which means women who do not have husbands, either virgins or widows, and men who do not have wives: this applies to free men and women (and those who deserve to be married) namely Believers (from your male slaves and your female slaves) the pronunciation of ibaadun is the plural form of the pronunciation of 'Abdun., namely, those who are free (poor, Allah will enable them) thanks to the marriage (with His bounty, and Allah is Extensive) His gift to His creatures (Knowing) them (Al-Maraghi, 1993).

In the Qur'an, Allah says in Surah An-Nisa verse 3 which means: "And if you are afraid that you will not be able to do justice to (the rights of) orphaned women (when you marry them), then marry (other) women. which you like: two, three or

four. Then if you are afraid that you will not be able to do justice, then (marry) only one, or the slaves you have. That is closer to not doing wrong (Depag, 1984).

The interpretation of the above verse is that if you are afraid that you will not be able to be fair to the orphans, so that it is difficult for you to face them, you are also afraid that you will not be able to do justice between the women you marry (then marry) with the meaning of who (the good of the women for you are two, three or four) may be two, three or four but not more than that. (then if you will not be able to do justice between them in terms of distribution of income, then let only one) you marry (or) you should limit the slaves who are yours) because they do not have the same rights as other wives. That one means marrying four wives or only one wife or taking my slaves closer to not doing wrong (Al-Maraghi, 1993).

From so many orders from Allah and the Prophet to carry out the marriage, marriage is an act that is more pleasing to Allah and the Prophet to be carried out. This applies in general. Basically, Islam strongly recommends to its people who are able to get married. However, because there is a noble goal to be achieved from the marriage and the conditions for the marriage are different and the circumstances surrounding the marriage are different, so in detail the majority of scholars state the law of marriage by looking at the circumstances of certain people, as follows (Syarifuddin, n.d.): a. *Sunnah* for people who have wished to marry, are fit to marry and he already has the equipment to carry out the marriage; b. *Makruh* for people who do not deserve to marry, do not want to marry, while provision for marriage also does not exist. Likewise, he already has the equipment for marriage, but his physical disability such as impotent, permanent illness. old age and other physical deficiencies; c. *Wajib* for people who are fit for marriage, desire to marry and have equipment for mating: He is afraid of fall into a place of immorality if he does not marry; d. *Haram* for people who will not be able to fulfill the provisions of syara' to marry or he believes that the marriage will not achieve the goals of syara' while he believes that marriage will damage the life of his partner; e. *Mubah* for people who basically have no urge to marry and the marriage will not bring any harm to anyone

Marriage aims to protect oneself from adultery, maintain an-Nasal (descendants). can channel sexual instincts in a lawful and commendable manner. maintain and reproduce offspring with respect, motherly and fatherly instincts will complement each other in married life with their children, train the ability to work together and form family ties and friendships between families. God's law in marriage is then used as a solid basis for human life, because there are several high values and several main goals that are good for humans, creatures that are glorified by God. To achieve a happy life and stay away from inequality and deviation. Allah has given Islamic Shari'a and law so that humans can carry it out well (Awwaz, 2011).

Maqashid marriage in Islam is not just a limit to the fulfillment of biological desires or the release of sexual desire, but has important goals related to social psychology and religion. The main objectives are: 1). Preservation of human genes.

Marriage is a means to maintain the continuity of human genes, reproductive organs, and regeneration from time to time. With marriage, humans will be able to prosper in life and carry out their duties as kholifah of Allah. Perhaps it can be said that to achieve this can be through sexual desire which does not have to go through religious law (Awwaz, 2011). Marriage is the foundation of a strong and solid family. It contains sacred and religious rights and obligations. A person will feel the existence of a sacred bond that makes his human nature high, namely spiritual and mental endurance that makes human dignity high and becomes noble than the animalistic level which only establishes lust between male and female. Even a married couple is actually a serene soul. love and respect.

Imam al-Ghazali explained some of the benefits of marriage, including: marriage can refresh the soul, calm the heart, and strengthen worship. The soul is bored and flees from the truth as well as contradicts its character. He can even be disobedient and resist, if always burdened by force that violates him. However, if He is pleased with pleasures and delights at times He becomes strong and energetic. Love and fun with the wife will relieves sadness and comforts the heart. This is conveyed to people who are pious, their souls can feel pleasure with this permissible act (marriage) as the Qur'an explains:*And among the signs of His power is that He has created for you wives of your own kind, so that you may tend to and feel at ease with them, and He has created between you love and compassion. Verily in that there are indeed signs for a people who think.*

The interpretation of the verse is: and among the signs of His power is creating for you wives of your own kind, Siti Eve was created from the rib of the Prophet Adam while the other humans were created from the semen of men and women (so that you tend and feel at ease with him) so that you feel at home with him (and made him among you all) all (affection. Indeed, in that) the things that have been mentioned (there are indeed signs for people who think) namely those who think about Allah swt.(Musthafa, n.d.)

Marriage as a human shield. Marriage can protect humanity and keep away from violations that are forbidden in religion. Because marriage allows each partner to carry out their biological needs in a Halal and Mubah. Marriage does not harm the people, does not cause harm, does not affect the formation of animal causes, does not cause the spread of wickedness.

Against lust. Marriage channel human desires to be maintained, do the benefit of others and implement the rights of wives and children and educate them. Marriage also trains patience with the wife's morals with maximum efforts to improve and provide guidance on the way of Religion. The overall benefits of marriage are classified as actions that have commendable virtues. The responsibility of men towards their household is the responsibility of leadership and power. Wife and children, children are the family that is led. The virtue of a leader is very great. It's irrational to compare someone who is busy taking care of his soul and the souls of others (Awwaz, 2011).

Marriage of pregnant women due to adultery in the fiqh literature of the scholars differs, some are absolutely not allowed, some are given to solving problems without reducing their caution. In line with the views of these scholars, Islamic law maintains the boundaries of polite social interaction and provides calm and a sense of security. Complying with the provisions of Islamic law, will undoubtedly bring about benefit in society. What is meant by "pregnant marriage" is marrying a woman who is pregnant out of wedlock, whether married by a man who impregnates her or by a man who does not impregnate her (Ghozali, 2008).

The permissibility of pregnant marriages regulated in the KHI has more or less departed from a compromise approach with customary law. This compromise, in terms of the fact that ikhtilaf occurs in fiqh teachings, is also related to sociological and psychological factors. From the various factors put forward, a conclusion is drawn based on the principle of istihsan, so that from the combination of the ikhtilaf and 'urf factors, the KHI formulators argue that it is greater mashlahah to allow pregnant marriage than to prohibit it.

The opinion of scholars regarding the marriage of pregnant women due to adultery is:

1. Hanafiyah is of the opinion that it is legal to marry a pregnant woman if it is a man who impregnates her, because pregnant women due to adultery are not included in the class of women who are forbidden to marry, this is based on Q.S. al-Nisa: 22, 23, 24 (Fauzi, 2021).
2. Syafi'iah is of the opinion that it is legal to marry a pregnant woman due to adultery, whether it is the man who impregnated her or the man who did not impregnate her. The reason is because pregnant women due to adultery are not included in the group of women who are forbidden to marry. They also argue that because the marriage contract is legal, the woman who is married is lawful to have intercourse even though she is pregnant (Ghozali, 2008).
3. Abu Hanifah and Imam Shafi'i argue that marriage is considered valid, because it is not tied to other people's marriages (there is no 'iddah period). The woman may also be interfered with, because it is impossible for the lineage (descendants) of the conceived child to be tainted by her husband's sperm. While the child is not a descendant of the person who married his mother (children out of wedlock).
4. Malikiyyah is of the opinion that a woman who commits adultery, whether on the basis of consensual or rape, pregnant or not, is obligated to istibra. For a free woman and not pregnant, her istibra is three times, while for a slave woman, it is enough for one period, but if she is pregnant, either a free woman or a slave woman gives birth. Thus, the Maliki scholars argue that it is not legal to marry a pregnant woman due to adultery, even though the one who marries is the man who impregnated her, moreover he is not the one who impregnated her. If the marriage contract is still carried out while pregnant, the marriage contract is fasid and must be fasakh (Hamaedillah, 2002).
5. Hanabilah is of the opinion that it is not legal to marry a woman who is known to have committed adultery, both with men and not those who have committed adultery, especially with men who have committed adultery, unless the woman has met the following two conditions: first, her iddah period has expired. If she is pregnant, her iddah ends by giving birth to

her womb. If the marriage contract is carried out while pregnant, the marriage contract is invalid. Second, have repented of adultery (Az-Zuhaili, 1996).

The marriage of a pregnant woman due to adultery is legal in accordance with Article 2 paragraph 1 of the Marriage Law Number 1 of 1974 and must also meet the requirements for a valid marriage (UU Perkawinan No 1 Tahun 1974, n.d.).

The benefits in the marriage of women who are pregnant outside of marriage, Article 53 of the KHI explains several objectives: a). Protection of children's lineage rights. The protection of children's lineage rights is related to Islamic provisions which state that a child who is not born in a legal marriage is not a legitimate child and is not entitled to his father's lineage. Therefore, the presence of Article 53 KHI which allows marriage of pregnant women will be a means for children who are in the womb to get their father's lineage rights (Alwiyah & Sultan, 2021). b). Protection of honor. Honor is an aspect of basic human needs according to Islamic teachings. Pregnant women out of wedlock who are not immediately married to the person who impregnated her will have an impact on the loss of self and family honor. Pregnant women out of wedlock who do not marry immediately are considered as having an effect. A negative view will emerge from the situation experienced by women. This view does not only concern women but also concerns the self-esteem of women's families (Isnaini, 2021).

The law regarding pregnancy before marriage then includes the five taklifiyah laws: obligatory, sunnah, permissible, makruh and haram. The haram law is related to adultery whose prohibitions are clear and definite and cannot be violated, but the solution is a legal marriage. Marriage in Islam is correlated, with individuals who will perform the marriage contract if the conditions are met and are in the category of being able to physically and mentally, then the law of marriage can become obligatory or circumcised, even though by legal origin, is permissible but not fulfilled from the nature and ability, then it can be included in the law of makruh and even haram (Hasbi, 2014).

Islamic teachings lay down all the provisions and provisions for the benefit of humans, so that the teachings are called *"Shalih ilikulli izamanin iwa imakanin"* (can be applied to any time and place). Its implementation at the level of benefit there are three forms:

First: Maslahah recognized by Islamic teachings (*al-Mashlahah al-Mu'tabarah*). In the application there are three levels which include: (1). *Mashlahah al-Dharuriyyah*, namely the benefit that is related to the basic needs of mankind in this world and in the hereafter which is correlated with maintaining religion. Nurturing the soul, preserving the mind, nurturing offspring and preserving property; (2) *Mashlahah al-Hajiyah*, namely the benefits needed in perfecting basic needs, to avoid difficulties and harm in life; (3) *Mashlahah al-Tahsiniyyah*, namely benefit which is a complementary need in order to maintain good manners and manners in life. For example, it is recommended to eat nutritious food, dress well, perform

circumcision services as an additional charity, and various ways to remove najis from the human body (Rahim, 2017).

Second: Maslahah which is not recognized by Islamic teachings (al-Maslahah al-Mulgah). The purpose of this maslahah is all benefits that are rejected by syara' because they are contrary to the provisions of syara'.

Third: Mashlahah Mursalah, namely: benefits whose existence is not supported by syara' and is not canceled/rejected by syara' through detailed arguments. Benefit in this form is positioned in a secondary position, so that the goal is to eliminate: broad Islamic law can be applied in every period of time. In the use of this mashlahah reasoning by fulfilling several criteria: a. must be certain, not just an assumption or fictitious, that it does create a benefit or prevent harm. b. Maslahah is not a personal interest or a small group of people, but must be global and become a public need.

The third result of mashlahah reasoning does not lead to the neglect of a principle established by texts or ijma'. Benefit: in the opinion of the Indonesian Ulema Council: (MUI) in the VII National Deliberation in 2005, in its decision No. 6/MUNASNU/MUI/10/2005 provides the following criteria; i1. Benefit according to Islamic law is the achievement of the objectives of sharia (maqashid shari'ah), which is manifested in the form of maintaining the five primary needs (ad-dharurat khams), namely; aqama, soul, mind, property and lineage. 2. Benefits that are justified by sharia are benefits that do not contradict the texts. 3. Those who have the right to determine whether something is beneficial or not according to sharia are institutions that have competence in the field of sharia and are carried out through ijfihad jamai' (MUI, 2005).

The Islamic recommendation for marriage is a strong fortress to prevent adultery. The negative impact of adultery is the misery of living with poverty. Adultery is an unlawful act that must be avoided, then Allah will not give his grace to those who commit unlawful acts.(Al-Manawi, 1988)

The presence of Article 53 of the KHI indicates that it is a means to maintain the honor of women and their families after the occurrence of which the opportunity undermines the honor, namely pregnancy out of wedlock. This is also reinforced by the immediacy of marriage without having to wait for the birth of a child in the womb. Based on the description above, it can be seen that the benefits listed in article 53 of the KHI tend to be related to human interests to eliminate difficulties or narrowness that befalls people.

Islam provides all its provisions and provisions for the benefit of mankind, so that the teaching is called Salih likulli Zaman wa Makan (can be applied to any time and place). Mashlahah which is seen by the Compilation of Islamic Law (KHI) regarding women who marry pregnant is the protection of lineage rights. Protection of honor, pregnant women out of wedlock who are not immediately married to the person who impregnates her will have an impact on the loss of honor for herself and her family

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