

## WOMEN NOT FOR SALE: DETERMINATION OF WOMEN'S MARRIAGE RIGHTS THROUGH JUJURAN WITHIN THE MARRIAGE SYSTEM IN BANJAR, INDONESIA

### Abstract

Marriage may be a relationship between men and ladies which is ratified through a law that's enforced during a country, including Indonesia. Although many marriages are dispensed illegally, the state also has the proper to rearrange and guide them so that the wedding goes well. The proper to vote and be elected could be a part of marriage that takes place in Indonesia, but this freedom is broken by forced marriage, or arranged marriage without the knowledge of her woman. The aim is to facilitate or wealth. This study tries to uncover the wedding system that happens in Banjar, Indonesia through a literature review with a phenomenological approach. There are three findings during this study, first, the dowry rate is the main consider determining the eligibility of marriage, secondly, the emergence of forced marriages causes disharmony within the household, third, there is an assumption that women are sold based on the high nominal value of jujuran. This is due to the inability of a prospective groom to propose to a woman from the Banjar community, Kalimantan.

**Keywords:** market; marriage; dowry; divorce; Indonesia.

### Abstrak

Perkawinan mungkin merupakan hubungan antara laki-laki dan perempuan yang disahkan melalui undang-undang yang diberlakukan di suatu negara, termasuk Indonesia. Meski banyak perkawinan yang diputus secara ilegal, negara juga memiliki hak untuk mengatur ulang dan membimbing mereka agar pernikahan berjalan dengan baik. Hak untuk memilih dan dipilih bisa saja menjadi bagian dari pernikahan yang terjadi di Indonesia, namun kebebasan ini dirusak dengan kawin paksa, atau perjodohan tanpa sepengetahuan wanitanya. Tujuannya untuk mendapatkan fasilitas lebih atau nominal uang. Penelitian ini mencoba mengungkap sistem pernikahan yang terjadi di Masyarakat Banjar, Kalimantan Selatan, Indonesia. Melalui tinjauan pustaka dengan pendekatan fenomenologis. Terdapat tiga temuan selama penelitian ini, pertama, tingkat mahar menjadi pertimbangan utama dalam menentukan kelayakan menikah. *Kedua*, munculnya kawin paksa menyebabkan ketidakharmonisan dalam rumah tangga. *ketiga*, muncul asumsi perempuan untuk dijual berdasarkan tingginya nominal jujuran. Hal ini disebabkan jika adanya ketidakmampuan seorang calon mempelai laki-laki ketika meminang perempuan dari masyarakat Banjar, Kalimantan. Kata kunci: pasar; pernikahan; mas kawin; perceraian; Indonesia.

### INTRODUCTION

Divorce trends in Indonesia are increasing per annum. supported data from the Central Statistics Agency (BPS) divorce rates the maximum amount as 353 843 in 2015. In 2016, the figure

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had increased to 365 654 and back jumped to 374 516. the very best spike occurred last year with the figure reaching 408,202. This case is up 9% compared to the previous year. the most important culprits in 2018 are continuing disputes and quarrels with 183,085 cases. The second-order economic cases were 110,909 cases. While other problems are husband/wife leave (17.55%), violence (2.15%), and other factors (0.85%)(BPS, 2020, n.d.). The best reason is sometimes based because it doesn't match between the couple, husband, and wife for various reasons (Sheykhi, 2020; Widiyantari et al., 2019). These reasons occur altogether circles of the global community, even Indonesia.

Wading the ark of happy and harmonious home life is everyone's dream. nobody ever expects more from a fostered household. Various debates, like frequent quarreling, a way of compatibility, violence, economic factors, and infidelity are often the source of problems in household relations that result in divorce (PhD, 2005). Additionally to those factors, not some marriages that ended thanks to the dearth of affection and love that grew thanks to marriages that were forced because it was arranged, the phenomenon within the community isn't much denied has indirectly destroyed the wedding itself (Rosenbeck, 2018).

Arranged marriages under the pretext of the proper of *ijbar* (the right held by parents to marry off their children) may be a manifestation of forced marriages (Mohd & Kadir, 2020). The discourse that continues to develop hitherto interprets forced marriage as a manifestation of *ijbar* rights, making forced marriage an analogous tradition with a compulsion to create a wedding with the threat of parental pressure on children, a threat that folks attempt to their children who are forced to marry as an ungodly child if you do not obey the parent s' choice(Aijazi & Baines, 2017).

The condition of a wedding that needs a guardian in an exceeding marriage settlement makes the position of guardian has great potential within the intervention of his guardian. *Ijbar* rights within the concept of *fiqh* of the varsity are often applied as a respect to the practice of forced marriage (Aziz, 2018; Mohd & Kadir, 2020). However, with a partial understanding of the prevailing *fiqh* (Islamic law)only raises new problems in its application aside from that if seen from existing phenomena, forced marriage can seek advice from the definition of *ikrah* (coercion in the middle of threats) it will be seen as a violation of human rights (Lamatande et al., 2019). Not only the threat that's reported by parents to their children isn't some parents who target dowry to the boys - the high dowry target determines the success of fogeys in marrying their children, dowry sort of a fee handy

over a lady to a perfect man who is captured can make the person happy child (Imran et al., 2019). The event of dowry culture from the impact of social change experienced by society today in various parts of the globe has increased from year to year, including practiced by Muslims.

## **RESEARCH METHODS**

The method employed in this study could be a literature review with a spread of literature that discusses marriage and therefore the high divorce in Indonesia in 2020 thanks to various factors and reasons. The approach taken during this study could be a phenomenological approach by observing various scientific works that also discuss divorce trends in Indonesia. The data obtained are analyzed fully and produce valuable findings at now because of social changes that occur and are considered to be the sale of women thanks to dowry demands and expensive wedding costs.

## **LITERATURE REVIEW:**

### **RELATIONSHIP BETWEEN FORCED MARRIAGE AND SOCIAL STRATA**

Materialistic views of fogeys in society are still plenty happening, not some parents who consider the appropriateness of marriage from the alignment of the degree of wealth owned, the concept of dowry which is seen because the price of a lady makes it a commonplace. it's a matter of pride for fogeys who get a son for his or her daughter if the person has abundant wealth and offers plenty of dowry to his daughter when mentioned when the *qobul* (accepted) consent is held (Bahri, 2020). In certain societies, the dowry provisions are not any longer on the pretext of faith but the traditions that have also developed within the society the upper the education of a girl, the upper the dowry is given.

Marriage in Islam incorporates a condition and harmony that has got to be fulfilled. one in all the wants for marriage in Islam is that the willingness of both parties to urge married. there's no compulsion to carry a wedding. Islamic Sharia provides instructions for fogeys to not impose their will in determining the matchmaking of their children (Hori & Cipta, 2019; Susanti et al., 2019). The prohibition forces his child to be an arranged marriage with the person or woman of his choice, they're expected to guide and guide their children to decide on an acceptable partner by religious advice.

Imam Shafi'i, Malik, and Hambali think that if a girl who is *baligh* and sensible remains a lady, then the proper of marriage is with the guardian, but if she may be a widow then the correct is in both, the guardian might not marry the widowed woman without her consent. On the opposite hand, the girl cannot marry him off without the guardian's blessing (Farooq, 2019). Syafi'i madhab said that the authority of the *wali* (guardian of girl) shouldn't be an act of imposing his own will in choosing a mate for a partner, without relevancy the principle of the willingness of the kid. Abu Hanifah and his followers have another opinion, they argue that fathers might not force adult daughters to marry someone, fathers or guardians are obliged to barter marital matters with their daughters, if the daughter wants it then her marriage is legal, but if her daughter doesn't want to then the wedding contract is invalid (Al-Sharmani, 2018).

Thus Islam gives full rights to women in determining their life partner (husband), the goal is so they'll foster a secure and peaceful household under the protection of Allah. The influence of forced marriages in household harmony is gigantic because it unites both hearts that don't love and so is forced to marry it negatively impacts both. Same as a marriage dowry. In practice, often dowry issues become a significant subject of debate between brides and grooms. There are no specific restrictions regarding the dimensions of dowry in an exceeding marriage. Mahar shouldn't relate to the planet, like money, houses, cars, gold, and then forth (Kusmayanti et al., 2019; Sitompul & Hakim, 2018).

Mahar can take the shape of matters regarding the afterlife like faith, knowledge, memorization of the Koran, freedom, or liberation of slavery, and anything good and beneficial may be made a dowry. The most effective dowry in Islam is that it's not burdensome or distressing her future husband (Hafidzi & Hayatunnisa, 2017). Giving dowry must be in step with ability. If a person has the power to administer an outsized dowry, then it should be done. However, after they don't have the power to allow large dowry, they are doing not must be forced, because basically marriage becomes a thing that's intended on the premise of kindness.

Mahar is merely a medium and not the main goal. Because the aim of marriage in Islam isn't to appear for dowries of high value or large dowries. Mahar isn't also an exhibition material to the overall public, but to glorify the bride herself. The command to offer a dowry to wives may be a special privilege given by God to women (Pandang et al., 2018; Zubair, 2018). Given the proper of dowry because the prerogative of girls where the opposite party doesn't interfere, implies the

principle that girls are capable of being chargeable for what's their right. But it's unfortunate, there's still a bent from today's society of the bride's family to spend dowry to shop for household goods and tools (Hafidzi, 2015; Sopyan & Asyraf, 2018).

This is often fine as long because it is with the consent of the bride. Broadly speaking, the quality wedding dowry is as mentioned above. the general public assumes that the simplest dowry is that the one with the best value at an awfully expensive price. But know that the quality of an honest wedding dowry in Islam is best not only influenced by expensive prices, but marriage dowry isn't influenced by the value. But in keeping with the power of the possible bridegroom and adapted to the rights of a prospective wife.

Mahar is given to a girl as a present that doesn't expect any return or concessions. Mahar is a few things subtle to sow the seeds of affection in starting a replacement life (Sitompul & Hakim, 2018). This gift is by the flexibility and this gift may be a symbol whose value doesn't lie its size but lies within the feeling of the one that gave it because to glorify his life partner. Therefore it's the identical spiritual value as an iron ring given by the poor with a gold or silver chariot given by the rich. Mahar isn't trafficking of girls, on the contrary, a present geared toward protecting women. Besides showing respect, appreciation, and glory to the ladies Islam requires dowry (*mahar*) and ensures that it's owned by women as an obligation from men to him which shouldn't be opposed.

Islam requires husbands to present dowry (dowry) as "*nihlah*" (special purchases to women) and must be with a sincere and grateful heart, still as giving grants and gifts. By enforcing rules like this, Islam wants to stay the remnants of the *Jahiliah* system about the affairs of ladies and their priests. His rights to himself and his property, honor, and position. At the identical time, Islam doesn't desire a relationship between a girl and her husband and doesn't uphold domestic life by merely enforcing strict rules, but rather giving him space and freedom, abandoning each other, and affection to paint his life together and to refresh the atmosphere his life.

## CONCLUSION

Determination of the nominal dowry in marriage makes the bridegroom feel burdened by the high number of dowry. this pattern is taken into account a part of the people in Indonesia that top dowries like selling girls to the rich. for a few others, dowry is taken into account a decent thing, because it determines the social strata rights in society. Daughter s' marriages like this are forced by

parents to marry off their daughters. so that lots of divorces occur if the wedding is essentially done by force. Mahar given in an exceeding marriage ritual within the religion of Islam is additionally considered a part of improving the economy of the bride and groom later when already married. respect for the potential husband to his wife is additionally during this dowry giving system.

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