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## #1991 Review

SUMMARY REVIEW EDITING

## Submission

Authors Anwar Hafidzi, Rusdiyah Rusdiyah, Nurdin Nurdin  
Title Arranged Marriage: Adjusting Kafa'ah Can Reduce Trafficking of Women  
Section Articles  
Editor Busra Febriyarni

## Peer Review

### Round 1

Review Version 1991-8448-2-RV.DOCX 2020-10-19  
Initiated 2020-10-22  
Last modified 2020-11-04  
Uploaded file Reviewer A 1991-8793-1-RV.RTF 2020-11-04  
Reviewer B 1991-8693-1-RV.DOCX 2020-10-23

## Editor Decision

Decision Accept Submission 2020-11-10  
Notify Editor Editor/Author Email Record 2020-11-09  
Editor Version 1991-8662-1-ED.DOCX 2020-10-19  
1991-8662-2-ED.PDF 2020-10-19  
Author Version 1991-8669-1-ED.DOCX 2020-10-20 DELETE  
1991-8669-2-ED.DOCX 2020-10-20 DELETE  
1991-8669-3-ED.DOCX 2020-11-07 DELETE  
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## Arranged Marriage: Adjusting Kafa'ah Can Reduce Trafficking of Women

### ABSTRACT

*This study aims to find the concept of matchmaking or coercion in marriage against women. Women are more sensitive to matchmaking issues and express disagreement with practices that violate women's rights and endanger their future. However, previous researchers also considered matchmaking coercion, so researchers tried to see what if it was adjusted to the concept of kafa'ah. The method used in this research is a literature review by looking at the book an-nikah by Shaykh Muhammad Arsyad Al-Banjari, written in the 17th century AD. Through a hermeneutical approach, the researcher tries to uncover the marriage problems that are thought to be cornering women in marriage problems by his parents. Research proves that the concept of kafa'ah in al-Banjari theory can eliminate the perception of matchmaking with a coercive system, because in kafa'ah, what is prioritized is a person's faith relationship, which is ultimately able to maintain the honor of his wife and family. Not only in terms of material but more inclined to approach immaterial needs.*

**Keywords:** marriage; kafa'ah; forced; crime; women

### ABSTRAK

Penelitian ini bertujuan untuk menemukan konsep perjodohan atas dasar pemaksaan dalam perkawinan terhadap perempuan. Wanita lebih sensitif terhadap masalah perjodohan dan mengungkapkan ketidaksetujuan dengan praktik yang melanggar hak-hak wanita dan membahayakan masa depan mereka. Namun, para peneliti sebelumnya juga menganggapperjodohanitupaksaan, sehingga peneliti mencoba melihat bagaimana jika disesuaikan dengan konsep kafa'ah. Metode yang digunakan dalam penelitian ini adalah studi pustaka dengan melihat kitab an-nikah karangan Syekh Muhammad Arsyad Al-Banjari yang ditulis pada abad ke-17 Masehi. Melalui pendekatan hermeneutis, peneliti mencoba mengungkap permasalahan perkawinan yang dianggap menyudutkan perempuan dalam permasalahan perkawinan oleh orang tuanya. Penelitian membuktikan bahwa konsep kafa'ah dalam teori al-Banjari dapat menghilangkan persepsi perjodohan dengan sistem koersif, karena dalam kafa'ah yang diutamakan adalah hubungan keimanan seseorang, yang pada akhirnya mampu menjaga kehormatan dirinya, istri dan keluarga. Tidak hanya dari segi material tetapi lebih cenderung mendekati kebutuhan immaterial.

**Kata kunci:** pernikahan; kafa'ah; terpaksa; kejahatan; wanita

### Introduction

According to Shyamal (2020), due to natural shocks in Bangladesh, the conditional payment from husbands to wives in the event of divorce and dowry, a move from the bride's

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family to the groom at the time of marriage, has fluctuated in Bangladesh.<sup>1</sup> We are creating a marriage market model in which dowry functions as a price for grooms, while more serves to avoid inefficient divorces.<sup>2</sup> Our comparative statics findings show that in shocks that increase (lower) profits, more and dowry are both increasing (decreasing).<sup>3</sup>

Traditionally arranged marriages take place in Africa, South-East Asia, Latin America, and the Near East. The activity has been brought to western nations (SURGIR) through migratory phenomena. In reaction to this, using legislative steps, hardening immigration laws, and requesting family reunification conditions, European countries seek to avoid this situation.<sup>4</sup> It is common practice in many countries to pay a dowry to the family of the bride.<sup>5</sup> Since marrying a daughter provides the family with money, the future husband is selected according to his wealth.<sup>6</sup> In return for a dowry, in which women accept marriage to a man selected (chosen) by their parents, this hidden selling reduces the woman to goods, with the subsequent arranged marriages. This practice ensures that young brides are frequently required to marry men twice their age, or even very old.<sup>7</sup>

There are arranged and forced marriages that must be distinguished; the latter happens when one of the partners does not approve or is forced to enter marriage.<sup>8</sup> Forced marriages are also forced marriage when one partner is under 18 years of age or early marriage.<sup>9</sup> Forced marriages are not purely for economic purposes but are also made to restore the family's dignity.

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<sup>1</sup>Shyamal Chowdhury, Debdulal Mallick, And Prabal Roy Chowdhury, "Natural Shocks And Marriage Markets: Fluctuations In Mehr And Dowry In Muslim Marriages," *European Economic Review* 128 (September 1, 2020): 128, <https://doi.org/10.1016/j.euroecorev.2020.103510>.

<sup>2</sup>Vicky Barham, Rose Anne Devlin, And Jie Yang, "A Theory Of Rational Marriage And Divorce," *European Economic Review* 53, No. 1 (January 1, 2009): 106, <https://doi.org/10.1016/j.euroecorev.2008.02.002>.

<sup>3</sup>Chowdhury, Mallick, And Roy Chowdhury, "Natural Shocks And Marriage Markets," 129.

<sup>4</sup>Keera Allendorf And Dirgha J. Ghimire, "Determinants Of Marital Quality In An Arranged Marriage Society," *Social Science Research* 42, No. 1 (January 1, 2013): 59, <https://doi.org/10.1016/j.ssresearch.2012.09.002>; Amitrajeet A Batabyal, "On The Likelihood Of Finding The Right Partner In An Arranged Marriage," *The Journal Of Socio-Economics* 30, No. 3 (May 6, 2001): 273, [https://doi.org/10.1016/S1053-5357\(01\)00095-6](https://doi.org/10.1016/S1053-5357(01)00095-6); Maria Del Mar Pastor Bravo, Pilar Almansa Martínez, And Ismael Jiménez Ruiz, "Arranged Marriages: Women For Sale," *Procedia - Social And Behavioral Sciences*, 6th International Conference On Intercultural Education "Education And Health: From A Transcultural Perspective", 132 (May 15, 2014): 564, <https://doi.org/10.1016/j.sbspro.2014.04.354>.

<sup>5</sup>Zobaida Akhter, "Girls Not Brides: Concern Of Distance Learning: Strategies To Prevent Child Marriage And Curse Of Dowry: Bangladesh Perspective," 2019; Gusti Muzainah, "Baantar Jujuran Dalam Perkawinan Adat Masyarakat Banjar," *Al-Insyiroh: Jurnal Studi Keislaman* 5, No. 2 (2019): 10–32; Anwar Hafidzi, "Prasyarat Poligami Dalam Kitab Fiqih Islam Dan Kompilasi Hukum Islam Perspektif Maslahah Mursalah," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 7, No. 2 (2017): 366–392.

<sup>6</sup>Gaurav Chiplunkar And Jeffrey Weaver, "Marriage Markets And The Rise Of Dowry In India," *Available At Ssrn* 3590730, 2019.

<sup>7</sup>Nadia G. Diamond-Smith Et Al., "Semi-Arranged Marriages And Dowry Ambivalence: Tensions In The Changing Landscape Of Marriage Formation In South Asia," *Culture, Health & Sexuality* 22, No. 9 (2020): 971–74.

<sup>8</sup>Barham, Devlin, And Yang, "A Theory Of Rational Marriage And Divorce," 93; Omer Aijazi And Erin Baines, "Relationality, Culpability And Consent In Wartime: Men's Experiences Of Forced Marriage," *International Journal Of Transitional Justice* 11, No. 3 (2017): 463.

<sup>9</sup>Tamás Fleiner, Robert W. Irving, And David F. Manlove, "Efficient Algorithms For Generalized Stable Marriage And Roommates Problems," *Theoretical Computer Science* 381, No. 1 (August 22, 2007): 163–65, <https://doi.org/10.1016/j.tcs.2007.04.029>.

Forced and organized marriages will lead women into a cycle of poverty and lack of security, most of which being subjected to rape, violence, and forced sexual intercourse.<sup>10</sup>

There are also cases in which marriages are neither arranged nor coerced since either the girls are young or the child refuses to marry the man the family has chosen for it. Such marriages may have significant repercussions for women's physical and mental health and lead to suicide at times. We remember that women are more open to the issue by arguing that the practice contradicts the Koran and their disagreement.<sup>11</sup> Unlike marriage in Islam, Islam accepts a *ka'faah* (equality) approach to maintaining a harmonious marriage relationship.<sup>12</sup>

In fact, in marriage, *kafa'ah* is equity, harmony, or proportionality between the future wife and the future wife.<sup>13</sup> *Kafa'ah* is a Muslim need for marriage in the sense of faith. Before marriage, one important thing to do is to concentrate on a number of things, including lineage, faith, belief, occupation, liberty, and land.<sup>14</sup> However, many couples do not comply with the *Kafa'ah* requirements, and there are also many marriages between men and women with significant age gaps. For example, marriage between older women and men who are very young, or vice versa. Seeing this pattern in culture, according to QadariyahBarkah,<sup>15</sup> indicates that most couples who get married pay more attention to age, to attractive faces, and their partner's emotions. In Islam, this kind of marriage is not contrary to the laws of the Shari'ah, since Islam does not explicitly clarify the age limit to be counted as an adult. This kind of pattern helps to cultivate feelings of emotion in the household.

The problem of *kafa'ah* in marriage began to grow in contrast to Iffatin,<sup>16</sup> by looking at the physical-spiritual state, heredity, freedom status, occupation, **income**, education level, to **income** in a broad sense, in reality, requiring only an agreement between the two sides of the bride and groom. Zuhri also believes that marriage, especially in Islam, should be needed for *kafa'ah*. Non-Muslims, because of imbalances in religion, should not *kafa'ah* with Muslims.<sup>17</sup>

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<sup>10</sup>Isabelle Poutrin, "Theorizing Coercion And Consent In Conversion, Apostasy, Ordination, And Marriage (Sixteenth And Seventeenth Centuries)," In *Forced Conversion In Christianity, Judaism And Islam* (Brill, 2019), 86–109; Mehrdad Rayejian Asli And Mojgan Amrollahi Byouki, "Forced Marriage In Islamic Countries: The Role Of Violence In Family Relationships," In *Women And Children As Victims And Offenders: Background, Prevention, Reintegration* (Springer, 2016), 729.

<sup>11</sup>Aijazi And Baines, "Relationality, Culpability And Consent In Wartime," 463–66; Aisha K. Gill And Taher Hamed, "Muslim Women And Forced Marriages In The Uk," *Journal Of Muslim Minority Affairs* 36, No. 4 (2016): 540–42.

<sup>12</sup>Abdul Hadi Ismail, "Kafa'ah In The Muslim Community Marriage: A Study Of The Social History Of Islamic Law," *Indonesian Journal Of Education, Social Sciences And Research* 1, No. 1 (2020).

<sup>13</sup>Achmad Zainal Abidin, "Pelaksanaan Kafa'ah Dalam Perkawinan: Studi Di Pondok Pesantren Miftahul Huda Al-Musri'cianjur" (Phd Thesis, Uin Sunan Gunung Djati Bandung, 2019).

<sup>14</sup>Abdul Hadi Ismail, "Kafa'ah In The Muslim Community Marriage: A Study Of The Social History Of Islamic Law," *Indonesian Journal Of Education, Social Sciences And Research (Ijessr)* 1, No. 1 (2020): 16–23.

<sup>15</sup>Qodariyah Barkah And Andriyani Andriyani, "Maqashid Al-Syari'ah Concept Of Kafa'ah In Marriage," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, No. 1 (June 30, 2020): 107–9, <https://doi.org/10.19109/Nurani.V20i1.5651>.

<sup>16</sup>Iffatin Nur, "Kafa'ah In Islam," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 9, No. 1 (June 2014): 85–90.

<sup>17</sup>Sarifudin Zuhri, "Proses Perjudohan Dan Kriteria Kafa'ah Di Dunia Pesantrenh Dalam Perkawinan Anggota Ldii Desa Medaeng Kecamatan Waru Kabupaten Sidoarjo," *Al-Hukama': The Indonesian Journal Of Islamic Family Law* 8, No. 1 (2018): 53–58.

This study becomes interested when the researcher finds a principle in selecting the bride and wife in marriage, sometimes under different models of coercion systems of marriage systems. This idea is now intended to minimize the occult crime of marriage.<sup>18</sup> This study will eventually address that al-Banjari's idea of *kafa'ah* is considered capable of fixing marital problems, such as believing that women are sold according to dowry or *jujuran*.<sup>19</sup> Suppose the marriage arrangement fails to comply with the family's request, and the child's choice is assumed to be based solely on appearance or content. In that case, this is often assumed to be less critical since many divorces are solely due to economic factors. This paper is deemed worthy of addressing these issues.

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## Literature Review

### Kafa'ah and Equity Theories

Equity theory focuses on the alignment of shareholdings and donations. Could not all equally value equity.<sup>20</sup> Nawid Siassi (2019) suggests that in close relationships, inequality is less satisfied. If ties are unequal, people feel like they have little to no benefit. Under-benefited discrimination exists if the benefit of individuals is smaller than the benefit of their parents. However, there are unfair inequities if people are paying more than their spouses because of donations. Many studies have shown that females are less exposed than males. Under the theory of justice, people should be attracted by unequal marriages and suffer from unjust marriages and the degree of injustice.<sup>21</sup>

At present, it seems that there has been a shift in the meaning of the *kafa'ah* pattern conveyed in the Hadith of the Prophet Muhammad SAW.

أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: ( تَنْكُحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا , وَلِحَسْبِهَا , وَلِجَمَالِهَا , وَدِينِهَا , فَاتَّقُوا بِذَاتِ الدِّينِ تَرِبْتُ يَدَاكُ )

Meaning: From Abu Hurairah Radliyallaahu' anhu that the Prophet Muhammad Saw. said: "Women marry for four reasons, namely: property, descent, beauty, and religion. Get a woman who is devout in religion. Then you will be happy. ."

وعن ابن عمر - رضي الله عنهما- قال: قال رسول الله صلى الله عليه وسلم (العرب بعضهم أكفاء بعض, والموالي بعضهم أكفاء بعض, إلا حائك أو حجام) رواه الحاكم, وفي إسناده راو لم يسم, واستتكره أبو حاتم وله شاهد عند البزار: عَنْ مُعَاذِ بْنِ جَبَلٍ بِسَنَدٍ مُنْقَطِعٍ

<sup>18</sup>Aisha K. Gill, Pamela Cox, And Ruth Weir, "Shaping Priority Services For Uk Victims Of Honour-Based Violence/Abuse, Forced Marriage, And Female Genital Mutilation," *The Howard Journal Of Crime And Justice* 57, No. 4 (2018): 576.

<sup>19</sup>Muzainah, "Baantar Jujuran Dalam Perkawinan Adat Masyarakat Banjar," 10–12.

<sup>20</sup>Bravo, Martínez, And Ruiz, "Arranged Marriages," 566. Elisabeth Mantl, "Legal Restrictions On Marriage: Marriage And Inequality In The Austrian Tyrol During The Nineteenth Century," *The History Of The Family* 4, No. 2 (June 1, 1999): 185, [https://doi.org/10.1016/S1081-602x\(99\)00011-1](https://doi.org/10.1016/S1081-602x(99)00011-1); Nawid Siassi, "Inequality And The Marriage Gap," *Review Of Economic Dynamics* 31 (January 1, 2019): 160–81, <https://doi.org/10.1016/j.red.2018.06.004>.

<sup>21</sup>Mantl, "Legal Restrictions On Marriage," 185; Siassi, "Inequality And The Marriage Gap," 160.

Meaning: From Ibn Umar Radliyallahu' anhumata Muhammad RasulullahSaw. said: "Arabs are equal to each other and mawali (former servants who have been freed) with each other, except the shamans and cupping workers.

It cannot be effortless for certain people to decide on an acceptable partner. In the end, this issue can cause several problems, including sirri marries, marriages with the guard judge, or even marriage without their parents' or other people's permission. The issue can also be caused if the rules and conditions are difficult for the couple.

### Research Method

Literature analysis with a hermeneutical approach to analyzing the principle of kafa'ah in deciding whether a marriage application is approved is the tool used in this study. The source used in this research is more based on Shaykh Muhammad Arsyad al-Banjari's book an-Nikah. This work is considered an insightful solution because, in the 18th century, the people of Banjar recognized the idea of marriage as a choice in marriage with a religious approach.

This analysis appears to look at the marriage issues of the 18th century. Researchers, however, restrict the principles given by al-Banjari in the resolution of matchmaking marriage disputes. This study is different from other studies because this topic's focus is to resolve the fear of the current people in Indonesia and other Islamic countries about matchmaking for money purposes. The hermeneutic method is used to analyze the text of a book written by al-Banjari in Arabic Jawi, whose contribution to solving the problem that girls can be matched to men who are considered more economically stable is considered to be necessary so far.

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### Result and Discussion

#### The concept of Al-Banjari and Kitabun Nikaah

Syekh Muhammad Arsyad is from Martapura, South Kalimantan, Banjar. He was born in Lok Gabang on 17 March 1710, and died in DalamPagar, South Kalimantan, on 3 October 1812. Sabi al-Muhtadin li at-Tafaqquh fi Amriddin, Kitab Kanz al-Makrifah, Kitab Ushuluddin, Kitab NuqtatulAjlal, Tuhfat al-Raghibin, Luqtat al-'Ijlan fi Bayan al-HaidwaIstihadawaNifas al-Niswan, al-Qawl al-Mukhtasar, and Kitab Fara'id are among his works. Shaykh Muhammad Arshad al-Banjari composed Kitab al-Nikah, concentrating on marriage. According to Abu Daudi, on 13 Safar 1289 H (1872 AD), the book was written in Banjar Jawi Arabic.<sup>22</sup>

In general, as taught by the Prophet Muhammad and adapted to the Banjar community's customs at that time, the book addresses the rule of marriage and its implementation. This book was written because, in the 17-18 century AD, it was based on the Banjar people's situation. At

<sup>22</sup>"Kitab An Nikah Karya Syekh Muhammad Arsyad Al Banjari, Uu Perkawinan No 1 Tahun 1974 Dan Khi (Studi Perbandingan) - Idr Uin Antasari Banjarmasin," Accessed July 26, 2020, <https://idr.Uin-Antasari.Ac.Id/6713/>.

that time, the Islamization system process was relatively new, so we needed a system to strengthen the values of sorrow in the Banjar culture.<sup>23</sup>

### The Concept of *Kafa'ah al-Banjari*

The topic of *kafa'ah* is stated in the Kitab al-Nikah in the first chapter, “*manyatakanKufu*.” Al-Banjari revealed, beginning with his clarification, that women wanted this *Kafaah*, not men. It is consistent with scholars’ view that a right granted to a woman and her guardian is *kafa'ah*. The consideration of *kafaah* referred to in this case, as mentioned earlier, is from the man’s side, not from the woman’s side, implying that a woman is considering whether or not the man will marry her is *sekufu*. Besides, al-Banjari then cites five *kafa'ah* credentials, namely non-defect (free from all shame), liberty, lineage, *iffah* (goodness), and *hirfah* (work skills/intelligence).<sup>24</sup>

The quotes in the text of the book are:

Concerning the first ranking, al-Banjari stated:

برمول یغ معهنديککوفو ایت فرمفوان جوا تیاد لاکي ۲ مک ادله سکالفرکاراکوفو هیت لیمفرکار:  
- فرتام سلامة دری سکال عیب یغ مثابتکن ای باکی خیار فسح نکاح سفرتي کيل چامفه کورغ اتو  
چلق اتو کورف لوسغ دان ترفوتغ ذکر دان لمه ذکر. مک لاکي ۲ یغ بر عیب دغنسلساتوادرفد یغ  
دمکین ایت نیادلہسکوفوادغنفرمفوان یغ بر عیب. دان فرمفوان یغ بر عیب دان جکالوا عیب  
فرمفوان ایت سجنسدغن عیب لاکي ۲ ایت سکالفون.

“First, safe from all the disgrace that caused him to be married to a *khiafasakh* like mad or mingled brackets or celak or worn ringworm and cut off by his testicles and weak testicles, then a man who goes missing with one of these conditions is not a scholar with a woman who doesn’t exist. And women who have ever stood over a woman of the same type even with the disgrace of that man. The disgrace that blows *khia* is like being blind and cutting off his hands and being evil in appearance, so there is no harm.”<sup>25</sup>

Based on that explanation, al-Banjari has demonstrated a first qualification or *kafaah* requirement, which is not disgraced or handicapped if a marriage can be canceled. Disabled people are not deemed to be on the same line as non-disabled people. The impairment encompasses both the physical and psychological aspects of impairment. A woman has the right to vote (to take or refuse marriage), not that the woman alone has this problem due to a lack of a man’s physical inability in the woman. A guardian is therefore entitled to deny marriage to a paralyzed, leper, or foolish male.

As for the second qualification of *kafaah*, al-Banjari stated:

- کدوا فرموان یغ مردیک مک لاکي ۲ همب اورغ نیادسکوفودغنفرمفوان یغ  
مردہیکسکالینتاتوستغھت. دان لاکي ۲ یغ فرمدہیکان اورغ جک اد ای جادی راج

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<sup>23</sup>Dede Hidayatullah, “Peran Kerajaan Banjar Dalam Penulisan Naskah Di Tanah Banjar,” *Manuskripta* 2, No. 1 (2012): 163–70. Anwar Hafidzi, “Urang Banjar Philosophy: Education And The Social Affairs Of The Community,” *Al-Insyiroh: Jurnal Studi Keislaman* 6, No. 2 (2020): 85–94.

<sup>24</sup>Muhammad Arsyad Al-Banjary, *Kitab An-Nikāh* (Martapura Kalimantan Selatan: Yayasan Pendidikan Islam Dalam Pagar, N.D.), 25–30.

<sup>25</sup>Al-Banjary, 25.

سكالفونتيادسكوفودغنفرمفوان بڃ مردهيك دان ابيوٽ فمر دهيكآن اورغ نسچايكوفو له دغنفرمفوان بڃ مردهيك كرن مڃيكتيفاث والله اعلم.

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“Second, women who are free, then men who are servants of people who are not in line with women who are free at all or half of it, and men who liberate people if there is he becomes king even though there is no partner with women who are free, and if the father is a free man and his mother liberation people undoubtedly *kufu* with free women because they follow their father.”<sup>26</sup>

Al-Banjari said in the above paragraph that a woman free was not along the same lines as a slave. Men who were slaves do not have the same requirements as women who were never slaves. This data shows that freedom is one of Kafaah’s qualifications. The slavery issue that existed when the Prophet was now abolished seems to be still an equality of occupation, which some Banjar people consider to shame the household. The divorce eventually came to an end. Slave abolition does not guarantee fair jobs.

The third qualification of kafaah is nasab (descent). Al-Banjari said:

- كتيكدر فدركار كوفو ايت نسب ارتيٽبغساديبيلغكنبغسا ايت دغن باف جوا سفرتي اسلام. مك لاکي ۲ بڃ اسلام دغنسندر يٽ دان بفاٺ ماسه كافر ايت تيادسكوفودغنفرمفوان بڃ اسلام دغنيفاٺ, دان لاکي ۲ بڃ اسلام دغنيفاٺ دان نينيٽتيادسكوفو اي دغنفرمفوان بڃ اسلام اي دغنيفاٺ دان نينيٽ دان داوٺ. دان لاکي بڃ عجم يايٽ بڃ لاین دار فد عرب تيادسكوفودغنفرمفوان عرب .

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“Third, from the case of *kufu*, nasab means nation, and the nation is eliminated with a father like Islam, so men who are Muslim by themselves and their fathers are still infidels are not aligned with women who are Muslim with their fathers and men who are Muslim with their fathers and Nininya has no alignment with women who are Muslim he is with his father and nininya and data, and men’ ajam who are different from Arabs have no alignment with Arab women.”<sup>27</sup>

The lineage of al-Banjari, as a country, refers only to Arabs. What does it mean? That is whether or not a person has a dad, a grandfather, and so on who is Muslim. As for the Arabs, this problem may not need to be taken care of because they had enough to take the lineage problem into account. They are proud of their lineages, not because they are Muslim or not their forefathers. Therefore, the Nasab (descent ) approach to ethnicity is considered to be similar to the issue of al-Banjari. The Banjari peoples and people living in Kalimantan appear to be the same. Thus kafa’ah would be the same in life as a right tribe in a good tribal approach.

The fourth qualification of kafaah is related to diversity ('iffah); al-Banjari explained that:

-كأمفة در فدت عفه ارتيٽ مناهن ديري در فدر كرجآن بڃ حرام سبب ايتوله تيادكوفو لاکي ۲ بڃ فاسق دغنفرمفوان بڃ تياد فاسق.

<sup>26</sup>Al-Banjary, 26.

<sup>27</sup>Al-Banjary, 27.

“Fourth, instead of ‘iffah’ means to refrain from haram work, because that’s why there is no *kufu* of men who are **wicked** with women who are not **wicked**, and there is no *kufu* of men who are *bid’ ah* with women who are *ahlussunnah*”<sup>28</sup>

Thus again, the sons of the wicked or the sons of the heretics are not *sekufu* with the daughters of those who are not **wicked** or the children of those who are *ahlussunnah*; this differential is a distinctive characteristic of al-Banjari, which means that women or men have to have the character of *ahlusunna*, not people who like to do wickedness.

While the qualifications of *kafaah*, the five al-Banjari explained:

-کلیم در فدفوفو ایت حرفه یابیتسو اتکفنداین یغدنونتو دغدیر زقی، مک لاکى ۲ یغمفویانکفنداین یغ هنا تیداسکوفو دغدفر مفوان یغمفویانکفنداین یغتر لبهدر فداث.

“The fifth of *kufu* is *hirfah*, which is the intelligence required by him is *rizqi*, so men who have low intelligence are not in line with women who have intelligence that is superior to them.”<sup>29</sup>

So, the man who throws blood and who is a tanner and who shepherds goats or cows or *adangan* and their children have no relationship with the woman who is a tailor, and the child who is a correspondent has no agreement with them with the merchant’s daughter. The child who is a cloth seller and a male merchant, and the one who sells cloth, and the child who is both of them are not partners.

Awareness and piety figure, as well as Islamic attitudes and understanding. If the future husband or ancestor, in this parameter, is superior to the future wife, it is called the same. Conversely, if both the prospective woman and her ancestors are nobler than the masculine regarding the above conditions, they cannot be counted as equivalent.

### Determination of Immateriality in Coercive Settlement

There are only five *kafa’ah* for Syekh Muhammad Arsyad Al-Banjary: a survivor from ‘disgrace, religion, descent,’ *iffah*, and *hirfah*. Meanwhile, wealth (*Al-Maal*) is not a matter for *Kafa’ah* in marriage. It can be seen from the Book of *An-Nikah* as well as he states that:

مک پتاله در فدان بھواسن کای ایت تیدادا ای دبیلکن در فدا سگال فرکارا کوفودری کرن ارتا ایت فرکی دانغ تیدادا مغمبیل کمگاهن دغدیدی سگال مریک یغ ممفو پای فراغی، ممفو پای مات هاتی.

“So it is clear that wealth is not or does not matter in *Kafa’ah*. Because the treasure can be lost and exists, someone who has a deep disposition and feelings will not make a problem with the wealth in his life.”<sup>30</sup>

Wealth is not a matter in *Kafa’ah*, according to Syekh Muhammad Arsyad Al-Banjary. It is because wealth or property is like lost and found things. Richness is pomp or prestige among the world’s experts. Meanwhile, the person with a healthy (moral) character and

<sup>28</sup>Al-Banjary, 27–28.

<sup>29</sup>Al-Banjary, 28–29.

<sup>30</sup>Al-Banjary, 30.

a deep (strong) heart will not be proud of his money. So they do not challenge other people's riches in *kafa'ah*.

In general terms, it can be defined as having a *kafa'ah* element as the standard criterion for formulating the ulama, as a *kafa'ah* element in religion (religious equality) and *kafa'ah* in the social sector (social equality). The *kafa'ah* elements are divided into two aspects. *Kafa'ah* is equality or equivalence determined in faith based on moral principles, dignity, and religious piety. *Kafa'ah*'s criteria in religion are the consensus of all scholars that it is the primary factor used to define *kafa'ah* in marriage. *Kafa'ah* is calculated based on local social values and customs in the social sector. In this group, the elements of *kafa'ah*, including descent, social standing, occupation, income, etc. do not have a consensus agreement on their application in terms of marriage from different scholars.

مك درى كرن انيله جك رضى سوراغفرمفوانبرسواميدغن لاکى ۲ يغتيايدسكوفودغندي مك دنكاحكن اكن دي اوله بفاث اتو سودار ائدغندينسيچاي صح نكاحث

Meaning: So if the woman is happy with her future husband, even though she is not in agreement with him, then it is permissible to marry her parents or siblings, and the marriage is still valid."

Therefore, if each family member matches, particularly for the partner, the significant gain would be easier to achieve. The role of *kafa'ah* in marriage is, therefore, significant and essential. If each party understands each other, is open to each other, and respects each other, which comes with the nature of equilibrium and harmony between husband and wife, it can mitigate or even avoid conflict or household problems. If the definition of *kafa'ah* is well known, it will be imposed proportionally. Meanwhile, a rigid interpretation of the *kafa'ah* definition has repercussions for stabilization disruption. If so, it will not be right for you; it will do you harm and even damage.

## Conclusion

The importance of *kafa'ah* is that the husband should be associated with his wife. It means that he is equal in social, moral, and economic roles to his wife. *Kafa'ah* will foster husband and wife satisfaction in the sense of marriage and better guarantee women's protection from failure or household shocks. *kafa'ah* in al-banjari emphasizes more on equality and harmony in the household. These findings can ultimately provide changes to the prospective bride and groom who are arranged in marriage. In the Banjar community, the object of *kafa'ah* tends to look at his ability to create a household owned with the aid of adequate knowledge of Islam and family law with a focus on faith. Although sometimes there is still matchmaking without the knowledge of the spouse, this is called *kafa'ah*. However, if the idea of *kafa'ah* provided by al-Banjari is accomplished, then the marriage will also run well and harmoniously. At least this finding will minimize the type of violence in the name of matchmaking.

There are still several flaws in this study, such as the matching model by pressuring girls to marry a variety of *jujuran* or the influence of *jujuran* on nominal matchmaking. The custom almost seems that women are sold at a high nominal price. They are going to deny it if it is too

tiny. This recommendation can at least drive the next researchers' ideas for improving the initial findings of Al-Banjari Book of Kitab an-Nikah.

### Acknowledgment

Thanks to the Sharia Faculty leaders, the researchers helped distribute the **research** funds for Al-Banjari's *kafaa'ah*. Members who contributed to the compilation of Malay language to Indonesian, data, and analysis, as well as colleagues who helped in locating the original data on this marriage book to make it transparent.

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## Arranged Marriage: Adjusting Kafa'ah Can Reduce Trafficking of Women

### ABSTRACT

*This study aims to find the concept of matchmaking or coercion in marriage against women. Women are more sensitive to matchmaking issues and express disagreement with practices that violate women's rights and endanger their future. However, previous researchers also considered matchmaking coercion, so researchers tried to see what if it was adjusted to the concept of kafa'ah. The method used in this research is a literature review by looking at the book an-nikah by Shaykh Muhammad Arsyad Al-Banjari, written in the 17th century AD. Through a hermeneutical approach, the researcher tries to uncover the marriage problems that are thought to be cornering women in marriage problems by his parents. Research proves that the concept of kafa'ah in al-Banjari theory can eliminate the perception of matchmaking with a coercive system, because in kafa'ah, what is prioritized is a person's faith relationship, which is ultimately able to maintain the honor of his wife and family. Not only in terms of material but more inclined to approach immaterial needs.*

**Keywords:** marriage; kafa'ah; forced; crime; women

### ABSTRAK

Penelitian ini bertujuan untuk menemukan konsep perjodohan atas dasar pemaksaan dalam perkawinan terhadap perempuan. Wanita lebih sensitif terhadap masalah perjodohan dan mengungkapkan ketidaksetujuan dengan praktik yang melanggar hak-hak wanita dan membahayakan masa depan mereka. Namun, para peneliti sebelumnya juga menganggapperjodohanitupaksaan, sehingga peneliti mencoba melihat bagaimana jika disesuaikan dengan konsep kafa'ah. Metode yang digunakan dalam penelitian ini adalah studi pustaka dengan melihat kitab an-nikah karangan Syekh Muhammad Arsyad Al-Banjari yang ditulis pada abad ke-17 Masehi. Melalui pendekatan hermeneutis, peneliti mencoba mengungkap permasalahan perkawinan yang dianggap menyudutkan perempuan dalam permasalahan perkawinan oleh orang tuanya. Penelitian membuktikan bahwa konsep kafa'ah dalam teori al-Banjari dapat menghilangkan persepsi perjodohan dengan sistem koersif, karena dalam kafa'ah yang diutamakan adalah hubungan keimanan seseorang, yang pada akhirnya mampu menjaga kehormatan dirinya. Istimewa keluarga. Tidak hanya dari segi material tetapi lebih cenderung mendekati kebutuhan immaterial.

**Kata kunci:** pernikahan; kafa'ah; terpaksa; kejahatan; wanita

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### Introduction

According to Shyamal (2020), due to natural shocks in Bangladesh, the conditional payment from husbands to wives in the event of divorce and dowry, a move from the bride's

family to the groom at the time of marriage, has fluctuated in Bangladesh.<sup>1</sup> We are creating a marriage market model in which dowry functions as a price for grooms, while more serves to avoid inefficient divorces.<sup>2</sup> Our comparative statics findings show that in shocks that increase (lower) profits, more and dowry are both increasing (decreasing).<sup>3</sup>

Traditionally arranged marriages take place in Africa, South-East Asia, Latin America, and the Near East. The activity has been brought to western nations (SURGIR) through migratory phenomena. In reaction to this, using legislative steps, hardening immigration laws, and requesting family reunification conditions, European countries seek to avoid this situation.<sup>4</sup> It is common practice in many countries to pay a dowry to the family of the bride.<sup>5</sup> Since marrying a daughter provides the family with money, the future husband is selected according to his wealth.<sup>6</sup> In return for a dowry, in which women accept marriage to a man selected(chosen) by their parents, this hidden selling reduces the woman to goods, with the subsequent arranged marriages. This practice ensures that young brides are frequently required to marry men twice their age, or even very old.<sup>7</sup>

There are arranged and forced marriages that must be distinguished; the latter happens when one of the partners does not approve or is forced to enter marriage.<sup>8</sup> Forced marriages are also forced marriage when one partner is under 18 years of age or early marriage.<sup>9</sup> Forced marriages are not purely for economic purposes but are also made to restore the family's dignity.

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<sup>1</sup>Shyamal Chowdhury, Debdulal Mallick, And Prabal Roy Chowdhury, "Natural Shocks And Marriage Markets: Fluctuations In Mehr And Dowry In Muslim Marriages," *European Economic Review* 128 (September 1, 2020): 128, <https://doi.org/10.1016/j.euroecorev.2020.103510>.

<sup>2</sup>Vicky Barham, Rose Anne Devlin, And Jie Yang, "A Theory Of Rational Marriage And Divorce," *European Economic Review* 53, No. 1 (January 1, 2009): 106, <https://doi.org/10.1016/j.euroecorev.2008.02.002>.

<sup>3</sup>Chowdhury, Mallick, And Roy Chowdhury, "Natural Shocks And Marriage Markets," 129.

<sup>4</sup>Keera Allendorf And Dirgha J. Ghimire, "Determinants Of Marital Quality In An Arranged Marriage Society," *Social Science Research* 42, No. 1 (January 1, 2013): 59, <https://doi.org/10.1016/j.ssresearch.2012.09.002>; Amitrajeet A Batabyal, "On The Likelihood Of Finding The Right Partner In An Arranged Marriage," *The Journal Of Socio-Economics* 30, No. 3 (May 6, 2001): 273, [https://doi.org/10.1016/S1053-5357\(01\)00095-6](https://doi.org/10.1016/S1053-5357(01)00095-6); Maria Del Mar Pastor Bravo, Pilar Almansa Martínez, And Ismael Jiménez Ruiz, "Arranged Marriages: Women For Sale," *Procedia - Social And Behavioral Sciences*, 6th International Conference On Intercultural Education "Education And Health: From A Transcultural Perspective", 132 (May 15, 2014): 564, <https://doi.org/10.1016/j.sbspro.2014.04.354>.

<sup>5</sup>Zobaida Akhter, "Girls Not Brides: Concern Of Distance Learning: Strategies To Prevent Child Marriage And Curse Of Dowry: Bangladesh Perspective," 2019; Gusti Muzainah, "Baantar Jujuran Dalam Perkawinan Adat Masyarakat Banjar," *Al-Insyiroh: Jurnal Studi Keislaman* 5, No. 2 (2019): 10–32; Anwar Hafidzi, "Prasyarat Poligami Dalam Kitab Fiqih Islam Dan Kompilasi Hukum Islam Perspektif Masalah Mursalah," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 7, No. 2 (2017): 366–392.

<sup>6</sup>Gaurav Chiplunkar And Jeffrey Weaver, "Marriage Markets And The Rise Of Dowry In India," *Available At Ssrn* 3590730, 2019.

<sup>7</sup>Nadia G. Diamond-Smith Et Al., "Semi-Arranged Marriages And Dowry Ambivalence: Tensions In The Changing Landscape Of Marriage Formation In South Asia," *Culture, Health & Sexuality* 22, No. 9 (2020): 971–74.

<sup>8</sup>Barham, Devlin, And Yang, "A Theory Of Rational Marriage And Divorce," 93; Omer Aijazi And Erin Baines, "Relationality, Culpability And Consent In Wartime: Men's Experiences Of Forced Marriage," *International Journal Of Transitional Justice* 11, No. 3 (2017): 463.

<sup>9</sup>Tamás Fleiner, Robert W. Irving, And David F. Manlove, "Efficient Algorithms For Generalized Stable Marriage And Roommates Problems," *Theoretical Computer Science* 381, No. 1 (August 22, 2007): 163–65, <https://doi.org/10.1016/j.tcs.2007.04.029>.

Forced and organized marriages will lead women into a cycle of poverty and lack of security, most of which being subjected to rape, violence, and forced sexual intercourse.<sup>10</sup>

There are also cases in which marriages are neither arranged nor coerced since either the girls are young or the child refuses to marry the man the family has chosen for it. Such marriages may have significant repercussions for women's physical and mental health and lead to suicide at times. We remember that women are more open to the issue by arguing that the practice contradicts the Koran and their disagreement.<sup>11</sup> Unlike marriage in Islam, Islam accepts a *ka'faah* (equality) approach to maintaining a harmonious marriage relationship.<sup>12</sup>

In fact, in marriage, *kafa'ah* is equity, harmony, or proportionality between the future wife and the future wife.<sup>13</sup> *Kafa'ah* is a Muslim need for marriage in the sense of faith. Before marriage, one important thing to do is to concentrate on a number of things, including lineage, faith, belief, occupation, liberty, and land.<sup>14</sup> However, many couples do not comply with the *Kafa'ah* requirements, and there are also many marriages between men and women with significant age gaps. For example, marriage between older women and men who are very young, or vice versa. Seeing this pattern in culture, according to QadaryahBarkah,<sup>15</sup> indicates that most couples who get married pay more attention to age, to attractive faces, and their partner's emotions. In Islam, this kind of marriage is not contrary to the laws of the Shari'ah, since Islam does not explicitly clarify the age limit to be counted as an adult. This kind of pattern helps to cultivate feelings of emotion in the household.

The problem of *kafa'ah* in marriage began to grow in contrast to Iffatin,<sup>16</sup> by looking at the physical-spiritual state, heredity, freedom status, occupation, income, education level, to *income* (gain) in a broad sense, in reality, requiring only an agreement between the two sides of the bride and groom. Zuhri also believes that marriage, especially in Islam, should be needed for *kafa'ah*. Non-Muslims, because of imbalances in religion, should not *kafa'ah* with Muslims.<sup>17</sup>

**Commented [B4]:** Better rephrase this sentence with "Before marriage, one important thing to do is concentrate on many things, including lineage, faith, belief, occupation, liberty, and land"

**Commented [B5]:** The word *income* appears repeatedly in this text. Consider using a synonym in its place.

<sup>10</sup>Isabelle Poutrin, "Theorizing Coercion And Consent In Conversion, Apostasy, Ordination, And Marriage (Sixteenth And Seventeenth Centuries)," In *Forced Conversion In Christianity, Judaism And Islam* (Brill, 2019), 86–109; Mehrdad Rayejian Asli And Mojgan Amrollahi Byouki, "Forced Marriage In Islamic Countries: The Role Of Violence In Family Relationships," In *Women And Children As Victims And Offenders: Background, Prevention, Reintegration* (Springer, 2016), 729.

<sup>11</sup>Aijazi And Baines, "Relationality, Culpability And Consent In Wartime," 463–66; Aisha K. Gill And Taher Hamed, "Muslim Women And Forced Marriages In The Uk," *Journal Of Muslim Minority Affairs* 36, No. 4 (2016): 540–42.

<sup>12</sup>Abdul Hadi Ismail, "Kafa'ah In The Muslim Community Marriage: A Study Of The Social History Of Islamic Law," *Indonesian Journal Of Education, Social Sciences And Research* 1, No. 1 (2020).

<sup>13</sup>Achmad Zainal Abidin, "Pelaksanaan Kafa'ah Dalam Perkawinan: Studi Di Pondok Pesantren Miftahul Huda Al-Musri'cianjur" (Phd Thesis, Uin Sunan Gunung Djati Bandung, 2019).

<sup>14</sup>Abdul Hadi Ismail, "Kafa'ah In The Muslim Community Marriage: A Study Of The Social History Of Islamic Law," *Indonesian Journal Of Education, Social Sciences And Research (Ijessr)* 1, No. 1 (2020): 16–23.

<sup>15</sup>Qodaryah Barkah And Andriyani Andriyani, "Maqashid Al-Syari'ah Concept Of Kafa'ah In Marriage," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, No. 1 (June 30, 2020): 107–9, <https://doi.org/10.19109/Nurani.V20i1.5651>.

<sup>16</sup>Iffatin Nur, "Kafa'ah In Islam," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 9, No. 1 (June 2014): 85–90.

<sup>17</sup>Sarifudin Zuhri, "Proses Perjudohan Dan Kriteria Kafa'ah Di Dunia Pesantrenh Dalam Perkawinan Anggota Ldii Desa Medaeng Kecamatan Waru Kabupaten Sidoarjo," *Al-Hukama': The Indonesian Journal Of Islamic Family Law* 8, No. 1 (2018): 53–58.

This study becomes interested when the researcher finds a principle in selecting the bride and wife in marriage, sometimes under different models of coercion systems of marriage systems. This idea is now intended to minimize the occult crime of marriage.<sup>18</sup> This study will eventually address that al-Banjari's idea of *kafa'ah* is considered capable of fixing marital problems, such as believing that women are sold according to dowry or *jujuran*.<sup>19</sup> Suppose the marriage arrangement fails to comply with the family's request, and the child's choice is assumed to be based solely on appearance or content. In that case, this is often assumed (considered) to be less critical since many divorces are solely (exclusively) due to economic factors. This paper is deemed worthy of addressing these issues.

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## Literature Review

### Kafa'ah and Equity Theories

Equity theory focuses on the alignment of shareholdings and donations. Could not all equally value equity.<sup>20</sup> Nawid Siassi (2019) suggests that in close relationships, inequality is less satisfied. If ties are unequal, people feel like they have little to no benefit. Under-benefited discrimination exists if the benefit of individuals is smaller than the benefit of their parents. However, there are unfair inequities if people are paying more than their spouses because of donations. Many studies have shown that females are less exposed than males. Under the theory of justice, people should be attracted by unequal marriages and suffer from unjust marriages and the degree of injustice.<sup>21</sup>

At present, it seems that there has been a shift in the meaning of the *kafa'ah* pattern conveyed in the Hadith of the Prophet Muhammad SAW.

أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : ( تَنْكُحُ الْمَرْأَةُ لِأَرْبَعٍ : لِإِمَالَتِهَا , وَلِحَسْبِهَا , وَلِجَمَالِهَا , وَلِدِينِهَا , فَانظُرْ بِذَاتِ الدِّينِ تَرَبُّثٌ يَدَاكَ )

Meaning: From Abu Hurairah Radliyallaahu' anhu that the Prophet Muhammad Saw. said: "Women marry for four reasons, namely: property, descent, beauty, and religion. Get a woman who is devout in religion. Then you will be happy. ."

وعن ابن عمر - رضي الله عنهما- قال: قال رسول الله صلى الله عليه وسلم (العرب بعضهم أكفاء بعض, والموالي بعضهم أكفاء بعض, إلا حائك أو حجام) وفي إسناده راو لم يسم, واستنكره أبو حاتم وله شاهد عند البزار: عَنْ مُعَاذِ بْنِ جَبَلٍ بِسَنَدٍ مُنْقَطِعٍ

<sup>18</sup>Aisha K. Gill, Pamela Cox, And Ruth Weir, "Shaping Priority Services For Uk Victims Of Honour-Based Violence/Abuse, Forced Marriage, And Female Genital Mutilation," *The Howard Journal Of Crime And Justice* 57, No. 4 (2018): 576.

<sup>19</sup>Muzainah, "Baantar Jujuran Dalam Perkawinan Adat Masyarakat Banjar," 10–12.

<sup>20</sup>Bravo, Martínez, And Ruiz, "Arranged Marriages," 566. Elisabeth Mantl, "Legal Restrictions On Marriage: Marriage And Inequality In The Austrian Tyrol During The Nineteenth Century," *The History Of The Family* 4, No. 2 (June 1, 1999): 185, [https://doi.org/10.1016/S1081-602x\(99\)00011-1](https://doi.org/10.1016/S1081-602x(99)00011-1); Nawid Siassi, "Inequality And The Marriage Gap," *Review Of Economic Dynamics* 31 (January 1, 2019): 160–81, <https://doi.org/10.1016/J.Red.2018.06.004>.

<sup>21</sup>Mantl, "Legal Restrictions On Marriage," 185; Siassi, "Inequality And The Marriage Gap," 160.

Meaning: From Ibn Umar Radliyallahu' anhumata Muhammad RasulullahSaw. said: "Arabs are equal to each other and mawali (former servants who have been freed) with each other, except the shamans and cupping workers.

It cannot be effortless for certain people to decide on an acceptable partner. In the end, this issue can cause several problems, including sirri marries, marriages with the guard judge, or even marriage without their parents' or other people's permission. The issue can also be caused if the rules and conditions are difficult for the couple.

**Commented [P9]:** The theory of Kafaah is important to explore more depth

## Research Method

Literature analysis with a hermeneutical approach to analyzing the principle of kafa'ah in deciding whether a marriage application is approved is the tool used in this study. The source used in this research is more based on Shaykh Muhammad Arsyad al-Banjari's book an-Nikah. This work is considered an insightful solution because, in the 18th century, the people of Banjar recognized the idea of marriage as a choice in marriage with a religious approach.

**Commented [P10]:** Why use hermeneutical approach?

**Commented [P11]:** Why choose book an-Nikah Shaykh Muhammad Arsyad al-Banjari? Please give explain 1-2 sentences

This analysis appears to look at the marriage issues of the 18th century. Researchers, however, restrict the principles given by al-Banjari in the resolution of matchmaking marriage disputes. This study is different from other studies because this topic's focus is to resolve (it focuses on resolving) the fear of the current people in Indonesia and other Islamic countries about matchmaking for money purposes. The hermeneutic method is used to analyze the text of a book written by al-Banjari in Arabic Jawi, whose contribution to solving the problem that girls can be matched to men who are considered more economically stable is considered to be necessary so far.

**Commented [B12]:** The phrase *this topic's focus is to resolve* may be wordy. Consider changing the wording.

## Result and Discussion

### The concept of Al-Banjari and KitabunNikaah

Syekh Muhammad Arsyad is from Martapura, South Kalimantan, Banjar. He was born in Lok Gabang on 17 March 1710, and died in DalamPagar, South Kalimantan, on 3 October 1812. Sabi al-Muhtadin li at-Tafaqquh fi Amriddin, Kitab Kanz al-Makrifah, Kitab Ushuluddin, Kitab NuqtatulAjlal, Tuhfat al-Raghibin, Luqtat al-'Ijlan fi Bayan al-HaidwaIstihadawaNifas al-Niswan, al-Qawl al-Mukhtasar, and Kitab Fara'id are among his works. Shaykh Muhammad Arshad al-Banjari composed Kitab al-Nikah, concentrating on marriage. According to Abu Daudi, on 13 Safar 1289 H (1872 AD), the book was written in Banjar Jawi Arabic.<sup>22</sup>

In general, as taught by the Prophet Muhammad and adapted to the Banjar community's customs at that time, the book addresses the rule of marriage and its implementation. This book was written because, in the 17-18 century AD, it was based on the Banjar people's situation. At

<sup>22</sup>"Kitab An Nikah Karya Syekh Muhammad Arsyad Al Banjari, Uu Perkawinan No 1 Tahun 1974 Dan Khi (Studi Perbandingan) - Idr Uin Antasari Banjarmasin," Accessed July 26, 2020, <https://idr.uin-antasari.ac.id/6713/>.

that time, the Islamization system process was relatively new, so we needed a system to strengthen the values of sorrow in the Banjar culture.<sup>23</sup>

### The Concept of Kafa'ah al-Banjari

The topic of *kafa'ah* is stated in the Kitab al-Nikah in the first chapter, “*manyatakanKufu*.” Al-Banjari revealed, beginning with his clarification, that women wanted this *Kafaah*, not men. It is consistent with scholars’ view that a right granted to a woman and her guardian is *kafa'ah*. The consideration of *kafaah* referred to in this case, as mentioned earlier, is from the man’s side, not from the woman’s side, implying that a woman is considering whether or not the man will marry her is *sekufu*. Besides, al-Banjari then cites five *kafa'ah* credentials, namely non-defect (free from all shame), liberty, lineage, *iffah* (goodness), and *hirfah* (work skills/intelligence).<sup>24</sup>

The quotes in the text of the book are:

Concerning the first ranking, al-Banjari stated:

برمول یغ مځهنډککوفو ایت فرمفوان جوا تیاد لاکي ۲ مک ادله سکالفراکاراکوفو هیت لیمفرکار:  
- فرتام سلامت درى سکال عیب یغ مثابتکن اي باکي خیار فسخ نکاح سفرتي کيل چامفه کورغ اتو  
چلق اتو کورف لوسغ دان ترفوتغ ذکر دان لمه ذکر, مک لاکي ۲ یغ بر عیب دغنسالهساتوادرفد یغ  
دمکین ایت تیادلہسکوفوادغنفرمفوان یغ بر عیب, دان فرمفوان یغ بر عیب دان جکالوا عیب  
فرمفوان ایت سجنسدغن عیب لاکي ۲ ایت سکالفون.

“First, safe from all the disgrace that caused him to be married to a *khiafaskh* like mad or mingled brackets or celak or worn ringworm and cut off by his testicles and weak testicles, then a man who goes missing with one of these conditions is not a scholar with a woman who doesn’t exist. And women who have ever stood over a woman of the same type even with the disgrace of that man. The disgrace that blows *khiaf* is like being blind and cutting off his hands and being evil in appearance, so there is no harm.”<sup>25</sup>

Based on that explanation, al-Banjari has demonstrated a first qualification or *kafaah* requirement, which is not disgraced or handicapped if a marriage can be canceled. Disabled people are not deemed to be on the same line as non-disabled people. The impairment encompasses both the physical and psychological aspects of impairment. A woman has the right to vote (to take or refuse marriage), not that the woman alone has this problem due to a lack of a man’s physical inability in the woman. A guardian is therefore entitled to deny marriage to a paralyzed, leper, or foolish male.

As for the second qualification of *kafaah*, al-Banjari stated:

- کدوا فرموان یغ مردیک مک لاکي ۲ همب اورغ تیادسکوفودغنفرمفوان یغ  
مردهیکسکالینتاتوستغھٹ. دان لاکي ۲ یغ فرمدهیکان اورغ جک اد اي جادي راج

<sup>23</sup>Dede Hidayatullah, “Peran Kerajaan Banjar Dalam Penulisan Naskah Di Tanah Banjar,” *Manuskripta* 2, No. 1 (2012): 163–70. Anwar Hafidzi, “Urang Banjar Philosophy: Education And The Social Affairs Of The Community,” *Al-Insyiroh: Jurnal Studi Keislaman* 6, No. 2 (2020): 85–94.

<sup>24</sup>Muhammad Arsyad Al-Banjary, *Kitab An-Nikāh* (Martapura Kalimantan Selatan: Yayasan Pendidikan Islam Dalam Pagar, N.D.), 25–30.

<sup>25</sup>Al-Banjary, 25.

سكالفونتيادسكوفودغنفرمفوان يَغ مردهيك دان ابيوٲ فمر دهيكآن اورغ نسچايكوفو له دغنفرمفوان يَغ مردهيك كرن مَغيكوتبفات والله اعلم.

“Second, women who are free, then men who are servants of people who are not in line with women who are free at all or half of it, and men who liberate people if there is he becomes king even though there is no partner with women who are free, and if the father is a free man and his mother liberation people undoubtedly *kufu* with free women because they follow their father.”<sup>26</sup>

Al-Banjari said in the above paragraph that a woman free was not along the same lines as a slave. Men who were slaves do not have the same requirements as women who were never slaves. This data shows that freedom is one of Kafaah’s qualifications. The slavery issue that existed when the Prophet was now abolished seems to be still an equality (equality) of occupation, which some Banjar people consider to shame the household. The divorce eventually came to an end. Slave abolition does not guarantee fair jobs.

**Commented [B13]:** The indefinite article, *an*, may be redundant when used with the uncountable noun *equality* in your sentence. Consider removing it.

The third qualification of kafaah is nasab (descent). Al-Banjari said:

- كتيكدر فدركاركوفو ايت نسب ارتيٲبغساديبليغكنبغسا ايت دغن باف جوا سفرتي اسلام. مك لاكي ٢ يَغ اسلام دغنسنديٲ دان بفات ماسه كافر ايت تيادسكوفودغنفرمفوان يَغ اسلام دغنبيفات, دان لاكي ٢ يَغ اسلام دغنبيفات دان نينيٲتيادسكوفو اي دغنفرمفوان يَغ اسلام اي دغنبيفات دان نينيٲ دان دائوٲ. دان لاكي يَغ عجم يايٲ يَغ لايٲن دار فد عرب تيادسكوفودغنفرمفوان عرب .

“Third, from the case of kufu, nasab means nation, and the nation is eliminated with a father like Islam, so men who are Muslim by themselves and their fathers are still infidels are not aligned with women who are Muslim with their fathers and men who are Muslim with their fathers and Nininya has no alignment with women who are Muslim he is with his father and nininya and data, and men’ ajam who are different from Arabs have no alignment with Arab women.”<sup>27</sup>

The lineage of al-Banjari, as a country, refers only to Arabs. What does it mean? That is whether or not a person has a dad, a grandfather, and so on who is Muslim. As for the Arabs, this problem may not need to be taken care of because they had enough to take the lineage problem into account. They are proud of their lineages, not because they are Muslim or not their forefathers. Therefore, the Nasab (descent ) approach to ethnicity is considered to be similar to the issue of al-Banjari. The Banjari peoples and people living in Kalimantan appear to be the same. Thus kafa’ah would be the same in life as a right tribe in a good tribal approach.

**Commented [B14]:** Better rephrase this sentence with “As for the Arabs, this problem may not need to be taken care of because they had enough to consider the lineage problem”

The fourth qualification of kafaah is related to diversity ('iffah); al-Banjari explained that:

-كأمفةدرفدٲ عفه ارتيٲ مناهن ديري دردفكرجان يَغ حرام سبب ايتولهتياذكوفو لاكي ٢ يَغ فاسق دغنفرمفوان يَغتياذ فاسق.

<sup>26</sup>Al-Banjary, 26.

<sup>27</sup>Al-Banjary, 27.

“Fourth, instead of ‘iffah’ means to refrain from haram work, because that’s why there is no *kufu* of men who are wicked with women who are not *wicked*, and there is no *kufu* of men who are *bid’ ah* with women who are *ahlussunnah*”<sup>28</sup>

**Commented [B15]:** The word *wicked* appears repeatedly in this text. Consider using a synonym in its place.

Thus again, the sons of the wicked or the sons of the heretics are not *sekufu* with the daughters of those who are not *wicked* or the children of those who are *ahlussunnah*; this differential is a distinctive characteristic of al-Banjari, which means that women or men have to have the character of *ahlusunna*, not people who like to do wickedness.

**Commented [B16]:** The word *wicked* appears repeatedly in this text. Consider using a synonym in its place.

While the qualifications of *kafaah*, the five al-Banjari explained:

-كليم در فدفوفو ايت حرفه يابيتسو اتكفنداين يغدتوننوة دغدبيرزقي، مك لاكى ٢ يغمفويانكفنداين يغب هنا تياسكوفو دغغفر مفوان يغمفويانكفنداين يغبتر لبهدر فداث.

“The fifth of *kufu* is *hirfah*, which is the intelligence required by him is *rizqi*, so men who have low intelligence are not in line with women who have intelligence that is superior to them.”<sup>29</sup>

So, the man who throws blood and who is a tanner and who shepherds goats or cows or *adangan* and their children have no relationship with the woman who is a tailor, and the child who is a correspondent has no agreement with them with the merchant’s daughter. The child who is a cloth seller and a male merchant, and the one who sells cloth, and the child who is both of them are not partners.

Awareness and piety figure, as well as Islamic attitudes and understanding. If the future husband or ancestor, in this parameter, is superior to the future wife, it is called the same. Conversely, if both the prospective woman and her ancestors are nobler than the masculine regarding the above conditions, they cannot be counted as equivalent.

### Determination of Immateriality in Coercive Settlement

There are only five *kafa’ah* for Syekh Muhammad Arsyad Al-Banjary: a survivor from ‘disgrace, religion, descent,’ *iffah*, and *hirfah*. Meanwhile, wealth (*Al-Maal*) is not a matter for *Kafa’ah* in marriage. It can be seen from the Book of *An-Nikah* as well as he states that:

مك پتاله در فداث بھواسن كاي ايت تياا اي دبيلكن در فدا سكال فركارا كوفودرى كرن ارنا ايت فركي دانغ تيااا مغمبيل كمكاهن دغندي سكال مريك يغب ممفو پائ فراغي، ممفو پائ مات هاتي.

“So it is clear that wealth is not or does not matter in *Kafa’ah*. Because the treasure can be lost and exists, someone who has a deep disposition and feelings will not make a problem with the wealth in his life.”<sup>30</sup>

Wealth is not a matter in *Kafa’ah*, according to Syekh Muhammad Arsyad Al-Banjary. It is because wealth or property is like lost and found things. Richness is pomp or prestige among the world’s experts. Meanwhile, the person with a healthy (moral) character and

<sup>28</sup>Al-Banjary, 27–28.

<sup>29</sup>Al-Banjary, 28–29.

<sup>30</sup>Al-Banjary, 30.

a deep (strong) heart will not be proud of his money. So they do not challenge other people's riches in *kafa'ah*.

In general terms, it can be defined as having a *kafa'ah* element as the standard criterion for formulating the ulama, as a *kafa'ah* element in religion (religious equality) and *kafa'ah* in the social sector (social equality). The *kafa'ah* elements are divided into two aspects. *Kafa'ah* is equality or equivalence determined in faith based on moral principles, dignity, and religious piety. *Kafa'ah*'s criteria in religion are the consensus of all scholars that it is the primary factor used to define *kafa'ah* in marriage. *Kafa'ah* is calculated based on local social values and customs in the social sector. In this group, the elements of *kafa'ah*, including descent, social standing, occupation, income, etc. do not have a consensus agreement on their application in terms of marriage from different scholars.

مك درى كرن انيله جك رضى سورا غفر مفوانير سواميدغن لاکى ۲ بعتيادسكو فوددغندي مك دنكاحکن اکن دي اوله بفاث اتو سودار ائدغندي نيسچاي صح نکاحث

Meaning: So if the woman is happy with her future husband, even though she is not in agreement with him, then it is permissible to marry her parents or siblings, and the marriage is still valid."

Therefore, if each family member matches, particularly for the partner, the significant gain would be easier to achieve. The role of *kafa'ah* in marriage is, therefore, significant (substantial) and essential. If each party understands each other, is open to each other, and respects each other, which comes with the nature of equilibrium and harmony between husband and wife, it can mitigate or even avoid conflict or household problems. If the definition of *kafa'ah* is well known, it will be imposed proportionally. Meanwhile, a rigid interpretation of the *kafa'ah* definition has repercussions for stabilization disruption. If so, it will not be right for you; it will do you harm and even damage.

## Conclusion

The importance of *kafa'ah* is that the husband should be associated with his wife. It means that he is equal in social, moral, and economic roles to his wife. *Kafa'ah* will foster husband and wife satisfaction in the sense of marriage and better guarantee women's protection from failure or household shocks. *kafa'ah* in al-banjari emphasizes more on equality and harmony in the household. These findings can ultimately provide changes to the prospective bride and groom who are arranged in marriage. In the Banjar community, the object of *kafa'ah* tends to look at his ability to create a household owned with the aid of adequate knowledge of Islam and family law with a focus on faith. Although sometimes there is still matchmaking without the knowledge of the spouse, this is called *kafa'ah*. However, if the idea of *kafa'ah* provided by al-Banjari is accomplished, then the marriage will also run well and harmoniously. At least this finding will minimize the type of violence in the name of matchmaking.

There are still several flaws in this study, such as the matching model by pressuring girls to marry a variety of *jujuran* or the influence of *jujuran* on nominal matchmaking. The custom almost seems that women are sold at a high nominal price. They are going to deny it if it is too

**Commented [B17]:** Better rephrase this sentence with "Kafa'ah's criteria in religion are all scholars' consensus that it is the primary factor used to define kafa'ah in marriage"

**Commented [B18]:** The word **significant** appears repeatedly in this text. Consider using a synonym in its place.

**Commented [P19]:** Hermeneutic analysis is not clear

tiny. This recommendation can at least drive the next researchers' ideas for improving the initial findings of Al-Banjari Book of Kitab an-Nikah.

### Acknowledgment

Thanks to the Sharia Faculty leaders, the researcher helped distribute the research funds for Al-Banjari' *skafaa'ah*. Members who contributed to the compilation of Malay language to Indonesian, data, and analysis, as well as colleagues who helped in locating the original data on this marriage book to make it transparent.

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