

Islamic Family Law and the Recognition of Same-Sex Marriage: Controversial Issues in the Context of Human Rights

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ABSTRACT

This study aims to examine the debate on Islamic family law regarding same-sex marriage in the context of human rights. In Islamic law, same-sex marriage is considered contrary to religious teachings, while human rights emphasize the principles of equality and non-discrimination. The conflict between religious norms and human rights demands is a major challenge, especially in countries with Islamic-based laws, including Indonesia. The research method used is a literature review by examining academic and legal sources. Data sources include the Qur'an, Hadith, fiqh books, and laws and regulations related to marriage in Indonesia. Secondary sources include academic books, scientific journals, and international legal documents related to human rights. Data were collected through literature studies from various academic databases and official legal sources. The results of the study show that Islamic family law still maintains the view that marriage is only valid between a man and a woman. Meanwhile, the human rights movement demands equality for the LGBT community. Countries with Islamic law, including Indonesia, still reject same-sex marriage despite global pressure. Therefore, a dialogue-based approach is needed to balance individual rights, religious values, and social harmony. Further studies are needed to formulate inclusive and fair solutions to this issue.

INTRODUCTION

Same-sex marriage has become a topic of legal, social, and religious debate in many countries. This debate primarily revolves around the individual right to marry without discrimination versus the cultural and religious norms that have long governed

the institution of marriage (Listiorini, D., et al. 2019). In Indonesia, marriage is regulated by Law Number 1 of 1974 concerning Marriage, which was later revised by Law Number 16 of 2019. This law explicitly defines marriage as a bond between a man and a woman. This legal basis reflects the strong influence of Islamic family law, which refers to sharia in regulating marriage and family relationships. As a country with a Muslim majority population, social norms and regulations in Indonesia are heavily influenced by Islamic teachings (Any, AY 2023). In Islam, marriage is not only considered a civil contract but also an institution that has religious and moral values. Therefore, same-sex marriage is not recognized in Islamic law because it contradicts the basic principles of marriage in Islam, which stipulate that marriage must be carried out between a man and a woman to form a family and continue the lineage (Fikri, F., et al. 2022).

However, in the context of human rights (HAM), there is a debate about whether Islamic family law in Indonesia should be able to adapt to global developments regarding the recognition of LGBTQ+ rights. This difference of opinion raises tensions between religious norms, state law, and universal principles of human rights, which are the main points in the legal discourse on same-sex marriage in Indonesia. This law explicitly recognizes only marriage between a man and a woman, known as "legal marriage" according to Islamic teachings. However, in this modern era, challenges arise along with the development of understanding of Human Rights (HAM), which teaches that every individual has the right to freely determine life choices, including in terms of personal relationships and marriage. The main question that arises is whether the individual's right to choose a same-sex partner can be justified within the framework of Islamic family law that does not recognize this.

In Islamic law, same-sex marriage is strictly prohibited because it is contrary to the sharia which regulates marriage relations only between men and women. The Qur'an states that marriage is a sign of the greatness of Allah who created couples of the same sex so that they feel at ease, as stated in Surah Ar-Rum verse 21.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ
بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

Meaning: Among His signs is that He created for you mates from yourselves, that you may find rest in them. He has placed between you love and mercy. Indeed in this are signs for a people who give thought. (QS. Ar-Rum · Verse 21)

One of the signs of Allah SWT's greatness is the creation of life partners for humans, as explained in QS. Ar-Rum verse 21. In this verse, Allah emphasizes that He created partners of the same type so that humans can feel calm and peaceful in their married life. Marriage is not just a physical bond, but also a means to achieve *sakinah* (tranquility), which is the main goal in a husband-wife relationship. In addition, Allah instills *mawaddah* (deep love) and *rahmah* (merciful affection) between partners so that they can support and complement each other in facing the dynamics of life (Ramdani,

D., et al. 2024). This verse also teaches that marriage is part of the sunnatullah and has great wisdom for those who are willing to think and reflect on the signs of His greatness. Thus, marriage in Islam not only functions as a means of reproduction, but also as a vessel to create harmonious, loving, and blessed relationships.

In addition, in Surah Al-A'raf verses 80-81 and Surah Hud verses 77-82, the story of the people of Prophet Luth was mentioned, who were destroyed due to the practice of homosexual relations, which shows that such behavior is prohibited in Islam.

وَلَوْ كُنَّا إِذْ قَالَ لِقَوْمِهِ أَتَأْتُونَ الْفَاحِشَةَ مَا سَبَقَكُمْ بِهَا

مِنْ أَحَدٍ مِّنَ الْعَالَمِينَ ﴿٨٠﴾

Meaning: And (We have also sent) Lut, when he said to his people, "Why have you committed an abominable act, which no one has ever done before you (in this world) (QS. Al-A'raf verse 80).

QS. Al-A'raf verse 80 tells of the Prophet Luth's rebuke to his people who committed a vile act, namely homosexuality. In this verse, Allah emphasizes that this act is a deviation that has never been done by previous peoples. The word "fahisyah" in this verse shows that this behavior is very bad and contrary to the nature of humans who were created to live in pairs between men and women. Prophet Luth was sent to warn them to return to the right path, but they remained in error until they finally received punishment from Allah. This verse is a warning to humans that behavior that deviates from Allah's law will bring bad consequences, both in this world and in the hereafter.

Currently in QS. Al-A'raf verse 81:

إِنَّكُمْ لَتَأْتُونَ الرِّجَالَ شَهْوَةً مِّنْ دُونِ النِّسَاءِ بَلْ

أَنْتُمْ قَوْمٌ مُّسْرِفُونَ ﴿٨١﴾

Meaning: Indeed, you have vented your lust for men, not women. You are truly a people who go beyond limits (QS. Al-A'raf verse 81)

QS. Al-A'raf verse 81 explains the behavior of the people of Prophet Luth who went beyond the limits by satisfying their lust for the same sex, not for women as Allah has determined. In Islam, legitimate sexual relations only occur in marriage between a man and a woman. This verse emphasizes that homosexual behavior is contrary to Islamic law and the nature of humans who are created in pairs. The story of the people of Prophet Luth is a warning to mankind not to repeat the same mistakes, because the

result of such deviation is destruction and punishment from Allah. Thus, Islam prohibits homosexual relations and teaches humans to live their lives according to His rules to achieve happiness and safety in this world and the hereafter.

The Prophet's Hadith also strengthens this view, where the Messenger of Allah cursed men who imitate women and women who imitate men, and mentioned severe punishment for those who committed the actions of the people of Luth. In the view of scholars from various schools of thought, same-sex marriage is considered invalid because it does not fulfill the main purpose of marriage in Islam, namely forming a family in accordance with nature and producing offspring (Sukmanila, D. 2019). Therefore, Islamic law stipulates that same-sex marriage is haram and not recognized, with several countries that apply Islamic law even imposing severe sanctions on the perpetrators. Although in the context of modern law there are variations in its application, Islamic teachings still emphasize that marriage is only valid between a man and a woman (Fikri, F., et al. 2022).

This discourse is increasingly complex when various countries try to recognize same-sex marriage on the grounds of human rights, while many Muslim-majority countries continue to view it as something that is contrary to religious norms. In Indonesia, as a country with the largest Muslim population, this debate continues, with some parties supporting the recognition of same-sex marriage on the basis of human rights, while most community groups continue to maintain traditional views based on sharia. In this context, same-sex marriage is not only a legal issue, but also a social and moral issue involving long-standing religious norms (Aletmi, A. 2019).

In Islam, family law does not only involve marriage issues, but also includes the rights and obligations of husband and wife, inheritance, and protection of children. The basic principles of Islamic family law, as stated in the Qur'an and Hadith, teach the importance of marriage as a legitimate institution only between a man and a woman. This, of course, contradicts the recognition of same-sex marriage that is increasingly being rolled out in various countries, including in international discourse on human rights. However, countries with secular laws tend to be more open to accepting same-sex marriage, although moral and legal debates continue (Sholeh, MI 2023).

The issue of recognizing same-sex marriage becomes increasingly important when discussed within the framework of human rights. The right to marry is a basic right stated in various international instruments, such as the Universal Declaration of Human Rights (UDHR). This concept is often associated with individual freedom to determine life choices without discrimination. In this case, a dilemma arises as to whether countries that adhere to Islamic family law can comply with international obligations regarding human rights, while on the other hand they are bound by religious laws that clearly oppose the practice of same-sex marriage (Athahirah, AU, & Nurdin, N. 2022).

This issue also faces the question of how Muslim countries can balance their international obligations to protect human rights with adherence to their conservative religious teachings. Thus, this challenge is not only a matter of domestic law, but also a matter of international relations and the efforts of Muslim countries to maintain their cultural and religious identities.

The article "Islamic Family Law and the Recognition of Same-Sex Marriage: Controversial Issues in the Context of Human Rights" aims to analyze how Islamic family law regulates marriage and how these provisions face demands for recognition of same-sex marriage in the discourse of human rights. This article discusses the concept

of marriage in Islamic law, including its objectives and basic principles, as well as the Islamic view on same-sex marriage based on the evidence of the Qur'an, hadith, and the opinions of scholars. In addition, this article explores the tension between Islamic legal principles and human rights principles in the issue of same-sex marriage, by highlighting how countries with Islamic legal systems respond to global demands for marriage rights for same-sex couples. The scope of the discussion includes the principles of Islamic family law, the rights and obligations of couples in marriage, and how society and legal authorities in Muslim countries respond to demands for recognition of same-sex marriage. By discussing these aspects, this article is expected to provide comprehensive insight into the relationship between Islamic family law and the global debate on the recognition of same-sex marriage from a human rights perspective.

METHODOLOGY

This study uses a literature review method to examine various academic and legal sources related to Islamic family law and the recognition of same-sex marriage in the context of human rights. The data sources used include primary sources, such as the Qur'an, Hadith, fiqh books, and laws and regulations related to marriage in Indonesia, and secondary sources, such as academic books, scientific journals, and international legal documents on human rights (Novianti, L., et al. 2024). Data were collected through literature studies from various academic databases and official legal sources. The analysis techniques used are descriptive analysis to explain the concept of Islamic family law, comparative analysis to compare regulations in various countries, and normative analysis to review the conflict between Islamic norms and human rights principles. This literature review aims to provide an in-depth understanding of the legal and social debates related to same-sex marriage in the Islamic legal system and human rights.

RESULTS AND DISCUSSION

The Concept of Marriage in Islamic Family Law

Marriage in Islam, or *nikah*, is a legal bond between a man and a woman carried out through a contract according to Islamic law to form a family that is *sakinah* (peaceful), *mawaddah* (full of affection), and *rahmah* (full of grace). Marriage is not just a social contract, but also an act of worship that aims to maintain honor, fulfill human nature, and build a harmonious household life (Hudafi, H. 2020). In Islam, marriage has several main purposes, one of which is to create a relationship full of peace and affection between husband and wife, as stated in Surah Ar-Rum verse 21. In addition, marriage is a lawful way to fulfill human nature and protect oneself from adultery, as commanded in Surah An-Nur verse 32. Another purpose is to continue the lineage in order to build a generation of pious Muslims and strengthen religious values in the family. Marriage is also considered a form of worship that brings one closer to Allah, where husband and wife help each other in carrying out religious obligations. Thus, marriage in Islam is not only oriented towards worldly relationships, but also has a spiritual dimension that brings blessings in this world and the hereafter.

In Islam, marriage must meet certain conditions and pillars to be valid according to sharia. Here is an explanation of each of these aspects.

1. Pillars of Marriage

The pillars of marriage are the main elements that must be present in a marriage contract so that the marriage is considered valid. If one of the pillars is not fulfilled, then the marriage contract is invalid. The pillars of marriage in Islam include:

1. Future husband
 - Must be Muslim.
 - Not under duress.
 - Not a mahram of the prospective wife.
 - Not in a marriage bond with a biological sister or close relative of the prospective wife if practicing polygamy.
2. Future wife
 - Muslim or People of the Book (according to some scholars).
 - Not in the iddah period or still married to another man.
 - Not the mahram of the future husband.
3. Marriage Guardian
 - The marriage guardian must be a male from the father's line, such as the biological father, grandfather, biological brother, or paternal uncle.
 - If there is no guardian of lineage, then the guardian judge can replace him.
4. Two Witnesses
 - Witnesses must be male, Muslim, mature, sane, just, and understand the marriage contract process.
 - The presence of witnesses aims to avoid marriages being carried out in secret.
5. Acceptance and Acceptance
 - Ijab is a statement by the guardian or his representative in handing over the prospective bride to the prospective husband.
 - Acceptance is the acceptance of the prospective husband towards the marriage.
 - The wording of the ijab and kabul must be clear, not contain any elements of coercion, and must be carried out in one assembly.

2. Marriage Requirements

The requirements for marriage are things that must be met in order for the marriage to be valid and in accordance with Islamic law. These requirements include:

1. The prospective bride and groom must be Muslim
 - Marriage in Islam is only valid if both partners are Muslim, except in some opinions which allow Muslim men to marry women from People of the Book.
2. Both parties must agree and not be forced.
 - In Islam, marriage must be based on the consent of both parties without any coercion. This is in accordance with the hadith of the Prophet ﷺ which states that a woman should not be married without her consent.
3. Guardian must be present and valid
 - Marriage guardians must meet certain requirements, such as being Muslim and of sound mind. If there is no guardian from the family, then the judge will conduct the marriage.
4. The existence of a dowry (dowry)
 - Dowry is a gift from a prospective husband to a prospective wife as a form of respect and a sign of sincerity in marriage. Dowry can be in the form of property, money, or something of value.

5. Not currently in another marriage which is not permitted
- A man cannot marry two sisters at the same time.
 - A woman who is still in her iddah period or is still married to another man may not marry.

By fulfilling the pillars and requirements of marriage, the marriage is considered valid in Islam and has legal consequences that regulate the rights and obligations of each partner.

In the view of scholars, marriage in Islam is a sacred institution that functions as a means of building a family that is *sakinah*, *mawaddah*, and *rahmah*. Marriage is not only considered a social contract, but also part of the worship recommended by the Prophet Muhammad ﷺ. The main objectives of marriage in Islam include maintaining honor, continuing the lineage, and building a family based on piety to Allah. Scholars also emphasize that the only relationship permitted in Islam is a legal marriage between a man and a woman who fulfills certain conditions and pillars. In addition, Islam allows polygamy with a maximum limit of four wives, as long as the husband is able to act fairly (Lazuardi, F., & Viktorahadi, RB 2024). On the other hand, relationships outside of marriage, such as adultery and same-sex marriage, are prohibited in Islam because they are contrary to human nature and sharia law. The evidence in the Qur'an and hadith expressly prohibit this practice, as reflected in the story of the people of Prophet Luth who were destroyed because they deviated from the norms set by Allah. Thus, marriage in Islam is not just a worldly bond, but also has spiritual value that brings couples closer to Allah and brings blessings to their married life.

Here are some verses of the Qur'an relating to marriage and relationships that are permitted in Islam:

Marriage as a means of peace and affection:
Surah Ar-Rum (30:21)

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ
مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

Meaning: "And among His signs (of His greatness) is that He created partners for you from your own kind so that you would be inclined and feel at ease with them, and He created between you feelings of love and affection. Verily in this there are truly signs for a people who think (QS. Surah Ar-Rum (30:21))

Recommendations for marriage to maintain personal purity:
Surah An-Nur (24:32)

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَأَمَّا بَكُمْ إِنْ يَكُونُوا فُقَرَاءَ
يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ ﴿٣٢﴾

Meaning: "And marry those among you who are single, and those who are fit from your male and female slaves. If they are poor, Allah will enrich them out of His bounty. And Allah is All-Encompassing and Knowing."

Limits of polygamy and conditions of justice in Islam:
Surah An-Nisa' (4:3)

وَأِنْ خِفْتُمْ أَلَّا تَقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنً
وَتِلْثًا وَرُبْعًا فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ أَدْنَىٰ أَلَّا
تَعُولُوا ﴿٣﴾

Meaning: "Then marry women of your choice, two or three or four. But if you fear that you shall not be able to deal justly, then only one or your slave girl. That is nearer, so that you may not do injustice."

Prohibition of approaching adultery:
Surah Al-Isra' (17:32)

وَلَا تَقْرُبُوا الزِّنَىٰ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا ﴿٣٢﴾

Meaning: "And do not come near to adultery; surely it is an abomination and an evil way."

The story of Prophet Lut's people and the ban on same-sex marriage:
Surah Al-A'raf (7:80-81)

وَلَوْ طَا إِذْ قَالَ لِقَوْمِهِ أَتَأْتُونَ الْفَاحِشَةَ مَا سَبَقَكُمْ بِهَا مِنْ أَحَدٍ مِنَ الْعَالَمِينَ ﴿٨٠﴾

إِنَّكُمْ لَتَأْتُونَ الرِّجَالَ شَهْوَةً مِنْ دُونِ النِّسَاءِ ۚ بَلْ أَنْتُمْ قَوْمٌ مُّسْرِفُونَ ﴿٨١﴾

Meaning: "And (remember the story of) Lut, when he said to his people, 'Why are you doing abominable deeds that no one in this world has ever done before you? Indeed, you come to men with lust, not to women. In fact, you are a people who transgress limits.'"

Human Rights and Freedoms in Marriage

Human Rights (HAM) encompass individual freedom in various aspects of life, including the right to marry and build a family. In the context of marriage, HAM affirms that every individual has the right to choose their life partner without coercion, discrimination, or pressure from other parties. This principle is recognized in various international legal instruments, such as Article 16 of the Universal Declaration of Human Rights (UDHR), which states that men and women who are adults have the right to marry and form a family with equal rights during marriage and upon divorce.

In Islam, marriage also emphasizes the principle of freedom and individual rights, but within the limits of sharia norms and values. Islam teaches that marriage must be based on the willingness of both parties, as emphasized in the hadith of the Prophet Muhammad ﷺ:

"A widow should not be married until her opinion is asked, and a virgin should not be married until her permission is asked." (Narrated by Bukhari and Muslim).

In Islam, coercion in marriage is contrary to the teachings of the Shari'a which emphasizes the importance of the consent of both parties. Rasulullah ﷺ emphasized that a woman, whether a widow or a girl, should not be married off without her consent. This is confirmed in the hadith narrated by Abu Hurairah radhiyallahu 'anhu, where the Prophet ﷺ said that a widow should be asked for her opinion and a girl should be given the opportunity to express her permission, even if it is with silence as a sign of agreement. In addition, in a narration, Khansa binti Khidam complained to the Messenger of Allah ﷺ that he was forced to marry by his father with someone he did not like, then the Prophet ﷺ annul the marriage. This hadith is proof that Islam upholds women's rights in choosing their life partners and prohibits the practice of forced marriage. Thus, a valid marriage in Islam must be based on the consent of both parties, without pressure or coercion from the family or other parties.

However, freedom in marriage in Islam remains limited by sharia rules, such as the prohibition of same-sex marriage and relationships that are considered illegitimate in Islam. Islam emphasizes that marriage must meet certain conditions and pillars in order to be legally recognized. Therefore, although human rights prioritize individual freedom in choosing a partner, Islam sets limits that aim to maintain morality and social balance. Thus, the concept of human rights and freedom in marriage must be understood in the balance between individual rights and religious and cultural norms.

Universal Human Rights (HAM) are designed to guarantee freedom, equality, and protection for individuals in various aspects of life, including freedom of religion, freedom of expression, and the right to choose a life partner. However, in practice, universal human rights norms often clash with religious values that have their own moral and social rules. One example of a clash occurs in the issue of individual freedom in marriage. Universal human rights emphasize that every individual has the right to marry anyone without discrimination, including in the context of same-sex marriage. On the other hand, in many religious teachings, including Islam, same-sex marriage is considered contrary to moral values and sharia law which only recognize marriage between men and women. In this case, universal human rights norms and religious teachings have fundamental differences in understanding the limitations of individual freedom (Ikram, AD, & Ghazali, G. 2024).

Another conflict arises in the area of freedom of opinion and expression. In universal human rights, everyone has the right to express their opinions without strict restrictions. However, in many religions, there are rules that limit this freedom,

especially if an opinion is considered offensive to religious values or contains insults to certain beliefs. For example, in Islam, insults to the Prophet Muhammad ﷺ considered as an act that violates religious values and can cause strong reactions from the Muslim community. Despite the differences, several efforts have been made to find common ground between universal human rights and religious values. One of them is through an approach that respects cultural and religious diversity in the application of human rights, so that religious values are still respected without eliminating the basic rights of individuals. Thus, even though there are conflicts in several aspects, dialogue and compromise between universal human rights and religious values are still needed so that both can coexist in a harmonious social life (Raskasih, F. 2020).

Islam's View on Same-Sex Marriage

In Islam, marriage is seen as a sacred institution that aims to build a family based on human nature, namely between a man and a woman. This concept is emphasized in various verses of the Qur'an and hadith that regulate marriage relations and limit marriage to only between the opposite sex. Therefore, same-sex marriage is not recognized in Islam and is considered contrary to the basic principles of marriage as stipulated by the sharia.

One of the main arguments that confirms the prohibition against same-sex marriage is the story of Prophet Lut 'alaihis salam in Surah Al-A'raf (7:80-81):

"And (remember the story of) Lut, when he said to his people, 'Why are you doing abominable deeds that no one in this world has ever done before you? Indeed, you come to men with lust, not to women. In fact, you are a people who transgress limits.'"

This verse shows that same-sex relationships are considered deviant behavior that is not in accordance with human nature and Islamic teachings.

Apart from that, in the hadith narrated by Imam Tirmidhi, Rasulullah ﷺ said:

"Allah curses men who resemble women and women who resemble men." (HR. Tirmidhi)

This hadith also serves as a warning that behavior that deviates from nature, including same-sex relationships, is contrary to Islamic teachings. Islam not only regulates marriage as a legal bond between a man and a woman, but also stipulates that marriage aims to maintain morality, offspring, and harmony in society. Therefore, any form of deviation that contradicts these principles, including same-sex marriage, is not recognized in Islam.

In addition, this hadith contains a strong warning in the form of a curse from Allah, which shows that violating the natural creation of humans is not a trivial matter in the eyes of Islam. Thus, Islam emphasizes that marriage must be in accordance with the rules of sharia and must not go beyond the limits set by Allah and His Messenger. Scholars from various schools of thought agree that same-sex marriage is not valid in Islam and has no legal basis that can justify it. In Islamic law, marriage is only valid if it meets the pillars and conditions that have been set, one of which is the presence of a

male and female bride. Thus, same-sex marriage is not only contrary to Islamic law but also to the main purpose of marriage in Islam, namely to preserve offspring and build a harmonious family according to the teachings of Allah. Although modern human rights principles emphasize freedom in choosing a life partner, Islam still has moral and legal limitations that regulate marriage according to the values of faith. Therefore, from an Islamic perspective, same-sex marriage cannot be justified because it is contrary to the provisions of Allah and His Messenger (Yupiter, Y. (2024).

Positive Law and Status of Same-Sex Marriage in Various Muslim Countries

The majority of Muslim countries reject same-sex marriage because it is considered contrary to Islamic teachings and social values adopted by society. Islam strictly stipulates that marriage is only valid if it is carried out between a man and a woman, so the laws in Muslim countries tend to follow this principle. Attitudes towards same-sex marriage vary, from strict legal prohibitions to strong social sanctions. In countries such as Saudi Arabia, Iran, and Afghanistan, not only is same-sex marriage prohibited, but same-sex relationships are also considered a criminal act that can be punished with severe penalties, including the death penalty in certain cases (Nuraeni, R., et al. 2024). These countries strictly implement sharia law and do not provide space for the recognition of same-sex relationships in their legal systems. In some countries such as Egypt, Malaysia, and Pakistan, although there are no specific laws that explicitly regulate same-sex marriage, same-sex relationships are often prosecuted based on moral laws or violations of social norms. Governments in these countries generally reject legal recognition of same-sex marriage and do not provide legal protection for same-sex couples (Ulfah, M. 2022

Meanwhile, countries with more secular legal systems, such as Turkey and Albania, have a more relaxed approach to individual rights related to sexual orientation. While same-sex relationships are not criminalized in these countries, same-sex marriage remains unrecognized in their legal systems. This suggests that while some Muslim countries are more tolerant of LGBTQ+ individuals, they still maintain a definition of marriage based on Islamic teachings. In general, Muslim countries' attitudes toward same-sex marriage are based on a combination of Islamic law, social norms, and political pressure. While global human rights principles increasingly encourage the recognition of same-sex couples' rights, the majority of Muslim countries continue to oppose same-sex marriage on religious and cultural grounds. As a result, to date, no Muslim country has officially legalized same-sex marriage.

In positive law, same-sex marriage is recognized in several countries that apply the principle of universal Human Rights (HAM). However, in Muslim countries, whose marriage laws and policies are generally based on Islamic principles, same-sex marriage is not recognized and is even prohibited by law. The majority of Muslim countries use Islamic law as the main source of family law, so that marriage is only valid if it is carried out between a man and a woman. For example, in Saudi Arabia and Iran, same-sex marriage is not only prohibited but also subject to severe punishment (Rakhmatulloh, MR 2022). In Egypt, although there is no specific law prohibiting same-sex relations, individuals who do so are often charged with morality laws. Meanwhile, countries such as Turkey, which are more secular, do not criminalize same-sex relations, but still do not recognize same-sex marriage legally. In Indonesia, Law No. 1 of 1974 on Marriage clearly defines marriage as a bond between a man and a woman, so that same-sex marriage has no legal basis. The unacceptability of same-sex marriage in

Muslim countries is not only due to legal factors, but also due to social and cultural norms that still consider same-sex relationships as a deviation from religious and moral values. Therefore, positive law in Muslim countries generally favors sharia teachings over universal human rights principles that emphasize individual freedom in choosing a life partner.

The following is a table summarizing 10 previous studies on Islamic Family Law and Recognition of Same-Sex Marriage in the context of Human Rights:

No	Research Title	Writer	Year	Results
1	Same-Sex Marriage According to Human Rights in the Perspective of Islamic Law	Sanawiyah	2016	Islam rejects same-sex marriage because it is not in accordance with religious teachings and human nature. The Marriage Law in Indonesia only recognizes marriage between a man and a woman.
2	Same-Same Marriage in Islamic Studies	Mr. Nur Kholis	2014	Studies show that Islam emphasizes marriage between a man and a woman as sunnatullah and rejects homosexual practices.
3	Same-Sex Marriage in Indonesia Based on Law No. 16 of 2019	Yulianeta & R. Dwi Wulan	2021	The study compared policies in other countries and concluded that legal values in Indonesia still maintain the principle of heterosexual marriage.
4	Same-Sex Marriage and Human Rights: The Obergefell v. Hodges Decision and Its Implications in Indonesia	Holy KM Kalangit & Heru Susetyo	2020	Studies show that despite the push for gender equality, Islamic law still maintains the restriction that marriage must be between a man and a woman.
5	Indonesian Islamic Marriage Law: Human Rights and Gender Perspective	Nurchasanah	2014	Islamic law in Indonesia has adopted some elements of human rights, but still rejects same-sex marriage.
6	The Phenomenon of Same-	English	2020	Research has found that

	Sex Marriage in the Perspective of Islamic Law and Its Problems			same-sex marriage has the potential to cause social conflict in Indonesian society, which is predominantly Muslim.
7	Islamic Law, Human Rights, and the Social Transformation of Same-Sex Marriage	Muhammad Iqbal	2021	The study highlights the debate between human rights activists and clerics regarding same-sex marriage, and how Islamic law remains the basis of family law in Indonesia.
8	Same-Sex Marriage: A Review of Rights and Obligations Under the Marriage Law	The Two Noble Ones	2024	The study examines the rights and obligations in marriage and confirms that same-sex marriage does not receive legal protection in Indonesia.
9	Forced Marriage in the Perspective of Islamic Law and Human Rights	Ahmad Fauzi	2023	Studies show that marriage must be based on the consent and provisions of the sharia, which only recognizes marriage between a man and a woman.
10	Same-Sex Marriage in Indonesia Based on Law No. 16 of 2019	R. Dwi Wulan	2021	The legal analysis concludes that there is no legal basis that allows for the recognition of same-sex marriage in the Indonesian legal system.

CONCLUSION

Overall, the recognition of same-sex marriage in the context of Islamic family law and human rights is a highly controversial issue. Islamic family law, which considers same-sex marriage as something contrary to religious teachings, faces a major challenge in responding to global demands for human rights. Although there are groups that support the recognition of LGBT rights, the majority of countries with Islamic law still maintain traditional views on marriage. This conflict between religious teachings and human rights requires a sensitive and dialogue-based approach. Muslim countries, including Indonesia, need to find a middle ground that allows for respect for human rights while maintaining their religious and cultural values. Therefore, discussions on same-sex marriage involve not only legal aspects, but also broader social, moral, and cultural aspects. It is important to continue to conduct further studies on this issue, both

in terms of law, religion, and human rights, to find a more inclusive and just solution. The government, society, and religious leaders must work together to achieve a better understanding of individual rights, religious honor, and social harmony in a pluralistic society.

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