

Forced Marriage as Social Sanction: An Islamic Legal, Customary, and Human Rights Analysis in Rural Indonesia

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Abstract: *This research aims to analyze the practice of forced marriage in Batobella Village from the perspectives of Islamic law, custom, and human rights, with a focus on the principles of consent, social control mechanisms, and legal implications. This study examines the interaction between customary norms, religious law, and positive law with a focus on the principles of legitimacy, social dynamics, and opportunities for policy intervention that align with the maqāṣid al-sharīʿah. The research method employs a qualitative case study approach, utilizing data collection techniques that include in-depth interviews, participant observation, and document analysis. The informants consisted of traditional leaders, religious figures, victims, families, and youth. Data analysis was conducted thematically to identify patterns and relationships between variables, integrating comparative fiqh perspectives across schools of thought with field findings. Research in Batobella Village shows that forced marriage practices still persist as a mechanism for resolving violations of customary norms, with decisions often made unilaterally by families and traditional leaders without considering the bride's consent. Social pressure, stigma, and the threat of exclusion make it difficult for victims to refuse. Most marriages are not registered at the KUA, which weakens their legal protection. The role of religious figures is often compromised in favor of custom for the sake of social cohesion. Although some young people are starting to reject this practice, their views are still in the minority and are hindered by the dominant customary authority in marriage decisions.*

Keywords: *Forced Marriage, Social Sanction, Islamic Law, Custom, Human Rights*

Abstrak: Penelitian ini bertujuan menganalisis praktik nikah paksa di Desa Batobella dalam perspektif hukum Islam, adat, dan hak asasi manusia, dengan fokus pada prinsip ridha, mekanisme kontrol sosial, dan implikasi hukum. Kajian ini menelaah interaksi antara norma adat, hukum agama, dan hukum positif untuk memahami legitimasi, dinamika sosial, serta peluang intervensi kebijakan yang selaras dengan maqāṣid al-sharī'ah. Metode penelitian menggunakan pendekatan kualitatif studi kasus dengan teknik pengumpulan data melalui wawancara mendalam, observasi partisipatif, dan analisis dokumen. Informan terdiri dari tokoh adat, tokoh agama, korban, keluarga, dan generasi muda. Analisis data dilakukan secara tematik untuk mengidentifikasi pola dan hubungan antarvariabel, mengintegrasikan perspektif fiqh komparatif antar-mazhab dengan temuan lapangan. Penelitian di Desa Batobella menunjukkan bahwa praktik nikah paksa masih berlangsung sebagai mekanisme penyelesaian pelanggaran norma adat, dengan keputusan sering diambil sepihak oleh keluarga dan tokoh adat tanpa mempertimbangkan ridha mempelai perempuan. Tekanan sosial, stigma, dan ancaman pengucilan membuat korban sulit menolak. Sebagian besar pernikahan tidak dicatat di KUA, melemahkan perlindungan hukum. Peran tokoh agama kerap kompromistis terhadap adat demi kohesi sosial. Meski sebagian generasi muda mulai menolak praktik ini, pandangan mereka masih minoritas dan terhambat otoritas adat yang dominan dalam pengambilan keputusan perkawinan

Kata Kunci: Nikah Paksa, Sanksi Sosial, Hukum Islam, Adat, Hak Asasi Manusia

A. Introduction

Marriage in the Islamic perspective encompasses not only social aspects but also moral and spiritual dimensions.¹ The concept of ridha (consent) is a fundamental requirement in a marriage contract, as emphasized in the hadith that prohibits marrying without the woman's consent.² Based on the maqāṣid al-sharī'ah approach, the primary goals of marriage—protecting offspring (*hifz al-nasl*), life (*hifz al-nafs*), and honor (*hifz al-'ird*)—can be delayed or violated if the marriage contract is performed without the full consent of the spouses. This perspective serves as a strong philosophical foundation for rejecting the practice of forced marriage.

Sociologically-philosophically, forced marriage reflects the conflict between collective values (customs/family honor) and individual rights—a conflict that should be mediated by the instruments of religious norms and positive law.³ The maqāṣid

¹Mutia Cherawaty Thalib, "Implications of Mixed Marriage in the Perspective of Gorontalo Customary Law and Its Reality Based on International Private Law Principles," *Jambura Law Review* 5, no. 1 (2023): 179–98. ; Jasser Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law* (London: International Institute of Islamic Thought, 2022); Muhammad bin Ali Al-Shashi Al-Qaffal, *Mahasin Al Syariah Fi Furu' Al Syafiiyah : Kitab Fi Maqashid Al Syari'ah* (Lebanon: Dar Al-Kutub Al Ilmiyah, 2007).

²Mursyid Djawas et al., "The Integration Between Syara'and Ade'in Marriage Tradition Bugis Bone, South Sulawesi," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 2 (2023); Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika*, 2020.

³Ahmad Bello Dogarawa, "Marriage and Divorce in Islam," *Islam Zeitschrift Für Geschichte Und Kultur Des Islamischen Orients*, no. 23194 (2009); Raihanah Abdullah and Soraya Khairuddin, "The Malaysian Shari'ah Courts: Polygamy, Divorce and the Administration of Justice," *Asian Women* 25, no. 1 (2009); Asman Asman, Kurniati Kurniati, and Marilang Marilang, "Existence of Marriage Agreements in

approach dictates that social practices that threaten individual well-being (e.g., psychological trauma, educational disruption) must be reviewed because they violate the objectives of the Sharia.⁴ Therefore, a normative-empirical study that links fiqh texts, maqāṣid, and customary practices serves as a valid foundation for assessing the legitimacy of forced marriage and formulating policy recommendations aimed at protecting individual rights within the framework of Islamic law.

This research examines the phenomenon of forced marriage practiced as a social sanction for alleged ethical violations (e.g., khalwat or premarital relationships). This phenomenon is understood not merely as an individual action but as a product of customary norms, social control mechanisms, and local interpretations of religious texts. Theoretically, this study employs a socio-legal framework and norm compliance theory to explain how collective pressure and customary legitimacy influence the behavior of forced marriage. Meanwhile, maqāṣid theory and the concepts of *ikrah/ridha* in fiqh are utilized to assess the validity and normative implications of this practice.

The approach includes an analysis of jurisprudence related to the concepts of *ikrah* (coercion) and *ridha* (consent) in marriage contracts. The majority opinion of the schools of thought—Shafi'i, Maliki, and Hanbali—states that consent is a condition for validity, while the Hanafi school considers it a condition for perfection. Integrating socio-legal and normative fiqh approaches provides a deeper understanding of the legitimacy of customary law and the interpretation of fiqh that influences local practices of forced marriage.⁵

Forced marriage has serious consequences for victims, especially women, including dropping out of school, psychological trauma, and economic marginalization. Studies show that early or forced marriages are more prevalent in rural areas and are driven by social norms and limited access to education and legal resources.⁶ At the policy level, KUPI (the Indonesian Women's Clerics Congress) emphasizes that forced marriage must be prevented, in line with the maqāṣid principle, which protects individual well-being (*hifz al-nafs*) and honor (*hifz al-'ird*).⁷ Additionally, the TPKS Law

Islam Development Studies in the Community of Malay Border Indonesia-Malaysia," *Jurnal Ilmiah Al-Syir'ah* 19, no. 1 (2021).

⁴Mehmet Asutay and Isa Yilmaz, "Constituting an Islamic Social Welfare Function: An Exploration through Islamic Moral Economy," *International Journal of Islamic and Middle Eastern Finance and Management* 14, no. 3 (2021): 524–40; Kyja Noack-Lundberg, Aisha K. Gill, and Sundari Anitha, "Understanding Forced Marriage Protection Orders in the UK," *Journal of Social Welfare and Family Law* 43, no. 4 (2021).

⁵Wahbah al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, IV, vol. VIII (Damaskus: Dar al-Fikr, 2014); Al-Sayyid Sabiq, *Fiqh Al-Sunnah*, III (Kairo: Dar al-Fath li l'lam al-'Arabi, 1996).

⁶Ewa Batyra and Luca Maria Pesando, "Trends in Child Marriage and New Evidence on the Selective Impact of Changes in Age-at-Marriage Laws on Early Marriage," *SSM - Population Health* 14 (2021); Minh Cong Nguyen and Quentin Wodon, "Global and Regional Trends in Child Marriage," *Review of Faith and International Affairs* 13, no. 3 (2015).

⁷Amrin Ma'ruf, Wilodati Wilodati, and Tutin Aryanti, "Kongres Ulama Perempuan Indonesia Dalam Wacana Merebut Tafsir Gender Pasca Reformasi: Sebuah Tinjauan Genealogi," *Musāwa Jurnal Studi Gender Dan Islam* 20, no. 2 (2022); Zunly Nadia, "Ulama Perempuan Dan Moderasi Beragama:

explicitly criminalizes forced marriage as a form of sexual violence—in line with the social justice approach in Islamic law.⁸

Various studies show high rates of early and forced marriage and their triggering factors—social norms, poverty, and low legal literacy. Muhammad Suhardi discusses the phenomenon of early marriage in Indonesia from the perspectives of children's rights and individual choice.⁹ Furthermore, Agustiawan & Aziz emphasized that Islam prohibits forced marriage, and perpetrators can be prosecuted under the TPKS Law.¹⁰ However, most previous studies have not simultaneously incorporated analyses of schools of thought, customary practices, and policy interventions—a gap that this research aims to address.

This research argues that forced marriage is a structural practice driven by customary legitimacy and family pressure, which contradicts Islamic law. Therefore, in terms of its relevance, there is a positive correlation between the strength of customary norms and the incidence of forced marriage, and local interpretations of consent influence the level of community legitimacy, while interventions based on understanding *maqāṣid* can reduce support for forced marriage.

This research focuses on the integration of comparative fiqh analysis across schools of thought, local ethnographic studies, and *maqāṣid*-based policy recommendations that are sensitive to cultural context. His contributions include intervention models that integrate Sharia principles, human rights, and women's protection, providing an empirical basis for religious-based family law advocacy at both local and national levels.

This research employs a qualitative approach with a case study design, focusing on a deep understanding of forced marriage practices in Batobella Village, Bangkalan, within the context of Islamic law, custom, and human rights. This approach was chosen to explore the meaning, motives, and socio-cultural dynamics behind the practice through direct interaction with participants and field observation. The research subjects include religious figures, traditional leaders, victims, and involved family members, while the research object is the forced marriage practices that occur in the

Kajian Atas Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia," *Prosiding Konferensi Gender Dan Gerakan ...* 01, no. 01 (2022).

⁸Helen Sowe, "From an Emic Perspective: Exploring Consent in Forced Marriage Law," *Australian and New Zealand Journal of Criminology* 51, no. 2 (2018); Marc Salat Paisal, "Penal Law and Forced Marriages. Is the Current Criminal Policy Suitable?," *Politica Criminal* 15, no. 29 (2020); Sherene H Razack, "Men And Civilised Europeans : Legal And Social," *Feminist Legal Studies* 12 (2004).

⁹Ziba Mir-Hosseini, "The Politics of Codifying Muslim Family Law: Gender, Legal Pluralism and the Moroccan Reforms," *International Journal of Law in Context* 9, no. 3 (2013): 400–425.; Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 1, no. 2024 (10AD); Murdan Murdan, "Membaca Perkawinan Masyarakat Islam Sasak Dari Perspektif Interlegalitas Hukum," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 10, no. 2 (2018).

¹⁰Maureen Vinalia I Plaikoi, Mary Grace Megumi Maran, and Endang Sumiarni, "Women as Victims of Sexual Violence in the Practice of Capture Marriages in Central Sumba," *International Journal of Social Science And Human Research* 06, no. 04 (2023); Myriam S Denov and Mark A Drumb, "The Many Harms of Forced Marriage Insights for Law from Ethnography in Northern Uganda," *JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE* 18, no. 2, SI (2020).

village. This selection is based on the informants' relevance to the phenomenon being studied and their ability to provide rich and contextual data.¹¹

Data collection was conducted through in-depth interviews, participant observation, and documentation of events related to forced marriage practices. Interviews are used to explore the subjects' experiences and perspectives, while observation helps researchers understand social processes occurring directly. Documents such as village records, marriage certificates, and data from religious institutions were used to supplement the information. The collected data was analyzed thematically, identifying patterns, categories, and relationships between findings, resulting in a comprehensive understanding of forced marriage practices within the framework of Islamic law and local customs.

B. The Practice of Forced Marriage as A Mechanism for Solving Social Problems

Research findings in Batobella Village, Bangkalan, show that forced marriage practices still persist as a mechanism for resolving social issues related to violations of customary norms and social ethics, particularly those concerning interactions between the sexes outside of marriage. Forced marriage is considered a way to preserve family honor and social stability, so the couple's decisions are often made by the family or traditional leaders without the full consent of the bride, especially women. Social pressure is an important factor that makes victims accept this decision even without their consent, due to fear of stigma, ostracism, or loss of family support. Although some religious figures emphasize the importance of consent in marriage contracts, this principle is often overlooked when it is considered to conflict with customary norms.

The research also found differences in public opinion. Younger generations and those with higher education are beginning to criticize forced marriage practices as being contrary to Islamic teachings and human rights, although this view is not yet dominant. Most forced marriages are not officially recorded by the state, but are only customary or recorded at local religious institutions, making legal protection for victims weak. Overall, these findings indicate that custom remains the primary source of legitimacy for marriage practices in Batobella, with a combination of social pressure, customary authority, and low legal awareness contributing to the persistence of forced marriage despite the growing national discourse on protecting women's and children's rights. In general, the researcher will present the findings of this study simply in the following analysis table, which will then be followed by a discussion categorized based on several different findings.

¹¹Carol Grbich, *Qualitative Data Analysis: An Introduction*, *Qualitative Data Analysis: An Introduction*, 2022; Patrik Aspers and Ugo Corte, "What Is Qualitative in Qualitative Research," *Qualitative Sociology* 42, no. 2 (2019); Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020); Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif* (Jakarta: Rajawali Press, 2022).

Table 1: Analysis of Findings on Forced Marriage Practices and Their Sociocultural Dynamics in Batobella

Research Findings	Description of Field Data	Sources of Data	Preliminary Interpretation
Predominance of Customary Authority in Marriage Decisions	Marriage arrangements are determined by families and customary leaders as a form of sanction for perceived violations of social and moral norms; women's consent is frequently marginalized.	Interviews with customary leaders, village administrative documents	Customary norms often function as the dominant authority, superseding both Islamic legal principles and state regulations.
Social Pressure and the Absence of Genuine Consent	Individuals subjected to forced marriage accept the arrangement primarily due to fear of stigma, loss of familial support, and social exclusion; expressing refusal is socially constructed as taboo.	Victim interviews, participatory field observations	Social coercion constitutes the decisive factor in the acceptance of forced marriage, rather than voluntary consent.
Religious Leaders and Normative Compromise	Although religious leaders acknowledge the Islamic principle of consent (<i>ridha</i>), they often align their stance with customary expectations to preserve communal cohesion.	Interviews with religious leaders	Religious norms are compromised and subordinated to customary interests in the pursuit of social stability.
Lack of Official Marriage Registration	The majority of forced marriages are not legally registered with the Office of Religious Affairs (KUA), but are instead legitimized through customary practices or recorded at the village/religious institutional level.	Analysis of village records and documents	The absence of official registration weakens formal legal protection for victims, limiting their access to legal remedies.
Shifting Perspectives among Younger Generations	Younger community members with higher educational attainment increasingly criticize forced marriage, viewing it as inconsistent with Islamic teachings and human rights principles.	Interviews with youth, participatory observations	An emergent potential for social change is observable, though such perspectives remain marginal within the broader community.

C. Customary Dominance as a Mechanism of Social Control in Marriage

The research results show that in Batobella Village, custom plays a dominant role in determining the validity of a marriage. Forced marriage is generally used as a mechanism for social resolution of alleged norm violations, such as free interaction between men and women outside of marriage. Interviews with traditional figures revealed that the decision to marry couples is often made unilaterally by the family and village elders, without considering the full consent of the female party. In the public's view, this step is believed to be capable of restoring family honor and maintaining

social stability, although it is not in line with the principle of consent (ridha) as stipulated in Islamic law.

Field data indicate that victims' acceptance of forced marriage is more due to social pressure than personal willingness. The victims, who are mostly young women, admitted they were worried about the risk of stigma, exclusion, and loss of family support if they refused the decision. Some victims even stated that refusal was not an option at all because the decision had been agreed upon by traditional figures and the extended family. Field observations reinforce this finding by showing that wedding ceremonies often take place without adequate dialogue regarding the consent of the prospective spouses.

The findings of this study indicate that customary dominance in determining marriage in Batobella Village serves as a robust social control mechanism, even surpassing religious and positive legal norms. The decision to marry a couple suspected of violating customary norms was made unilaterally by the family and customary leaders, without considering the principle of consent (ridha), which is a condition for the validity of a marriage contract according to the majority of fiqh schools. This pattern indicates the presence of cultural legitimacy, which places custom as the highest normative authority in regulating social relations.¹² This aligns with Berliant Pratiwi et al.'s findings, which state that in Southeast Asian rural communities, customary norms often serve as the primary dispute resolution mechanism, overshadowing formal legal procedures.¹³

This practice of forced marriage also confirms the relevance of social control theory, where custom acts as a mechanism for controlling individual behavior through the imposition of collective social sanctions. In the context of the village of Batobella, forced marriage is not merely a resolution to family conflict, but also a form of social sanction that maintains the collective image of the community within certain groups. A study by Hisdiyatul Izzah et al. found that pressure from society often makes women unable to refuse forced marriages, even when it clearly contradicts religious law.¹⁴ This finding strengthens the argument that social pressure has the same, or even greater, coercive power as formal legal interventions in indigenous communities.

Field data indicate that victims' acceptance of forced marriage is driven more by fear of stigma, social exclusion, and loss of family support than by voluntary consent. This aligns with Khatidja Chantler's research, which revealed that in the context of forced marriage, psychosocial factors such as shame and family honor often determine individual decisions.¹⁵ In other words, the victim's prerogative rights are reduced by

¹²J. F. Holleman, "Adat, Adat Law, Native Law," in *Van Vollenhoven on Indonesian Adat Law*, 1981; Novyta Uktolseja, "The Existence of Customary Law in Modern Society," *Journal of Law, Policy and Globalization* 93, no. 1 (2020): 1–10.

¹³Sartika Intaning Pradhani, "Traditional Rights of Indigenous People in Indonesia: Legal Recognition and Court Interpretation," *Jambe Law Journal* 1, no. 2 (2019).

¹⁴Linert Lirëza and Ersi Bozheku, "Legal Dilemma on the Criminalization of Forced Marriage," *Academic Journal of Interdisciplinary Studies* 12, no. 3 (2023).

¹⁵Maria Barcons Campmajó, "Forced Marriages in Europe: A Form of Gender-Based Violence and Violation of Human Rights," *Age of Human Rights Journal* 14 (2020); Ruth Gaffney-Rhys, "The

social structures and collective moral pressure. This condition shows that the freedom to choose a partner in indigenous societies is not an absolute issue, but is always negotiated within the framework of collective norms.

From an Islamic legal perspective, this finding reveals a disconnect between normative principles and social reality. The concept of consent, which is considered essential by the majority of schools of thought, as stated in several pieces of literature that a guardian is required to marry a woman with her consent, is not consistently implemented¹⁶. Researchers argue that the dominance of custom over religious law in this case reflects the process of localization of Islam, where religious teachings are reinterpreted according to local social needs. In other words, interpretations of Islamic teachings are often adapted to maintain social cohesion, although in certain cases this has implications for violations of individual rights.¹⁷

Thus, the practice of forced marriage in Batobella can be understood as a result of the complex interaction between customary norms, social pressure, and flexible interpretations of religious law. Researchers believe that this phenomenon is not merely a procedural violation of marriage law, but also reflects the social power dynamics that govern individual behavior thru moral governance. As long as customary norms remain the primary source of legitimacy, efforts to prevent forced marriage must target not only formal legal reform but also value transformation at the community level, so that the principle of consent can be internalized as part of social identity, not merely a legal requirement.

D. Transformation of the Role of Religious Figures as Cultural Brokers

Although some religious figures emphasize the importance of consent in marriage contracts, in practice, this view is often compromised to maintain social cohesion in the village. The interviews reveal a dilemma among religious figures between adhering to fiqh norms regarding consent and accommodating customary pressures that demand the marriage be performed immediately as a form of social sanction. This condition indicates that religious norms are not always fully implemented, but rather adapted to the interests of custom.

Research findings indicate that some religious figures in Batobella Village are aware of the importance of the principle of consent in marriage contracts as stipulated in Islamic law; however, in practice, they often adjust their attitudes to accommodate prevailing customary norms. This phenomenon indicates a process of compromise between religious norms and local norms, where the interest in maintaining social cohesion remains stable. This aligns with studies that reveal that religious figures in

Development of the Law Relating to Forced Marriage: Does the Law Reflect the Interests of the Victim," *Crime Prevention and Community Safety* 16, no. 4 (2014).

¹⁶Zendy Wulan Ayu Widhi Prameswari and Erni Agustin, "Indonesian Marriage Law Reform: The Way To Strengthen The Protection of Children's Rights Against Child Marriage," *Journal of Southeast Asian Human Rights* 2, no. 1 (2018).

¹⁷Nurul Miqat et al., "The Development of Indonesian Marriage Law in Contemporary Era," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (2023): 54–66, <https://doi.org/10.18860/j-fsh.v15i1.17461>.

indigenous communities often serve as mediators who not only uphold Sharia law but also maintain social stability through the adaptation of norms.¹⁸

This compromise can be explained through the theory of legal pluralism, where religious law, state law, and customary norms interact and negotiate within a specific social context.¹⁹ Within this framework, religious figures do not merely act as interpreters of religious texts, but also as cultural agents who adapt legal interpretations to local needs. A study by Nugara Adi Saputra shows that the role of religious figures in mediating marital conflicts often involves considering customs, even when this reduces compliance with formal Islamic law.²⁰

Researchers argue that this practice of compromise demonstrates a shift in the role of religious figures from guardians of religious norms to cultural brokers who balance religious demands with customary pressures. Although pragmatically, this step is considered effective in avoiding horizontal conflict in the village, substantively, it weakens the principles of justice and protection for certain parties, particularly women. Thus, the renewal of the role of religious figures becomes important, not only as enforcers of Islamic law, but also as agents of social change who encourage the reinterpretation of customs in accordance with the values of Islamic justice.

E. Marriage Registration as an Instrument for Protecting Rights in Islamic and State Law

Analysis of village documents and marriage records shows that most forced marriages are not registered at the Office of Religious Affairs. Marriages are generally performed according to custom and recorded at the village level or by local religious institutions. Consequently, victims lack formal legal protection, including when seeking annulment or pursuing post-marital rights. This condition further strengthens the position of custom as a system of legitimacy that surpasses state law.

The research findings indicate that most forced marriage practices in Batobella Village are not officially registered at the Religious Affairs Office (KUA), but are carried out according to custom and are not officially recorded administratively in state legal regulations. The absence of formal registration has direct implications for the weak legal protection of victims, particularly in accessing post-marital rights such as annulment, divorce proceedings, or alimony claims. This phenomenon aligns with

¹⁸Rudyanti Dorotea Tobing, "Prevention of Child Marriage Age in the Perspective of Human Rights," *Sriwijaya Law Review* 2, no. 1 (2018): 1–17.

¹⁹ Saldi Isra dan Hilaire Tegnau, "Legal Syncretism or the Theory of Unity in Diversity as an Alternative to Legal Pluralism in Indonesia," *International Journal of Law and Management* 63, no. 6 (2021): 553–68, <https://doi.org/10.1108/IJLMA-04-2018-0082>.

²⁰M Noor Harisudin and Muhammad Choriri, "On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (2021): 1–19.

findings confirming that marriage without official registration leaves women legally vulnerable because it is not recognized by the state.²¹

From the perspective of Islamic family law in Indonesia, marriage registration serves not only as an administrative process but also as a legal instrument of protection for both parties. When this process is ignored, the victim has no legal evidence to assert their rights. Various studies have shown that unregistered marriages are common in rural areas, where custom is often seen as more binding than state regulations, thereby minimizing interference from law enforcement.²²

The absence of official records also reflects resistance to the state's legal mechanisms, which are considered less compatible with customary governance. This issue is certainly controversial, as customary norms and state law run parallel but do not always synergize.²³ In the case of the village of Batobella, customary registration is considered sufficient to bind the couple socially, even tho it has no formal legal force. Research by Muh Said Hm et al. reinforces this by showing that in some areas of Southeast Asia, customary marriage processes are more trusted by the community than official procedures, as they are considered faster, cheaper, and more in line with local values.²⁴

Researchers found that weak legal protection due to the lack of official registration is one of the factors that reinforces the persistence of forced marriage. When victims lack access to formal legal mechanisms, they are trapped in unwanted marriages without a legally recognized way out. Therefore, policy interventions should be directed toward enhancing the legal literacy of the community, while also strengthening the integration between state law and customary norms, so that the principle of individual rights protection can be effectively applied at the community level.

F. Paradigm Shift of the Younger Generation toward Customary Legitimacy in Marriage

The research findings also indicate differences in perspectives between generations. Some young people and highly educated groups are beginning to question the legitimacy of forced marriage, considering it contrary to Islamic teachings and

²¹Bayu Dwi Widdy Jatmiko, Nur Putri Hidayah, and Samira Echaib, "Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration," *Journal of Human Rights, Culture and Legal System* 2, no. 3 (2022).

²²Habib Shulton Asnawi, Agus Setiawan, and Iwannudin Iwannudin, "The Existence and Constraint of Marriage Registration for the Followers of Sapta Darma Belief in East Lampung," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 55, no. 2 (2021).

²³Dedy Sumardi, Ratno Lukito, and Moch Nur Ichwan, "Legal Pluralism within the Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia," *Samarah* 5, no. 1 (2021): 426-49; Ratno Lukito, "Islamic Law and Adat Encounter: The Experience of Indonesia," *ProQuest Dissertations and Theses* (1997); Arskal Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation," *Samarah* 5, no. 2 (2021).

²⁴Theresia Dyah Wirastri Stijn Van Huis, "Muslim Marriage Registration in Indonesia: Revised Marriage Registration Laws Cannot Overcome Compliance Flaws," *Australian Journal of Asian Law* 13, no. 1 (2012);

human rights. However, this view remains a minority voice that has not yet been able to change the collective decision-making patterns in the village, as the traditional authority structure continues to control the mechanisms for resolving norm violations.

Research findings reveal a shift in perspective among the youth of Batobella Village, particularly those with higher levels of education, regarding the practice of forced marriage. This group began to question the legitimacy of customs that disregarded the principle of consent (*ridha*) and viewed such practices as being in conflict with Islamic teachings and human rights principles. This shift in perspective reflects the impact of formal education and global information access on public critical awareness, aligning with studies that suggest increased legal and religious literacy contributes to the rejection of customary-based discriminatory practices.²⁵

This phenomenon can be analyzed through the framework of social change theory, which views the transformation of values in society as a result of the interaction between internal and external factors.²⁶ In this context, external factors such as digital information flows, social media, and legal education programs are becoming catalysts for changing the views of the younger generation. Research shows that connection to global discourse on gender equality and individual rights tends to trigger resistance to cultural practices considered human rights violations.²⁷

Nevertheless, this shift in perspective remains a minority view and has not yet been able to alter the collective decision-making patterns that are still dominated by customary authority. The main obstacle lies in the local power structure, which places the older generation as the primary decision-makers in matters of marriage. This finding aligns with studies confirming that in society, value changes are often hindered by deeply ingrained gerontocracy, which becomes fundamental in society. In this context, the views of the younger generation are not strong enough to overcome the stigma associated with that tradition.

From that description, at least one conclusion can be drawn: although the impact is not yet massive, the shift in perspective among the younger generation is an early indication of a social transformation process that could lead to customary reforms. This potential for change can be strengthened through human rights-based education, legal literacy empowerment, and the active involvement of young people in customary decision-making forums. Thus, the younger generation can act as agents of

²⁵Muhammad Latif Fauzi, "ADMINISTRATIVE TRANSGRESSION AND JUDICIAL DISCRETION FOR THE SAKE OF CITIZENS' RIGHTS The Legalisation of Unregistered Marriages in Indonesia," *Al-Ahwal* 16, no. 2 (2023). ; Ingeborg de Koningh, "Consolidating International Humanitarian Law and International Human Rights Law: Protection from Gender-Based Violence Against Women in Non-International Armed Conflict," *Netherlands International Law Review* 70, no. 1 (2023).

²⁶Julie Ada Tchoukou, "The Silences of International Human Rights Law: The Need for a UN Treaty on Violence Against Women," *Human Rights Law Review* 23, no. 3 (2023); Rachel A. Cichowski, "The European Court of Human Rights, Amicus Curiae, and Violence against Women," *Law and Society Review* 50, no. 4 (2016).

²⁷Silvana Tapia Tapia, "Human Rights Penalty and Violence Against Women: The Coloniality of Disembodied Justice," *Law and Critique*, 2023; Kathryn Libal and Serena Parekh, "Reframing Violence against Women as a Human Rights Violation: Evan Stark's Coercive Control," *Violence Against Women* 15, no. 12 (2009).

change, bridging local values with the universal principles of justice and equality in marriage law.

G. Conclusion

Based on the research findings, it can be concluded that the practice of forced marriage in Batobella Village is a social phenomenon deeply rooted in customary legitimacy and social control mechanisms, which in practice often disregards the principle of consent (*ridha*) as stipulated in Islamic law and guaranteed by positive law. Social pressure, stigma, and the dominance of customary authority leave victims, especially young women, in a vulnerable position with no room for negotiation, even tho the principles of Islamic jurisprudence state that the consent of the bride and groom is a condition for the validity of the marriage contract. This condition is exacerbated by the lack of official records in state institutions, which has implications for weak legal protection for victims and limited access to post-marital annulment or divorce mechanisms. This phenomenon reveals the existence of legal dualism, where customary norms and state law coexist in parallel but do not always complement each other.

Nevertheless, the research findings also identified a shift in perspective among young people and groups with higher educational access, who are beginning to question the legitimacy of forced marriage and consider it contrary to Islamic teachings and human rights principles. This change suggests the potential for social transformation, although it remains a minority and is hindered by gerontocratic power structures. Thus, efforts to prevent forced marriage in Batobella need to be directed not only at formal law enforcement and improving marriage registration, but also at value reform at the community level, strengthening legal and religious literacy, and empowering young people as agents of change capable of bridging local values with universal principles of justice.

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