



THE CONCEPT OF SILENCE AFTER IJAB IN MARRIAGE CEREMONIES: THE PERSPECTIVE OF SHEIKH MUHAMMAD ARSYAD AL-BANJARI IN KITAB NIKAH

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Abstract

The tradition of "remaining silent after ijab" is a local marriage practice still observed in parts of the Banjar community. This study aims to explore Sheikh Muhammad Arsyad al-Banjari's perspective on this practice as found in his *Kitab Nikah*. The research uses a library study method with a normative-juridical approach and textual analysis of classical Islamic texts. The findings show that while Sheikh Muhammad Arsyad does not explicitly address the silence tradition in formal legal terms, he strongly emphasizes the necessity of continuity and immediacy between the ijab (offer) and qabul (acceptance) as essential for a valid marriage contract. This suggests that the silence practice is more of a cultural custom, which remains acceptable in Islamic law as long as it does not obscure the clarity and intent of the marriage contract. This study highlights the importance of contextual understanding of local fiqh and its connection to socio-religious practices within the community.

Keywords: ijab qabul, silence, marriage contract, Sheikh Muhammad Arsyad al-Banjari, Banjar fiqh

Abstrak

Tradisi "lama diam setelah ijab" merupakan praktik lokal dalam akad nikah yang masih dijumpai di sebagian masyarakat Banjar. Penelitian ini bertujuan untuk menelaah pandangan Syekh Muhammad Arsyad al-Banjari mengenai praktik tersebut sebagaimana tercantum dalam *Kitab Nikah* karya beliau. Metode yang digunakan adalah studi pustaka dengan pendekatan yuridis-normatif dan analisis tekstual terhadap kitab klasik. Hasil kajian menunjukkan bahwa Syekh Muhammad Arsyad tidak secara eksplisit menyinggung tradisi diam setelah ijab dalam konteks fikih formal, namun memberi penekanan kuat pada kejelasan dan kesinambungan antara ijab dan qabul sebagai syarat sahnya akad nikah. Temuan ini menunjukkan bahwa tradisi diam tersebut lebih bersifat adat lokal yang tidak bertentangan dengan prinsip dasar hukum Islam selama tidak mengaburkan makna dan tujuan akad. Penelitian ini menegaskan pentingnya pemahaman kontekstual terhadap fiqh lokal dan keterkaitannya dengan praktik sosial-keagamaan di masyarakat.

Kata kunci: ijab qabul, lama diam, akad nikah, Syekh Muhammad Arsyad al-Banjari, fiqh Banjar

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Introduction

Marriage is one of the most sacred institutions in Islam, governed by clear and structured legal principles. Within the marriage contract, the utterance of *ijab* (offer) and *qabul* (acceptance) plays a vital role. These two expressions form the core of the contract (*akad*), signifying mutual consent and agreement between the two parties involved.¹

The proper articulation of *ijab* and *qabul* is not only ritualistic but also legally binding. According to Islamic jurisprudence, these utterances must occur in close succession, without a significant pause between them. This continuity, known in legal terminology as *muwālah* or *muttasil*, ensures that the contract remains valid and unambiguous. However, in the cultural practices of various Muslim communities, particularly among the Banjar people of South Kalimantan, there exists a unique tradition known as "silence after *ijab*." This practice involves a brief pause or silence by the groom before he responds with the *qabul*. The moment of silence is often interpreted by the community as a symbol of reverence, contemplation, and sincerity in accepting the responsibilities of marriage.²

This localized tradition raises critical questions in the context of Islamic law. Specifically, to what extent does a pause or silence between *ijab* and *qabul* affect the validity of the marriage contract? Does the tradition align with Islamic jurisprudence, or does it introduce a legal complication in the contract process? To explore this issue, the study turns to the works of a notable Nusantara scholar, Sheikh Muhammad Arsyad al-Banjari. As a respected Islamic jurist from the Banjar region, his writings, particularly in the *Kitab Nikah*, have long served as references for Islamic family law in Southeast Asia. His insights are instrumental in bridging classical Islamic thought with local traditions.

In his *Kitab Nikah*, Sheikh Muhammad Arsyad al-Banjari underscores the necessity of immediacy in the marriage contract. He explicitly discourages prolonged silence between *ijab* and *qabul*, arguing that any significant delay could interrupt the unity of the contract and thus invalidate it. This view is consistent with the Shafi'i school of thought, which emphasizes that any prolonged or unrelated speech or action between the two utterances could break the continuity required for a valid marriage.³

¹ Ishlahil Akmalia, "Praktik 'Ala al-Faur Dalam Ijab Kabul Pernikahan Menurut Fikih Munakahat (Studi Kasus Akad Nikah Di KUA Wilayah Aceh Besar)" (PhD Thesis, UIN Ar-raniry, 2025), <https://repository.ar-raniry.ac.id/id/eprint/44248/>.

² Ahmad Ahmad, "Akad Nikah Online: Tinjauan Atas Konsep Ijab Qabul Dalam Kitab An-Nikah Karya Syekh Muhammad Arsyad Al-Banjari" (PhD Thesis, Pascasarjana, 2022), <https://idr.uin-antasari.ac.id/20878/>.

³ ... et al., "Determination Of Sekufu In The Kitabun Nikah Al-Banjari," *Syariah: Jurnal Hukum ...*, no. Query date: 2024-03-12 11:48:55 (2021), <http://103.180.95.17/index.php/syariah/article/view/6835>; M Fadhil, M Fajri, and A Hafidzi, "Comparative Analysis of the Transfer of Wali Aqrab to Wali Ab'ad According to Kitabun Nikah with the Opinion of Imam Malik," *Indonesian Journal of Islamic ...*, no. Query date: 2024-03-12 11:58:58 (2023), <http://www.shariajournal.com/index.php/IJIJEL/article/view/44>; A Hafidzi et al., "Sex Morality as The Essence

This study aims to analyze Sheikh Muhammad Arsyad al-Banjari's perspective on the matter and assess whether the practice of silence after *ijab* constitutes a legal problem or remains within the permissible bounds of Islamic law. Furthermore, it investigates how his teachings interpret the idea of continuity and whether cultural expressions like momentary silence can coexist with legal formalities. Understanding his position helps reveal the nuanced approach of Nusantara scholars in balancing shariah principles with local customs. His stance demonstrates the flexibility of Islamic law when interpreted contextually, without compromising its foundational tenets.

By examining this topic, the research also contributes to the broader discourse on *fiqh al-nawāzil* (contextual Islamic jurisprudence) and *fiqh al-aqalliyyāt* (minority jurisprudence), especially in societies where cultural expressions strongly influence religious practices.⁴ The relevance of this issue is further highlighted by the fact that most Indonesian Muslims adhere to the Shafi'i school, which tends to be strict in requiring unbroken continuity between *ijab* and *qabul*. However, recognizing cultural practices such as the brief silence allows a deeper understanding of how Islamic law operates within lived experiences.

This inquiry not only offers a normative legal analysis but also presents a sociological and anthropological view of marriage rituals within Indonesian Muslim communities. It seeks to clarify the relationship between jurisprudential purity and cultural adaptation in religious practice. Ultimately, this research hopes to enrich the literature on local Islamic jurisprudence and offer insights for contemporary legal scholars, religious leaders, and practitioners involved in family law and marriage ceremonies. It also emphasizes the importance of integrating traditional wisdom with legal precision in navigating real-life religious practices in Muslim-majority societies.

Method

This research employs a qualitative approach using a normative-textual analysis method. The primary objective is to examine the legal implications of the practice of silence after *ijab* in the marriage contract, as interpreted by Sheikh Muhammad Arsyad al-Banjari in his classical work *Kitab Nikah*. The study focuses on understanding how the concept of continuity (*muwālah* or *muttasil*) between *ijab* and *qabul* is articulated in

of Kafa'ah in Marriage According to Kitabun Nikah al-Banjari and the Community of Banjar," *Jurnal Fiqh*, no. Query date: 2024-03-12 11:48:55 (2023), <http://fiqh.um.edu.my/index.php/fiqh/article/view/37888>.

⁴ B Ali, "Otoritas Ijtihad Dalam Kajian Hukum Islam (Analisis Kaedah Fikih al-Ijtihadu La Yunqadhu Bi al-Ijtihadi)," *El-Usrah: Jurnal Hukum Keluarga*, no. Query date: 2024-04-12 15:03:05 (2021), <https://jurnal.ar-raniry.ac.id/index.php/usrah/article/view/9246>; M Rasidin et al., "The Mapping Verses and Application of the Linguistic Approach and Ushul Fiqh Toward the Law of Adultery," *El ...*, no. Query date: 2024-04-12 15:19:49 (2024), <http://e-journal.iain-palangkaraya.ac.id/index.php/maslahah/article/view/7354>.

traditional Islamic jurisprudence, particularly within the framework of the Shafi'i school of thought, which strongly influences the legal culture in Indonesia.⁵

The core data source of this study is the *Kitab Nikah* by Sheikh Muhammad Arsyad al-Banjari. This text is analyzed hermeneutically to extract the scholar's views on the permissibility and limitations of any pause or silence between *ijab* and *qabul*. The analysis is supported by secondary sources, including classical fiqh texts from the four major Sunni schools (Hanafi, Maliki, Shafi'i, and Hanbali), as well as contemporary interpretations found in legal commentaries and the Compilation of Islamic Law (KHI) in Indonesia.⁶

A literature-based approach is employed to interpret the legal reasoning behind the prohibition or allowance of temporary silence after *ijab*. Comparative textual analysis is conducted between al-Banjari's position and those of other jurists such as Imam al-Shafi'i, Imam Malik, Imam Abu Hanifah, and Imam Ahmad ibn Hanbal. Additionally, relevant national legal documents, such as the KHI Article 27, are examined to contextualize the findings within the positive legal system of Indonesia.

The research also applies a contextual analytical framework to identify how cultural practices influence the interpretation and application of Islamic legal norms. This approach allows the researcher to explore the interaction between fiqh (Islamic jurisprudence) and *'urf* (customary practices), particularly in the Banjar Muslim community.

Through this methodology, the study aims to generate a deeper understanding of the fiqh-based principles governing the validity of the marriage contract, and to explore the extent to which local customs can be harmonized with Islamic legal requirements.

Result and Discussion

Sheikh Muhammad Arsyad al-Banjari's View in *Kitab Nikah*

The findings of this study reveal that Sheikh Muhammad Arsyad al-Banjari places great emphasis on the uninterrupted continuity between *ijab* (offer) and *qabul*

⁵ S Irianto, "Metode Penelitian Kualitatif Dalam Metodologi Penelitian Ilmu Hukum," *Jurnal Hukum & Pembangunan*, no. Query date: 2024-03-13 21:20:45 (2017), <https://www.academia.edu/download/71496849/1261.pdf>.

⁶ A Hafidzi, "Prasyarat Poligami Dalam Kitab Fiqih Islam Dan Kompilasi Hukum Islam Perspektif Masalah Mursalah," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, no. Query date: 2024-04-20 20:10:38 (2017), <https://jurnalfsh.uinsa.ac.id/index.php/aldaulah/article/view/490>; ... et al., "Determination Of Sekufu In The Kitabun Nikah Al-Banjari."

(acceptance) in the marriage contract. In his *Kitab Nikah*, he explicitly advises that a groom must not remain silent for too long after the *ijab* has been pronounced.⁷

This is clearly stated in his own words, written in Jawi script:

كدوا جانن لام ديام ايت كمدين درفد سوده ايجاب
Kedua, jangan lama diam itu kemudian daripada sudah ijab.

This phrase can be translated as: “Second, do not remain silent for long after the *ijab* has been spoken.” The statement strongly indicates that while a brief moment of silence may be tolerated, any extended pause is not permissible, as it may interrupt the essential legal unity of the *akad nikah* (marriage contract).

According to Sheikh al-Banjari, the groom may remain silent only for a very brief period—just enough to catch a breath—but not so long that it could be interpreted as hesitation, withdrawal, or a break in the *shighat* (contractual formula). He insists that no other words or actions should intervene between *ijab* and *qabul*, as they may alter or invalidate the contract's integrity.

This interpretation aligns with the Shafi'i doctrine of *muwālah* or *muttasil*, which requires that *ijab* and *qabul* be pronounced consecutively and immediately. Speaking or pausing at length between the two utterances is viewed as a potential nullification of the contract. The concept is further elaborated by scholars like Zain al-Dīn al-Malaybari in *Fath al-Mu'īn*, who outlines the specific conditions of valid *muwālah*:⁸

1. There must be no intervening speech unrelated to the contract between *ijab* and *qabul*.
2. There must be no lengthy silence (*fasl*) between *ijab* and *qabul*, whether the contract is done in person or through writing. In written contracts (which are already discouraged in the Shafi'i view), a delay in response or unrelated speech may signal a withdrawal or interruption of the contract.
3. The offer and acceptance must not be limited by time, such as saying “I marry you for the duration of my life.”
4. Both contracting parties must be able to hear each other clearly and must be present in the same location (*mukhātabah*).

⁷ Muhammad Yazidi Rahman, “KAJIAN KITAB AN-NIKAH KARANGAN SYEKH MUHAMMAD ARSYAD AL-BANJARI TENTANG WALI HAKIM, SAKSI NIKAH DAN IJAB QABUL,” *Baiti Jannati* 1, no. 1 (2024), <https://e-journal.stai-almaliki.ac.id/index.php/hki/article/view/179>; Rahman.

⁸ “An Islamic Legal Study on Conditional Marriage Contracts In A Single Pronouncement Of Ijab Qabul at the Nabire Office of Religious Affairs,” *Jurnal Marital* 3, no. 1 (November 30, 2024): 21–35, https://doi.org/10.35905/marital_hki.v3i1.11341.

5. The *qabul* must match the *ijab* in meaning, even if the wording is slightly different.⁹

Sheikh Muhammad Arsyad al-Banjari's insistence on *muwālah* emphasizes the Shafi'i legal view that silence beyond what is necessary for breath or composure may constitute *i'rad*—a sign of turning away or denying the contract. Therefore, such silence cannot be tolerated, as it compromises the immediacy required between offer and acceptance.

His analysis reflects a legal caution rooted in the fear that an extended pause may allow for second thoughts or withdrawal by the parties involved—especially the *wali*, whose offer (*ijab*) may no longer be considered binding if not met with immediate acceptance.

The Legal Framework and Continuity of Ijab and Qabul in Islamic Jurisprudence

The findings of this study reveal that Sheikh Muhammad Arsyad al-Banjari places great emphasis on the uninterrupted continuity between *ijab* (offer) and *qabul* (acceptance) in the marriage contract. In his *Kitab Nikah*, he explicitly advises that a groom must not remain silent for too long after the *ijab* has been pronounced. His statement, written in classical Malay, urges: “Jangan lama diam itu kemudian daripada sudah ijab,” which translates to “Do not remain silent for long after the *ijab* has been spoken.”

This ruling reflects the doctrinal stance of the Shafi'i school, which requires that the utterance of *qabul* follow the *ijab* immediately and without interruption. The concern is that a prolonged pause may indicate uncertainty or a withdrawal from the agreement, thereby invalidating the contract.

In fiqh terminology, this requirement is called *muwālah* or *muttasil*, referring to the uninterrupted sequence of contract utterances. According to Sheikh al-Banjari, silence is only permissible when it is brief, such as the time needed to take a breath, sneeze, or swallow saliva—acts that are involuntary and momentary.¹⁰ Imam Nawawi, in *al-Majmu'*, explains that a long delay between *ijab* and *qabul* invalidates the marriage, whereas a very brief pause, such as swallowing saliva or pausing for breath, does not affect its validity.

⁹ “The Marriage Suspended on A Condition, And Marriage with The Condition of Choice a Comparative Jurisprudential Study,” *International Journal of Religion* 5, no. 11 (September 12, 2024): 9181–90, <https://doi.org/10.61707/2pz0t541>.

¹⁰ Akmalia, “Praktik ‘Ala al-Faur Dalam Ijab Kabul Pernikahan Menurut Fikih Munakahat (Studi Kasus Akad Nikah Di KUA Wilayah Aceh Besar).”

This reinforces the importance of immediacy and coherence in the performance of the *akad* (contract).¹¹

The legal reasoning behind this requirement is rooted in the belief that the *ijab* and *qabul* constitute a single legal transaction, and therefore must occur in the same sitting (*majlis*) and without any significant interval that would suggest disunity or a change in intent. Sheikh Muhammad Arsyad al-Banjari's interpretation also underscores that no intervening speech or unrelated acts should occur between the two utterances. For instance, if a groom responds to the *ijab* with a lengthy supplication or an unrelated statement before stating his *qabul*, the contract may be deemed invalid.

Interestingly, his strict interpretation of continuity may reflect a cautious attitude aimed at protecting the sanctity of the marital contract and preventing ambiguities or misunderstandings during the ceremony. This is particularly relevant in communal settings where rituals are observed by witnesses. Despite this strict stance, al-Banjari's interpretation still allows for minor and involuntary delays, aligning with the broader consensus of scholars who recognize the human need for breath and natural pauses.

In contrast, the Hanafi school is more lenient on this matter. According to Abu Hanifah, a delayed *qabul* is still valid as long as it occurs within the same *majlis* and no indications of revocation are present. This view introduces flexibility, especially in diverse cultural settings. The Maliki and Hanbali schools also acknowledge the importance of immediacy but accept brief pauses under certain conditions. Imam Malik permits short delays provided there is no evidence of distraction or withdrawal, while Imam Hanbali requires that the parties not be separated or preoccupied during the pause.

When analyzed in light of local traditions, such as the Banjar practice of "silent pause" after *ijab*, these scholarly positions become crucial. The tradition may be seen not as a legal disruption but as a cultural symbol of solemnity and reflection. From a legalist perspective, the critical factor is whether the silence conveys consent or hesitation. If the pause is perceived as meditative or respectful, and does not exceed the limits outlined in fiqh, it may be permissible under Islamic law.

Sheikh al-Banjari's interpretation bridges the legal and cultural realms by implicitly allowing for brief silence, as long as it does not breach the principle of *muwālah*. His stance offers a localized application of Shafi'i jurisprudence, tailored to the Banjar context. This localization of fiqh shows how classical scholars in the archipelago were able to integrate legal orthodoxy with cultural practices, provided that the latter did not undermine the

¹¹ RIA RHISTHIANI, "PERBEDAAN LAFAZ NIKAH DALAM IJAB QOBUL PERSPEKTIF MAJELIS ULAMA INDONESIA PROVINSI LAMPUNG" (PhD Thesis, UIN Raden Intan Lampung, 2019), <http://repository.radenintan.ac.id/7460/1/SKRIPSI.pdf>.

fundamental principles of Islamic law. Furthermore, this study finds that the *Kitab Nikah* of Sheikh Muhammad Arsyad al-Banjari serves not only as a legal manual but also as a source of ethical guidance. His emphasis on precision and discipline in rituals reflects the broader concern for maintaining the sanctity of marriage.

This position is further reinforced by the Indonesian Compilation of Islamic Law (KHI), which in Article 27 states that the *ijab* and *qabul* must be “clear, continuous, and without time lapse.” This legal provision echoes al-Banjari’s interpretation and supports its implementation in contemporary practice. Therefore, while the Banjar custom of momentary silence may appear inconsistent with a literal reading of fiqh, it remains within acceptable limits if it does not involve deliberate delay, distraction, or deviation from the contract’s intent. Ultimately, the concept of silence after *ijab* reflects an interplay between law and culture. Legal norms must be maintained to ensure validity, yet cultural expression can coexist if it enhances the meaning of the ritual rather than detracts from it.

Sheikh Muhammad Arsyad al-Banjari’s contribution to this issue demonstrates the relevance of traditional Islamic scholarship in addressing modern legal and cultural questions. His work offers a model for balancing textual fidelity with contextual sensitivity. The findings of this study advocate for a nuanced understanding of Islamic law—one that respects doctrinal boundaries while recognizing the lived realities of Muslim communities and their customs.

Conclusion

The tradition of remaining silent after *ijab* in marriage ceremonies, as observed in parts of the Banjar community, reflects a local cultural practice that carries symbolic meaning rather than legal intent. Sheikh Muhammad Arsyad al-Banjari, in his *Kitab Nikah*, does not explicitly address this practice but emphasizes the legal requirement for continuity and immediacy between *ijab* and *qabul* to ensure the validity of the marriage contract. His stance aligns with the Shafi’i school, which mandates that any significant delay or interruption between the offer and acceptance may invalidate the contract. Nevertheless, brief and involuntary pauses are considered permissible. This indicates that the silence after *ijab*, when kept within acceptable limits and understood as a respectful or contemplative gesture, does not contradict Islamic legal principles. Therefore, this study concludes that cultural expressions such as momentary silence can coexist with Islamic jurisprudence, provided they do not compromise the essential conditions of the contract.

The findings underscore the importance of contextualizing Islamic law within local traditions to maintain both legal integrity and cultural relevance.

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