

## The Practice of *Shihah* Marriage among the Rifa'iyah Congregation in Sociological and Islamic Marriage Law Perspectives

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**Abstract:** This article examines the practice of repeating marriage contracts (*shihah* marriage) among the Rifa'iyah Congregation in Wonocoyo Village, Wonoboyo, Temanggung, Central Java. This repetition was carried out by Rifa'iyah Kiyais as representatives of female marriage guardians to perfect the marriage contract which had been carried out previously in the presence of officers from the Office of Religious Affairs (KUA). This research is classified as qualitative field research using a sociological approach. The aim is to examine this social phenomenon from the perspective of social construction theory and the perspective of Islamic law. This research found that the practice of *shihah* marriage among the Rifa'iyah congregation of Wonocoyo Village was formed through several stages, namely: the externalization stage, the stage of conveying the practice of *shihah* by Rifa'iyah Kiyais, the objectification stage, the stage of forming objective reality, and the internalization stage, the stage of absorption of the objective world into the individual consciousness of the Rifa'iyah Congregation. In the view of Islamic Marriage Law, the practice of *shihah* by the Rifa'iyah congregation is similar to *tajdidun nikâh* (renewal of the marriage contract) which, according to Jumhur ulama', is permissible simply because of *ihthiyâth* (caution).

**Keywords:** Islamic marriage law, jama'ah Rifa'iyah, *Shihah* marriage, social construction theory

**Abstrak:** Artikel ini menelaah praktik pengulangan akad nikah (*shihah* perkawinan) di kalangan Jama'ah Rifa'iyah Desa Wonocoyo, Wonoboyo, Temanggung, Jawa Tengah. Pengulangan tersebut dilakukan oleh para Kiyai Rifa'iyah sebagai wakil dari wali nikah perempuan untuk menyempurnakan akad nikah yang telah dilakukan sebelumnya di hadapan petugas Kantor Urusan Agama (KUA). Penelitian ini tergolong penelitian lapangan yang bersifat kualitatif dengan menggunakan pendekatan sosiologis. Tujuannya adalah untuk mengkaji fenomena sosial tersebut dari sudut pandang teori konstruksi sosial dan perspektif hukum Islam. Penelitian ini menemukan bahwa praktik *shihah* perkawinan di kalangan Jama'ah Rifa'iyah Desa Wonocoyo, Wonoboyo, Temanggung, Jawa Tengah terbentuk melalui beberapa tahap, yaitu: tahap eksternalisasi atau tahap penyampaian praktik *shihah* oleh Kiyai Rifa'iyah, tahap objektifikasi atau tahap pembentukan realitas objektif, dan tahap internalisasi atau tahap penyerapan dunia objektif ke dalam kesadaran individu Jama'ah Rifa'iyah. Dalam pandangan hukum perkawinan Islam, praktik *shihah* oleh Jama'ah Rifa'iyah ini sama dengan *tajdidun nikâh* atau pembaruan akad nikah, oleh Jumhur ulama' dibolehkan sekadar karena untuk *ihthiyâth* (berhati-hati).

**Kata kunci:** hukum perkawinan Islam, jama'ah Rifa'iyah, *Shihah* perkawinan, teori konstruksi sosial

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## Introduction

Jama'ah Rifa'iyah is a religious organization formed by the followers of KH Achmad Rifa'i (1787-1871) and based in Kedungwuni, Pekalongan, Central Java.<sup>1</sup> KH Achmad Rifa'i was a great cleric from Central Java as well as an Indonesian national hero. He was once nicknamed "Satan Kalisasak" by the Dutch colonialists and "Heretic Ulama" by clerics who supported the Dutch because of his very harsh views towards the Dutch Government.<sup>2</sup> According to KH. Ahmad Rifa'i, the marriage solemnized by the headman during the Dutch colonial era was invalid. Because even though they are *'alim* (knowledgeable), they cannot meet the requirements for marriage witnesses, namely *'adil* (just) and not *fâsiq* (unscrupulous). This is because the headmen were appointed by the colonial government, who were non-Muslims. Because these headmen submitted themselves to non-Muslim rulers, they were considered not *'alim*, *fâsiq*, and unjust.<sup>3</sup>

This opinion was then firmly held by his followers and practiced consistently within the Jama'ah Rifa'iyah, especially those who live in Wonocoyo Village, Wonoboyo District, Temanggung Regency, Central Java. Such is the background to the emergence of the practice of repeating marriage contracts among the Jama'ah Rifa'iyah which they call *shibah* marriage. For this reason, *ijâb qabûl* (marriage contract) among the Jama'ah Rifa'iyah is carried out twice, the first is held at the Religious Affairs Office (KUA) and the second is held at the bride's house witnessed by the Rifa'iyah Kiyai.<sup>4</sup>

To date, there are around 7.5 million members of Jam'iyah Rifa'iyah spread across almost all regions of Indonesia, the majority on the island

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<sup>1</sup> Ashar S, 'Kiyai Ahmad Rifa'i Kalisalak: Ulama Patriotik, Meninggal di Tanah Buangan', *Amanah*, 76 (1989).

<sup>2</sup> Ashar S.

<sup>3</sup> Ellora Rizqa Nufa, Dahrul Muftadin, and Anindya Aryu Inayati, 'Pandangan Para Tokoh Rifa'iyah dan Nahdhatul 'Ulama tentang Pembaharuan Akad Nikah di Kalangan Jam'iyah Rifa'iyah Dukuh Paesan Kecamatan Kedungwuni Kabupaten Pekalongan', *Jurnal al Hukkam Fakultas Syariah IAIN Pekalongan*, 1.2 (2021), p. 2 <<https://doi.org/10.28918/al-hukkam.v1i2.4826>>.

<sup>4</sup> Ikhsan "Keabsahan Nikah di KUA Intizam, 'Studi Kasus Jamaah Rifa'iyah Kabupaten Kendal", *Jurnal Didaktika Islamika*, 7.1 (2016), p. 44.

of Java. The followers of K.H Ahmad Rifa'i then officially founded a community organization which was later called the Rifa'iyah mass organization.<sup>5</sup>

The existence and development of Jama'ah Rifa'iyah have attracted the attention of several previous researchers, including Shinta Nurani who specifically discusses the book *Tabyîn al-Islâh* by K.H. Ahmad Rifa'i Kalisalak, which becomes one of the references in Jama'ah Rifa'iyah and has a unique model of *tafsîr* (exegesis) writing and archipelago characters.<sup>6</sup> Another research, with a similar object but focusing on the marriage practices of Jama'ah Rifa'iyah, was carried out by Ikhsan Intizam and Muftadin. Ikhsan Intizam discussed the validity of marriage at the KUA, while Muftadin explained the history of the development of the practice of *shihah* marriage from the colonial period to the present, including the factors behind it.<sup>7</sup> Other researchers, Ellora Rizqa Nufa, Dahrul Muftadin, and Anindya Aryu Inayati, discussed the implementation of marriage contract renewal practices among the Jama'ah Rifa'iyah in Paesan Village, with a focus on the differences in views between Rifa'iyah and Nahdlatul Ulama figures regarding renewal, marriage contract.<sup>8</sup>

This research is different from the studies above because this research was conducted in a different location, namely in Wonocoyo Village and the practice of *shihah* marriage was analyzed using social construction theory and an Islamic legal perspective.

## Research Methods

This research is classified as qualitative field research with a sociological approach. The data used is data obtained through interviews and observations as well as a book written by K.H Ahmad Rifa'i which discusses marriage, namely the book *Tabyîn al-Islâh*. Interviews were

<sup>5</sup> Abdul Djamil, *Pemikiran dan Gerakan KH* (Jogjakarta: Ahmad Rifa'i Kalisalak, 2001), p. 13.

<sup>6</sup> Shinta Nurani, 'Studi Kitab *Tabyîn al-Islâh* Karya K.H.A. Rifa'i Kalisalak', *Jurnal Kajian Islam Interdisipliner UIN Sunan Kalijaga Yogyakarta*, 2.1 (2017) <<https://doi.org/10.14421/jkii.v2i1.1081>>.

<sup>7</sup> Intizam.

<sup>8</sup> Ellora Rizqa Nufa, Dahrul Muftadin, and Anindya Aryu Inayati.

conducted with parents and perpetrators of *shihah* marriages, Jama'ah Rifa'iyah figures, and administrators of the Rifa'iyah organization in Wonocoyo Village, Wonobojo District, Temanggung Regency. Meanwhile, observations were carried out by researchers attending weddings and religious activities organized by the local Jama'ah Rifa'iyah.

To analyze the data, the author used Peter L. Berger's Social Construction Theory and the views of fiqh scholars regarding the practice of repeating marriage contracts known as *tajdidun nikâh* (renewal of marriage).

## Result and Discussion

### Social Construction Theory

According to Peter L. Berger, the world of everyday life is something that originates from human behavior and actions which are maintained as real forms in thoughts and actions. Every reality or fact that is present in society is the result of a dialectical process.<sup>9</sup> He connected the concepts between subjective and objective through dialectics, giving rise to the concepts of externalization, objectification, and internalization.<sup>10</sup> According to Berger, the formation of social reality in society takes place through three stages, namely the externalization stage, the objectification stage, and the internalization stage. Externalization is society's adjustment to local culture as a human product, "*Society is a human product*". Objectivation is social interaction in society which is then institutionalized, "*Society is an objective reality*". Internalization is where individuals identify themselves amid social institutions, "*Man is a social product*".<sup>11</sup> This stage of forming social reality in society is what Peter L. Berger later called social construction.

The externalization stage is the first stage in social construction theory which is the stage for pouring out human self-expression into the

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<sup>9</sup> Margaret Poloma, *Sosiologi Kontemporer* (Jakarta: PT Raja Grafindo Persada, 2007), p. 302.

<sup>10</sup> M. Hasyim Syamhudi, 'Konstruksi Sosial Pernikahan Beda Agama di Kalangan Muslim Tionghoa di Probolinggo', *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 11.2 (2011): 127–43 (p. 31) <<https://doi.org/10.18326/ijtihad.v11i2.127-143>>.

<sup>11</sup> Margaret Poloma, p. 302.

world, whether in the form of mental activities or physical activities.<sup>12</sup> At this stage, individual subjects are born that originate from an understanding of the social context.<sup>13</sup>

The next stage, after externalization, is the objectification stage. Objectification is a stage or process of accepting into the human mind objects or all forms of externalization that have been carried out and looked back at the reality that occurs in society objectively.<sup>14</sup> Objectification can also be said to be the result that has been achieved both mentally and physically from human externalization activities objectively.<sup>15</sup> In the objectification process, there are two differentiating things, namely one's reality and social reality that is outside oneself. At this stage, there is a habituation to an action that is acceptable to reason and then becomes part of everyday life in society. Thus, if an action is habitually carried out, then the action will automatically be carried out without any written rules.<sup>16</sup> In social construction theory, this stage is called the institutionalization and legitimation stage. An agent or someone who conveys something is tasked with changing the subjective world into an objective one through interactions in a society.<sup>17</sup>

Next, is the internalization stage, internalization is a process when individuals identify themselves with social institutions or social organizations of which the individual is a member.<sup>18</sup> Internalization can be said to be a bargaining space that individual subjects use to map the

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<sup>12</sup> Peter L. Berger, and Thomas Luckman, *Tafsir Sosial Atas Kenyataan: Risalah Tentang Sosiologi Pengetahuan* (Jakarta: LP3ES, 1990) p. 24.

<sup>13</sup> Mohammad Rifai, 'Konstruksi Sosial Da'i Sumenep Atas Perjodohan Dini di Sumenep', *Jurnal Dakwah Tabligh*, 21.1 (2020), 58 (p. 61) <<https://doi.org/10.24252/jdt.v21i1.11212>>.

<sup>14</sup> Asmanidar, 'Suluk Dan Perubahan Perilaku Sosial Salik (Telaah Teori Konstruksi Sosial Peter L Berger dan Thomas Luckman)', *Abrahamic Religions: Jurnal Studi Agama-Agama*, 1 (2021), p. 102 <<https://doi.org/10.22373/arj.v1i1.9488>>.

<sup>15</sup> Iga Sakinah Mawarni and Andi Agustang, 'Konstruksi Sosial Masyarakat Terhadap Realitas Sosial Tradisi Si Semba' di Era Globalisasi (Studi Penelitian di Daerah Kandeapi Tikala, Toraja Utara)', *Pinisi Journal of Sociology Education Review*, (2022), p. 15 <<https://doi.org/10.31219/osf.io/z3x54>>.

<sup>16</sup> Aimie Sulaiman, 'Memahami Teori Konstruksi Sosial Peter L. Berger', *Society*, 4.1 (2016): 15–22 <<https://doi.org/10.33019/society.v4i1.32>>.

<sup>17</sup> Geger Riyanto, *Peter L Berger: Perspektif Metateori Pemikiran* (Jakarta: LP3ES, 2009), p. 105.

<sup>18</sup> Peter L.B erger p. 24.

outside world and declare themselves to be.<sup>19</sup> In this process, there is a re-absorption of objective reality in the individual so that it becomes a subjectivity that is influenced by the structure of the social world. This internalization stage involves existing institutions in society, such as religious institutions, social institutions, political institutions, and others.<sup>20</sup>

### **A Glance at the Rifa'iyah Congregation of Wonocoyo Village, and its Teachings**

Rifa'iyah is an Islamic social organization founded by the followers of KH. Ahmad Rifa'i. In the beginning, Rifa'iyah was not a religious mass organization but was a movement pioneered by K.H Ahmad Rifa'i. K.H Ahmad Rifa'i was a figure of 'ulama' who at that time fought against the colonialists and protested the policies of the colonial government through his books. The movement pioneered by K.H Ahmad Rifa'i was not merely a movement using weapons but a cultural movement in the form of traditional religion.<sup>21</sup>

It needs to be emphasized here that although the Rifa'iyah mass organization has a central figure, namely KH. Ahmad Rifa'i, but KH. Ahmad Rifa'i himself has never proclaimed the establishment of the Rifa'iyah mass organization. The followers and the students of KH. Ahmad Rifa'i was the one who took the initiative to establish a religious organization aiming at maintaining and preserving the teachings conveyed by KH. Ahmad Rifa'i, from here they formed a mass organization and named it Rifa'iyah.

In the 90s, after officially becoming an Islamic mass organization, the Rifa'iyah began to experience development. This is proven by the establishment of the Rifa'iyah Central Leadership in the Batang area, Regional Leadership at the district or city level, and even Branch Leadership in each Village. The center of da'wah for the Rifa'iyah mass

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<sup>19</sup> Sindung Haryanto, *Spektrum Teori Sosial dari Klasik Hingga Postmodern* (Yogyakarta: Ar-Ruzz Media, 2016), p. 115.

<sup>20</sup> Zainuddin, *Pluralisme Agama dalam Analisis Konstruksi Sosial* (Malang: UIN Maliki Press, 2013), p. 78.

<sup>21</sup> Nila Asna Fadhila and Rabith Jihan Amaruli, 'Organisasi Rifa'iyah dan Eksistensinya di Kabupaten Wonosobo, 1965-2015: Pengajian, Pesantren, dan Sekolah', *Jurnal Historiografi*, 1.1 (2020) <<https://ejournal3.undip.ac.id/index.php/historiografi/article/view/27810/24231>>.

organization is on the island of Java. Several areas in Central Java which are the largest bases for Jama'ah Rifa'iyah are Kendal, Pekalongan, Batang, Wonosobo, and Temanggung Regency. One of the areas in Temanggung Regency, where the people still consistently maintain the teachings of K.H Ahmad Rifa'i, is Wonocoyo Village, in Wonoboyo District.<sup>22</sup>

The Rifa'iyah community organization began to enter Wonocoyo Village around 2000, brought by the late Kiyai Nurchalim, a religious figure and community elder in Wonocoyo Village. At the beginning of its development in the village, this organization did not yet have a clear organizational structure; there were only a few figures or *murshids* (religious teachers) who became role models for the community. As time progressed, under the leadership of Kiyai Syamsudin, the successor of the late Kiyai Nurchalim, the Wonocoyo Village Rifa'iyah Branch was formed. With the formation of the Rifa'iyah Branch Leadership in this village, the structure, functions, and duties of the Rifa'iyah organization became increasingly clear.<sup>23</sup>

Regarding the dissemination of teachings, Rifa'iyah Kiyais in Wonocoyo Village usually conveys their teachings through regularly held religious activities, such as *Selapanan* recitation, study after *Sunset*, *Yasinan*, and dawn lectures. The book used and the source of the subject in the recitation refers to the book *Tarajumah* written by K.H Ahmad Rifa'i, which was written in the Javanese Pegon language. K.H Ahmad Rifa'i wrote many books, starting from books that discuss monotheism, buying and selling law, inheritance law, and jurisprudence of worship, to books that specifically discuss Sufism. One example of *Tarajumah* books written by K.H Ahmad Rifa'i is the book *Tabyîn al-Islâh*. This book summarizes the opinions of Shâfi'iyah scholars in discussing marriage, which includes: the pillars and conditions of marriage, requirements for marriage guardians, requirements for marriage witnesses, *talak* (divorce), *khulû*, and so on.<sup>24</sup>

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<sup>22</sup> Muhammad Khamdi, 'Gerakan Dakwah Rifa'iyah', *Jurnal Dakwah UIN Sunan Kalijaga Yogyakarta*, 10.2 (2009), pp. 143–46 <<http://digilib.uin-suka.ac.id/id/eprint/8372>>.

<sup>23</sup> Kiyai Syamsudin, (Rifa'iyah figure from Wonocoyo Village), interview on June 28, 2022.

<sup>24</sup> Sinta Nurani, pp. 11–12.

One of the teachings that is still preserved and guarded by figures and the Jama'ah Rifa'iyah in Wonocoyo Village is *shihah*. *Shihah* is a term used by Jama'ah Rifa'iyah in connection with the repetition of the marriage contract. This *shihah* teaching is based on K.H Ahmad Rifa'i's opinion regarding the invalidity of the headman as the deputy marriage guardian or marriage witness in the Dutch colonization era. This was because the headman served and followed the colonial government, even obeying legal orders set by the colonialists.

In the terminology of *Fiqh Munâkabat* (Islamic Marriage Law), the practice, understanding, and practice of *shihah* is similar to the concept of *tajdidun nikâh*. This is because the practice of *shihah* is a renewal of the marriage<sup>25</sup> contract which was previously carried out by the headman and then updated by a figure or Kiyai from the Jama'ah Rifa'iyah or by a guardian witnessed by someone appointed by the Rifa'iyah figure. The person appointed by Kiyai Rifa'iyah must have certain criteria as explained by K.H Ahmad Rifa'i in the book of *Tabyîn al-Isblâh*, namely that they must be *'âdil* (just) and not *fâsiq* (unscrupulous).

### The Practice of *Shihah* among the Rifa'iyah Congregation

In principle, the pillars, conditions, and procedures for marriage carried out among the Jama'ah Rifa'iyah of Wonocoyo Village are almost the same as marriages practiced by Muslim communities in general. The only difference lies in determining the witnesses and guardians of the marriage. Jama'ah Rifa'iyah prefers to choose the witnesses and guardians of the marriage carefully according to the criteria taught by K.H Ahmad Rifa'i. The marriage witness appointed in a Jama'ah Rifa'iyah wedding is someone who is considered *'âlim*, *'âdil*, or *murshid* and not *fâsiq*. In Wonocoyo Village, the appointment is usually carried out by Rifa'iyah figures such as Kiyai Syamsudin, Kiyai Nurchalim, and Kiyai Hamam Rifqi.<sup>26</sup>

<sup>25</sup> Mohamad Abdun Nasir, 'Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law', *Mazahib*, 21.2 (2022): 155–86 <<https://doi.org/10.21093/mj.v21i2.5436>>.

<sup>26</sup> Kiyai Syamsudin (Rifa'iyah figure from Wonocoyo Village), interview on June 28, 2022.



Apart from selecting witnesses and marriage guardians, Rifa'iyah figures in Wonocoyo also require prospective brides and grooms to study the book *Tabyîn al-Ishlâh* before they carry out the wedding. The aim is for the prospective bride and groom to understand the problems that exist in marriage, according to what was taught by K.H Ahmad Rifa'i. Usually, the Rifa'iyah Kyai or *murshid* (Spiritual leader) in Wonocoyo Village teaches the book *Tabyîn al-Ishlâh* one month before the marriage contract.

In the Rifa'iyah wedding procedure, there is also a custom of not being allowed to see the prospective bride or groom before the marriage contract is carried out. Even when they are not religiously legal, they are not allowed to meet and be together. This is done to maintain boundaries even though they are already tied in a marriage<sup>27</sup> proposal, but it is not yet legal according to the Shari'a, so they are not allowed to be side by side and meet. This kind of habit, although some people still practice it, is slowly starting to be abandoned so that weddings take place as is generally done by other members of society.

There are two stages that prospective bride and groom couples in Wonocoyo Village must go through before being legalized as husband and wife, namely:

### 1. Marriage contract at the Religious Affairs Office (KUA)

The first stage that must be passed before carrying out the *shihah* is to carry out the marriage contract at the Religious Affairs Office (KUA). The implementation of the marriage contract held at the KUA is no different from the implementation of the marriage contract in general.<sup>28</sup> The marriage contract is carried out by the celebrant who has received a mandate from the marriage guardian and is witnessed by the people

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<sup>27</sup> Gandi Liyorba Indra, M. Yasin Al Arif, and Abdul Qodir Zaelani, 'The Ideal Age for Marriage in The Compilation of Islamic Law (KHI) and Psychology', *Al-Adalah*, 20.1 (2023), 1–18 <<https://doi.org/10.24042/adalah.v20i1.11598>>.

<sup>28</sup> Ahmad Sanusi and others, 'Cancellation of Marriage Due to Negligence and Legal Consequences (Case Study on the Decision of the Pandeglang Religious Court, Banten No. 84/Pdt.G/2013/PA.Pdlg)', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 6.1 (2022): 493–513 <<https://doi.org/10.22373/sjhk.v6i1.10230>>.

present at the time. Witnesses to the implementation of the contract are *Pak Kaum* (the community leaders) from the bride's and the groom's village.<sup>29</sup> Carrying out the marriage contract at the Religious Affairs Office, before the *shihab* is practiced, is accepted among the Rifa'iyah because this practice has been around for a long time.<sup>30</sup> Besides, by carrying out the marriage contract at the Office of Religious Affairs, the bride and groom will obtain an endorsement/marriage certificate from the state, where, with this certificate, all administrative matters related to civil affairs can be done easily.<sup>31</sup>

Apart from carrying out the marriage contract at the KUA, the bridal couple can also carry out the marriage contract at the bride's house by bringing in a celebrant from the local KUA. In carrying out the contract, it is not much different from marriage contracts in general, where the leader of the contract is the Penghulu and the witnesses are *Pak Bayan* (hamlet head) and *pak Kaum*.<sup>32</sup>

## 2. *Shihab* Marriage with Rifa'iyah Kiyai

After carrying out the contract at the KUA (Religious Affairs Office), the next stage is the implementation of the *shihab* or repetition of the marriage contract. The *shihab* can be carried out during the day or at night, as long as the marriage ceremony has been carried out after at the KUA.

There are two types of *shihab* practices in Wonocoyo Village, namely: *shihab* carried out by the Rifa'iyah Kiyai in the presence of the *wali nasab* (guardian),<sup>33</sup> and *shihab* carried out by the Rifa'iyah Kiyai without the presence of the *wali nasab*.<sup>34</sup> In case the *wali nasab* is not

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<sup>29</sup> Mrs. Nima Inggawati and Mr. Diki (residents of Wonocoyo Village and *Shihab* perpetrator) interview on August 19, 2022.

<sup>30</sup> Ustadz Fathul, (Rifa'iyah figure from Wonocoyo Village), interview on August 20, 2022.

<sup>31</sup> Mrs. Usma and Mr. Basio (residents of Wonocoyo Village and *shihab* perpetrator) interview on August 19, 2022.

<sup>32</sup> Mrs. Nurul Hidayah and Mr. Febri (residents of Wonocoyo Village and *Shihab* perpetrator) interview on August 20, 2022.

<sup>33</sup> Mrs. Nima Inggawati dan Mr. Diki

<sup>34</sup> Mrs. Nurul Hidayah and Mr. Febri.

present in the *shihah* procession, then the person concerned is placed in another room that is different from the room used for the *shihah* ceremony. The presence of the *wali nasab* during the *shihah* procession, whether in the same room or not, is still necessary because even though the *wali nasab* has handed over the mandate to the Rifa'iyah Kiyai to represent him, the Rifa'iyah Kiyai's position is only as a representative and the *wali nasab* is the real one who has the right to marry the bride and groom.<sup>35</sup>

Furthermore, before the *shihah* is carried out, the bride and groom are required to first pronounce the *shahada* and continue by reading the translation of the *shahada* in the Javanese language.<sup>36</sup> After pronouncing the *shahada*, the *shihah* is carried out. This ceremony was led directly by a Rifa'iyah Kiyai and two witnesses, also from the Jama'ah Rifa'iyah, who had received a mandate or had been appointed by the *wali nasab* to be representatives and witnesses to the marriage. The Rifa'iyah figures or Kiyai who have been appointed are deemed to have met the criteria of fairness, never committing major sins and also not making a habit of committing minor sins. The principle of selecting representatives and witnesses is carried out with the aim of *ihtiyâth* (precaution) so that the person appointed is true *'âlim* and not a *fâsiq*.

After the *shihah* ceremony is carried out, it is usually followed by giving advice (*maw'idhoh hashanah*) by the Rifa'iyah Kiyai. The aim is to provide lessons to the bride and groom regarding matters relating to marriage such as *talaq* (divorce), *nusyûz* (disobedience), *rujû'* (reconciliation), *dzihâr* (equate), and so on. By giving advice, it is hoped that the bride and groom understand the laws of marriage. After the advice was completed, the event continued with the reading of prayers which was also led by Rifa'iyah Kiyai.<sup>37</sup>

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<sup>35</sup> Kiyai Syamsudin.

<sup>36</sup> Mrs. Nurul Hidayah and Mr. Febri.

<sup>37</sup> Mrs. Nima Inggarwati dan Mr. Diki.

## Social Construction Theory and Its Relevance to the Practice of *Shihah* among the Rifa'iyah Congregation

The practice of *shihah* among the Jama'ah Rifa'iyah, especially in Wonocoyo Village, Wonoboyo District, Temanggung Regency, did not immediately emerge and form directly, without any processes and stages. Referring to Berger's social construction theory, this practice emerges and is formed through a social construction process that takes place in three stages, namely:

### 1. Externalization Stage

This stage takes place through conveying information about the values and norms of the *shihah* by the Rifa'iyah Kiyai to the Jama'ah Rifa'iyah, thereby creating objective awareness in each member of the Jama'ah. This then makes the concept of *shihah*, which was initially subjective-individual, only existing in individuals, then becomes objective-communal, existing in the mind of the Jama'ah Rifa'iyah.<sup>38</sup>

The followers of K.H Ahmad Rifa'i continuously try to campaign or socialize the practice of *shihah* to the general public, especially the Jama'ah Rifa'iyah, that the practice of *shihah* needs to be carried out as a condition for completing the marriage contract that has been carried out previously. The presentation of *shihah* practices by Rifa'iyah Kiyai is generally carried out through Rifa'iyah book study activities and also during *Selapanan* activities which are held once a month.<sup>39</sup> The aim is to always *tabarrukan* (obtain blessings) and also to carry out the teachings of K.H Ahmad Rifa'i as written in the book of *Tabyin al-Ishlah* regarding the invalidity of the headman in ancient times to be the deputy marriage guardian and marriage witness.<sup>40</sup>

The teachings of *shihah* which have been conveyed to the public continuously from earlier times until now provide knowledge that *shihah* is a recommendation that is binding and needs to be implemented by

<sup>38</sup> Mohammad Rifai, 'Konstruksi Sosial Da'i Sumenep Atas Perjodohan Dini di Sumenep', *Jurnal Dakwah Tabligh*, 21.1 (2020), 58 (p. 61) <<https://doi.org/10.24252/jdt.v21i1.11212>>.

<sup>39</sup> Eko Nurhanafi (a resident of Wonocoyo Village) interview on June 20, 2022.

<sup>40</sup> Kiyai Syamsudin.

the Jama'ah Rifa'iyah. Without socialization by the Rifa'iyah Kiyais, the general public, or especially the Jama'ah Rifa'iyah, of course, will never understand the teachings of *shihah*

## 2. Objectification Stage

As previously explained, objectification is a stage or process of accepting the human mind's objects or all forms of externalization that have been carried out and looked back at the reality that occurs in society objectively. Objectification can also be said to be the result that has been achieved both mentally and physically from human externalization activities.<sup>41</sup> In the objectification process, there are two differentiating things, namely one's reality and other social realities that are outside of it. In social construction theory, this stage is called the institutionalization and legitimation stage.<sup>42</sup>

There are three processes in the objectification stage related to *shihah* practice, namely: *First*, the Socialization Process, the practice of *shihah* is conveyed and socialized by the Kiyai and Rifa'iyah figures continuously through several methods and methods and is reinforced by statements regarding the imperfection of the previous marriage contract carried out by the headman. This then makes the practice of *shihah* take root and become an unwritten law in society which then becomes an objective reality and stands outside the individuals who produce it. *Second*, the Institutionalization Process, namely the process of building awareness into real action.<sup>43</sup> Through continuous delivery of information to the public, they believe that with the *shihah*, marriages will be more perfect and will also receive blessings from the kiyais who attend the *shihah*. The practice of *shihah* which was continuously carried out by Jama'ah Rifa'iyah in Wonocoyo Village finally gave rise to a new culture that could not be separated among Jama'ah Rifa'iyah. *Third*, Habituation, in this stage an action that is acceptable to reason has become part of everyday life in society. Thus,

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<sup>41</sup> Iga Sakinah Mawarni and Andi Agustang.

<sup>42</sup> Geger Riyanto, *Peter L Berger: Perspektif Metateori Pemikiran* (Jakarta: LP3ES, 2009), p. 105.

<sup>43</sup> Aimie Sulaiman, p. 19.

if an action is habitually carried out, then the action will automatically be carried out without any written rules.<sup>44</sup>

### 3. Internalization Stage

The internalization stage is a process when an individual identifies himself with the social institutions or social organizations of which the individual is a member. In this process, there is a re-absorption of objective reality in individuals so that it becomes subjectivity which is influenced by social structures. This internalization stage involves existing institutions in society, such as religious institutions, social institutions, political institutions, and others.<sup>45</sup>

The internalization stages in *shihab* practice in Wonocoyo Village have different subjective realities. This is because the understanding of Jama'ah Rifa'iyah depends on the socialization and delivery process that each individual goes through. The existence of the practice of *shihab* in the view of the majority of the Rifa'iyah residents of Wonocoyo Village is indeed a recommendation that must be implemented because it is a part of K.H Ahmad Rifa'i teachings. Rifa'iyah followers who believe in the *shihab's* recommendations for marriage will always practice these teachings. The practice of these teachings is of course subjective in nature or has become a belief that binds individual Rifa'iyah residents.

On the other hand, the Rifa'iyah followers who are less confident with the implementation of *shihab* think that *shihab* is indeed a teaching from K.H Ahmad Rifa'i, but in the context of different circumstances, between the time of K.H Ahmad Rifa'i and in the current era, the application of the teaching must be reviewed. In the past, the *Penghulu* served the colonial government and even implemented colonial laws. Nowadays, however, this phenomenon no longer exists as Indonesia has been independent and there are no more colonialisation. Therefore, according to them, marriages performed by the headman at the KUA are still valid and perfect. As for the implementation of *shihab*, it is

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<sup>44</sup> Aimue Sulaiman, p. 20.

<sup>45</sup> Zainuddin, p. 78.

optional in the sense that it can be carried out to receive prayers from the Rifa'iyah Kiyai or be abandoned.

### The Practice of *Shihah* among the Jama'ah Rifa'iyah from the Perspective of Islamic Marriage Law

In principle, the practice of *shihah* or repetition of marriage contracts as carried out by the Jama'ah Rifa'iyah in Wonocoyo Village, if related to Islamic Marriage Law, the implementation of *Tajdidun Nikâh* (repetition of marriage contracts) is not much different in reality. However, there are differences of opinion among the ulama' regarding the legal status of *tajdidun nikâh*. According to some 'ulama, *tajdidun nikâh* is not permitted because the new contract can damage the existing contract.<sup>46</sup> Meanwhile, according to *Qoul Shahîh* (the correct opinion), the practice is permissible and does not damage the contract that occurred earlier. Renewing a marriage contract is just a matter of beauty (*tajamul*) or being careful (*ihdiyâth*) regarding contracts that have occurred previously.

Among the ulama' who allow *tajdidun nikâh* are Sayyid Abdurrahman and Ibnu Hajar al-Asqalani. Ibnu Hajar al-Asqalani stated that the Jumhur Ulama' allows *tajdidun nikâh* because it does not damage the first contract.<sup>47</sup> The same opinion was also expressed by the majority of ulama from the Shâfi'i school of thought who stated that the implementation of the second contract is only a marriage contract in its form and this does not mean destroying the first contract.<sup>48</sup> This opinion was then held by the Rifa'iyah Kiyai who emphasized that repetition of the marriage contract in Jama'ah Rifa'iyah was carried out to strengthen the first marriage contract and also as a precautionary step or *ihdiyâth* fearing that the first contract would contain several conditions that have not been fulfilled.

<sup>46</sup> Darsidin, 'Studi Analisis Hukum Islam Terhadap *Tajdid* di Nikah Siri', *Jurnal al Wasith*, 1.2 (2016): 74–75 <<https://doi.org/10.52802/wst.v1i2.70>>.

<sup>47</sup> Ahmad bin Ali bin Hajar al-Asqalani, *Fathul Bari*' (*Syarah Shahîh Bukhari*), Juz 13 (Lebanon: Darul Fikr), p. 199.

<sup>48</sup> M. Sahibudin, 'Pandangan Fuqoha Terhadap *Tajdid Nikâh*', *Al-Ulum : Jurnal Penelitian dan Pemikiran Ke Islaman*, 5.2 (2018): 76–83 (p. 80) <<https://doi.org/10.31102/alulum.5.2.2018.76-83>>.

Furthermore, related to the issue of marriage guardians, in general, the person who performs the *ijâb qabûl* is the *wali nasab* (biological parents or biological brothers of the father or biological brothers) of the bride. However, in the case of *shihâh* among Rifa'iyah followers, *ijâb qabûl* is usually carried out by a Rifa'iyah Kiyai who has been appointed by the bride's guardian to be a representative, including marriage witnesses who are also appointed based on certain criteria, namely 'âdil and not *fâsiq*.<sup>49</sup>

The handover of the mandate as a representative from the *wali nasab* to a Kiyai who is considered pious and fair is carried out because the *wali nasab* is deemed not to have sufficient skills and knowledge to carry out the *ijâb* and *qabûl*. Concerning the handover of the mandate carried out by the *wali nasab* to a Kiyai, this practice, if connected with marriage jurisprudence, is known as *tawkîl wali nikah*, the legal provisions of which are permissible. This is as emphasized by Imam Abû Hasan Ali al-Mawardi in the book *al-Hâwî al-Kabîr* as follows:

*“As for representing guardianship, this is not permitted unless someone meets the requirements, namely: male, mature, independent, Muslim, and intelligent. If these conditions are met then it is valid to represent him.”*<sup>50</sup>

However, regarding the issue of the permission of *wali nasab* to be present at the same place where the *ijâb qabûl* process takes place, the Rifa'iyah figures/Kiyai, especially those in Wonocoyo village do not have a unified opinion about this. There is a Rifa'iyah Kiyai who allowed him to be present to accompany his daughter during the marriage contract.<sup>51</sup> But there is also a Kiyai who does not allow the *wali nasab* to be present at the marriage contract assembly, because he had given up his rights to a Kiyai.<sup>52</sup> The reason for the Kiyai's argument for not allowing the *wali nasab* to attend the contract assembly is referring to

<sup>49</sup> Umum B Karyanto, 'Pergeseran Tradisi Berfiqh Jam'iyah Rifa'iyah', *Jurnal Penelitian*, 7.1 (2010), p. 10 <<https://doi.org/10.28918/jupe.v7i1.206>>.

<sup>50</sup> Imam Abu Hasan Ali al-Mawardi, *al-Hawi al-Kabir, al-Hawi al-Kabir*, Bayrut: Dâr al-Kutub al-'Ilmiyyah, 1994.9, p. 113.

<sup>51</sup> Kiyai Yasin (Rifa'iyah figure from Wonocoyo Village), interview on August 20, 2022.

<sup>52</sup> Kiyai Syamsudin.



the explanation in the book of *Kifâyatul Akhyâr* by Imam Taqiyyudin al-Hishni which states:

*“The validity of the marriage contract requires the presence of four people consisting of the husband, guardian, and two fair witnesses. Guardians and husbands are allowed to represent other people (to carry out the marriage contract). So, if the guardian and husband or one of them have represented someone else and he is present when the representative carries out the marriage contract, then the marriage will be invalid, because the rights of the guardian of the family have been handed over to the representative”.*<sup>53</sup>

This is then used as the basis that *wali nasab* who has been represented cannot be present at the marriage contract assembly.

Imam al-Hisni's statement above can be understood by providing a logical explanation as follows: A marriage contract can be declared valid if it is attended by at least four people, namely: the guardian of the lineage/parents of the bride (*wali nasab*), the prospective groom and two witnesses. If fewer than that number attend, then the marriage is declared invalid. In the case of a *wali nasab* who has delegated his position to another person, the number of people required is reduced, i.e. no longer four people but three people, namely: husband, representative guardian, and one witness. Another person appointed as the guardian's representative is no longer a witness to the marriage. Meanwhile, even though the *wali nasab* who was present there witnessed the marriage contract, he could not be considered a witness to the marriage because he had the status of a guardian, only that the implementation of the agreement was delegated to someone else. This situation makes the marriage contract invalid.

Furthermore, regarding the selection of marriage witnesses, Jama'ah Rifa'iyah in Wonocoyo Village requires that marriage witnesses be fair people. The term fair here means never committing major sins and not getting into the habit of committing minor sins. Some ulama', including Imam al-Nawâwi and Imam al-Ghazâli, think that if in a society, wickedness is rampant then it is permissible to use a marriage

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<sup>53</sup> Taqiyyudin al-Hisni, *Kifayatul Akhyar*, Juz 2 (Bandung: al-Ma'arif, n.d.), p. 51.

witness who is *fâsiq* so that it is not burdensome due to the difficulty of finding fair witnesses. However, if in a society there are people who are considered fair and pious, then it is preferred to be a witness at the wedding.<sup>54</sup> Thus, the practice of selecting marriage witnesses carried out by Jama'ah Rifa'iyah in Wonocoyo Village, although in principle it can be done, still takes into account the current context where it is difficult to find truly fair witnesses. Therefore, the selection of witnesses does not have to be from a certain group, such as from the Rifa'iyah mass organization, as is the opinion of Imam al-Ghazâli and Imam al-Nawâwi.

## Conclusion

The practice of *shihah* marriage among the Jama'ah Rifa'iyah, especially in Wonocoyo Village, was formed over a long time and still exists today. This practice was formed through three stages of social construction, *first*, the externalization stage, namely the stage where the followers of K.H Ahmad Rifa'i campaigned or socialized the practice of *Shihah* to the general public, especially the Jama'ah Rifa'iyah. *Second*, the objectification stage, namely the stage where reality or objective reality is present within the Jama'ah members outside of the individual Rifa'iyah Kiyai. *Third*, the internalization stage, namely the re-absorption of the objective world into individual consciousness.

Regarding the implementation of the *shihah* or renewal of the marriage contract which was carried out by the Jama'ah Rifa'iyah in Wonocoyo Village, according to the majority of the ulama' this is permissible because it does not damage the first contract and is intended only for *ihdiyâth* or precaution.

## Acknowledgment

The author would like to express his thanks to the parties involved in this research, especially the informants (perpetrators of *shihah* marriage

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<sup>54</sup> Noviqotul Munawaroh, 'Tradisi Pra Nikah Rifa'iyah dalam Dialetika Interpretasi Kitab *Tabyîn al-Islâh* di Nusantara', *The International Conference on Quranic Studies Ilmu al-Quran dan Tafsir, Fakultas Ushuluddin Institut Agama Islam Negeri (IAIN) Kudus*, p. 187 <<https://proceeding.iainkudus.ac.id/index.php/ICQS/article/view/594/346#>>.

practices) and also the Rifa'iyah elders or kyai who were willing to provide information to complete the research data which was then published in the article.

### Author's Contributions

Ilyya Muhsin focuses on preparing the article design substantially, starting from clarifying the research problem, the purpose of writing the article, the theory used to analyze the data, and arriving at conclusions. Meanwhile, Anggi Prasetyo completed the research data and wrote the article according to the design and structure of the article designed by Ilyya Muhsin.

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## Interviewers

- Eko Nurhanafi (a resident of Wonocoyo Village) interview on June 20, 2022.
- Mrs. Nima Inggawati and Mr. Diki (residents of Wonocoyo Village and *Shihah* perpetrator) interview on August 19, 2022.

Mrs. Nurul Hidayah and Mr. Febri (residents of Wonocoyo Village and *Shihab* perpetrator) interview on August 20, 2022.

Mrs. Usma and Mr. Basio (residents of Wonocoyo Village and *shihab* perpetrator) interview on August 19, 2022.

Kiyai Syamsudin, (Rifa'iyah figure from Wonocoyo Village), interview on June 28, 2022.

Ustadz Fathul, (Rifa'iyah figure from Wonocoyo Village), interview on August 20, 2022

Kiyai Yasin (Rifa'iyah figure from Wonocoyo Village), interview on August 20, 2022.