



The Impact of Divorce Due to Forced Marriage in Campalagian District, Polewali Mandar Regency

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ABSTRACT

This research analyzes forced marriage's impact in the Campalagian District. Marriage is not just an inner and outer meeting of a man and a woman but is intended to achieve happiness, tranquility, and peace of mind. All humans want a lasting marriage. The method used in this research is empirical normative legal research, the research object of which includes both normative and practical aspects. Normative in this research has positive legal norms and Islamic legal norms. Furthermore, normative legal analysis or Islamic legal norms can be legal norms and legal behavior, and Islamic legal research can be divided into two, namely normative and sociological or empirical. The research results show that: 1) forced marriage in Campalagian District still occurs frequently. From 2019 to 2019, there were 14 cases. 2) The impact of forced marriages in Campalagian District is that they end in divorce and impact family conflict and infidelity.

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1. INTRODUCTION

Humans are social creatures who cannot be separated from various needs that intersect with other people. According to (1) Human needs consist of 1) Physiological needs (physiological needs; 2) safety needs (security needs); 3) belongingness and love needs (the need for a sense of belonging and affection; 4) esteem needs (the need for self-esteem); 5) The need for self-actualization (the need for self-actualization). One of the inevitable human needs is to share affection with the opposite sex, which is manifested in a marriage bond.

In law number 1 of 1974, as amended by law number 16 of 2019 concerning marriage, it is explained that marriage is a physical and spiritual bond between a man and a woman as husband and wife to form a happy and eternal family (household). Based on the Almighty Godhead (2). On this basis, marriage becomes a holy and sacred bond, which is promised between a man and a woman (3). When both parties have agreed to enter into marriage through a sacred contract, then at that time, a powerful bond has been established (mitsaqan ghalidza). The sacredness of marriage is a force that binds both parties, namely husband and wife, so breaking it off takes work.

The enactment of marriage by Allah SWT, as one of the teachings of the Prophet Muhammad SAW, is highly recommended for every member of his community who already has the ability (birth and birth) to enter into marriage immediately. Furthermore, Islam emphasizes that a wedding will perfect a person's faith to get closer to God.

A marriage forced by parents (not based on mutual love) will hurt the relationship between the two partners. The lousy impact is intended to threaten harmony and the family's future because she is married to a man she does not love. This, of course, takes away from the purpose of marriage, namely to create benefits, but instead creates mafsadah for women. Islam does recognize the right of bar (forced right) that a guardian has over his virgin child, as stated by Imam Syafi'i. Imam Syafi'i established the right of bar for a guardian based on his deep love for his daughter, meaning that even though the father has the right to bar, that does not imply freedom is exercised freely.

In several areas in the Campalagian District, marriages due to parental coercion tend to end in divorce. This was expressed by several couples who had failed to build their households because there was no good communication. Of course, a relationship that does not have good communication will fail and, in the end, cause various problems that can trigger divorce.

Forced marriage is closely related to the guardian's right to consent, as explained above. In Islam, the right of *ijbar* or coercion is interpreted as a guardian's guidance, guidance, and direction for his child to marry a suitable partner. However, the right to pressure in the current context has experienced a shift in meaning, as if parents are free to impose their wishes in marrying off their children. Parents should also ask for permission and sincerity from their children, meaning that a child also has the right to refuse the wishes of his guardian because it is the child who will run his household life and not temporarily.

2. METHODOLOGY

This research is empirical normative legal research, the research object of which includes both normative and practical aspects. The norms referred to in this research have positive legal standards and Islamic legal norms. Furthermore, normative legal analysis or Islamic legal norms can be legal norms and legal behavior, and Islamic legal research can be divided into two, namely normative and sociological or empirical. This research is descriptive-analytical, namely a research method that aims to solve problems that exist in the present, and its implementation is not limited to just collecting data but also systematically describing the relationship between the phenomena studied, including data analysis and interpretation.

3. RESULTS AND DISCUSSION

Marriage is the *sunnah* of the Prophet, prescribed for all humanity, so its implementation must be by the provisions taught by the Prophet. Besides implementing religious requirements, Marriage must also align with Indonesian laws and regulations. Marriage and the procedures for its implementation are regulated in Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage (from now on referred to as the Marriage Law).

Forced marriages are not yet regulated in the Marriage Law but can be found in the Compilation of Islamic Law. In Article 6, paragraph (1), Marriage must be based on the will and consent of the bride and groom, meaning that without their permission, the Marriage cannot be carried out. Furthermore, Article 17 paragraph (2) emphasizes that if it turns out that the Marriage is not approved by one of the prospective bride and groom, then the Marriage cannot take place (4). Thus, marriage must be based on the consent of prospective bride and groom to carry out a valid marriage.

There are still 14 cases of marriages without the consent of the prospective bride and groom that have occurred in the Campalagian District since 2019. Of these 14 cases, only 3 (three) cases will be described as representatives of other cases. Because of the 14 data on forced marriages found in Campalagian District, their reasons are almost the same, grouped into three bases. The reasons for forced marriages are 1) Parents' concerns about promiscuity, 2) Pregnancy out of wedlock, and 3) Economic factors.

Marriage practices in the Campalagian District are inseparable from traditional values, so many children, both girls and boys, are still forcibly married off by their parents. According to (5) In his research in Indonesia, controversial marriage practices cannot be separated from the text, which must be contextualized because Islam cannot be separated from the traditional history of the Arab people. Likewise, marriage in the Campalagian District cannot be dissolved from local customs, for example, the belief that continues to be maintained that if a woman does not marry by the age of 25, she will become an old maid. This belief is one of the motives for the continued occurrence of forced marriages in the Campalagian District. In fact, in Islam, it is taught that union aims to build a harmonious family full of love and affection. Meanwhile, in the case experienced by Asni Amri, it could be said to be a marriage that did not achieve the goals of the wedding itself.

According to Imam Syafi'i, the purpose of marriage is a contract that permits sexual relations between a man and a woman to realize the happiness of family life. Meanwhile, Asni Amri's wedding was entirely of pressure because Asni Amri's husband always positioned his partner as a subordinate. Everything was resolved with money. Religion places a husband above a wife because the husband is a leader, as Allah says in QS. An-Nisa 4:34 "That men (husbands) are responsible for women (wives) because Allah has preferred some of them (men) over others (women) and because they (men) has spent part of his wealth.

This verse legitimizes husbands to be leaders in their households but not to enslave their wives for reasons of earning a living. This verse also explains that men's position is higher than women's. This is intended to emphasize the division of duties between men as husbands and women as wives. The mention of the words *ar-rijal* and *an-nisa'* in this verse does not emphasize biological significance but character leadership and social function. The figure of leadership (*qawwam*) is generally more dominantly demonstrated by men than women. The importance of men in this verse is related to their responsibilities as head of the household. However, the *al-fadhil* (advantages) possessed by men does not mean that men (husbands) act cruelly towards their women (wives) (6).

So, in Asni Amri's case, what she felt in her household was contrary to the marriage goals. In this way, parents' good intentions do not necessarily have a good impact on their children, so communication needs to be built between the two. Because in a household, both parties are involved, namely husband and wife.

Marriages carried out under parental coercion often end in divorce. Even though divorce is a halal act, it is hated by Allah SWT. All religious teachings do not allow divorce. So, it is recommended for Muslims to be able to maintain integrity and harmony in the household and to be able to resolve existing problems peacefully so that divorce does not occur (7). In a study, it was found that sociologically, four factors cause divorce, namely: 1) not respecting the partner's parents (always going home if they fight, parents or relatives often interfere in family problems), 2) lack of communication with the partner's parents, 3) indulge in household disgrace, 4) don't like it when their partner associates with their partner's family and are rude to their partner's parents (8). Meanwhile, the cause of divorce for nine couples forcibly married in the Campalagian District was due to psychological factors, namely the emotional pressure experienced by each partner.

The occurrence of divorce from a marriage forced by parents, for various reasons as described above, will have a psychological and emotional impact on the household. As stated in a study, the result of forced marriage will lead to psychological and emotional burdens for couples forced to marry, so relationships within the household must end in a divorce decision (9). In principle, forced marriage is not prohibited (haram), but because the harm is greater than the benefits, forced marriage in the Campalagian District must be minimized.

Talking further about the impact of forced marriage in Campalagian District, apart from the marriage ending in divorce, it also affects family conflict and infidelity. The positive effect of forced marriage in Campalagian District, Polewali Mandar Regency, is that family relationships become closer. The forced marriages in Campalagians do not always have a negative impact, but they also have a positive effect, namely strengthening family relationships. Likewise, Agus Muchsin stated in his research that marriages in West Sulawesi has a sociological function, meaning that with marriage, family relationships will become closer (10). In Islam, forced marriage is known as the right of *ijbar*. This forced marriage can be punished after looking at the context. As long as it does not conflict with Islamic law, it is legal for parents to marry off their children without their consent.

This marriage can bring kinship relations closer because forced marriages carried out by parents aim to bring kinship relations closer between the families. Where parents want the best for their children and do not want to see their children hurt by other people, parents believe that by marrying their children into their own family, their children will be peaceful and happy. They don't want their family relationships to become distant if their children marry outside the family. They are not worried about matching their children to their relatives because they already know their background, nature, and character. By marrying your child into your own family, you can protect your wealth so it falls on your children and your family.

Meanwhile, the negative impact of forced marriage in Campalagian District is that it affects family conflicts and infidelity.

3.1. Family conflict

In Islam, several principles of marriage need to be considered so that marriage is significant in human life in carrying out its duties of serving God (11). The first is to fulfill and carry out religious orders. Second, willingness and consent are two of the conditions that must be fulfilled by parties wishing to enter into a marriage, namely that they are not forced. The parties to the marriage are formulated with the willingness of the prospective wife and husband or their consent. The willingness of the future husband and guardian can be seen and heard from his actions and words, while the desire of the prospective wife, considering that women have different mental expressions from men, can be seen from her attitude, for example, being silent, not giving a rejection reaction is seen as permission if she is a girl, but if the prospective wife is a widow, she still has express permission. Third, marriage is forever a goal of marriage that can produce offspring and for peace. Peace and love and affection. All of this will be achieved only with the marriage principle that marriage is forever, not just for a specific time. That is the principle of marriage in Islam, which must be based on a willing heart and the person concerned has seen it beforehand so that later they will not regret it after getting married and by seeing and knowing ahead, they will be able to maintain the agreement between husband and wife.

Meanwhile, the conflict resulting from divorce due to forced marriage in Campalagian is very contrary to the principle of marriage itself. The battle occurred because one of the parties felt disadvantaged by the divorce due to forced marriage.

3.2. Mental Stress

The impact experienced by Widya Nurdiawati from her marriage to her husband's choice was due to coercion. Ruhana's marriage to her husband caused her mental stress.

The importance of marriage not only concerns sexual relations between men and women but is broader

than that. Marriage also concerns the life and interests of society, nation, and state. The essence and purpose of marriage, as formulated in Article (1) of Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning marriage, is that Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of form a happy and eternal family (household) based on the Almighty Godhead. Article 3 of the Compilation of Islamic Law states that Marriage aims to create a household life that is *sakinah*, *mawaddah*, and *rahmah*.

In this way, Ruhana's marriage will not achieve the goal of the wedding itself because there is no peace of mind in carrying it out. So, getting the consent of each child whose parents want to marry is essential.

4. CONCLUSION

The practice of forced marriage in the Campalagian District still occurs frequently. From 2019 to 2019, there were 14 cases. The impact of forced marriages in Campalagian District is that they end in divorce and affect family conflict and infidelity.

5. REFERENCES

1. Abraham H. Maslow. *Motivation and Personality*. New York: Harper & Row Publishers; 1970. 35-47. p.
2. RI UU. Undang-undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan. Diundangkan di Jakarta pada tanggal 15 Oktober 2019 dalam Lembaran Negara Republik Indonesia Tahun 2019 Nomor 186. Dan Tambahan Lembaran Negara . 16 Tahun 2019 2019.
3. Basri R. Nikah dalam Al-Qur'an. 2019;14:9–25.
4. Saifullah M. *Hukum Islam Solusi Permasalahan Keluarga*., Yogyakarta: PT.Uji Press, 2005; 2005. 140.
5. Rusdi MA. Status Hukum Pernikahan Kontroversial di Indonesia (Telaah Terhadap Nikah Siri, Usia Dini dan Mut'ah),. *J Penelit Pendidik Guru Sekol Dasar*. 2016;6(August):128.
6. Rahmawati Hunawa. Kedudukan Suami-Istri (Kajian Surah An-Nisa. *Potret Pemikir*. 2022;22(8.5.2017):1–14.
7. Azizah L. Analisis Perceraian Dalam KHI. *J Huk*. 2000;X:415–22.
8. Munawara N, Hasan M, Ardiansyah. Faktor-Faktor Penyebab Perceraian Pada Pernikahan Dini di Pengadilan Agama Kelas I-B Sambas. *RSC Adv*. 2019;9(34):19429–40.
9. Samsidar. Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone. *SUPREMASI J Pemikiran, Penelit Ilmu-ilmu Sos Huk dan Pengajarannya*. 2020;14(1):21.
10. Muchsin A, Rukiah, Muhammad Sabir. LEGALISASI PERKAWINAN YANG TIDAK TERCATAT PADA MASYARAKAT PINRANG (Analisis Perma No 1 Tahun 2015 Tentang Pelayanan Terpadu Pencatatan Nikah). 2015;(1).
11. Abdul Rahman. *Fiqih Muankahat*. Jakarta: Kencana; 2010. 32 p.