

Forced Marriage: Implementation of the Mandatory Provisions of the Bride's Consent in Indonesia

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Abstract: *This paper aims to explain the relevance of the text (naş) and the provisions on how the rules for the consent of the bride and groom must be met with the problem of forced marriage in Indonesia. This paper is a qualitative research with a juridical-normative approach which is analyzed using a thematic-holistic method. The results show that the support of the two prospective brides is absolute in marriage, although in Islamic law, there are schools of thought that state the right of *ijbar wali* (forced marriage). Based on this, the meaning of marriage can be achieved with the following indicators: First, there is pleasure between the bride and groom, and they have known each other and agreed to carry out the marriage so that the marriage can be carried out safely and peacefully; Second, it can avoid acts of domestic violence due to marriages that do not have the pleasure of the bride and groom; Third, prioritizing willingness to achieve the purpose of marriage; and Fourth, obedience to God based on Islamic teachings. These indicators expect to overcome the problem of forced marriage so that a family is *sakinah, mawaddah, warahmah*.*

Abstrak: Tulisan ini bertujuan untuk menjelaskan relevansi antara naş dan ketentuan tentang bagaimana aturan keharusan adanya persetujuan dari kedua mempelai dengan problematika kawin paksa di Indonesia. Tulisan ini merupakan penelitian kualitatif dengan pendekatan yuridis-normatif yang dianalisis dengan metode tematik-holistik. Hasil menunjukkan bahwa persetujuan dari kedua calon mempelai mutlak adanya dalam perkawinan, meskipun dalam hukum Islam ada pendapat mazhab yang menyatakan adanya hak *ijbar wali* (kawin paksa). Berdasarkan hal tersebut, maka makna perkawinan dapat dicapai dengan indikator sebagai berikut: Pertama, ada keridhoan antar mempelai, serta sudah saling mengenal dan setuju untuk melangsungkan perkawinan, sehingga perkawinan dapat dilangsungkan dengan aman dan damai; Kedua, dapat menghindari tindak kekerasan dalam rumah tangga akibat perkawinan yang tidak ada keridhoan antar mempelai; Ketiga, mengedepankan kerelaan demi tercapainya tujuan perkawinan; dan Keempat, ketaatan kepada Tuhan yang berdasarkan sumber ajaran Islam. Dengan indikator tersebut, diharapkan dapat mengatasi permasalahan kawin paksa, sehingga tercapainya keluarga yang *sakinah, mawaddah, warahmah*.

Keywords: *Forced Marriage; Guardian of Marriage; Bride's Consent Requirements*

INTRODUCTION

The problem of marriage by parents to children, women in particular, is often found in the social life of the world community. For example, it is the case in the UK that in the mid-2000s, there were about 250 to 300 cases per year, although there are claims that this represents a fraction of the

total. A newspaper article, for example, reported that: a police community officer working with Asian women in Bradford received about 300 requests for help from victims of abuse, abduction or forced marriage, double the 1995 total. (Grillo, 2011)

Data in Indonesia, as quoted in *sindonews.com*, states that recently the Indonesian people have been shocked by

cases of forced marriage, especially against women and girls. It is also explained by Komnas Perempuan, a national commission against violence against women in Indonesia, that the majority of forced marriages occur on women and girls, because of their subordinate position in society. Likewise for girls, because they have not given full consent. Komnas Perempuan found that throughout 2020, the increase in child marriages increased by almost 300 percent compared to the previous year. In its annual record, Komnas Perempuan found 23,126 cases of child marriage in 2019, while in 2020 it rose to 64,211 cases. These cases do not run away from cases of forced marriage. (Haryudi, 2021)

The phenomenon of forced marriage in Indonesia also occurs in the Nusa Tenggara Barat (NTB) area, in voaindonesia.com explaining that there are two teenagers who are still under the age of 16 married. The two teenagers married not without reason. The culture of the community that strongly adheres to the Sasak tribe's customs requires parents to immediately marry off their children if the child is invited by a man to go out until late at night. The reason for getting married immediately is so that the good name of the child's family is not tarnished, so there is no reason for the family not to marry off their child even though he is still a minor (Sucahyo, 2020). In addition to the phenomena that occurred in NTB, forced marriages based on customary rules occurred in Sumba, Nusa Tenggara Timur (NTT), which is known as "marriage capture". In practice, capture marriage occurs when a man catches, it can even mean kidnapping a woman to become his wife forcibly. (Sucahyo, 2020)

It is not uncommon that the practice of forced marriage carried out by parents, with the aim of pleasing their daughters, ends up being physically or mentally oppressed on

their daughters. In effect, the age of marriage does not last long, so divorce cases often occur in Indonesia (Suryani, 2018). This problem is also closely related to child marriage, because usually child marriages often occur without the consent of the child.

The meaning of the above expression is confirmed by the United Nations Resolution on Child, Early and Forced Marriage (United Nations 2016) which states that this type of marriage is a type of marriage that can injure and violate human rights (HAM). Child marriage is a term that indicates the marriage of one or both parties under the age of 18 years. Meanwhile, forced marriage is a marriage in which one or both parties are under 18 years of age or older, and one of the parties does not agree to be able to carry out the marriage. (Nagar et al., 2017)

As for in Islam, forced marriage or forced marriage is called *ijbar an-nikah*, the meaning of which has been explained by Al-Humam (n.d.) in the Book of *Fathul Al-Qadir* that the meaning of *ijbar* marriage (forced marriage) is a guardian who holds a marriage contract for a girl who represented, like or dislike the girl. The same meaning is found in the Big Indonesian Dictionary which defines the sentence forced marriage with the meaning: "*a marriage that is not based on the sincerity of one or both partners, but is forced by a guardian or family.*" From this meaning, it can be understood that a forced marriage is a marriage that takes place without the consent of one of the bride and groom, even though there is the consent of the guardian. This means that the marriage was forced by the guardian.

Zarkasih (2019) explains that the term forced marriage is due to a marriage that cannot take place unless the pillars are fulfilled. Among the pillars of marriage there is a guardian for women, so that the guardian has the right to marry off his daughter to the groom. This is of course very

contradictory, namely in marriage there is an element of a marriage guardian as a pillar of marriage, but sometimes a marriage guardian becomes a superior figure to force his daughter to marry, which may be different from the child's wishes from the guardian in choosing a prospective groom. It is this picture that causes cases of forced marriages.

If forced marriages continue to occur, in the end it is the women who are burdened. A woman often can do nothing when faced with this kind of thing. In this position, by obeying his parents' orders to accept the marriage, he suspects that it is a form of reverence for his parents. But in another position, the woman actually screamed, because she felt that her rights had been taken arbitrarily by the selfishness of her parents. Some women who were victims of forced marriages could not do much, and resigned themselves to a similar position. They are often haunted by the feeling of being a disobedient child if they do not obey their parents' wishes.

Seeing the above, problems arise regarding the consent of the bride and groom starting from the forced marriage of their parents or guardians. The coercion in marriage has finally made several countries set a minimum age limit for marriage. This is because many girls are forced into marriage, so it is feared that there will be disharmony in the family, and the mentality of the prospective bride and groom will be disturbed. Although the problem of forced marriage is often encountered in the world, this problem does not stop here. Various countries have sought legal protection, especially for women with the hope that the problem of forced marriages can be minimized, or even no longer occurs.

Another impact of forced marriage is domestic violence which is generally a factor in the incompatible bond between the two

companions. Even though they do not face suffering physically, women who are married by force generally face a heavy point mentally, because their rights to independence have been taken away (Fahri, 2020). Domestic violence itself does not have to be identified with physical violence, but every action, especially for women that can cause harm, both physically and psychologically. (Rofiah, 2017)

The study mentioned above shows that it is clear that the study of the impact of forced marriage is not something new. Previous studies on forced marriages have shown a lot of negative impacts on family sustainability, and can even damage harmony in the family. Mahfudin & Musyarrofah (2019), for example, examines the impact of forced marriage on family harmony that the practice of forced marriage has negative impacts, such as the emergence of family conflicts, infidelity, to divorce. In addition to the study of the impact of forced marriage, there are a number of studies on forced marriage that have been studied with various perspectives. For example, Ihsan (2019) discusses the topic of forced marriage from a gender perspective and Sa'dan (2015) discusses the topic of forced marriage in Madura with a barometer of human rights (HAM) that women and girls must have the right to freedom and choice, and be free from violence in marriage. (forced marriage). This is done by providing opportunities for girls to get a proper education in order to get a comprehensive understanding of the rights that must be owned and what should be avoided. Based on these studies, this article will focus on holistic-thematic studies. The aim is to see the relevance between the rules and texts regarding the necessity of the bride's consent in marriage with the problem of forced marriages that occur in Indonesia.

RESEARCH METHODS

This research used a juridical-normative approach which was carried out qualitatively. The source of the data was obtained from a search consisting of books, journals and other electronic media sources relating to the rules and regulations regarding the necessity of having the consent of the bride and groom to enter into a marriage, as well as their relevance to the problem of forced marriage in Indonesian society. To assist the author in developing this research, data processing was carried out by collecting materials in the form of literature and literature studies related to this research. The data analysis that the author uses is in the form of a thematic-holistic method initiated by Nasution (2016). The purpose of the method is used to understand a source of Islamic law or rules in Indonesia in accordance with the theme that will be studied in this paper, so that the meaning that will be obtained is more universal, without a partial understanding, so that this research obtains adaptive and proportional results.

RESULTS AND DISCUSSION

Rules for Required Consent of the Bride in Marriage

Rules for requiring the consent of the bride and groom are closely related to forced marriage, and forced marriage is also closely related to child marriage. The regulation of forced marriage in Indonesia has been stated in Law no. 1 of 1974 concerning Marriage in Article 6. In addition, Article 16 of the Universal Declaration of Human Rights states that "marriage can only be carried out with the free and full consent of the prospective bride and groom". This is also agreed by Law no. 7 of 1984 concerning the

Ratification of the Convention on the Elimination of All Forms of Discrimination against Women which categorizes forced marriage as a form of discrimination against women that must be ended, namely by stating that women have the same right to choose and determine their prospective spouse/bride in a marriage bond.

In addition to the rules for the approval of the bride and groom above, this provision is in line with the Compilation of Islamic Law (KHI) which requires the approval of the prospective bride and groom with the elaboration of Article 17 of the KHI as follows: (1) Before the marriage takes place, the Marriage Registrar must first ask the consent of the prospective bride and groom in front of two marriage witnesses. ; (2) If it turns out that the marriage is not approved by one of the prospective brides, the marriage cannot be held, and; (3) For prospective brides who suffer from speech impairment or deafness, consent can be stated in writing or signs that can be understood. (Rofiq, 1998)

Indonesia as one of the countries that has regulated the issue must have the consent of the bride and groom. Several family law codes in the Muslim world have also provided for this. Moroccan Family Law in the Mudawwana 2004 has adopted the provisions of the Hanafi school, without including two conditions, namely *kufu* (equivalent); and appropriate dowry. In the debate that occurred during the renewal process, the proponents of this concept did not emphasize the religious reasons that allowed women to marry without a guardian, but were based on sociological problems in the development of Moroccan women today, so as to give Moroccan women the

freedom to choose a prospective bride in marriage. (Larsen et al., 2013)

The problem of forced marriage in Iran also occurs where through Larsen (2013) research that teenagers in Tehran, Iran, more than 7.7% of their daughters are forced to marry under 18 years of age. Not only the city of Tehran, parts of Sistan and Baluchestan reach 40% of women forced to marry under the age of 18. Economic factors are the highest reason for the problem of forced marriage in Iran, in addition to educational reasons that are difficult to access for teenagers in Iran.

Forced marriages in Pakistan arise based on the Watta Satta and Vani traditions which can be detrimental to the prospective bride, because it is not in accordance with the purpose of marriage in Islam, namely the willingness between the prospective bride and groom, so as to create a *sakinah*, *mawaddah*, *warahmah* family. Pakistan's judiciary has also passed important pro-women decisions in this regard, but most women are forced to marry with the consent of their parents. This is a matter of great concern in the societal phenomenon in Pakistan. This can have implications for non-traditional marriages in Pakistani society, namely elopement. (Akhter & Munir, 2017)

Based on the discussion above, the writer can conclude that the impact of forced marriages in the various countries above, including Indonesia is as follows: First, the emergence of counter-perceptions from those who do not agree with the existence of forced marriages; Second, there is no harmony resulting from forced marriages; Third, the deprivation of human rights in choosing a prospective bride, both male and female, and; Fourth, there are elements against the provisions of Islamic law.

According to Islamic Relief, Early and Forced Marriage (EFM) is a marriage without the will of one party and the full consent of the bride and groom. This has a negative impact on the lives of millions of people in the world, especially women. The study found that more than 700 million women married before the age of 18 and more than 14 million children aged 18 were married each year. Pertek & Abdulaziz (2017) in Islamic Relief also describes several EFM factors, namely:

1. Economic factors, namely parents and guardians arrange their child's marriage to reduce financial burdens and problems;
2. Sociocultural factors, namely in traditional societies, parents are highly respected, while women have a passive role in the family. Parents have the right to what their children do, so that the consent of the prospective bride and groom is considered irrelevant, because children must submit and obey their parents;
3. Emergency Situation Factors, namely the choice of families and parents to force their children to marry to protect their children from threats of abuse, exploitation and sexual violence. This is considered better to ensure the future of the child;
4. Religious factors, namely marriage is considered the foundation of an ideal family and society by many people, moreover there are no rules in religion that limit it or parents do not understand the meaning of marriage in religion.

Based on Pertek and Abdulaziz's explanation above, it is quite clear in describing the problems of forced marriage that occur in the world. The Universal Declaration of Human Rights Article 16 paragraph 2 states that marriage

can only be carried out based on the choice and full consent of the bride and groom. This shows that a person cannot be forced to marry, because marriage must have the consent of the bride and groom. The phenomenon of forced marriage is a violation of the freedom and independence of the child in choosing the candidate the child wants to marry. It can be said that a person who is forced into marriage is a fundamental right that has been taken away by another party.

Thematic-Holistic Analysis of the Rules of Requirement for Consent of the Bride in the Problem of Forced Marriage

The rules for the requirement of consent of the bride and groom when it comes to marriage guardians in Islam seem to be contradictory. This is because the majority of scholars view that marriage guardians are a pillar of marriage, except for al-Hanafiyah. That is, a marriage is valid if there is a marriage guardian. This can be seen in the practice of Islamic marriage that in the marriage contract, a woman does not perform the consent of consent, but is carried out by the marriage guardian of the prospective bride. (Zarkasih, 2019)

Several texts in Islam used by many scholars which state that guardians of marriage are the pillars of marriage cannot be separated from the main sources and supporting sources in Islam, both in the Qur'an, Hadith and Fatwas of Ulama. QS. Al-Baqarah verse 221 states that: "Do not marry the polytheists until they believe". Apart from the Qur'an, the Prophet's Hadith. narrated by Ahmad, Abu Dawud, Tirmidhi and Ibn Majah emphasized that marriage without the consent of the guardian is an act of munkar, and the perpetrator can be said to be committing adultery. Then, the fatwa

of the companions of the Prophet. Abdullah bin Abbas explained that "All marriages that do not present four parties, namely the husband, guardian and two fair witnesses, are included in adultery (Sharbini, 1994).

Furthermore, in the books of the schools of fiqh there are two terms in guardianship. The division of this term cannot be separated from the words of the Prophet. narrated by Muslim who distinguishes between the types of duties of guardians because of the differences in the women they represent, namely between widows and virgins. The two terms are al-ijbar and region. Territory al-Ijbar can be interpreted as "coercive guardian" or the coercive authority possessed by the guardian or father. The area of al-Ijbar is considered that the guardian or father may marry off his virgin child to anyone, even without the child's consent. While the area of al-musytarakah can be interpreted as "cooperative guardians" or the guardians in question are only limited to achieving a pillar of marriage, namely serving in the procession of the marriage contract, without forcing the child to submit to the guardian in terms of choosing a prospective groom. (Zarkasih, 2019)

The two terms above according to the Shafi'iyah and Hanabilah schools are meant that the al-ijbar area is intended for girls who are still virgins (girls), even though the virgin is over the age of puberty. While the al-musytarakah area is intended for widows, even though the widow is still small in terms of age. Although the term al-ijbar area is echoed by the majority of scholars, it certainly has a purpose. An-Nawawi (2009) states that the purpose of the al-ijbar area is for girls to be protected from the wrong choice of a prospective groom, especially if you look

at the condition of girls at that time who did not get along with boys much, then the option of the al-ijbar becomes important for girls so that they can minimize worries in choosing the wrong groom.

If you look at the purpose of the al-ijbar area above, Imam Malik provides special criteria for widows and girls in choosing a partner, namely rasyidah (intelligence). If the girl is smart in choosing a prospective groom by considering various aspects of benefit, then the girl is free to choose her prospective bride, without being bound in the al-ijbar area. Likewise with widows who are not smart and understand the benefits of themselves, then the provisions of the al-ijbar area apply to the widow. (Al-Humam, n.d.)

Imam Malik's view above seems to be in accordance with the conditions of the times and the culture of the Indonesian people, as well as in accordance with the rules in the Marriage Law which require the consent of the bride and groom. This is different from the views of the Shafi'iyah and Hanabilah schools which seem too superior to marriage guardians so that they have authoritarian rights in determining prospective brides for girls, and this of course is no longer relevant to the changes and developments of today's increasingly modern era.

If explored further, it turns out that the views of the Shafi'i school above have special conditions for ijbar that must be met in the area of al-ijbar in question. Sharbini (1994) in the book *al-Iqna'* mentions that there are seven conditions of ijbar that must be met in marrying a girl without the girl's permission, namely: (1) there is no enmity between the father/guardian (coercive) and his

daughter; (2) the prospective groom must be *kufu* (equivalent); (3) the dowry given is in the form of a *mitsil* (similar); (4) the dowry must be in local currency; (5) the prospective groom must be able to pay the dowry; (6) may not marry a prospective groom which can be detrimental, and; (7) the prospective groom is not in the obligatory stabbing hajj. If these conditions are not met, then the al-ijbar area owned by the guardian becomes invalid, so that the element of coercion in the conditions of the marriage of Imam Syafi'i is difficult to realize.

In terms of having the consent of the bride and groom and the absence of the right of ijbar guardian, Nasution (2002) also explains that a number of texts stipulate that couples must freely determine their partner and marriage, plus a number of texts which say that the status of the marriage contract is a transaction. For a transaction to be valid, a number of conditions must be met, one of which is that legal subjects must be free to make their choices. Therefore, without the consent of the spouse, the marriage contract may not be performed. That is, forced marriage is not in line with Islam.

Islamic Sharia has provided guidance in carrying out marriage properly, including the rules of marriage that can be carried out if it gets consideration, approval and willingness from the prospective bride and groom, and there is no element of coercion from any party. There are two forms of guardianship (territory) in fiqh, namely the right of a guardian to coerce (territory *al-jabr*) and the right of a guardian to give consent to the bride. Nasution (2012) states that the major mazhab scholars (Hanafi, Maliki, Shafi'i, Hambali) agree on the existence of a guardian in marriage which is also referred to as the right of

ijbar, except for the Hanafi school which allows marriage without a guardian. In al-Muwatta Imam Malik allows a father, as the guardian of his daughter, to force his daughter to marry, even though the daughter has reached adulthood. Unlike the case with the Hanafi school, women can be allowed to marry without a guardian (father) if the woman is an adult, both physically and psychologically. This according to the Hanafi school is based on the QS. Al-Baqarah verse 232: *"If you divorce your wives, then the period of iddah expires, then do not prevent them (the guardians) from marrying again with their future husbands (marrying again with ex-husbands or with other men)."* (Anas, 2009)

In addition to the basis of the sources of the Qur'an above, it is also confirmed by the hadith from Ibn Abbas: "A woman who has been married (ayyim) has more rights over herself than her guardian, while a girl must be asked for approval, her silence is a sign of her agreement. This hadith is also found in al-Muwatta Imam Malik no. 1103 (Anas, 2009). Thus, guardianship only applies to girls according to the Hanafi school. Even though the majority of schools require the existence of a mujbir guardian, the right of ijbar is not interpreted as the right to impose one's will or choose a prospective bride for no reason. However, the right of ijbar is defined as the responsibility of a father with the hope that later the daughter can be happy and sakinah from what her parents have chosen. Because the right of ijbar has special conditions, such as no hatred from the prospective wife to the prospective husband, as well as the father who will marry off his daughter, the prospective husband is in agreement with the prospective wife, the marriage dowry is at least in the form of a mitsil dowry, which is a dowry usually given to

other women. commensurate with the social level of the woman and the prospective male can be believed to be loyal, and do not intend to offend his future wife. (Al-Zuhaili, 1997)

The right to choose a companion for a person in Islam is not distinguished between men and women. The compatibility of men and women in this matter can be seen from the parable of rights and roles in religion. The role of a woman is not smaller than that of a man, both in terms of thought, skills, and other obligations that are sharia. Both have the same rights and roles. The Qur'an itself gives a positive appreciation to women. Likewise for men, the Qur'an usually idealizes women as beings who have political independence, make individual choices, and voice actuality. This equation can be seen in QS. Al-Ahzab verse 35, Al-Muddatstsir verse 38, An-Nisa' verse 124 and An-Nahl verse 97: *"Whoever does righteous deeds, both men and women, while believing, We will surely give him a good life and We will surely reward them with a better reward than what they did."*

A father can marry off his daughter who is still small or has not reached puberty without his permission provided that the marriage brings benefit (goodness) for the child. There is also for a girl who has reached puberty, so that an elderly person cannot marry her by force without her consent. It can be concluded that choosing a husband describes the rights granted by syara' to a woman in an absolute way. A father or other parent who deprives him of that right by forcing his daughter to marry a man he does not love, so that it represents a violation/coercion.

Forced marriage essentially does not touch one of the indicators of achieving the purpose of marriage, as stated by

Nasution (2009) in response to 10 indicators in the purpose of marriage, namely: (1) husband and wife are determined to have only one partner in the household; (2) there is the willingness of husband and wife; (3) marriage for good; (4) family members fulfill and implement religious norms; (5) prioritizing deliberation and consensus in the household; (6) strives to ensure a sense of security, peace and tranquility in the household; (7) avoid the possibility of violence; (8) there is help in the household; (9) there is justice, and; (10) ideal communication in the household.

In addition to the above, QS. al-Nisa verse 3: *"And if you are afraid that you will not be able to do justice to (the rights of) an orphaned woman (if you marry her), then marry (other) women that you like: two, three or four. Then if you are afraid that you will not be able to do justice, then (marry) only one, or the slaves you have. that is closer to not doing wrong."* and al-Nisa verse 19: *"And fear Allah those who if left behind them weak children, who they worry about (their welfare). therefore let them fear Allah and let them speak the truth."*, as the basis for the prohibition of forced marriage that the first verse is a statement that men marry the woman of his choice. While the second verse shows the prohibition of marrying women by force, although textually the verse explains the prohibition of inheriting women by force. Thus, the second verse shows that there must be approval from the bride and groom. (Nasution, 2012)

Based on the above, the consent of the bride and groom is very necessary in a marriage caused by several factors, namely:

1. There is pleasure between the bride and groom, and already know each other and agree to carry out the marriage, so

that the marriage can be carried out safely, peacefully and peacefully;

2. Can avoid acts of domestic violence due to marriages that do not have the pleasure of the bride and groom;
3. Prioritizing willingness to achieve the purpose of marriage;
4. Obedience to God based on Islamic teachings.

The above can be observed if the matter of marriage is not a matter of playing games and is of mere intimate interest, but more than that, marriage is a very strong relationship (*mitsaqan ghalizha* household life *mawaddah wa rahmah*). Such a life is certainly what is expected between husband and wife relationships, not a marriage in which there is an element of coercion.

From the description above, it is clear that there is a synchronization between thematic, holistic, and sharia objectives (*maqashid sharia*) in marriage. That way, the necessity of having the consent of the bride and groom in marriage is certainly in line with the purpose of marriage. That is, with the necessity of the bride's consent in marriage to guarantee the rights of the prospective bride and groom in choosing a partner, so that the purpose of marriage is achieved. Meanwhile, if the marriage is held without the consent of the bride and groom, it is feared that the issue of forced marriage will continue to occur, so that the purpose of marriage is difficult to achieve. Thus, the synchronization between texts and regulations, as well as its function, provides a guarantee of rights which is a thematic study. Meanwhile, the synchronization between a forced marriage phenomenon and the requirement for the consent of the bride and groom in the Marriage Law in

Indonesia is a thematic and holistic combination.

The stipulation of the law regarding the necessity of having the consent of the bride and groom in marriage is a value from Islamic teachings which is a basic concept in life that has the appropriate elasticity and flexibility values for each dimension from time to time. To anticipate these problems, the basic sources of Islamic teachings, namely the Qur'an and Hadith, must be able to be used as guidelines to answer all problems that occur to the people. Islam never teaches coercion and discrimination in every human being. Even in belief there is no compulsion as stated in the QS. Al-Baqarah verse 256 that Islam upholds the value of equality and equality in solving every problem that occurs in society.

CONCLUSION

Islam supports the concept of consent to marriage, not forced marriage. Although there are provisions in the law that require the consent of the bride and groom, in practice there are still many forced marriages, especially in the form of child marriage, this is caused by factors that develop in society, such as economic factors, socio-cultural factors, emergency situation factors and religious factors. Thus, it would be better to make strict rules from the government to accommodate these problems. Various countries in the world already have regulations that regulate the necessity of having the consent of the bride and groom in the form of rules according to the country. Although the laws and regulations in Indonesia regulate the agreement as legal in marriage, there are no firm regulations/violations for perpetrators of forced marriages. According to the author, this regulation is very important, because it

provides legal protection for the prospective bride and groom. The firmness of these regulations should be built as an ultimatum to legitimize the necessity of the bride's consent, so as to minimize the occurrence of coercion in marriage against the bride and groom. Therefore, it is necessary to conduct a more in-depth study to overcome this problem, as well as find relevant regulations, so that the problem of forced marriage can be handled properly.

REFERENCES

- Akhter, N., & Munir, A. (2017). Forced Marriages in Pakistan. *Journal Al-Basirah*, 5(2), 28–41.
- Al-Humam, A.-K. I. (n.d.). *Syarh Fathul Qodir*. Dar al-Kutub.
- Al-Zuhaili, W. (1997). *al-Fiqh al-Islam wa Adillatuh*, Juz VIII. Dar al-Fikr.
- An-Nawawi, I. (2009). *Al-Majmu' Syarah Al-Muhadzdzab* (M. N. Al Muthi'i (trans.)). Pustaka Azzam.
- Anas, M. bin. (2009). *al-Muwatta' (riwayah Yahya bin Yahya al-Laysi)*. Dar al-Kutub al-'Ilmiyyah.
- Fahri, S. (2020). Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone. *SUPREMASI: Jurnal Pemikiran, Penelitian Ilmu-Ilmu Sosial, Hukum Dan Pengajarannya*, 14(1), 21. <https://doi.org/10.26858/supremasi.v14i1.13303>
- Grillo, R. (2011). Marriages, arranged and forced: The UK debate. In A. Kraler, E. Kofman, M. Kohli, & C. Schmoll (Eds.), *Gender, Generations and the Family in International Migration* (pp. 76–97). Amsterdam University Press.
- Haryudi. (2021, June). *Pernikahan Dini Meningkat 300; Kawin Paksa Salah Satu Faktornya*.
- Ihsan, M. (2019). Kawin Paksa Perspektif

- Gender (Studi terhadap Hak Memilih Calon Suami Oleh Perempuan). *Jurnal Saree*, 1(1), 53–69.
- Larsen, L., Mir-Hosseini, Z., Moe, C., & Vogt, K. (2013). *Gender and equality in Muslim family law: Justice and ethics in the Islamic legal tradition*. Bloomsbury Publishing.
- Mahfudin, A., & Musyarrofah, S. (2019). Dampak Kawin Paksa terhadap Keharmonisan Keluarga. *Jurnal Hukum Keluarga Islam*, 4(1), 75–93.
- Nagar, S. El, Bamkar, S., & Tønnessen, L. (2017). Girls, Child Marriage, and Education in Red Sea State, Sudan: Perspectives on Girls' Freedom to Choose. In *Sudan Report*. Chr. Michelsen Institute.
- Nasution, K. (2002). *Status Wanita di Asia Tenggara: Studi terhadap Perundang-undangan Perkawinan Muslim Kontemporer di Indonesia dan Malaysia*. INIS.
- Nasution, K. (2009). *Hukum Perdata (Keluarga) Islam Indonesia Dan Perbandingan Hukum Perkawinan di Dunia Muslim*. Academia Tazzafa.
- Nasution, K. (2012). Wali Nikah Menurut Perspektif Hadis. *Miqot*, 33(2).
- Nasution, K. (2016). *Pengantar Studi Islam Dilengkapi Pendekatan Integratif-Interkonektif (Multidisipliner)*. Rajawali Press.
- Pertek, I. S., & Abdulaziz, S. (2017). *Don't Force Me!: A Policy Brief on Early and Forced Marriage*. Islamic Relief Worldwide.
- Rofiah, N. (2017). Kekerasan dalam Rumah Tangga dalam Perspektif Islam. *Wawasan: Jurnal Ilmiah Agama Dan Sosial Budaya*, 2(1), 32.
- Rofiq, A. (1998). *Hukum Islam di Indonesia*. PT. Raja Grafindo Persada.
- Sa'dan, M. (2015). Menakar Tradisi Kawin Paksa di Madura dengan Barometer HAM. *Musawa*, 14(2), 143–155.
- Sharbini, M. A. K. Al. (1994). *Al-Iqna' Fi Halli Alfadzi Abi Shuja'*. Dar al-Fikr.
- Sucahyo, N. (2020, September). *Kawin Paksa; Janji Terucap Karena Tuntutan Adat*.
- Suryani, E. (2018). Tingkat Perceraian Muslim dan Non muslim Di Indonesia. *Mizan: Journal of Islamic Law*, 3(2), 153–200. <https://doi.org/10.32507/mizan.v3i2.162>
- Zarkasih, A. (2019). *Kawin Paksa*. Rumah Fiqih Publishing.