CRITICAL THINKING BASED INSTRUCTION AT AUSTRALIAN PRIMARY SCHOOLS: SOCIOLINGUISTICS PERSPECTIVE

Oleh:

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ABSTRACT

This study is to portray classroom interaction in the critical thinking based instruction at primary schools. Primary schools in Australia are considered to develop critical thinking based instruction as reported in some studies. Therefore, the teacher and student interaction is investigated to see the features and construct of effective classroom interaction effective for developing students' critical thinking.

The kind of qualitative method chosen is exploratory case study. It aims at carefully revealing the development of student’s critical thinking triggered by teacher and student interaction.

The result of this study shows that the instruction is characterized by inquiry-based learning, project-based learning, problem-based learning, Socratic questioning, within integrated learning method and added by educational values such as character building and the implementation of social justice education. The finding also shows the politeness strategies portrayed in the teachers’ modeling the 'respect' in the classroom interaction. Teacher plays a significant role for accurate modelling so that in critical thinking based instruction the education value become the main concern. Even from the earlier stage, shaping good identity is done though story telling story to transmit the moral in social and humanity issues. Through the integrated learning process students can make analysis of the education values they learnt in their daily life.

Keywords: critical thinking, teacher-student interaction, politeness strategies, respect.

A. RESEARCH BACKGROUND

The modern sociolinguistic perspectives deal with ethnography of language assessing patterns of successful communication. These can be done through documenting the communicative competence of speakers, that is, how humans achieve to communicate in appropriate way within a given
speech community. In this study the main concern is on primary school teachers’ interaction with students as the idea is describing the successful communication in educational context namely critical thinking based instruction.

Using the sociolinguistic approach is inseparable from the major contributions of Joshua Fishman’s analysis of domains of communication. It emphasizes on the domains of “who speaks to whom in what way and how” shaped for successful communication (Fishman, 1975). Fishman’s theory is basically relevant for applied sociolinguistics particularly on education. However, it has not been much explored in the research context particularly in primary education setting.

Teacher talk produced by teachers of primary schools become the main concern of this study from the sociolinguistics perspective. In a classroom as a speech community, teacher talk plays significant role to stimulate, guide and develop students’ critical thinking. Identifying teachertalk in this study is done through the discussion of the formal and functional characteristics of language used in social settings which becomes an exploration of sociolinguistics theory (Stubb, 1980).

The language phenomenon in classroom setting as a discourse of particular speech community needs more exploration which entails the understanding of sociocultural theory and sociolinguistics (Bayyurt, 2013). It is important to note that the emphasis is exploring the sociolinguistic phenomenon to reveal the successful communication through the appropriate use of teachers’ spoken manners. Whereas the successful communication meant is identified through the development of students’ critical thinking. On a theoretical basis, the theory of communicative competence postulated by Hymes becomes the basis of understanding the sociolinguistic phenomenon occurring in classroom setting (in Bayyurt, 2013). Exploring the communication issues in classroom should include Dell Hymes’ SPEAKING model (1962) consisting of setting, participant, ends, act sequence, key, instrumentalities, norms, and genre (in Wardhaugh, 1986). Hymes’ model is relevant for this research as it leads to the breakdown of the principles of critical thinking based instruction as implemented in Australian primary school teachers’ spoken manners.

Critical thinking skill is the competence on using reasoning and logic focusing on what to believe or do based on the mechanism such as conducting conceptual and argument analysis for problem solving and decision making. Unfortunately, after the reformation era in Indonesia, critical thinking is interpreted unwisely as the effort of finding fault of others particularly of government shown by sporadic action of demonstration conducted by students, labor or common people.

Critical thinking indeed has become an important cognitive skill to be acquired which involves logical thinking and reasoning. Developing critical
thinking has emerged in international benchmark of education by the idea to add reasoning into the current 3R literacy (reading, writing, arithmetic). By having 4R basic competence (reading, writing, arithmetic, and reasoning), learners are equipped with skills needed to support their current and future life economically, socially and culturally (Hayat & Yusuf, 2010; Depdiknas, 2004). This issue has become more significant particularly in facing the more global world.

Critical thinking skills belong to the crucial outcome of higher education. This is in line with the Indonesian Government Regulation (PPRI) No. 70/2010 section 84.2 stating that one of the objectives of tertiary education is to develop human beings who are critical, innovative, independent, self-confident and entrepreneurship minded. Therefore the teaching of language, including writing skills, should incorporate the critical pedagogy.

Improving critical thinking has been a main concern for improving the quality of students’ competence in Indonesia. In fact, activating students’ critical thinking is still becoming teachers’ difficulty. Referring to the result of international survey of Progress in International Reading Literacy Study (PIRLS) in 2006, Indonesian students’ reading competence are in the lowest position in East Asia with the literacy score below the average of international standard. Among the 50 countries surveyed, Indonesia is ranked 45. Students failed to understand the whole reading content, they only understood 30% of the text so that they get difficulties to answer reading comprehension and respond the reasoning prompt well (Hayat & Yusuf, 2010).

The course of reading and language in Indonesian school is considered sufficient but unfortunately it fails to increase the achievement in reading proficiency. There is a negative correlation showing that the more hours given for the course of reading and language, the more ineffective they were for developing the students’ reading proficiency. It has been discovered through studies that the fact deals with the small percentage of teacher with language education background (11%) and linguistics qualification (13%) (Hayat & Yusuf, 2010). In this case, the role of teacher is very significant for encouraging students’ improvement in critical thinking skills which can be done through some questioning techniques. The questioning as well interaction in class belongs to the spoken manners which can benefit the students’ development of critical thinking.

Current studies on critical thinking based instruction do not view the language phenomenon as the core concern. Some studies stress on improving literacy for better students’ competence which can be done through critical thinking based instruction either in English as First Language or English as Second Language contexts (Bensley, et al., 2010; Hofreiter et al., 2007; McLean & Miller, 2010). While other concern with the critical thinking
instruction which is blended in writing course to see the benefits (Deal, 2004; Quitadamo & Kurtz, 2007; Reed, 2008). Critical thinking skills can be taught implicitly through some teaching strategies experimented in some countries (Al-Fadhli & Khalfan, 2009; Crook, 2006; Ernst & Monroe, 2004; Sellnow & Ahlfeldt, 2005). These studies are corroborated with the empirical bases of the implementation of critical thinking based instruction in language classroom.

Current researches on spoken manners and more generally those integrating Fishman and Hymes’ point of view are rarely done in educational setting. More sociolinguistic research deciphering spoken manners and their effects are done in non-educational context such as conducted by Susanto (in Ramiere & Varshney, 2006).

Primary schools in Australia are considered to develop critical thinking based instruction as reported by Emilia (2010). For a successful critical writing, learners at the primary level in Australian classroom are encouraged to take responsibility for their own writing based on what they know. Students were encouraged to participate actively in class discussion and develop their reasoning in their written report. It is part of the teachers’ role to develop students’ reasoning skill and critical thinking through the interaction in the class.

Furthermore, the critical thinking based instruction is as revealed in current practice of genre-based approach in the teaching of writing (Emilia, 2005). In the model of genre-based pedagogy, the Building Knowledge of the Field, Modeling and Joint Construction, and the Independent Construction, require the learner’s ability to make analysis, inference and evaluation representing critical thinking process. Unfortunately, in Indonesia some teachers ignore the detail of the teachers’ modeling of critical thinking implementation. Some problems reported which hinder the development of students’ critical thinking deal with limited time in the class and not ideal class size (Pudariati, 2009; Rahmawati, 2009; Wijayanti, 2009). This means that not all teachers are aware of the importance of the teachers’ modeling in critical thinking based instruction which should be implemented through teachers’ spoken manners.

Based on the above reasoning, the observation to Australian primary schoolteachers is significant to conduct. Therefore the current study is carried out as the collaboration research between UIN Maulana Malik Ibrahim Malang and University of Deakin, Australia. The cooperation between the two universities has been started since 2008 with some annual projects such as the program of BIPA (Bahasa Indonesia untuk Penutur Asing), Intercultural Program and Indonesia In Country Program.

Drawing on the magnitude of teacher-student interaction in critical thinking-based instruction, the present study investigates the pattern of teacher talk which is effective to develop students’ critical thinking. The
teacher talk is considered effective when it achieve expected students’ responses, on task behavior and targeted achievement. The analysis also refers to explore the potential for transferring the model of ideal teacher talk in classroom interaction into the EFL context in Indonesia.

**SOCIOLINGUISTICS PERSPECTIVES**

Sociolinguists believe that the study of language must go beyond the sentences that are the principal focus of descriptive and theoretical linguistics. The focus of attention shifts from the sentence to the speech event (Spolsky, 2010). It must bring in social context as the real text making human communication including the educational context.

In this research, using the sociolinguistic approach is inseparable from the major contributions of Joshua Fishman’s analysis of domains of communication. It emphasizes on the domains of “who speaks to whom in what way and how” shaped for successful communication (Fishman, 1975). Fishman’s theory is basically relevant for applied sociolinguistics particularly on education setting.

The analysis in this research mainly concerns with speech or communicative events involving teacher and student interaction in classroom. Building on communication model, Dell Hymes (1962 in Spolsky 2010) suggested that any communicative event is constituted by some distinct factors. The first two are the speaker-writer and the hearer-reader; the third is the message passed; followed by the topic passed by some means or channel. Hymes provides the basis for ethnography of speaking (or communication) describing speech events based on relevant factors (Spolsky, 2010). Basically when it applies to educational speech events, the analysis leads to the breakdown of critical thinking based instruction.

In Hymes concept of ethnography of communication, any speech event can be seen from its SPEAKING which is the acronym for the elements of communication. Setting represents location of speech. The participants involve speaker and hearer. The end of the communication refers to the purpose. Act sequence also occurs indicating the form and order of the event. What is uncover in the communication is the key or clues that establish the "tone, manner, or spirit" of the speech act. Instruments are also seen as forms and styles of speech. Whereas, norms are related to social rules governing the event and the participants' actions and reaction. As the last element, genre is reviewed from its kind of speech act or event; i.e. kind of story.

In critical thinking based instruction, the teacher and student interaction should also fulfill the cooperative or maxim principle (Grice 1975 in Hoffman, 1993. The first principle is the maxim of quality referring to the standard of being truthful. It is followed by maxim of quantity focusing on the quantity of information. Regarding maxim of relation the speech must fulfill the criteria of relevance. As the implementation of maxim of manner, the speech made must be clear.
This study concerns teacher talk in classroom interaction which is relevant to politeness theory. It is related to the common sense that good manners, or acting appropriate in a way that's socially acceptable and respectful, display respect, care, and consideration for others. Excellent talk can help you to have better relationships with people you know, and those you will meet.

The politeness theory used in this research is related to Brown & Levinson (1987). The first variation of politeness is bald on record which illustrates interactions in which a speaker does not make any effort to reduce the impact of the FTA. Positive politeness occurs when it is oriented towards the interlocutor's positive face wants – the desire for approval. It is often associated with promoting concord, expressing interest, sympathy and approval, which is often followed with intonation or stress (e.g. “What a fantastic garden you have!”). Negative politeness happens in the utterance which is oriented towards the interlocutor’s negative face – the right not to be imposed upon. As the last variation, off record strategy serves a situation in which the speaker tries not to impose directly on the interlocutor by removing themselves from any imposition whatsoever. For example, “It’s cold in here” (a speech act of giving hints, e.g. to close the window), “Perhaps someone should have been more responsible” (a speech act of being vague).

A broad range of theories and practices based on the philosophy of language such as Hymes’ SPEAKING framework (1974), Brown & Levinson theory on Politeness (1978) has not always been considered essential even for language teachers. Sociolinguists, for example, believe that the study of language must go beyond the sentences which are the principal focus of descriptive and theoretical linguistics. It must go beyond language and bring in social context. It must deal with the 'real' texts that make up human communication and the social situations in which they are used. Thus, the focus of attention shifts from the sentence to the act of communication. Teaching and learning, for example, are always mediated through language, so theories of communication, precisely expressed by those skilful philosophers who have turned their attention to the practical use of language, could arguably be of significant interest to all teachers. For language teachers, however, they are of relevance not only for insights into the process of teaching and learning through communication but also for a consideration of what is being taught.

McCarthy (1991), for instance, in his introduction to discourse analysis for language teachers, finds no place for Grice, classifying Gricean pragmatics as intrinsically interesting, but “of little practical adaptability to the language teaching context”. Over a ten-year period, he has “never met an occasion where the maxims could be usefully applied.” Nunn (2006) argues that as a teacher of languages for over thirty years in many different countries and contexts, he has come to see pragmatics, including Gricean pragmatics, as
an essential discipline for teachers to understand both what they are teaching and what is happening in their classrooms. As a discipline concerned, "not with language as a system or product per se, but rather with the interrelationship between language form, (communicated) messages and language users" (Oatey & Zegarac in Schmitt, 2002), it is difficult to see pragmatics as irrelevant to a profession so centrally and essentially concerned with people, language and language use, as that occurs in teaching and learning contexts.

The relevant theories employed in this research are Hymes' SPEAKING model and Politeness theory.

1. Dell Hymes' SPEAKING Model

Hymes (1974) has developed a model to promote discourse analysis of as a series of speech events and speech acts within a cultural context. This is productive and powerful model to analyze many different kinds of discourse, including teaching context.

Setting and Scene
"Setting refers to the time and place of a speech act and, in general, to the physical circumstances" (Hymes, 1974: 55). The living room in the grandparents' home might be a setting for a family story. Scene is the "psychological setting" or "cultural definition" of a scene, including characteristics such as range of formality and sense of play or seriousness (Hymes, 1974: 55-56). The family story may be told at a reunion celebrating the grandparents' anniversary. At times, the family would be festive and playful; at other times, serious and commemorative.

Participants
Participants include speaker and audience. Linguists will make distinctions within these categories; for example, the audience can be distinguished as addressees and other hearers (Hymes, 1974: 54 & 56). At the family reunion, an aunt might tell a story to the young female relatives, but males, although not addressed, might also hear the narrative.

Ends
Purposes, goals, and outcomes (Hymes, 1974: 56-57). The aunt may tell a story about the grandmother to entertain the audience, teach the young women, and honor the grandmother.

Act Sequence
Form and order of the event. The aunt's story might begin as a response to a toast to the grandmother. The story's plot and development would have a sequence structured by the aunt. Possibly there would be a collaborative
interruption during the telling. Finally, the group might applaud the tale and move onto another subject or activity.

**Key**
Cues that establish the "tone, manner, or spirit" of the speech act (Hymes, 1974: 57). The aunt might imitate the grandmother's voice and gestures in a playful way, or she might address the group in a serious voice emphasizing the sincerity and respect of the praise the story expresses.

**Instrumentalities**
Forms and styles of speech (Hymes, 1974: 58-60). The aunt might speak in a casual register with many dialect features or might use a more formal register and careful grammatical "standard" forms.

**Norms**
Social rules governing the event and the participants' actions and reaction. In a playful story by the aunt, the norms might allow many audience interruptions and collaboration, or possibly those interruptions might be limited to participation by older females. A serious, formal story by the aunt might call for attention to her and no interruptions as norms.

**Genre**
It may include the kind of speech act or event; for our course, the kind of story. The aunt might tell a character anecdote about the grandmother for entertainment, but an exemplum as moral instruction. Different disciplines develop terms for kinds of speech acts, and speech communities sometimes have their own terms for types. These terms can be applied to many kinds of discourse. Sometimes in a written discussion you might emphasize only two or three of the letters of the mnemonic. It provides a structure for you to perceive components.

2. **Brown & Levinson Theory on Politeness**

Since it was first proposed in 1978, the politeness framework has been applied to a variety of communicative situations and sub-cultures. The teaching situation is more than usually dependent on verbal communication. Teachers use language for "telling", but also for managing interpersonal relations in a way that must take account of the "face" needs of the students. Cazden (1979) points out that teachers, by the nature of their professional role, are continually posing threats to students' face. These threats take the form of constraints on students' freedom of action, evaluations of their actions and utterances, and interruptions of student work and talk.

First, constraints on freedom of action are clearly threats to students' negative face. Rowland (1999:172) analyses part of a conversation between a
primary school teacher (Hazel) and two pupils in her class along these lines, showing how she uses conventionally polite indirect speech acts to reduce the threat to the pupils' negative face. This takes the form of orders presented as questions, for example, "Shall we try it out and see what happens?", and also of "hedges" (one form of expression of vagueness), as in "Can you sort of explain the pattern for me?"

Secondly, evaluations of pupils' utterances and actions, especially negative evaluations, constitute threats to positive face since they express approval or otherwise. Interruptions constitute threat to both positive and negative face since they are an expression of authority and of approval or disapproval. Cazden goes on to examine teachers' strategies for controlling student behaviour in terms of politeness. She emphasizes the contrast between negative and positive politeness strategies and their relation to social distance between teacher and students. Social distance (D), as one of the three factors which contribute to the seriousness of an FTA, and relative power (P) are largely constant for any particular teacher-student pairing, whilst the ranking of the imposition (R) is variable. Cazden particularly considered social distance as influenced by the cultural background of teacher and student and its impact on the politeness strategies used.

My concern in this paper is not so much with control of students' behaviour as with the way in which the teacher's utterances present and reflect the relationship between teacher and student. The analysis focuses on the teacher's spoken manners (e.g. instructions, questions, statements) dealing with the use of the four strategies listed above (FTAs) and through this analysis several aspects of the relationship between become visible.

Brown & Levinson's (1987) work on politeness theory has been used widely, including by these three mentioned authors, as the most salient approach to examine CS pertaining to politeness phenomena. Brown & Levinson (1987) proposed their politeness theory based on three main factors: (1) power relationships (P) (e.g. parent-children, boss-employee), (2) solidarity or social distance (D) (e.g. the degree of familiarity), and (3) the weight or rank of imposition of the speech act (R) (e.g. a criticism, admiration). Brown & Levinson divide politeness theory into four types of strategies: (1) bald-on-record, (2) positive politeness, (3) negative politeness and (4) off record strategy. These politeness strategies, according to Brown & Levinson, can sum up human politeness behaviour or FaceThreatening Acts (FTAs). FTAs are acts which infringe on the hearers' face. The term 'face' refers to the respect that an individual has.

The bald-on-record strategy illustrates interactions in which a speaker does not make any effort to reduce the impact of the FTA. In this case, the speaker is not concerned whether the interlocutor is embarrassed. The speaker makes the interlocutor feel uncomfortable and shocked by way of disrespecting cultural norms, for example, saying: "Give me that!" instead of
saying: “Can you please give me that?”; “Turn the light on” instead of saying “Could you please turn the light on?” (Brown & Levinson, 1987: 96-100). This type of strategy frequently occurs between conversants who know each other fairly well and share values and cultures. Gardners-Chloros & Finnis (2003), who investigated how politeness mediates CS in Greek/Greek Cypriot culture, also found evidence indicating bald-on-record strategies. In their corpus data, they found a speaker expressed her surprise at seeing Kiki (a participant) entering the meeting. As well as being humorous, the language used is rather extreme (a curse), and the only way she can get away with it is to say it in a different language: Speaker: “Kiki! What the devil!” (italics indicates English translation from Greek).

Positive politeness is oriented towards the interlocutor’s positive face wants—the desire for approval. It is often associated with promoting concord, expressing interest, sympathy and approval, which is often followed with intonation or stress (e.g. “What a fantastic garden you have!”), using in-group identity markers (e.g. “mate”, “buddy”, “honey”, “brother” and “sister”); emphasising shared values and understanding, agreement. For example:

A John went to London this weekend!
B ‘To London.’
(Brown & Levinson, 1987: 101-128)

According to Brown and Levinson, positive politeness is used to satisfy the hearer’s positive face; therefore, it contributes to establishing relationships of intimacy and solidarity. Lakoff (1973: 298) describes positive politeness as ‘making the interlocutor feels good – be friendly’. For example, “You must be hungry; it’s a long time since breakfast, how about some lunch?” (a speech act of attending to the hearer). This strategy is usually found among friends who know each other fairly well.

Negative politeness is oriented towards the interlocutor’s negative face—the right not to be imposed upon. Negative politeness is associated with avoiding discord: seeking to minimise the imposition of face-threatening speech acts on the hearer’s face. Therefore, negative politeness is associated with distance, self-effacement, formality and indirectness. Lakoff (1973) defines it as an effort not to impose on the interlocutor. It includes strategies such as: Can you pass the salt?; Would you mind lending me your bike?; I just want to ask you if I could use your computer. One of the consequences of applying this strategy is that there may be some social distance or awkwardness in the situation.

Finally, the off-record strategy serves a situation in which the speaker tries not to impose directly on the interlocutor by removing themselves from any imposition whatsoever. For example, “It’s cold in here” (a speech act of
giving hints, e.g. to close the window), “Perhaps someone should have been more responsible” (a speech act of being vague).

Gardners-Chloros&Finnis (2003), for example, argued that CS could be used in a wide variety of institutionalised and ad hoc ways by bilinguals for conversational functions, including positive and negative politeness. These authors found politeness functions when CS was used by the speaker for expressing humour, for bonding and for reducing directness. In relation to politeness, Wei (1995:210) claimed that the bilingual speaker seems to have “[...] an innate ability to adapt their language choice to their interlocutors and to avoid doing face-threatening acts even if it means that they sometimes have to use a language with which they feel less comfortable”.

Brown & Levinson’s work is now considered the classic work on politeness theory, and has prompted a great number of studies such as those of Blium-Kulka (1987); Matsumoto, (1988, 1989); DuFon (1999); Kuntjara (2001), and Scollon&Scollon (2001). Scollon&Scollon (2001), for instance, have elaborated the concepts of politeness to create three kinds of politeness systems: (1) the solidarity politeness system, (2), the deference politeness system, and (3) the hierarchical politeness system (Scollon&Scollon, 2001). The solidarity politeness system works when there is no difference in power (-P) and no social distance (-D). It is usually used among friends. This politeness system requires symmetrical use of first name. The deference politeness system, on the other hand, operates when participants are equals in terms of hierarchy (-P), but relatively speaking they are not well acquainted with each other (+D), for example two university professors from different countries. This strategy requires symmetrical exchange of titles. Finally, a hierarchical politeness system is used when participants have different levels of power (+P) and distance (+D) due, for example, to the participants’ differences in age, wealth, position, level of education, ethnic background, and strength. This politeness system usually requires asymmetrical exchange. For example, the person in the powerful position usually address their interlocutor by their (first) name, but will receive such terms of address as “Mr”, “Sir”, or their title to indicate the speaker’s superiority.

Brown & Levinson’s politeness theory, however, has been questioned by a number of researchers, especially those who study politeness in non-western cultures. Matsumoto (1988), for instance, disagrees with the concept of face as it is associated with the individual by Brown & Levinson. In Japan, Matsumoto argues, the concept of face is not based on individual face but on a collective one. Similarly, Gu (1990), who examines making requests in Chinese, notes that a repetitive insistence or requests to dinner, for example, should not be perceived as rude even if they have been rejected by interlocutor. Based on the Chinese tradition, the speaker is judged to be polite since the speaker’s insistence that the interlocutor have dinner indicates the speaker’s sincerity. As a result, the Chinese negative face is not threatened in
In the context of this case. In Western culture, such a repetitive insistence would be unacceptable because the interlocutor would feel uncomfortable or annoyed by being asked more than once. The results of a study on politeness in two different cultures, American and Korean, carried out by Ambady et al. (1996) support the results of Gu’s study. For American people, the interactional relationship is based on equality, while in Korean culture it is based on hierarchical relationships. Therefore, the social and contextual factors of the interlocutor such as age, position, rank, and wealth are important aspects to help understand the meaning of conversations. This is also apparent for Javanese people when using Javanese speech levels, and Javanese cultural aspects play a significant role in maintaining FTAs (Errington, 1998).

In relation to politeness systems in the Javanese context, the use of each speech level is determined by who speaks what language to whom. A different way of understanding this is to consider the use of each speech level as being determined by what Brown & Gilman (1960) call power (P) and solidarity (S). Brown & Gilman differentiate power and solidarity by using V (from Latin vos) and T (from Latin tu). V is used to refer to more distant, formal and respectful relationship; T is used to represent informal, familiar and intimate relationship. From the power perspective, the relationship between speaker and interlocutor is non-reciprocal (asymmetrical), suggesting that in addressing a person of lower status the speaker uses pronoun T and receives V from their interlocutor of less powerful and of lower status. To use an example in Javanese society, the speaker of higher social status generally uses Javanese ngokoto to address an interlocutor of lower status. In return, the speaker of higher status is addressed in Javanese kramaor madyaby the interlocutor of lower status. In some circumstances, the speaker may use Indonesian to show distance, or use Javanese to indicate familiarity (Kartomihardjo, 1976). Gunarwan (2000) summarises the rule of JSL in relation to power (P) and solidarity (S):

<table>
<thead>
<tr>
<th>Type</th>
<th>Situation</th>
<th>Probable speech level</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>+P -S</td>
<td>(Superior, Not solidary) Javanese karma</td>
</tr>
<tr>
<td>II</td>
<td>-P -S</td>
<td>(Not superior, Not solidary) Javanese madya</td>
</tr>
<tr>
<td>III</td>
<td>+P +S</td>
<td>(Superior, Solidary) Javanese ngoko(refined)</td>
</tr>
<tr>
<td>IV</td>
<td>-P +S</td>
<td>(Not superior, Solidary) Javanese ngoko</td>
</tr>
</tbody>
</table>
Gunarwan admits that this rule is a simplification, since the speaker's decision to choose one language over another is also induced, as mentioned in the preceding discussion, by situational and metaphorical factors which sometimes do not correspond to the rules adapted by Gunarwan.

B. CRITICAL THINKING BASED INSTRUCTION

In this research critical thinking is defined as the mode of thinking - about any subject, content, or problem - in which the thinker improves the quality of his or her thinking by skillfully taking charge of the structures inherent in thinking and imposing intellectual standards upon them. (Paul & Elder, 2008). In the context of teaching and learning, critical thinking is developed in the scientific method as developed by Zerba (2001). Beginning with focus or observation, one engages in a particular subject matter. It is followed by making question or hypothesis to look for idea about how a system works. This is in the form of content and value the amounts of which will vary depending on the question or hypothesis. Proceeding to analysis and deliberation, the model comes to the action stage to weigh relative merits of both content and value components of the question. These must be scrutinized, using the most rigorous and critical procedures available. In this case, one evaluates whether the data are valid, then use data to make generalizations. The choice of "best" answer to the problem is done in decision or description of the solution. This decision should only be perceived as final for this cycle of the model. The question should be returned to when new information is available to new focus or observation. The flow of critical thinking components is shown in Figure 1.

![Figure 1. The critical thinking cyclic model](image-url)
The figure suggests that the critical thinking is a process whose components are related to each other. The more critical someone the more cyclic flow s/he will engage in. This is for the reason that the new focus or observation is resulted from questions raised from one’s curiosity.

A good critical thinking based instruction implement the aspects of the cyclic model above. During the implementation, the role of teachers’ spoken manner is very significant as the trigger for developing student’s critical thinking, for instance by applying Socratic questioning in the interaction during class discussion. The Socratic questioning is the method used to provoke students and make them listen carefully, analyze their thought and think critically. Therefore, educators recognize that teachers need to have expertise in the skill of asking questions (Ramsey et al., 1990). However, studies show that most of the questions asked in a typical classroom require only recitation of memorized material and are on the lowest cognitive level. Teachers appear to be unaware of the extent to which they are omitting meaningful, well-phrased, and higher-order questions from their teaching. Hanblen’s study found that only 20% of the questions asked in the elementary and secondary classrooms require critical thinking skills (in Ramsey et al., 1990).

When the teachers engaged in Socratic dialog, in their spoken manners they should do the following aspects as listed in Critical thinking community (2011).

- Respond to all answers with a further question (that calls upon the respondent to develop his/her thinking in a fuller and deeper way)
- Seek to understand—where possible—the ultimate foundations for what is said or believed and follow the implications of those foundations through further questions
- Treat all assertions as a connecting point to further thoughts
- Treat all thoughts as in need of development
- Recognize that any thought can only exist fully in a network of connected thoughts. Stimulate students — through your questions — to pursue those connections
- Recognize that all questions presuppose prior questions and all thinking presupposes prior thinking. When raising questions, be open to the questions they presuppose.

In addition, teachers engaged in Socratic dialog should systematically raise questions based on the following recognitions and assumptions:
- Recognize that all thought reflects an agenda. Assume that you do not fully understand the thought until you understand the agenda behind it. (What are you trying to accomplish in saying this? What is your central aim in this line of thought?)
Recognize that all thoughts presuppose an information base. Assume that you do not fully understand the thought until you understand the background information that supports or informs it. (What information are you basing that comment on? What experience convinced you of this? How do we know this information is accurate?)

Recognize that all thought requires the making of inferences, the drawing of conclusions, the creation of meaning. Assume that you do not fully understand a thought until you understand the inferences that have shaped it. (How did you reach that conclusion? Could you explain your reasoning? Is there an alternative plausible conclusion?)

Recognize that all thought involves the application of concepts. Assume that you do not fully understand a thought until you understand the concepts that define and shape it. (What is the main idea you are putting forth? Could you explain that idea?)

Recognize that all thought rests upon other thoughts (which are taken for granted or assumed). Assume that you do not fully understand a thought until you understand what it takes for granted. (What exactly are you taking for granted here? Why are you assuming that?)

Recognize that all thought is headed in a direction. It not only rests upon something (assumptions), it is also going somewhere (implications and consequences). Assume that you do not fully understand a thought unless you know the implications and consequences that follow from it. (What are you implying when you say that? Are you implying that . . . ?)

Recognize that all thought takes place within a point of view or frame of reference. Assume that you do not fully understand a thought until you understand the point of view or frame of reference which places it on an intellectual map. (From what point of view are you looking at this? Is there another point of view we should consider?)

Recognize that all thought is responsive to a question. Assume that you do not fully understand the thought until you understand the question that gives rise to it. (I am not sure exactly what question you are raising. Could you explain it?)

To sum up, asking successful questions in the classroom is a skill that requires knowledge of questioning techniques, planning, and creativity. The art of successful questioning in the classroom can be cultivated through practice. The successful questions are also influenced by the correct use of spoken manners which becomes the concern of this study.

In the following findings, the data description is presented in the form of instructional context followed by analysis. Each subject of research is represented by abbreviation namely T1 representing teacher 1, T2 represented teacher 2, T3 represented teacher 3 and T4 represented teacher 4.
Instructional context 1

The class observed was grade 5 in the subject Geography with the topic on population. In the transition process from the following class there were many students who looked busy preparing for their study. Whenever the class seemed to be noisy, T1 modeled hands on head and started to explain further instruction.

The activity began with T1 raising the issue on population growth in the world. T1 gave eliciting questions such as 'What do you think about the rapid growth on world’s population?' and some students on it. Then, T1 instructed students to take stand for Agree, Strongly Agree, Indecision (symbolized by question mark), Disagree, Strongly Disagree on these following statements:

1. Because our population will soon be at seven billion people and continues to grow need to expand land area available for living and growing food by cutting down the rain forest.
2. Without reducing rapid population growth, it will be impossible to solve the world’s global challenges.
3. The Earth can support seven billion people now and will be able to support any number of humans in the future.
4. With human population at seven billion, we must protect endangered species habitats by not developing them for any reason.
5. With seven billion people on the planet, water pollution is inevitable and we should not waste money trying to prevent it.
6. Even though I am only one person in seven billion, I still have a responsibility to keep the Earth healthy: what I do makes a difference.

T1 asked the students to move on the place where the stand was written, and they could change their stand on different statement. T1 modeled a student’s way of answering as a way to take a stand through an issue. Then T1 explained the procedure of the next activity starting with statements given so that students were asked to take a position and articulated their views on several issue that are related to a population of seven billion. Students could critically pick from five signs namely strongly agree, agree, question mark, disagree and strongly agree. T1 asked a student to demonstrate how taking a stand in front of the sign given. T1 asked how students distinguished between agree and strongly agree and then T1 clarified the difference among the signs. T1 reminded them that before moving to a sign they are supposed to think carefully about the reason why they are standing on the sign. They must be able to explain their statement, think for themselves which can be different from others.

As the next activity, T1 instructed students to have debate still on those statements with only Agree and Disagree stand. To have the debate, students should make poster represent their view, and make strong statement supported by information and pictures to persuade the readers. Students moved quickly
to prepare objective evidences by looking at the map of the world, opening internet access, discussing with the teacher. When the debate coming, each group presented it in very comprehensive way and each member could support each other's opinion.

The first group responded the statement “because our population will soon be at seven billion people and continues to grow, we need to expand land area available for living and growing food by cutting down the rain forest.” The disagreeing students asked that if we cut down trees where the animals will live. They stated that it will result in global warming.

The second group discussed “without reducing rapid population growth, it will be impossible to solve the world’s global challenges.” The disagreeing part stated that it is hard to get more resources today but those disagreeing stated that with more people we can make more experts to help save the world quality. The teacher responded with short appraisal “Ok-good-well done-yups” in each group presentation.

The third group discussed “the Earth can support seven billion people now and will be able to support any number of humans in the future.” The agreeing students showed their attitude of positive thinking by stating that students should work hard so that we can make underground city not worrying about the limited land. The teacher also appreciated this unique idea.

The fourth group discussed “with human population at seven billion, we must protect endangered species habitats by not developing them for any reason.” The disagreeing students believed that we would die slowly, too while those in agreeing part stated that we need fresh air and food from trees because we still have enough space. Although the ideas shared are not closely linked to the statement discussed, the teacher gave positive encouragement.

The last group presented the issue “with seven billion people on the planet, water pollution is inevitable and we should not waste money trying to prevent it.’ The disagreeing students stated that we need clean water to survive. T1 then closed the session.

Analysis of instructional context 1

At this stage the role of teacher eliciting questions functions as effective starting point to lead students to the topic of discussion. A warming up activity is commonly used by many teachers to open the class, then, it seems like a routine and standard step to go. However, T1 makes it different by trying to build a relevant bridge to help students understand more to the topic, and directs them to have holistic way of viewing the issue. It is seen from T1’s contextual question on world’s situation in twenty years later. Even, it still invites imaginative ideas from students, but not many.
The second activity on taking stand is challenging for students’ as they must be able to think and explain critically why they are on that position. The given statement are very real and those help students to approach the statement in concrete way, even, it is hard for them. However, T1 can direct students to catch the idea easily by giving follow up question. Strongly disagree group on statement no 1 states that ‘cutting the rain forest can reduce the oxygen’. Something interesting from this activity is the students freely choose the stand for different statement not only stay at the same stand for all issues. It helps the students to think critically about what they believe and how they should responsible to what they take. This reflects the benefit of implementing problem based learning to challenge students’ thought.

The debate activity challenged the students capability to represent their views using all resources to convince others. T1 wanted the students present the views with details and reasonable information, relevant posters and pictures. The debate is done from both AGREE and DISAGREE stand. The debate runs with teacher T1 mediation to remind students to respect others’ opinion and to invite other students to share ideas. During the debate, T1 applied some aspects of Socratic questioning such responding to all answers with a further question, stimulating students through the given questions to pursue those connections and recognizing that all thought involves the application of concepts.

**Instructional context 2**

The Geography class of year five discusses about ‘Invention’, and ‘Making Vision for the Future’. T1 gives series of questions ‘What is in your mind about our future?’, ‘Why creating invention?’, ‘Think about environment, economic, and distraction’, ‘What do you think about twenty years later?’, and ‘What do you want?’

T1 explained the objectives of the learning shown by the slide. The focus is on describing what will our world look like in twenty years. T1 asked students to picture what they think the world would like in twenty years from now. Some questions T1 raised are can you describe what it look like? Have you got your picture? Can you describe what your picture looks like? What can you see, hear, smell, taste and touch?

T1 then proceeded with brainstorming and listing the quality of life issues such as child care, less use of paper, reducing the use of palm oil, less criminal, health benefits, medication, quality food and clean water. In the middle of the brainstorming session some students were noisy so that T1 modeled hands-up. T1 continued with further brainstorming and some ideas came up such as shelters which are good ones, support for more countries and better farming. When there is more description given by a student, T1 warned that they are still picturing out not yet describing it as the step further. T1 also
reminded that they should keep in mind that there is a difference between what they think the world will look like and what they want the world to look like.

Tl instructed the student to have five minutes free writing on their notebook. The topic is on what they want the future to be and not on what they do not want it to be. After the students finished their writing, Tl listed their ideas. Among others are the needs for more space, more supplies, more trees, hover houses, peace or no more war, more invention for resources, tree houses and home for poor people.

The following activity is doing ‘Action Planning Worksheet’ in which students are instructed to find the issue they are focusing on, scope of the issue with the view on who or what is currently being affected by this issue both local and global community, visualize desired outcome, gather companions. This also involves the students’ effort to identify and prioritize objectives, identify obstacles, identify resources, implement action plan and follow up. Students should complete their action plan which consists of three steps, developing a plan, using a model and going through the plan. Tl raised some questions such as How do you make a plan for the future? Who or What is currently being affected by this issue? How does this issue affect our local community? How does this issue affect our global community? What is already being done to make change on this issue?

When Tl listened carefully to students answers, Tl replied with positive appraisal such as good, well done or else. Tl continued with elaborative question for example What is something needed so that we have blue sky in the future? What are you saying to make that happen? Some students in back row did not pay enough attention so Tl reminded them by asking hands-up.

There were three groups presenting their action plan on some issues listed previously. The first group explored the plan for helping poor countries. The plan of the second group deals with the issue of good and healthy food to make life longer. The third group shared the action plan for health benefits. While listening to the group presentation, there were some other group chosen to give written feedback on the shared values and more input.

Before the discussion over, Tl raised some reflective questions as follow

• Does describing what you want your future to look like help you realize it?
• How and why is this an important step in creating a world we want?
• Did the action sequence process work?
• How could the process be improved?
• How well did you work together in your groups? Did everyone participate? How did you make your decisions?
• What will you do next to implement your plan?

Each of the questions above was responded by one student.
Analysis of instructional context 2

At the second group of students, T1 works more relaxed which means that T1 does not need to give prompts and long instructions. Building students’ understanding on ‘vision’ which is very abstract idea is interesting. Starting with brainstorming on quality of life produces initial critical thinking on what aspect to have on it. Having enough entry to see the future, students, then are asked to create the better future. It also invites them to think ahead about what to do, why this, how to do, etc. In the class discussion T1 employed Socratic questioning which involves recognizing that all thought requires the making of inferences, the drawing of conclusions, the creation of meaning. In addition, T1 required students to express their thought more clearly so that the questions given are to recognize that all thought is responsive to a question.

Designing action plan focusing on their creation lead to more high level of critical thinking as students present the focus followed by examining on the impact of the creation to local and global community, identifying objectives, identifying obstacles and resources, and planning the implementation. This stage is hard to face as students are challenged to see more deeply about what they are planning. However, the implementation of project based learning in this context is relevant to challenge students’ critical thinking skills.

The step by step stages to help students make their vision on the future is designed by T1 in very constructive way, starting from brainstorming, designing, and identifying. However, the final outcome of this activity does not really happen as T1 has limited time.

Instructional context 3

T2 starts the class interaction in English class of year 6 by giving a prompt about first man landing on the moon, asking ‘Do you know who is he?’ followed by students’ answer ‘Neil Amstrong’ and giving illustration to the students ‘How if our TV fuzzy?, continuing to the highlight about the high technology made by humankind. And, the question is developed in ‘What do you expect when firstly landed to the moon?’. T2 then proceeded with asking the students to imagine what it would be like when the students are the first time land on a different planet. What actually they would say and what would actually they feel about it. T2 gave chances to those raising their hands for questioning and responded with positive appraisal such as good question and T2 directly answered his or her questions.

To make students understand more about space travel, T2 plays an audio video on Neil Amstrong landing. While watching, T2 addressed some questions on ‘What are some elements out there?’, and T2 also instructed think about the landscape of the moon, and there is a question ‘What is on the dark side of the moon?’ This question is the way T2 continued to next stage.
T2 asked students to imagine 'space alien' with this clue 'Why I think your alien is something I have never seen?, 'What it would be like?' At this point, T2 instructed explicitly 'thinking creatively' and 'thinking about something different that never been seen before'. Their creation can be in 'drawing', 'writing', and 'both (half drawing and half writing). While thinking about their alien to be, T2 asked them 'Why can you think about that kind of alien?', two students responded 'Have imagination', and 'Not from humankind'.

T2 reminded the students to finish their work. Then T2 asked why their alien would look like the ones they have never seen before. Students stated various answer such as: they are from out space, they have travelled far away and because it is based on their amazing imagination. During the question and answer session whenever the boys were noisy T2 directly reminded them and said thank you as well. When there is a good question to share with the class, T2 asked a student to speak louder so that her question is heard. The question is why the aliens must be big not small. The students shared their opinion and T2 showed them samples of students work showing that the aliens are various in form. T2 further asked what color the aliens would look like.

T2 really appreciated students' imagination although the idea shared may sound unrealistic. T2 redirected the class by explaining the goal of the learning through the activity on that day. It is expected that students can create the plan on the possible job for the future. They can design their vision by stating explicitly using the expression what if, I wonder when, what happen next and others. The way T2 gave freedom to students in sharing opinion on their imagination is relevant with the inquiry based teaching. Students learned something through their knowledge on something abstract which can then become their idea to explore more. The class was ended and students were reminded to prepare for the next subject.

**Analysis of Instructional Context 3**

The way the teacher makes students familiar with the topic is effective as it is related to the situation they can find at home that when the TV fussy. It links them that there is something wrong with the technology. Giving the yes/no question on 'Do you know who...? raises the students' awareness on the important person firstly landing on the moon, and bring them to the process of remembering. During the inquiry process, the teacher employed some principles of Socratic questioning to respond to all answers with a further question. This calls upon the student to develop his/her thinking in a fuller and deeper way. In giving subsequent question, the teacher also considers that the goal is to indicate that all questions presuppose prior questions and all thinking presupposes prior thinking.
The project on imagining, drawing, and writing on very strange alien that
never been seen before shown that imagination and creativity play strong role
in boosting students’ ability to think, search, investigate something that must
be reasonable and explainable, even, it is still far from universal intellectual
standards on accuracy and relevance but this is the door to enter critical and
creative thinking. The teacher seeks more inference to encourage students
showing a better reasoning as the question is raised to recognize that all
thought requires the making of inferences, the drawing of conclusions, the
creation of meaning. By asking students to explain more on their opinion, the
teacher tried to recognize that all thought is responsive to a question.
Therefore, the students shape their critical thinking with the framework
shown by the flow of the questions during the inquiry based process.

**Instructional context 4**

On the next session, T2 started the topic of humanities on market day for
year six students. It is a project based learning in which the target is to
prepare for the market day held on the next four days. The teacher lead the
coordination in the class by starting with the main three questions as written
on the board: first, what would your stall look like? Second, how much do
your items cost? Third, how would your stall display, who is doing what?

The objectives of the topic are students learn and experience about doing
business, profit and loss, making and promoting products. T2 said ‘You spend
money to make money!’, and ‘How much money do you make today?’. T2 discussed things to prepare for market day which became the main activity
at the session. T2 wrote five following points:

- a. Electrical devices
- b. Set up: ‘What will your stall look like?’
- c. Who is doing who?
- d. Cost: How much do your items cost?
- e. Stall display: containers, servers, napkins, banners

The involvement of the students is very important as this is from their own
ideas and concepts. To start the classroom discussion, T2 asked the readiness
for electric devices. Settling down on it, T2 moved to more specific tasks on
group work for preparing and making concrete the plan for market day. T2
reminded the students to design the stall, the product going to sell, the price,
and the label. During all activities, all groups actively prepared the stall
outlook and the product, and rechecked as well the first plan which includes
the ingredients, the label, the price, the packaging.

Through the project making process, the teacher moved around each
group to make sure that all students were on the task. There was a student
teacher came to assist the group needing help. By exploring the market day it
is expected that the students learn some basic concepts of marketing as the principle in Economics. Students practiced on pricing, deciding the bran and labeling, discussing product specification, applying promotion strategy and explore their creativity when displaying their work.

**Analysis of instructional context 4**

Project-based learning is the dominant activity. Students prepared a Market Day project in group based on their own idea. It reflects that thinking and having good preparation is a must. Important points noted are:

- a) discussing among the team work,
- b) negotiating the ideas,
- c) raising questions,
- d) making the ideas concrete,
- e) finding the way to promote quality of the ideas,
- f) anticipating problems and its solution, and
- g) preparing and planning a project, etc.

Market Day project let the students experience real-life activity on selling system. They learned to create product from different interest and to think the advantages and any possible risks. Meanwhile, the interaction process also involves Socratic questioning concerning how well the students can identify their thought which requires the making of inferences, the drawing of conclusions, the creation of meaning.

**Instructional context 5**

T1 taught geography in year five with the topic on population concerning the product to solve the problems relevant with the issue of population growth. T1 started the session with explaining the rubric of peer assessment which became the main activity. Prior to the meeting all students got the peer assessment from the teacher via email. The rubric was used in the following meeting to assess the speech of each student. The content of the speech involved the answer of the questions on the product to improve the quality of life for everybody on earth.

The main project for students was creating their own questions on the invention for protecting the natural resources. T1, firstly, asks ‘What natural resources?’ followed by students’ answers ‘rain forest’ and ‘solar’ etc as the way to connect them make their questions. The questions were about improving quality of life which link to last week session. This was to direct students to have good poster and presentation. Before instructing them to do the project, a slide of rubric presented, those are: a) behind news interview, b) content, and c) presentation. The rubric, then, was discussed one by one that can clearly understood by the students. Many questions raised responding
to T1’s instruction for doing peer assessment on the project. A student asked ‘Will teacher give extra mark from the good feedback?’, ‘Is the rubric about A, A+?’, and ‘How if we got a bad reviewer?’, T1 tried to ensure them the friends’ feedback will not influence the mark, and reminded them to be wise reviewers that representing Christian values.

T1 guided the students’ understanding through brainstorming. T1 asked what is closed question? What is open question? Which one is important? Why is it important to use open question than closed question? Then T1 played a short video clip concerning the difference between open versus closed questions.

T1 instructed the students to make two open questions individually. They can write their questions on their notebook or using their laptop. They are supposed to make some questions relevant to the product they propose. There were some examples of students’ open question as follow:
- Will people like your product? Why?
- What is the strength and the weakness of your product?
- What do you like the most about your product?
- How does your product work?
- How did you come up with the idea of your product?
- What is your opinion on the product?

The next activity was peer review by using “traffic light feedback” by using three colors post-it-note. The green note refers to the work which had been done well. The yellow one means that it is interesting but there are more work and some improvements needed. The red one represented that it is hard to understand and the student could do better in some other ways. Students reviewed each other work and gave short comment. After the peer review, T1 asked students to state any feedback from their peer which they do not understand. In the reflection time, students also express happiness, disappointment, curiosity, etc. on the feedbacks they got.

During the interaction student expressed themselves freely, even there was a student who could finish the work earlier and said to T1 Is this all? That’s all I’ve heard. T1 responded by appraisal. Before ending the class, T1 raised some reflective questions about things they learned during the period.

Analysis of instructional context 5

In this learning period the emphasis is not on the richness of the material but the improvement on the learning skill which is cultivated to critical thinking based instruction. Starting with the inquiry based teaching to shape the students critical thinking which can eliminate the gap between things they ignore in their surroundings to those which should be put into their consideration. Students improved their awareness for caring more about their environment whose quality must be improved and concern more with
human life in the future. This reflects the implementation of character building characterizing human with hope, grace, truth, love and faith.

Raising question on kinds of natural resources developed the students’ fullest possible knowledge and thinking on the project they were doing. The question also activated students’ prior knowledge on the invention for better quality of life. Discussing the rubric for poster and presentation invited students to carefully prepare their project and to aware them on the importance of having their own original and well-assessed project. The rubric used did not mean to limit students’ creativity, but it helped them to see their own and others. Rubric discussion successfully raised students’ openness on the way judging others’ project which directly they can apply in the classroom.

Making question referring to the student’s product becomes the implementation of structured task. At the same time students must have self-regulation skill to cross check their own understanding on how to distinguish between closed question and open question. This activity is done as the implementation of project based learning which also became dominant activity as students made list of open questions about their invention. The activity were still closely relevant to the concept of PBL which facilitated them to self-regulated/independent learning that they must take responsibility for the learning process by setting goal (setting the invention), monitoring (having a look to their invention intensively), reflecting (raising question about the benefits of the invention to environment), sustaining their motivation from the beginning to the end of the project (self assessment and presenting the project). Creating their own questions to investigate people’s comment on their invention allowed them to the authentic integration of language skills and processing information from multiple sources. Writing questions needed very good linguistic skill on grammar and vocabulary. It also provided students that interviewing other was a powerful way to gain information.

Through peer review students also learn to critically view the works not only of others but also of themselves. The wrap up session using reflection of the learning also becomes another important aspect which completes the process of cultivating student to be critical thinkers. Implementing PBL in the class allowed students to demonstrate their total understanding of the content knowledge through the end of project (poster on the invention) which also becoming a bridge between the invention and real life contexts, improving quality of life.

*Instructional context 6*

T1 in another geography class started the topic on the product to improve the quality of life on earth. T1 began the session with explaining the rubric of peer assessment which became the main activity. Prior to the meeting all
students got the peer assessment from the teacher via email. The rubric was used in the following meeting to assess the speech of each student. The content of the speech involved the answer of the questions on the product to improve the quality of life for everybody on earth.

T1 used “power writing” strategy as the first activity. Students were asked to write sentences based on the given question. T1 employed online stopwatch to control the time needed. Each question is completed in one minute. The first question is *what is your product? What is it made of? Why did you make it?* The second question is *what does your product do to help environment and the quality of life?* The third question is *what have you learned in Geography? What have you found it interesting?*

T1 then instructed students to create two more questions to continue the third question above. T1 reviewed the difference between open and closed questions. Students wrote their questions on their notebook or using their laptop. They are supposed to make some questions relevant to the product they propose. There were some examples of students’ open question as follow: *what are the parts of your product? How big is the effect? What will happen to the environment by using your product?*

The next activity is peer assessment by using face feedback. The smiling face refers to appraisal and students can elaborate what has been done successfully. Flat face refers to what can be done to improve it. Sad face refers to what could be done to make their work much better. After the assessment, students were given opportunity to reflect from their peer review, whether they got the appropriate feedback or not.

*Analysis of instructional context 6*

Bringing students into power writing was very powerful way to sharpen the writing skill. It was underpressed writing which commonly known as stressful writing activity, but at the same time it was also the way to promote fluency. The guided three questions were effective to keep on writing’s track as students focused on the prompt without finding something else to write. It linked to the class’s topic, Designing Invention. The dominant learning activity was still Inquiry-based in which students were asked to explore, investigate, and find out the answers based on their general knowledge and their ideas.

Similar to the learning emphasis in the previous context, the critical thinking based instruction is characterized by strengthening the students’ learning skill. Through inquiry based teaching the students reflect more on what they know about a concept and how to actualize their knowledge through self-questioning. During the class discussion, teacher also applies Socratic questioning by recognizing that all thought rests upon other thought. This is because students understanding on the difference between closed and open question influences their comprehension before completing the next
task. Starting from very basic question on the students' invention to further questions showed that there was a systematic questioning that was very important. The questions challenged the students' ability to see something using two different angles before choosing which one was appropriate. To facilitate students' knowledge application creating questions was done, and followed by assessment to check whether it was good question to interview others for gaining correct information about their invention.

Through peer review students also learn to critically view the works not only on how good or bad it is but also to give suggestions. The reflection session also enables students to critically view their friends' feedback, not directly accepting their input but also fostering their own esteem by distinguishing those in line with their position or not. This part is also significant as the basis for character education.

**Instructional context**

The class started by T2 doing classroom management such as checking attendance and learning readiness. The topic for English subject is on Christmas. T2 wrote the learning activities on the board namely inquiry, discover and present. T2 explained how students should explore the issue on Christmas, to find out and investigate it further. The question raised is *What is Christmas to Christians?* In giving the instruction, T2 used short explanation without further detail considering that the students are in year six and able to get the point on what is expected through their project. On the whiteboard T2 just finished drawing 'spider web' on Christmas--carols and purposes, family, Jesus, and giving--. Each student opened the computer to make some improvements on the slides as they accessed the internet to discover all about Christmas. One student typed 'Why are the Christmas color green and red?', and 'Why do we use Christmas tree?'. During the interaction, T2 reminded the time allocation and went around the class checking the power point.

In the activity students used their laptop and worked individually. Whenever students made noise, T2 reminded them by saying "I’d like you to stop talking, thank you". There were various elaboration made by the students based on their interest such as family gathering, what Santa means, and any other details related to Christmas. The elaborated ideas deal with the reason for the topic and what they most like about it. T2 during the activity reminded students that the target of the project is to give more opportunity to inquire and discover the topic by utilizing the possible resources such as computer. T2 also probe them with a lot of questions to shape students' critical thinking.

**Analysis of instructional context**

The central topic chosen is current and it attracts general interest. The topic also enables integration with several subjects such as English, humanities and Christianity. The brainstorming activity done as pre-writing
strategies plays a role as leading to elaboration for further exploration. During the discussion, some aspects of Socratic questioning appear.

Lists of words given by T2 directed students to be familiar with the process of fact finding based on questions they raised. It was strongly critical-based instruction which allowing students to explore, discover, inquire, investigate, and ask to find any relevant and objective evidences for preparing the project. This was also the characteristics of Inquiry-based learning, generate new questions, ask questions, create hypotheses, investigate, construct new knowledge, discuss & reflect on discoveries, and finally apply newly-acquired knowledge in students’ own life. T2 built a foundation to critically ask and think about the idea and what behind Christmas. The project on slides presentation provoked students exploring different sides of Christmas. It allowed them having self-discovery means that the more they investigated the more they got. It is principally a powerful way to build their creativity, autonomy, and research skill.

The use of technology supports enlarging the knowledge suitable with students’ need. The online resources are provided by the school resource center which has been selected and scrutinized so that the content is in accordance with the national curriculum. Probing students during the writing process with a lot of questions guides the students’ flow of thought in their expressing ideas. It is also relevant to character education as students are expected to be responsible for their work.

**Instructional context 8**

The session on humanities is still related to writing project. T2 instructed students to write their reflection on the market day project they have done the previous week. T2 asked students to consider on the following questions:
- Who was responsible for ‘what’?
- What I should have been done?
- How much money the stall make?
- Taking on the costs, how much money the stall make?

In answering the first question students learn how to distribute responsibilities with their peers and make details of job description. The second question leads to the reflection on how students make decision whenever new condition appeared which was beyond their plan or expectation. The third and fourth questions concern with math and economics concept on making profit.

Following the above questions, students are guided to make more exploration as the details of the points they shared in their writing. There are more questions such as: What is your highlight? What is your lowlight? What
are the challenges faced and how were they fixed? Did anything you planned for not go to plan? Were your prices inappropriate? Explain.

In addition to reflecting from their experience, students were asked to give suggestion for the following Market Day program. There are two leading questions:

- What would you do differently if you had a chance to do market day?
- What would you suggest to those in next year market day about their future stall?

The class ended after T2 finished giving individual feedback to all students’ writing.

Analysis of instructional context 8

Reflection is a significant learning skill to do self-assessment on how a learning activity meets its objective. Through this skill students can learn more by knowing their lowlight and planning for any improvement they can do. This process allows them to think more not only on what is being learned but also how it is being learned which include how well they perform their work during the project based learning. Assessing their own progress, students are encouraged to foster their critical thinking skills which include collaborative activities, active participation in class and self-regulated learning. In this process the teacher also applies Socratic questioning which reflects that all thoughts presuppose an information base. In addition it also implies that all thought is responsive to a question.

By referring to the review of literature explicated in the background, findings of research and the discussion on the result of data analysis, the researchers can draw the following conclusions.

The critical thinking based instruction at Australian primary schools is characterized by inquiry based learning, project-based learning, problem-based learning, Socratic questioning, within integrated learning method and added by educational values such as character building and the implementation of social justice education. it is clear that almost all of the instructional contexts make use of inquiry based learning which mainly characterizing critical thinking-based instruction.

The implementation of inquiry based learning is always followed by the use Socratic questioning in teacher and student interaction. The questioning strategies are meant to guide students’ understanding on the topic discussed. To see the progress of learning, student’s assessment is also a particular concern which is applied through both self and/or peer assessment. The self assessment and peer assessment are used in both problem based and project based learning. For task based or structured task, peer assessment is also helpful. The whole instructional contexts do not stand alone as there is
integrated learning between the subject and study skills. The subject discussed
can also be integrated to other subjects as the immediate outcome.
Meanwhile, as the indirect impact, the learning results in the cultivation of
character building education. In addition, there is also an implementation of
social justice in education practised in the class.

The study also uncover the politeness strategies portrayed in the
teachers' modeling the 'respect' in the classroom interaction. There were a
number of respects appeared during the class interactions that can be analyzed
by using sociolinguistic approach, which include students' respect (bowing a
shoulder when walking in front of other people) and teachers' respect (giving
rewards, disciplining the class, teaching how to say politely).

Teachers in teaching respect use verbal and tangible reward. Verbal
reward means praises expressed verbally while tangible reward means praises
in the form of small gifts. From politeness perspective, it confirms to negative
politeness as they did not want to threat students' negative face as they have a
right not to be imposed upon by, for example, teacher's ignorance of
expressing gratitude. The teachers tried to avoid discord and seek to minimize
the imposition of face-threatening speech acts on the hearer's face. Teachers
were so helpful and showing friendship to the students. Sympathetic
approach can be done through communication between the student and the
teacher to achieve better atmosphere for a classroom environment. The
teachers tried to be humble and created teaching situation more than usually
dependent on verbal communication, in which the use of language is not only
for "telling", but also for managing interpersonal relations in a way that must
take account of the "face" needs of the students. It was also observed that
the teacher never said "wrong" not even show their disappointment to build the
students' confidence and maintained the student's face which can be
classified as positive politeness because the teacher oriented it towards the
students' desire for approval. The teachers tried to promote a concord, express
interest, sympathy and approval through accurate modeling during the
classroom interaction.

The teaching and learning of respect through teachers' modeling
politeness strategies aims at shaping good identity. Teacher as an integrated
education practitioner plays a significant role for accurate modelling so that in
critical thinking based instruction the education value become the main
concern. Even from the earlier stage, shaping good identity is done though
story telling story to transmit the moral in social and humanity issues. Through
the integrated learning process students can make analysis of the five values
they learnt in their daily life covering hope, grace, truth, love, faith.
REFERENCES


Crook, J. 2006. *Substantive Critical Thinking as Developed by The Foundation for Critical Thinking Proves Effective in Raising SAT and*


Lakoff, R. 1973. The logic of politeness; or minding your p’s and q’s. *Paper from the Ninth Regional Meeting of the Chicago Linguistic Society* 8:292-305.


PARADIGMA HUKUM ISLAM DAN HUKUM POSITIF TENTANG STATUS SAKSI NIKAH

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ABSTRAK


TUJUAN

pemikahan menurut konsepsi Islam terdapat syarat-syarat dan rukun-rukun yang harus ditempuh, karena tanpa memenuhi aturan yang ada, maka pemikahan dianggap tidak sah. adapun syarat pemikahan agak tersamar dengan rukun pemikahan itu sendiri. Sebagai kita ketahui, syarat dan rukun itu berbeda, syarat adalah sesuatu yang harus ada dalam suatu perbuatan, namun berada di luar perbuatan itu. Sedangkan rukun adalah, suatu yang harus ada dan menjadi bagian dari perbuatan tersebut. Di antara rukun nikah yang banyak di perdebatkan adalah masalah status saksi dalam akad pemikahan. Berkaitan dengan masalah tersebut dapat di jelaskan tujuan penelitian adalah untuk menjelaskan bagaimana status saksi nikah menurut hukum islam dan hukum positif.

METODOLOGI


Bisa dikatakan juga penelitian ini menggunakan metode Content Analysis yaitu model yang digunakan dalam penelitian yang bersifat normatif, dalam arti untuk menganalisis teks pemikiran ulama (empat madzhab) Undang-Undang Perkawinan dan Kompilasi Hukum Islam.

TEMUAN

A. Saksi nikah menurut pendapat Madzhab Hanafi

Berbicara tentang saksi dalam akad nikah banyak terjadi perbedaan pendapat, hal itu terjadi karena pebedaan dalam memahami al-Qur’an dan al-Hadits, sehingga istinbath hukumnya juga berbeda. Adapun pendapat madzhab hanafi adalah sebagai berikut: dalam kitab al-Ikhtiyar lita’il al-Mukhtar dijelaskan,

Menurut madzhab Hanafi, saksi merupakan syarat akad nikah, hal itu mengacu pada hadits nabi \textit{"la nikaha illa bi syuhud"} (pernikahan tidak sah kecuali ada saksi) dan diriwayatkan dari ibn Abbas dari nabi Saw, sesungguhnya nabi bersabda \textit{"al-Zaniyatu allati tankihu nafsaha bighairi al-Bayyinah"}(perempuan pezina adalah perempuan yang menikahkan dirinya tanpa di saksikan oleh saksi). Adapun kriteria saksi menurut madzhab hanafiyah adalah merdeka, berakal, dan baligh. Sedangkan seorang hamba sahaya, anak kecil, dan orang gila tidak boleh menjadi saksi.\footnote{Ibid}

Sedangkan dalam kitab \textit{Jauhar al-Nayyirah} di terangkan tentang saksi dalam akad nikah sebagai berikut:

\begin{quote}
\end{quote}
Sedangkan dalam kitab *Bidayah al-Mujtahid* dijelaskan pula tentang saksi nikah,

... dan Abu Hanifah pernikahan hukumnya sah dengan disaksikan oleh orang fasik, karena tujuan persaksian adalah untuk mengumumkan saja. Adapun menurut imam Syafi’i, Syahadah itu mempunyai dua pengertian, pertama pengumuman dan yang kedua adalah penerimaan. Maka dari itu disyaratkan saksi harus adil. Adapun menurut malik, kata syahadah hanya mengandung arti pengumuman, dengan itu ketika akad nikah di saksikan oleh dua saksi, tetapi saksi tersebut di minta untuk merahasiakan akad tersebut, hukum pernikahan tidak sah.  

Adapun dalam kitab *al-Mabsuthat al-Syarkhasi* dijelaskan pula tentang saksi dalam akad nikah:

... dan masih berbicara dalam masalah pemikahan, menurut kita akad nikah hukumnya sah dengan disaksikan oleh orang fasik.

Sedangkan dalam kitab *al-Binayah fi Syarh al-Hidayah* di jelaskan pula tentang masalah saksi:

... Pernikahan orang Islam hukumnya tidak sah tanpa dihadiri oleh dua orang saksi yang merdeka, berakal, baligh, islam, dua laki-laki atau satu laki-laki dan dua orang perempuan, baik saksi tersebut adil atau tidak.

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80 Syarkhasi, Syam al-Din, *Kitab al-Mabsuthat*, (Bairut: Dar al-Ma’rifah, t.t), hlm. 31
B. Saksi nikah menurut pendapat Madzhab Maliki

Sebagaimana madzhab yang lain, madzhab maliki yang didirikan oleh Imam Malik juga mempunyai pendapat tersendiri tentang saksi nikah, adapun pendapat tersebut bisa dilihat dalam kitab Bidayah al-Mujtahid:

وقال أبو ثور وجامع: ليس الشهداء من شرط النكاح لا ضرط صحة ولا ضرط تمام وفعل ذلك الحسن

بن علي روي عنه أنه تزوج بغير شهادة ثم أعلن بالنكاح.

Abu Tsar dan jama'ah berkata, saksi itu tidak termasuk syarat dari syarat sahnnya akad nikah dan juga tidak termasuk syarat sempurnanya akad nikah, hal itu di lakukan oleh al-Hasan bin Ali, diriwayatkan darinya bahwa sesungguhnya nabi menikah tanpa di saksikan oleh saksi, tetapi kemudian mengumumkan perkikahan tersebut. 81

Sedangkan dalam kitab al-Mabsuthat dikatakan,

وكان مالك وابن أبي لبلي وعثمان البيتي رجعهم الله تعالى يقولون الشهود ليس بشرط النكاح إلا الشرط الأعيان حتى لو أعلنا بحمرة الصبيان والابن الولو أمر الشاهدين بان لايظهرا العقد لايصح وحجبتهم في ذلك قو له صلى الله عليه وسلم اعلنا النكاح ولو بلدف

Malik dan ibn Abi Laiy dan Ustman al-Baty Rahimullah berkata, saksi tidak termasuk syarat dalam akad nikah, sesungguhnya syarat nikah adalah mengumumkan.Dan ketika akad nikah tersebut diumumkan walau dihadapan anak-anak kecil dan orang-orang gila, maka perkikahan hukumnya sah. 82

Begitu pula di jelaskan dalam kitab al-Kafi fi al-Fiqh Ahli Madinah al-Maliki,

ويعتقد النكاح بغير شهود عند مالك كما يعتقد البائع إذا رضي الزوج والمرأة ومن فرض النكاح عند مالك إعلانه خفظ النسب

Pernikahan hukumnya sah tanpa dihadiri dan disaksikan oleh saksi, hal itu menurut Malik sebagaimana sahnnya akad jual beli tanpa adanya saksi, dengan catatan ketika antara laki-laki yang perempuan yang akad sama-sama ridha.Dan menurut Malik yang termasuk fardhu nikah adalah mengumumkan perkikahan tersebut, tujuannya adalah untuk menjaga nasab. 83

Sedangkan dalam kitab al-Tafrig Malik juga berpendapat sebagai berikut,

قال مالك رحمه الله رعقد النكاح جائز بغير شهادة ويستحب فيه الإعلان والإشعار والإشهاد عليه

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81 Muhammad bin Ahmad bin Muhammad bin Ahmad bin Rasydi al-Qurtubi, Bidayah al-Mujtahid, (Lebanon Bairut: Dar al-Ma’rifah, 140 H), hlm. 18
82 Syarkhasi, Syam al-Din, Kitab al-Mabsuthat, (Bairut: Dar al-Ma’rifah, t.t), hlm. 30-31
83 Qurtuby, Abi Umar Yusuf ibn Abdullah ibn Muhammad ibn Abd al-Birri al-Namri, al-Kafi fi Fiqh Ahl Madinah al-Maliki, (Bairut Lebanon: Dar al-Kifab al-Alamiyah, t.t), hlm. 229
Malik rahimahullah berkata, akad nikah hakumnya boleh tanpa disaksikan oleh saksi, tetapi di sunnahkan untuk mengumumkannya. 84

C. Saksi nikah menurut pendapat Madzhab Syafi’i

Untuk selanjutnya, adalah pendapat Imam Syafi’i tentang saksi nikah, sebagaimana imam-imam yang lain, al-Syafi’i dan para pengikutnya juga punya pendapat tersendiri, salah satunya yang di jelaskan dalam kitab al-Muhaddab sebagai berikut:

ولا يصح التكاح إلا بشهادتين لا يصح إلا بشهادتين ذكرت في نص عقد برجل واحد يتم توثيق عائشة رضي الله عنها ولا يصح إلا بعدم ما روى ابن مسعود رضي الله عنه أن النبي صلى الله عليه وسلم قال لا نكاح إلا بولي وشاهد عدل

Pernikahan hukumnya tidak sah kecuali disaksikan oleh dua orang saksi.Dan pernikahan hukumnya tidak sah tanpa disaksikan oleh dua saksi laki-laki.Maka ketika akad nikah disaksikan oleh satu laki-laki dan dua orang perempuan hukum pernikahan tidak sah. Sebagaimana hadits ‘Aisyah radhiyallahu anha pernikahan hukumnya tidak sah tanpa disaksikan oleh dua saksi yang adil sebagaimana diriwayatkan oleh ibnu Mas’ud, sesungguhnya nabi bersabda: tidak sah suatu pernikahan kecuali adanya wali dan dua orang saksi yang adil. 85

Dan dijelaskan pula dalam kitab al-Umm,

ويشهد علىعقد التكاح شاهدان عدلان فإن نقص التكاح واحدا من هذا كان فاسقاً ولا شهد التكاح من لا يجوز شهادته وإن كثروا من أحرار المسلمين أو شهاده عبيد مسلمين أهال ذمة لم يجوز التكاح حتى يعقد بشهادتين عدلين

Akad nikah harus disaksikan oleh oleh dua saksi yang adil, ketika akad nikah kurang dari satu (hanya disaksikan oleh satu saksi) maka pernikahan hukumnya rusak (tidak sah) dan ketika pernikahan disaksikan oleh orang yang tidak sah kesaksiannya walaupun orang banyak dari orang Islam atau disaksikan hamba-hamba orang Islam atau disaksikan ahli dzimmi, maka pernikahan hukumnya tidak sah sehingga akan sah ketika di saksikan oleh dua orang saksi yang adil. 86

84 Bashri, Abi Qasim Ubaiddillah bin al-Hasan bin al-Hasan bin al-Jallab, al-Tafrig, Juz 2, (Bairut: Dar al-'Arab al-Islami,378 H), hlm. 33
86 Syaﬁ’i, al-Imam Muhammad bin Idris al-, al-Umm, juz 6, (Bairut: Dar al-Kutub al-Alamiyah, 604 H), hlm. 57-59
Selanjutnya dijelaskan pula dalam kitab *al-Bajuri*.

Oleh karena itu, tidak dapat disahkan kecuali dihadiri oleh dua orang saksi yang adil. Mushannif berkata dari syarat wali dan dua orang saksi dalam perkataannya, seorang wali dan dua orang saksi dibutuhkan adanya enam syarat, pertama Islam, kedua baligh, ketiga berakal, keempat merdeka, kelima laki-laki dan keenam adil.87

Di dalam kitab *Minhaj al-Thalibin* juga menyinggung tentang masalah saksi,

*...*

Dalam kitab *Raudhah al-Thalibin* dijelaskan,

*...*

Rukun nikah yang ketiga adalah persaksian, maka pemikahan hukumnya tidak sah kecuali dihadiri oleh dua orang laki-laki yang muslim, mukallaf, merdeka, adil, mendengar, melihat, mampu mengetahui lisan (perkataan) dua orang yang sedang berakad, diucapkan dalam suatu riwayat, pemikahan hukumnya sah disaksikan oleh orang buta dengan catatan orang buta tersebut benar-benar kenal dengan suara kedua orang yang berakad.89

Adapun menurut kitab *Mughni al-Muhtaj*,

*...*

Pernikahan hukumnya tidak sah kecuali dihadiri oleh dua orang saksi karena adanya hadits dari ibnu Hibban didalam kitab shahihnya dari ‘Aisyah, tidak

87 Ghazzi, Ibn Qasim, *Hasiyah al-Syaikh Ibrahim al-Baejuri*, Juz 2, (Bairut: Lebanon, t.t), hlm. 190-195
ada pernikahan kecuali adanya wali dan dua orang saksi yang adil, ketika ada pernikahan tanpa ada hal tersebut maka pernikahan hukumnya batal.\(^{90}\)

Selanjutnya dijelaskan pula dalam kitab \textit{al-Bayan}.

\begin{quote}
ولا يصح النكاح إلا بحضور شاهدين ذكرتين عدلين رؤي ذلك عن عمر بن الخطاب وعلي بن أبي طالب وابن عباس والحسن البصفر وابن النبي والشعبي والأزور وعثمان رضي الله عنهم
\end{quote}

Pernikahan hukumnya tidak sah kecuali dihadiri oleh dua saksi laki-laki yang adil, hal itu diriwayatkan dari Umar ibn Khattab dan Ali bin Abi Thalib dan Ibn Abbas dan Hasan al-Bhasri dan Ibn Musayyab dan Nakha’I dan Sya‘yi dan Auza‘I dan Ahmad.\(^{91}\)

\section*{D. Saksi nikah menurut pendapat Madzhab Hanbali}


\begin{quote}
 وعن أحمد : أن الشهادة ليست شرطا فيه لأن النبي صلى الله عليه وسلم أعطى صفاء وَتَوْزِيْحًا بغير شهود ولأنه عقد معاوضة فلم تشير الشهادة فيه كالبيع
\end{quote}

Dari Ahmad, sesungguhnya persaksian itu tidak termasuk syarat sahnya pernikahan, karena Nabi Muhammad Saw pernah memerdekakan Shafiyah dan mengawininya tanpa menghadirkan saksi. Dan Karena sesungguhnya pernikahan adalah akad \textit{mu’awadhah} (serah terima), maka tidak distaratkan adanya persaksian sebagaimana di dalam akad jual beli.\(^{92}\)

Kejadian itu di bulan Muharram tahun ke tujuh Selepas perang \textit{khaybar} setelah pembagian \textit{ghanimah}, shahabat Diyyah mendapat bagian yang diantaranya ada wanita cantik, kemudian Rasulullah Saw menukamnya dengan 7 (ada yg mengartikan "dibeli" sesuai bahasa aslinya 7 \textit{qurus}), kemudian wanita cantik itu (selanjutnya dikenal sebagai Siti Shafiyah) oleh Rasulullah Saw dimerdekakan oleh Nabi dan diserahkan kepada Ummu Sulaym untuk "diurus" (di sini terkait dengan konsep istibro sebagai padanan 'iddah bagi amat) di perkemahan sampai selesai masa istibra, yaitu satu kali haid.\(^{93}\)

\(^{90}\)Syarbiny, Syams al-Din Muhammad bin al-Khatib, \textit{Mugnihi al-Muhtaj}, (Bairut Lebanon: Dar al-Ma’rifah, 676 H), hlm. 194-195


\(^{92}\)Qudamah, Muhammad ’Abdullah Ibn Ahmad Ibn Muhammad Ibn, \textit{al-Kafi}, juz 4, (Bairut: Hjr, 620 H), hlm. 238
kemudian diantara para shahabat ada yang tidak tahu posisi Shafiyah saat itu, maka salah satunya menjawab, kita lihat saja, jika Shafiyah *dihijab* maka berarti ia sudah jadi istri Nabi, namun bila tidak maka ia hanya sebagai budak. ternyata shafiyah itu *dihijab*, dan itu menandakan ia telah menjadi istri Nabi, dari kondisi tersebut, sebagian ulama menafsirkan bahwa Rasulullah menikahi Shafiyah tanpa wali dan tanpa saksi.

Ibn Mundzir berkata, sesungguhnya nabi Muhammad Saw telah memerdekakan Shafiyya binti Huyayyi kemudian menikahinya tanpa disaksikan oleh saksi, Anas bin Malik berkata, Rasulullah membeli seorang wanita *jariyah* dengan harga tujuh *qurus*, kemudian umat manusia waktu itu berkata, kita tidak tahu apakah rasulullah akan menikahinya atau menjadikan ummum waalad? Maka ketika melihat Safiyyah ternyata *dihijab*, dengan kejadian itu berarti sesungguhnya Rasulullah telah menikahinya.


Dengan penjelasan di atas berarti sudah jelas bahwa pandangan Ahmad Ibn Hanbal tentang status saksi dalam akad nikah adalah bukan termasuk syarat sahnya pernikahan, pernikahan tanpa dihadihkan oleh saksi hukumnya sah. Pernyataan Ahmad Ibn Hanbal yang lainnya bahwa tidak ada satupun ketetapan dalam al-Qur’an dan dari Rasulullah Saw yang mewajibkan adanya saksi dalam akad pernikahan. Jika itu diwajibkan maka hal tersebut harus bersumber dari Nabi Saw. Padahal dalam kenyataannya nabi sendiri pernah

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93 Qudamah, Muhammad 'Abdullah Ibn Ahmad Ibn Muhammad ibn, *al-Mughni,* juz 7, Riyad, 'Alamu al-Kutub, 541), hlm. 7
menikahkan seseorang tanpa menghadirkan saksi untuk menyaksikan akad nikah tersebut, Karena sesuatu yang wajib adanya termasuk adanya saksi dalam akad pernikahan, hukumnya wajib untuk dipublikasikan. Keputusan hukum tentang adanya persyaratan saksi dalam akad pernikahan di dalam Islam adalah lemah (dha'if), sebab tidak ada dasar hukum penetapannya di dalam sumber hukum Islam, baik dalam al-Qur'an ataupun Sunnah. Sedangkan hadits tentang masalah saksi nikah yang diriwayatkan oleh al-Daruqutni,

\[ \text{رَقَدِ رَوِيَ عِنْ التَّيِّي صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمُ} \]

Tidak dipandang sah pernikahan tanpa wali dan dua orang saksi laki-laki yang adil. 95

Menyikapi hadits diatas, Imam Ahmad sepakat dengan pendapat Ibnu Mundir di dalam kitab al-Mugni bahwa sesungguhnya tidak ada hadits yang menjelaskan tentang disyaratkan saksi dalam akad nikah.

قال ابن المنذر: لا بيت في الشاهدين في النكاح خبر

Ibnu Mundir berkata: tidak ada ketetapan hadits yang menjelaskan tentang disyaratkan saksi dalam akad nikah. 96

Tentang ketidak sahihannya hadits yang mensyaratkan adanya saksi dalam akad nikah juga dipertegas oleh Ibn Abdul al-Birri, menurut beliau bahwa hadits di atas yang diriwayatkan oleh al-Daru Qutni adalah hadits yang lemah.

وقال ابن عبد البر: وَقَدْ رَوِيَ عِنْ التَّيِّي صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمُ}

Hadits bin 'Abbas dan Abu Huraerah dan Ibn Umar adalah termasuk hadits dhoif. 97

Begitu pula Ibn Mundzir berpendapat, dengan melihat peristiwa bahwa Nabi pernah memerdekakan Shafiyah dan mengawinkannya tanpa menghadirkan saksi, maka menurutnya bahwa status saksi dalam akad pernikahan bukanlah suatu kewajiban yang harus di jalankan.

قال ابن المنذر: وقد اعتق الله صلى الله عليه وسلم صفيّة بنت حبيّة فنروجها بغير شهود

95 Qudamah, Muhammad 'Abdullah Ibn Ahmad Ibn Muhammad Ibn, al-Kafi', juz 4. (Bairut: Hjr, 620 H), hlm. 21
96 Qudamah, Muhammad 'Abdullah Ibn Ahmad Ibn Muhammad ibn, al-Mughni, juz 7, Riyad, 'Alamu al-Kutub, 541), hlm. 7
97 ibid.
Ibnu Mundir berkata: sesungguhnya Nabi memerdekakan Shafiyah kemudian mengawininya tanpa ada saksi. 98

Kenyataannya, persyaratan mahar dalam pernikahan lebih utama dari pada adanya saksi. Akan tetapi mengapa mereka tidak mengangkat adanya mahar menjadi permasalahan yang penting dalam akad pernikahan? Seharusnya adanya mahar itu dijelaskan karena para sahabat pun tidak akan mengabaikan sesuatu yang harus diketahui oleh semua orang muslim. Ada sebuah kekeliruan berpikir dalam masyarakat yang suka mempermasalahkan sesuatu yang bukan merupakan masalah, tetapi suka menganggap penting sesuatu yang sebenarnya bukan merupakan kewajiban. Contohnya adalah masalah mahar dan saksi. Karena Anas bin Malik telah berkata:

"Apabila mereka telah mendekati akhir iddahnya, Maka rujukilah mereka dengan baik atau lepaskanlah mereka dengan baik dan persaksikanlah dengan dua orang saksi yang adil di antara kamu dan hendaklah kamu tegakkkan kesaksian itu karena Allah. Demikianlah diberi pengajaran dengan itu orang yang beriman kepada Allah dan hari akhirat." 99

Anas bin Malik r.a berkata: Rasulullah Saw pernah membeli hamba sahaya dengan tujuh qurūs, orang-orang berkata: kami tidak tau apakah Rasulullah menikahinya atau menjadikannya pengasuh? Ketika beliau hendak membuka hijabnya, maka mereka mengetahui bahwa beliau telah menikahinya. 100

Dengan melihat hadits diatas, Ahmad berpendapat, pernikahan tanpa adanya saksi itu sah karena setiap akad pernikahan cukuplah Allah sebagai saksi. Oleh karena itu, orang orang yang menetapkan persyaratan adanya saksi dalam akad penikahan merasa kebingungan karena mereka telah merusak tatanan pokok hukum dan mereka juga tidak mempunyai pernyataan yang berdasar pada hukum syar’i yang lebih mengherankan lagi yaitu bahwa sesungguhnya Allah memerintahkan persaksian itu adalah dalam rujuk bukan dalam pernikahan. Sebagaimana dijelaskan dalam al-Qur’an surat al-Thalaq ayat 2 menjelaskan:

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فإذا بُتِّنَ أَحْلَمٍ فَأَمَسْكُوهُ بِمَعْرُوفٍ أَوْ فَأَمَسْكُوهُ بِمَعْرُوفٍ وَأَشْهِدُوا ذَوِّي عَنَاءٍ مَّتْكُمْ وَأَقْبِمُوا
المُحَرَّجًا (۲)
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Apabila mereka telah mendekati akhir iddahnya, Maka rujukilah mereka dengan baik atau lepaskanlah mereka dengan baik dan persaksikanlah dengan dua orang saksi yang adil di antara kamu dan hendaklah kamu tegakkkan kesaksian itu karena Allah. Demikianlah diberi pengajaran dengan itu orang yang beriman kepada Allah dan hari akhirat.
Barangsiapa bertakwa kepada Allah niscaya Dia akan mengadakan baginya jalan keluar.\(^{100}\)

Akan tetapi mereka memerintahkan persaksian dalam pernikahan dan kebanyakan tidak mewajibkan persaksian dalam rujuk. Pendapat Yazid bin Harun yang menemukan kerancuan berpikir ahli ra’yi, yaitu Allah memerintahkan persaksian dalam jual-beli tidak dalam pernikahan,

"وقال يزيد بن هارون : أمير الله تعالى بالإشهاد في البيع دون التكاث ، فاشترط أصحاب الزرآي الشهادة للتكاث أت"\(^{101}\)

Yazid bin Harun berkata: Allah Swt memerintahkan persaksian didalam jual-beli tidak didalam pernikahan, tetapi para ahli ra’yi justru mensyaratkan persaksian didalam pernikahan.\(^{102}\)

E. Status saksi menurut Undang-Undang Nomor 1 Tahun 1974

Adapun hasil akhir Undang-Undang Perkawinan yang disahkan DPR terdiri dari 14 (empat belas) bab yang dibagi dalam 67 (enam puluh tujuh) pasal.\(^{102}\) Sedangkan rancangan semula yang diajukan pemerintah ke DPR yaitu terdiri dari 73 pasal. Setelah melalui perdebatan yang cukup sengit hingga timbul ketegangan-ketegangan di dalam masyarakat, akhirnya pada tanggal 22 Desember 1973 Dewan Perwakilan Rakyat (DPR) dapat mengesahkan Rancangan Undang-Undang Perkawinan Tahun 1973 (untuk selanjutnya ditulis RUUP 1973) menjadi Undang-Undang, dan pada tanggal 02 Januari 1974 pemerintah telah mengundangkannya dalam Lembaran Negara Republik Indonesia Nomor 1 tahun 1974 dengan nama “Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan”. Dengan berlakunya Undang-Undang ini maka berakhirlah keanekaragaman hukum perkawinan yang dulu pernah berlaku bagi berbagai golongan warga Negara dan berbagai daerah.

Dalam Undang-Undang Nomor 1 Tahun 1974 pada pasal 26 ayat 1 berbunyi: Perkawinan yang dilangsungkan dimuka pegawai pencatat perkawinan yang tidak berwenang, wali-nikah yang tidak sah atau yang dilangsungkan tanpa dihadiri oleh 2 (dua)orang saksi dapat dimintakan pembatalannya oleh para keluarga dalam garis keturunan luruskeatas dari suami atau isteri, jaksa dan suami atau isteri.

\(^{100}\) Dkk, Soenarjo, al-Qur’an Terjemah, (Semarang: Toha Putra, 1971), hlm. 945

\(^{101}\) Qudamah, Muhammad ‘Abdullah Ibn Ahmad Ibn Muhammad ibn, al-Mughni, juz 7, Riyadh, ‘Alamu al-Kutub, 541), hlm. 7

\(^{102}\) Yaitu undang-undang perkawinan yang berlaku sampai saat ini yang diundangkannya pada tanggal 02 Januari 1974 Dan penjelasannya dimuat dalam Tambahan Lembaran Negara No. 3019. C,S,T, Cansil, Pengantar, hlm. 222.
F. Status saksi menurut Kompilasi Hukum Islam


KESIMPULAN

Menurut Madzhab Hanafi, saksi merupakan rukun dalam akad nikah, tetapi menurutnya untuk menjadi saksi dalam pernikahan tidak disyaratkan harus orang yang adil, menurutnya pernikahan yang disaksikan oleh dua orang laki-laki sekalipun fasik atau dengan seorang laki-laki dan dua orang perempuan hukumnya adalah sah.

Madzhab Maliki berpendapat bahwa saksi bukan merupakan rukun dalam akad pernikahan, sesungguhnya yang menjadi syarat adalah pemberitahuan, sehingga pernikahan tersebut walau hanya dihadiri oleh anak-anak dan orang gila sekalipun, maka pernikahan tersebut adalah sah.

Madzhab Syafi’i berpendapat bahwa saksi merupakan rukun dalam akad nikah. Jika pernikahan di saksikan oleh orang yang tidak boleh kesaksiannya, walaupun mereka itu banyak, maka pernikahan tersebut tidak sah, sehingga pernikahan tersebut diakadkan di hadapan dua orang saksi laki-laki yang adil.


Dalam Undang-Undang Nomor 1 Tahun 1974 pada pasal 26 ayat 1 berbunyi: Perkawinan yang dilangsungkan dimuka pegawai pencatat perkawinan yang tidak berwenang, wali-nikah yang tidak sah atau yang dilangsungkan tanpa dihadiri oleh 2 (dua) orang saksi dapat dimintakan pembatalannya oleh para keluarga dalam garis keturunan lurus keatas dari suami atau isteri, jaksa dan suami atau isteri.

Sedangkan saksi dalam Kompilasi hukum Islam sebagai berikut: Bagian ke empat tentang saksi nikah, Pasal dua puluh empat ayat satu. saksi dalam perkawinan merupakan rukun pelaksanaan akad nikah. Dan ayat dua setiap

103 Abdurarrahman bin Muhammad bin Audi al-Jaziri, Juz 1, al-Fiqh ‘Ala Madzahib al-‘Arba’ah, (Beirut: Dar al-Kitab, 2005), hlm.119
DAFTAR PUSTAKA


Abd al-Rahman bin Muhammad Bâ’alwî, *Bughyah al-Mustarsyidîn* (Surabaya: al-Hidâyah, t.t.).


Amiur Nuruddin dan Azhari Akmal Tarigan, *Hukum Perdata Islam di Indonesia: (Studi Kritis perkembangan Hukum Islam dari Fiqh, Undang-Undang Nomor 1 Tahun 1974 sampai KHI)*, (Jakarta: Kencana, 2004).


Ibn Qudamah, *al-Kafi fi al-Fiqhi Ahmad Ibn Hanbal*, juz VI, (Bairut, t.p.t.t.).


Muhammad bin Ahmad bin Muhammad bin Ahmad bin Rasydi al-Qurtubi, *Bidayah al-Mujtahid*, (Lebanon Bairut: Dar al Ma'rifah, 140 H).


