

**FORCED MARRIAGE AS A CRIMINAL ACT OF SEXUAL VIOLENCE  
IN THE PERSPECTIVE OF LAW NUMBER 12 OF 2022 AND SYAFI'I  
BASED FIQH**

**THESIS**

**BY:**

**PUTRA PANDU DINATA NURDIANSYAH**

**SIN 19210060**



**ISLAMIC FAMILY LAW DEPARTMENT**

**SYARIAH FACULTY**

**STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM MALANG**

**2022**

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## STATEMENT OF THE AUTHENTICITY

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In the name of Allah,

With consciousness and responsibility toward the development of science, the writer declares that thesis entitled:

**FORCED MARRIAGE AS A CRIMINAL ACT OF SEXUAL VIOLENCE  
IN THE PERSPECTIVE OF LAW NUMBER 12 OF 2022 AND SYAFI'I**

**BASED FIQH**

Is truly a writer's original work that can be legally justified. If this thesis is proven to result in duplication or plagiarism from another scientific work, it as a precondition of degree will be stated legally invalid.

Malang, 13 December 2022  
Writer,



**Putra Pandu Dinata Nurdiansyah**  
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II

## APPROVAL SHEET

### APPROVAL SHEET

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**FORCED MARRIAGE AS A CRIMINAL ACT OF SEXUAL VIOLENCE  
IN THE PERSPECTIVE OF LAW NUMBER 12 OF 2022 AND SYAF'I  
BASED FIQH**

the supervisor stated that this thesis has met the scientific requirements to be proposed and to be examined on the Assembly Board of Examiners.

Malang, 13 December 2022

Acknowledged by,  
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III

## LEGITIMATION SHEET

### LEGITIMATION SHEET

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**FORCED MARRIAGE AS A CRIMINAL ACT OF SEXUAL VIOLENCE  
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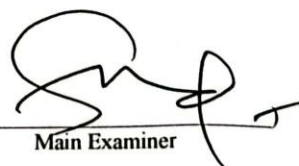
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## MOTTO

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا

تَفْضِيلًا<sup>1</sup>

*“Dan sesungguhnya telah Kami muliakan anak-anak Adam, Kami angkut mereka di daratan dan di lautan, Kami beri mereka rezeki dari yang baik-baik dan Kami lebihkan mereka dengan kelebihan yang sempurna atas kebanyakan makhluk yang telah Kami ciptakan.”*

*“And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference”.*

---

<sup>1</sup> Tim Yayasan Penafsir Al-qur'an dan Tim Lajnah Pentashihan Mushaf Al-Qur'an, *Al-Qur'an Terjemah Tafsir Perkata*, 352.

## ACKNOWLEDGMENT

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

*Alhamdulillah* rabbil'alamin, have given His Rahmat and servan, so we can finish this thesis entitled "Forced Marriage As A Criminal Act Of Sexual Violence In The Perspective Of Law Number 12 Of 2022 And Syafi'i Based Fiqh". Peace be Upon The Rasulullah Prophet Muhammad SAW, who has taught us guidance (*uswatun hashanah*) to do activities correctly. By following Him, may we belong to those who believe and get their intercession on the last day of the end. Amen.

From all the teaching, advice, guidance, and helps of service for us to finish this thesis, then with all humility, the writer will express the gratitude which is unequaled to:

1. Prof. Dr. H. M. Zainuddin, MA. as the Rector of The State Islamic University Maulana Malik Ibrahim of Malang.
2. Dr. Sudirman, MA. as the Dean of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang.
3. Hj. Erik Sabti Rahmawati, MA., M.Ag. as the Head of Islamic Family Law Department of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang.
4. Faridatus Suhadak, M.HI. as the Secretary of Islamic Family Law Department of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang.

5. Jamilah, MA. as my thesis supervisor. The writer thanks for her spending time to guide, direct, and motivate to finish writing this thesis. The writer hopes that she and her family will be blessed by Allah.
6. Dr. H. Fadil, M.Ag. as supervisor lecturer of the writer during my study at Islamic Family Law Department of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang.
7. All lecturers at Syariah Faculty of the State Islamic University of Maulana Malik Ibrahim Malang who have provided learning to all of us. With sincere intentions, may all of their charity be part of worship to get the pleasure of Allah SWT.
8. The staff of Syariah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang.
9. All my Family, my beloved father Mudihari, my beloved mother Siti Fadilah, my big brother Mohammad Hudan Budaya Ardiansyah, S.Kom., my big sister-in-law Ike Mayasari, and my nephew Mohammad Fachri Zafran Ardiansyah. That is a supporting system in my life, who has guided and prayed for me every time and given me a spirit.
10. The oversized Family of the Sabilurrosyad Gasek Islamic Boarding School, especially *Abah* KH. Marzuqi Mustamar, M.Ag. with Family, which the author is *takdzimi* and hopes for the blessing of knowledge.
11. All my friends, comrades in arms, and the Islamic Family Law Department 2019 (HELIOS) members, Islamic Family Law Class B, and International Class Program 2019 (ICP). Especially (Hakim, Rizqy, Harun, Chanif, Hariski,



Nuresa, Fina, Amanatus, Indri, et al.) who has been my study partner while at this university and who gave me much experience and learning as a friend.

12. All my friends (*Sahabat* and *Sahabati*) Indonesian Moslem Student Movement (PMII) Rayon “Radikal” Al-Faruq, especially for “Al-Faqih”. Also for *Gus* and *Ning* in the Institute of Studies, Research, and Development for Student (UKM LKP2M), especially for “PRA XXI”.
13. All my friends administrator’s HMPS HKI UIN Malang 2020-2021 and 2021-2022. Also for all my friends KKM-DR Ganjaran Gondanglegi 2021-2022.
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15. Last but not least, I want to thank me. I want to thank me for believing in me. I want to thank myself for doing all this hard work. I want to thank myself for having no days off. I want to thank myself for never quitting. I want to thank myself for just being me at all times.

With the completion of this thesis report, we hope that the knowledge we have gained during our studies can provide the benefits of living in the world and the hereafter. As a human who has never escaped fault, the author is very hopeful for forgiveness, criticism, and suggestions from all parties for future improvement efforts.

Malang, 13 December 2022  
Writer,



**Putra Pandu Dinata Nurdiansyah**  
**SIN. 19210060**

## TRANSLITERATION GUIDENCE

### A. General

Transliteration transfers Arabic script into Indonesian (*Latin*) writing, not Arabic translation into Indonesian. Included in this category are Arabic names from Arabs, while Arabic words from nations other than Arabic are written as the spelling of the national language or as written in the reference book. Writing the text's title in the footnotes and bibliography still uses the provisions of this transliteration.

There are several provisions in transliteration that can be used in writing scientific papers. Whether it is national or international standards or requirements specifically used by certain publishers. The transliteration guidelines used in the scientific work of sharia students of UIN Malang are based on the provisions of the 2019 thesis writing guidelines for the Faculty of Sharia, State Islamic University Maulana Malik Ibrahim Malang, namely transliteration based on the *Surat Keputusan Bersama* (SKB) of the Minister of Religion and the Minister of Education and Culture of the Republic of Indonesia, January 22, 1998, No. 159/1987 and 0543.b/U/1987, as stated in the A Guide Arabic Transliteration, INIS Fellow 1992.

### B. Consonant

Arab	Name	Latin	Name
ا	Alif	Not symbolized	Not symbolized
ب	Ba	B	Be
ت	Ta	T	Te

ث	Ša	Š	Es (point above)
ج	Jim	J	Je
ح	Ĥa	Ĥ	Ha (point above)
خ	Kha	Kh	Ka dan Ha
د	Dal	D	De
ذ	Ž	Ž	Zet (point above)
ر	Ra	R	Er
ز	Zai	Z	Zet
س	Sin	S	Es
ش	Syin	Sy	Es dan ye
ص	Šad	Š	Es (point below)
ض	Ḍad	Ḍ	De (point below)
ط	Ṭa	Ṭ	Te (point below)
ظ	Ẓa	Ẓ	Zet (point below)
ع	‘Ain	‘_____	Inverted apostrophe
غ	Gain	G	Ge
ف	Fa	F	Ef
ق	Qof	Q	Qi
ك	Kaf	K	Ka
ل	Lam	L	El
م	Mim	M	Em
ن	Nun	N	En
و	Wau	W	We
هـ	Ha	H	Ha
أ / ء	Hamzah	_____,	Apostrophe
ي	Ya	Y	Ye

Hamzah (ء) which is often symbolized by alif, if it is located at the beginning of a word, then in its transliteration follows the vowel, it is not symbolized, but if it is located in the middle or end of a word, it is symbolized by the comma above (‘), turning around with a comma (‘) to substitute for the “ع” symbol.

### C. Vocal, long pronounce, and diphthong

Every Arabic writing in the form of latin *fathah* is written with “a”, *kasrah* with “i”, *dlommah* with “u”, while the length of each is written in the following way:

Vocal <i>fathah</i>	= a	
Vocal <i>Kasrah</i>	= i	
Vocal <i>Dlommah</i>	= u	
Long vocal (a)	= Â	Example: قال become Qâla
Long vocal (i)	= Î	Example: قيل become Qîla
Long vocal (u)	= Û	Example: دون become Dûna

Especially for reading ya’ Nisbat, it cannot be replaced with “î”, but is still written with “iy” to describe ya' Nisbat in the end. Likewise, for the sound of diphthongs, wawu and ya’ after *fathah* wrote with “aw” and “ay”, as in the example below:

Diphthong (aw)	= و	Example: قول become Qawlun
Diphthong (ay)	= ي	Example: خير become Khayrun

### D. Ta’ marbuthah (ة)

Ta' marbûthah translited as "t" in the middle of word, but if Ta' marbûthah in the end of word, it translited as "h" e.g. الرسالة المدرسة become *alrisalat li al-mudarrisah*, or in the standing among two word that in the form of mudhaf and mudlaf ilaih, it transliterated as t and connected to the next word, e.g. في امان الله become *fī amanillâh*.

#### **E. Auxiliary Verb and Lafadh al-Jalâlah**

Auxiliary verb "al" (ال) written with lowercase form, expect if it located it the position and "al" in lafadh al-Jalâlah which located in the middle of two or being or become idhafah, it remove frome writing.

1. Al-Imâm al-Bukhâriy said.
2. Al-Bukhâriy in muqaddimah of his book said.
3. *Masyâ Allah kâna wa mâ lam yasya 'lam yakun.*

#### **F. Indonesian Arabic Names and Words**

In principle, every word that comes from Arabic must be written using the transliteration system. When the name is the Arabic name of an Indonesian or an Arabic Indonesian, no need to write using the system transliteration.

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## ABSTRAK

Putra Pandu Dinata Nurdiansyah, 19210060, 2022. Pemaksaan Perkawinan Sebagai Tindak Pidana Kekerasan Seksual Menurut Perspektif Undang-Undang Nomor 12 Tahun 2022 dan Fiqih Berbasis Syafi'i. Skripsi. Program Studi Hukum Keluarga Islam. Fakultas Syariah. Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Jamilah, MA.

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**Kata Kunci:** Pemaksaan Perkawinan, Fiqh Berbasis Syafi'i, Kekerasan Seksual

Pemaksaan perkawinan di dalam keluarga erat kaitannya dengan keputusan keluarga inti dari orang yang menjadi korban pemaksaan perkawinan. Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual menjadi langkah progresif dalam penanganan kekerasan seksual bagi masyarakat yang menjadi korban. Adapun dalam Undang-Undang tentang perkawinan dan Kompilasi Hukum Islam (KHI), persoalan wali dan persetujuan mempelai perempuan merupakan unsur penting dalam sebuah keabsahan perkawinan. Adanya hak Ijbar dalam fiqh, masyarakat masih banyak yang salah dalam memahami konsep yang benar dari adanya hak itu sehingga muncul adanya pemaksaan perkawinan yang dilakukan oleh wali kepada anaknya untuk dinikahkan dengan orang lain secara paksa, dengan dalih menggunakan hak Ijbar dari dirinya sebagai bagian dari hak dirinya kepada anaknya. Hal ini yang menimbulkan kesalahpahaman dari masyarakat yang awam terutama karena tidak mengetahui batasan yang ada dari adanya hak ijbar tersebut.

Fokus dari penelitian ini adalah untuk mengetahui dan menganalisis konsep dari pemaksaan perkawinan sebagai tindak pidana kekerasan seksual yang ada di dalam Undang-Undang Nomor 12 tahun 2022 dan Fiqih Berbasis Syafi'i. Jenis penelitian yang digunakan oleh peneliti dalam penelitian ini adalah penelitian hukum normatif, dengan menggunakan pendekatan konseptual. Data yang digunakan dalam penelitian ini yaitu menggunakan bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier.

Hasil penelitian yang diperoleh dari berbagai data yang ada di dalam penelitian ini yaitu, (1) Konsep pemaksaan perkawinan di dalam Undang-Undang Nomor 12 Tahun 2022 dapat dianggap sebagai bagian dari kekerasan seksual, karena di dalamnya sarat akan penyelewengan yang dilakukan oleh seorang wali kepada perwaliannya untuk menikahkan secara paksa. Diatur bahwa Pemaksaan perkawinan dalam sistem hukum Indonesia tercantum pada Undang-Undang Tindak Pidana Kekerasan Seksual, yang memasukkan pasal mengenai pemaksaan dalam perkawinan sebagai tindak pidana kekerasan seksual. Hal ini bisa terjadi karena adanya unsur pemaksaan yang dilakukan oleh wali terhadap anaknya (2) Pada tinjauan lain di Fiqh berbasis Syafi'i, dijelaskan bahwa hak ijbar dari wali sebagai dalih pelaksanaan kawin paksa oleh wali tidak dapat digunakan dengan sembarangan oleh wali, ada persyaratan yang harus dipenuhi di dalamnya. (3) Perbedaan konsep dari UU TPKS dan Fiqih berbasis Syafi'i terletak pada beberapa indikator; usia, akibat hukum, peluang, dan orang (pelaku). Sedangkan persamaannya ada pada indikator; budaya dan objek pemaksaan perkawinan.

## ABSTRACT

Putra Pandu Dinata Nurdiansyah, 19210060, 2022. Forced Marriage As A Criminal Act Of Sexual Violence In The Perspective Of Law Number 12 Of 2022 And Syafi'i Based Fiqh. Thesis. Islamic Family Law Department. Syariah Faculty. State Islamic University Maulana Malik Ibrahim Malang. Supervisor: Jamilah, MA.

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**Keyword:** Forced Marriage, Syafi'i Based Fiqh, Sexual Violence

Forced marriage within the family is closely related to the decision of the nuclear family of the person who is the victim of forced marriage. Law Number 12 of 2022 concerning Crimes of Sexual Violence is a progressive step in handling sexual violence for victims of society. As for the Law on Marriage and the Compilation of Islamic Law (KHI), the issue of the guardian and the bride's consent is an essential element in the validity of a marriage. The existence of Ijbar rights in fiqh, many people still misunderstand the correct concept of the existence of these rights, so unions are forced guardians of their children to be married to other people by force on the pretext of using Ijbar rights from themselves as part of the rights himself to his son. This has led to misunderstandings among ordinary people, mainly because they do not know the limitations of the Ijbar rights.

This research aims to identify and analyze the concept of forced marriage as a crime of sexual violence contained in Law Number 12 of 2022 and Shafi'i-Based Jurisprudence. The type of research used by researchers in this research is normative legal research, using a conceptual approach. The data used in this study are primary legal materials, secondary legal materials, and tertiary legal materials.

The research results obtained from various data in this study are, (1) The concept of forced marriage in Law Number 12 of 2022 can be considered as part of sexual violence because it is full of abuse committed by a guardian to guardianship for forced marriage. It is regulated that forced marriage in the Indonesian legal system is listed in the Law on Sexual Violence, which includes an article regarding forced marriage as a criminal act of sexual violence. This can happen because there is an element of coercion carried out by the guardian against his child (2) In another review in Shafi'i-based Fiqh, it is explained that the right of ijbar from the guardian as a pretext for implementing forced marriages by the guardian cannot be used carelessly by the guardian, there are requirements that must be fulfilled in it. (3) The difference in the concept of the TPKS Law and Shafi'i-based Fiqh lies in several indicators; age, legal consequences, opportunities, and people (actors). While the similarities are in the indicators, culture, and objects of forced marriage.

## ملخص البحث

بترا باندو ديناتا نور ديانسية. رقم القيد. 19210060. 2022. الزواج بالإكراه كعمل إجرامي للعنف الجنسي من منظور القانون رقم 12 لسنة 2022 والفقهاء الصافي. بحث الرسالة. شعبة الأحوال الشخصية، كلية الشريعة، جامعة مولانا مالك إبراهيم الإسلامية الحكومية مالانج. المشرف: جميلة الماجستير.

### الكلمات الرئيسية: الزواج القسري، الفقه الصافي، العنف الجنسي

يرتبط الزواج القسري داخل الأسرة ارتباطاً وثيقاً بقرار الأسرة النواة للشخص الذي وقع ضحية الزواج القسري. القانون رقم 12 لعام 2022 بشأن جرائم العنف الجنسي هو خطوة تقدمية في التعامل مع العنف الجنسي لضحايا المجتمع. أما بالنسبة لقانون الزواج وتجميع الشريعة الإسلامية (KHI)، فإن مسألة الولي وموافقة العروس عنصر مهم في صحة الزواج. وجود حقوق الإجبار في الفقه، لا يزال الكثير من الناس يسيئون فهم المفهوم الصحيح لوجود هذه الحقوق بحيث يتم إجبار الزيجات من قبل الأوصياء على أطفالهم على الزواج من أشخاص آخرين بالقوة، بحجة استخدام حقوق الإجبار من أنفسهم. جزء من الإنسان نفسه لابنه. وقد أدى ذلك إلى سوء فهم بين الناس العاديين، خاصة لأنهم لا يعرفون حدود حقوق الإجبار.

يركز هذا البحث على تحديد وتحليل مفهوم الزواج القسري كجريمة عنف جنسي وارد في القانون رقم 12 لعام 2022 والفقه الشافعي. نوع البحث الذي استخدمه الباحثون في هذه الدراسة هو بحث قانوني معياري، باستخدام نهج مفاهيمي. البيانات المستخدمة في هذه الدراسة هي مواد قانونية أولية، ومواد قانونية ثانوية، ومواد قانونية من الدرجة الثالثة.

نتائج البحث التي تم الحصول عليها من البيانات المختلفة في هذه الدراسة هي، (1) يمكن اعتبار مفهوم الزواج القسري في القانون رقم 12 لعام 2022 كجزء من العنف الجنسي، لأنه مليء بالإساءة التي يرتكبها ولي الأمر للصاية على الزواج القسري. يُنظم أن الزواج القسري في النظام القانوني الإندونيسي مدرج في قانون العنف الجنسي، الذي يتضمن مادة تتعلق بالزواج القسري كعمل إجرامي للعنف الجنسي. يمكن أن يحدث هذا لأن هناك عنصر إكراه يقوم به الولي على طفله. من قبل الوصي لا يمكن أن يستخدمه الوصي بلا مبالاة، فهناك متطلبات يجب الوفاء بها. (3) الاختلاف

في مفهوم قانون TPKS والفقہ الشافعي يكمن في عدة مؤشرات. العمر ، والعواقب القانونية ، والفرص ، والأشخاص (الفاعلون). في حين أن أوجه التشابه في المؤشرات ؛ الثقافة وأشياء من الزواج بالإكراه.

## CHAPTER I

### INTRODUCTION

#### A. Research Background

Sexual violence at this time has become a critical discussion issue. There are so many cases of sexual harassment that occur in Indonesian society, but there is no legal basis for protecting the rights of victims of sexual violence. The absence of definite rules from the government encourages various levels of society to force the government to immediately make laws that regulate protection from sexual violence, which at the beginning of its appearance it is known as *Rancangan Undang-Undang Penghapusan Kekerasan Seksual* (The draft law on the elimination of sexual violence).<sup>2</sup>

The urgency of determining protection against sexual violence activities in Indonesia itself can be categorized as an emergency; the available data confirm this. Based on data compiled by Komnas Perempuan in 2022, gender-based sexual violence against women during 2021 reached 338,496 cases. This figure has increased by 50% from the previous year, namely in 2020; from these data, it can be concluded that cases of sexual violence are relatively high.<sup>3</sup>

Two years ago, during the Covid-19 era, cases of early marriage and applications for marriage dispensation increased by 300% during the pandemic. Data from the Religious Courts Agency (BADILAG) shows that marriage

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<sup>2</sup> Letter it will be abbreviated as RUU PKS

<sup>3</sup> Veryanto Sitohang, dkk, "Pencegahan dan Penanganan Kekerasan Seksual di Industri Film Nasional: Sebuah Kemendesakan," *Komnas Perempuan*, 30 Maret 2022, diakses pada 6 Agustus 2022, <https://komnasperempuan.go.id/siaran-pers-detail/tentang-hari-film-nasional-tahun-2022>

dispensation in 2020 reached 65,301 cases. In 2019 there were only around 25,280 cases. From here, one of the most significant factors is forced marriages.<sup>4</sup> Komnas Perempuan explained that the most vulnerable to forced marriages, the majority, target women and girls.<sup>5</sup> The Ministry of PPPA gave an opinion that ratifying the TPKS Law was a progressive step to prevent child marriage. This is in line with the elaboration of the TPKS Law, which states that there are illegal snares for perpetrators of forced marriages.<sup>6</sup>

Directly proportional to the data nationally and locally as well. In the area of Malang city itself, based on data released by *Unit Perlindungan Perempuan dan Anak* (PPA) Satreskrim Polresta Malang Kota, there are 64 cases during 2022 as of September. Meanwhile, the record for handling cases of sexual violence in 2021 and 2022 has increased. At least within five years of handling cases of sexual violence, the average victim is under 18 years old, or you could say they are still underage.<sup>7</sup>

The law on the crime of sexual violence has long been awaited by various circles of society to be used as the rule of law to create security and protection

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<sup>4</sup> Biro Humas, “Undang-Undang TPKS Langkah Progresif Cegah Perkawinan Anak,” *Kementerian Pemberdayaan Perempuan dan Perlindungan Anak*, 18 April 2022, diakses pada 13 Desember 2022, <https://www.kemenpppa.go.id/index.php/page/read/29/3857/undang-undang-tpks-langkah-progresif-cegah-perkawinan-anak>

<sup>5</sup> Haryudi, “Pernikahan dini meningkat 300%, kawin paksa salah satu faktornya,” *Sindo News*, 9 Juni 2021, diakses pada 13 Desember 2022, <https://nasional.sindonews.com/newsread/450486/15/pernikahan-dini-meningkat-300-kawin-paksa-salah-satu-faktornya-1623218771/20>.

<sup>6</sup> Mutia Fauzia, “Kementerian PPPA Sebut UU TPKS Bisa Cegah Peningkatan Angka Perkawinan Anak,” *Nasional Kompas*, 19 April 2022, diakses pada 13 Desember 2022, <https://nasional.kompas.com/read/2022/04/19/10061991/kementerian-pppa-sebut-uu-tpks-bisa-cegah-peningkatan-angka-perkawinan-anak>

<sup>7</sup> Rizky Kurniawan Pratama, “Sepanjang 5 Tahun, 64 Kasus Kekerasan Seksual Terjadi di Kota Malang,” *Malang Times*, 15 September 2022, diakses pada 08 November 2022, <https://malang.times.co.id/news/berita/gud3pdkv43/Sepanjang-5-Tahun-64-Kasus-Kekerasan-Seksual-Terjadi-di-Kota-Malang>

for all processes of an organization from crimes of sexual violence. It will take at least ten years from the start of the draft law on eliminating sexual violence until the DPR passes it into law. The DPR and President Joko Widodo finally signed Law Number 12 of 2022 concerning the Criminal Act of Sexual Violence (TPKS) in 2022 as a legal reference for the case and became valid as Law on May 9, 2022.

Sexual violence has various types, including sexual harassment, sexual exploitation, forced abortion, forced contraception, rape, forced marriage, forced prostitution, sexual slavery, and sexual torture.<sup>8</sup> What needs to be known together that is used as the basis that it is included in the category of sexual harassment is that there is an element of urging an individual to do something that contains pornographic elements outside the person's will.<sup>9</sup>

It is interesting to discuss that in Law Number 12 of 2022 concerning the Crime of Sexual Violence, in chapter II Article 4, paragraph 1 point e, it is stated that Forced Marriage is one part of the Crime of Sexual Violence.<sup>10</sup> In another article, it is also noted that every person who unlawfully coerces, places a person under his control or another person, or his power to perform or allows marriage to be carried out with him or another person shall be punished for forced marriage, with imprisonment.<sup>11</sup>

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<sup>8</sup>Yonna Beatrix Salamor dan Anna Maria Salamor, "Kekerasan Seksual Terhadap Perempuan (Kajian Perbandingan Indonesia-India)," *Balobe*, No.1(2022), 10.

<sup>9</sup>Yonna Beatrix Salamor dan Anna Maria Salamor, "Kekerasan Seksual Terhadap Perempuan (Kajian Perbandingan Indonesia-India)," 11.

<sup>10</sup>Pasal 4 ayat 1 Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual

<sup>11</sup>Pasal 10 ayat 1 Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual



Cases of forced marriage in Indonesia have indeed been rampant in recent years, for example in 2022, in one area in Indonesia, there was a child of a Kiai who married a student who was pregnant with him, and based on information from KOMNAS Perempuan, the marriage was carried out with forced marriage.<sup>12</sup> Even in some tribes in Indonesia, this has become a custom or habit for the community; for example, in the Sumba area, East Nusa Tenggara, there is such a thing as “Kawin Tangkap.”<sup>13</sup>

Coercion of marriage itself is not only based on the above but also related to early marriage. People who are forced to marry cannot be separated from the role of the victim's parents who ordered their children to marry someone else, and it could be due to economic reasons, customs, family dignity, and so on.<sup>14</sup> Based on data from the Central Statistics Agency in 2021, the number of child marriages in Indonesia has decreased from 10.35 percent in 2020 to 9.23 percent in 2021.

Forced marriage has a close relationship with early marriage. In the TPKS Law, one of the forced marriages is on children; the child here is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.<sup>15</sup>

The Marriage Law stipulates that a marriage between a man and a woman must

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<sup>12</sup>Tim detikJatim, “Komnas Perempuan Sebut Anak Kiai Tuban Kawin Paksa Pelajar yang Dihadilinya,” *Detik*, diakses pada 06 Agustus 2022. <https://www.detik.com/jatim/hukum-dan-kriminal/d-6195122/komnas-perempuan-sebut-anak-kiai-tuban-kawin-paksa-pelajar-yang-dihadilinya>

<sup>13</sup>Tim Pers Komnas Perempuan, “Hentikan Praktik Kekerasan Terhadap Perempuan yang Mengatasnamakan Tradisi,” *Komnas Perempuan*, diakses pada 06 Agustus 2022. <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-atas-praktik-kawin-tangkap-di-sumba-24-juni-2020>

<sup>14</sup>Adi Fahrudin, *Pembangunan Sosial: Isu dan Dinamika*, (Bandung: Widina Media Utama, 2022), 107.

<sup>15</sup>Pasal 1 ayat 5 Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual.

be at least 19 years old.<sup>16</sup> Indeed, there is a gap in the rules referring to the age of marriage in the TPKS Law for the forced marriage of children aged 18 and under, while the minimum marriage rule is 19 years.

Forced marriage in the family must also have something to do with the decision of the nuclear family of the person who is the victim of forced marriage, as for Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI). The issue of guardianship and consent from the bride's side is one of the most critical things in the validity of a marriage. To connect it with the context and today's era will be presented with a broader issue.<sup>17</sup> Based on this background, the authors are interested in conducting research based on Islamic law with the title “Forced Marriage As A Criminal Act Of Sexual Violence In The Perspective of Law Number 12 Of 2022 and Syafi'i Based Fiqh.”

## **B. Statement of Problem**

1. What is the concept of forced marriage as a criminal act of sexual violence in law number 12 of 2022?
2. What is the concept of syafi'i based fiqh regarding the existence of forced marriages in the right of *ijbar* as a criminal act of sexual violence?

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<sup>16</sup>Pasal 7 Ayat 1 Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan

<sup>17</sup>Yusriana, “Analisis Pemaksaan Menikah Menurut Hukum Islam,” *Juripol*, no.2(2021): 113.

3. What are the differences and similarities in the concept of forced marriage as criminal act of sexual violence between the law number 12 of 2022 and syafi'i based fiqh?

### **C. Scope of Problem**

The scope of the problem studied in this study is that the problem under study is limited to the fiqh of munakahat from Imam Syafi'i only, where the concept of forced marriage in the Shafi'i school has broad arguments and is in line with the school of thought adopted by the majority of Indonesian people so that the relevance of the discussion This research will provide an overview that is easy for readers to understand. Therefore, in this study, the limitation of the problem was only in Imam Syafi'i's munakahat fiqh as a problem analysis in the study.

### **D. Objective of Research**

Based on the problem formulation that has been described previously, the research objectives can be described as follows:

1. To analyze the concept of forced marriage as referred to in Law Number 12 of 2022 concerning the Crime of Sexual Violence
2. To explain and analyze the concept of forced marriage as an act of sexual violence from the perspective of Fiqh Munakahat.
3. To explain and compare the similarities and differences in the concept of forced marriage as a crime of sexual violence in law number 12 of 2022 and syafi'i based fiqh.

## **E. Benefit of Research**

The results of this study are expected to provide benefits to the community. The benefits of research author describe there are two benefits, namely theoretical benefits and practical benefits. The following is an explanation of each research benefit:

### **1. Theoretical Benefits**

The benefits of this research from a scientific point of view, it is hoped that this research can become additional educational material or complete literature in the disciplines of fiqh and criminal law, as well as enrich the scientific treasures in Islamic family law, especially in matters relating to the conception of forced marriage in Indonesian law.

### **2. Practical Benefits**

- a. For the author himself, it can provide benefits in the form of increasing knowledge, insight, and scholarship in studying problems surrounding forced marriage, especially to practice the knowledge in the study program the author is looking for in the future.
- b. For the public, to provide structured information regarding forced marriage which is considered sexual violence in the rule of law number 12 of 2022 concerning the crime of sexual violence.
- c. For other researchers, this paper can be used for baseline data and a reference for future research.

## F. Operational Definition

In writing the title of this thesis, several words need to be clarified in more detail to make it easier for readers to understand.

### 1. Sexual Violence

Sexual violence is everything, both words, actions, and words that are carried out with the aim of insulting, degrading, harassing, and attacking a person's reproductive function. Inequality in power and gender can cause psychological and physical suffering. In other terms, it also includes those that can disable a person's reproductive health, which results in not getting opportunities in the form of education and socializing in a safe and calm society.

### 2. Forced Marriage

Forced marriage, referred to here, is when every person unlawfully coerces, places someone under his class or another person, or abuses his power to perform or allow marriage to be carried out with him or another person and is sentenced for forced marriage.<sup>18</sup>

### 3. Criminal Act

A criminal act is doing or not doing something, which by legislation is declared an act that is prohibited and threatened with punishment.<sup>19</sup>

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<sup>18</sup>Pasal 10 Ayat 1 Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual

<sup>19</sup>Kementerian Hukum dan Hak Asasi Manusia RI, *Naskah akademik rancangan undang-undang tentang kitab undang-undang hukum pidana (KUHP)*, 179.

#### 4. Law Number 12 of 2022 On The Crime Of Sexual Violence

Law Number 12 of 2022 concerning the Criminal Act of Sexual Violence is a law that specifically regulates the law in Indonesia relating to the Crime of Sexual Violence as a material and formal legal basis, to guarantee legal certainty and meet the legal needs of the Indonesian people.

### **G. Method of Research**

#### 1. Type of Research

The type of research under the title “Forced Marriage As A Criminal Act Of Sexual Violence In The Perspective of Law Number 12 Of 2022 and Syafi’i Based Fiqh” based on the background and formulation of the research problem is included in the category of normative juridical law research. Normative juridical law research is a type of research that emphasizes library research whose data is obtained through secondary sources of information/data. It is said to be a type of normative juridical law research because the discussion discussed in this study is about the implementation or enforcement of normative legal regulations.

In the legal research studied, several aspects of normative legal analysis are sufficient, namely the existence of regulations in the law regarding the crime of sexual violence, which contains one of them, namely the fact of a rule that states that forced marriage are included as a category of sexual violence. Then the concept is viewed from the perspective of munakahat fiqh.

## 2. Research Approach

The approach used in this study is conceptual, namely, understanding, receiving and capturing objects that attract attention from a practical and knowledge point of view. So, in this study, the author examines the concept of sexual violence referred to by Law Number 12 of 2022 concerning the Crime of Sexual Violence regarding the issue of forced child marriage from the perspective of Fiqh Munakahat.

## 3. Law Material

This research is classified as normative legal research that uses library materials as its primary material. In normative research, research sources are obtained through the literature. Therefore, in terms known as research material, it is legal material. The legal materials used in this study are legal materials which are divided into primary legal materials, secondary legal materials, and tertiary legal materials.

### a. Primary legal materials

Primary legal materials are basic data used in researching research whose legal materials are binding and authoritative, namely the final result of an activity or action carried out by an institution authorized to handle and resolve the case. Which in the study uses Law No. 12 of 2022 concerning the Crime of Sexual Violence.

### b. Secondary legal material

Secondary legal materials are legal materials that provide support for the explanation of primary legal materials, namely journals, books,

interviews, and articles that are relevant to the discussion under study. The regulations related to this research are the Compilation of Islamic Law, the book of Fiqhul Islam Wa Adilatuhu. Meanwhile, the relevant books and journals used in this research are books and journals that discuss forced marriages in Islam and journals about forced marriages according to Law Number 12 of 2022.

c. Tertiary legal materials

Tertiary legal materials are materials that provide explanations regarding primary and secondary legal materials, namely the large Indonesian language dictionary, encyclopedias or obtained through the internet and other news on the website.

4. Law Material Collection

The data collection method used in this research is literature study. Data collection techniques by conducting a literature study or reviewing books, literature, notes, and reports related to research discussions, either in libraries or private collections. This technique is used to obtain the basics and opinions in writing which is done by studying various literatures related to the problem under study.

5. Analysis of Law

After all the required data has been collected, then the writer will analyze the data in several ways;



a. Edit

At this stage of processing legal materials, researchers examine the data obtained based on the clarity of meaning, completeness of legal materials, and the suitability of legal materials with other legal materials carried out by legal material seekers. In this study, the researchers edited the legal material obtained from Law Number 12 of 2022 concerning the Crime of Sexual Violence, the Compilation of Islamic Law, the Book of Fiqh.

b. Classification

Researchers classify all legal materials obtained from the results of the literature study. The legal materials obtained are thoroughly studied, then grouped according to the need so that the legal materials that have been obtained are easy to read and understand and provide objective information, then the legal materials are grouped based on the similarities and differences between one legal material and another.

c. Inspection

The researcher re-examines all the legal materials that have been collected so that the legal materials that will be used in this study are in accordance with the research theme, namely forced marriage according to Fiqh Munakahat and Law Number 12 of 2022, so that the legal materials used can be recognized and used in research.

#### d. Data analysis

The analysis process is to get a conclusion. The analysis here is to systematically organize the legal materials that have been collected. After all the legal materials are collected, then the legal materials are compiled, broken down into several stages, in the form of classifying, analyzing, interpreting, and verifying data so that later a phenomenon contains scientific, academic and social values. In this study, researchers used descriptive analysis techniques. The researcher analyzed the concept of sexual violence in forced marriage according to law number 12 of 2022 concerning the Crime of Sexual Violence, and also used legal materials for the Compilation of Islamic Law and the Book of Fiqh.

#### e. Conclusion

The last step in the data processing process is a conclusion. Conclusion is a summary of the results obtained from the problem or object under study after carrying out the previous data processing (edit, classification, examination, and data analysis).

### **H. Previous Research**

Previous research is the part that explains and provides exposure to data to find differences and similarities with research that has been done by others before, and will also be used as consideration and the basis for research conducted by the author. The previous research that the authors include, namely:

First, the research conducted by Rijal Abdul Aziz in 2022 with the title *Tinjauan Maqasid Asy-Syari'ah Terhadap Tindak Pidana Pemaksaan*

*Perkawinan Dalam Rancangan Undang-Undang Penghapusan Kekerasan Seksual*, State Islamic University Sunan Kalijaga Yogyakarta. This research uses the type of library research. The kind of approach used is a normative approach source of data obtained from primary and secondary data. Data analysis carried out by the author uses content analysis, namely analysis, by discussing written information from all forms of communication relating to the object of study. Concerning the similarities between this study and previous research, the thing of the study is the similarity of the object of study, which discusses the criminal act of forced marriage in the draft law on the elimination of sexual violence. Meanwhile, the difference between this study and previous research is in its review using Islamic law, the chosen research approach, and the discussion of the conception of forced marriage in the law on sexual violence.

Second, the research conducted by Dayu Dyana Zahur in 2020 with the title *Pemaksaan Perkawinan Oleh Orang Tua Dalam Peraturan Perundang-Undangan Di Indonesia*, Syarif Hidayatullah State Islamic University Jakarta. This study uses a type of library research with a conceptual approach. Data sources are obtained from primary, secondary, and tertiary data. The data processing method uses editing, classification, verification, analysis, and conclusion. The similarity of this research with previous research is to discuss forced marriage according to the laws and regulations. Meanwhile, the difference between this research and previous research is the object of the research.

Third, research was conducted by Yayah Ramadyan in 2010 with the title *Pelecehan Seksual (Di Lihat Dari Kacamata Hukum Islam Dan KUHP)*, Syarif Hidayatullah State Islamic University Jakarta. . This research uses descriptive analysis research type. Data collection methods used are observation, interviews, and documentation. The data analysis method used in this research is descriptive qualitative analysis. The similarity of this research with previous research is to examine sexual harassment from the perspective of Islamic law. Meanwhile, the difference between the two studies is that the subjects in previous studies discussed sexual harassment only. Meanwhile, this research has a broader topic: discussing forced marriage as a crime of sexual violence.

Fourth, research was conducted by Mu'ammam Wafiuddin in 2022 with the title *Undang-Undang Tindak Pidana Kekerasan Seksual Tentang Pemaksaan Perkawinan Perspektif Feminist Legal Theory*, Ponorogo State Islamic Institute. This study uses a qualitative research-type Library with a conceptual and statutory approach. Data collection methods used are observation, interviews, and documentation. The data analysis method used in this research is descriptive qualitative analysis. The similarity of this research with previous research is to examine forced marriage in the criminal act of sexual violence. While the difference between these two studies is in perspective studied, the last analysis is with the view of feminist legal theory.

The following table illustrates to make it easier and understand previous research

Table 1.1 Previous Research

No	Title	Equality	Difference
1.	Rijal Abdul Aziz, <i>Tinjauan Maqasid Asy-Syari'ah Terhadap Tindak Pidana Pemaksaan Perkawinan Dalam Rancangan Undang-Undang Penghapusan Kekerasan Seksual</i> , Thesis, 2022.	The similarity of the object of study that discusses the criminal act of forced marriage in the draft law on the elimination of sexual violence.	In its review using islamic law, the selected research approach, and discussion of the conception of forced marriage in the criminal act of sexual violence.
2.	Dayu Dyana Zahir, <i>Pemaksaan Perkawinan Oleh Orang Tua Dalam Peraturan Perundang-Undangan Di Indonesia</i> , Thesis, 2020.	Discuss forced marriage according to the laws and regulations	The object of research, which in previous studies used general laws and regulations while the researchers discussed in more detail from the perspective of the criminal law on sexual violence and islamic law.
3.	Yayah Ramadyan, <i>Pelecehan Seksual (Di Lihat Dari Kacamata Hukum Islam Dan KUHP)</i> , Thesis, 2010.	Examines sexual harassment from the perspective of Islamic law	Subjects in previous studies discussed sexual harassment only. Meanwhile, this research has a wider subject, namely by discussing forced marriage as a criminal act of sexual violence
4.	Mu'ammarr Wafiuddin, <i>Undang-Undang Tindak Pidana Kekerasan Seksual Tentang Pemaksaan Perkawinan Perspektif Feminist Legal Theory</i> , Thesis, 2022.	Examine the forced marriage in the law on the crime of sexual violence	On the perspective studied, previous research with the perspective of feminist legal theory. Meanwhile, the research uses the perspective of islamic law

## **I. Structure of Discussion**

For the preparation of this thesis to be more focused and systematic, the researchers generally describe it into four chapters, namely:

Chapter I (first). The introduction in which it describes comprehensively in the form of an initial description of the research. This introduction contains the background of the problem or the chronology of the problem that makes the writer interested in researching the title discussed. Then there is the formulation of the problem, research objectives, benefits, methods, previous research, and writing systematics, which contains an overview of the thesis discussed.

Chapter II (second). The literature review on the theoretical basis contains an overview and theoretical framework that discusses forced marriage in Law Number 12 of 2022 concerning the Crime of Sexual Violence.

Chapter III (third). The results of the research and analysis are presented in the form of data obtained from primary, secondary, and tertiary legal materials, which are then continued with the analysis process so that answers to the problems raised by the researchers are obtained. In this chapter, the author will describe the concept of forced marriage from the perspective of fiqh munakahat and forced marriage as a crime of sexual violence in the law on sexual violence.

Chapter IV (fourth). Closing, the final part of thesis writing, contains conclusions and explanations briefly, concisely, and related to the answers to the problems in the formulation of the issue presented in the form of formulation

points. In this chapter, there are suggestions. In addition, the last section contains a bibliography, appendices, and a curriculum vitae of the researcher.

## CHAPTER II

### LITERATURE REVIEW

#### A. Marriage

##### 1. Definition of Marriage

Linguistically, marriage means to unite or gather (intercourse).

Marriage is an inner and outer bond between a husband and wife in fostering a household to create a happy and eternal family based on religion.<sup>20</sup>

##### 2. The legal basis of marriage in Islam

###### a. Wajib

Marriage is obligatory for people who have great lust or lust, and from that lust, it is feared that adultery will occur if he does not hasten the marriage. And to prevent this behavior, it can only be done by getting married. Therefore, it is obligatory to get married. And there is also a relief for people who are not physically and mentally ready and able to match. They must increase fasting to control himself.<sup>21</sup>

The basis of obligatory marriage for that person is based on a hadith.

حَدَّثَنَا عُمرُ بْنُ حَفْصٍ بْنُ غِيَاثٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا الْأَعْمَشُ، قَالَ: حَدَّثَنِي عُمَارَةُ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ، قَالَ: دَخَلْتُ مَعَ عَلْقَمَةَ، وَالْأَسْوَدِ عَلَى عَبْدِ اللَّهِ، فَقَالَ عَبْدُ اللَّهِ: كُنَّا مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ شَبَابًا لَا نَحْدُ شَيْئًا، فَقَالَ لَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «يَا مَعْشَرَ الشَّبَابِ، مَنْ اسْتَطَاعَ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغْضُ لِلْبَصَرِ وَأَخْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ»<sup>22</sup>.

<sup>20</sup> Pasal 1 Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan atas Undang-Undang nomor 1 Tahun 1974 tentang Perkawinan.

<sup>21</sup> Sayyid Sabiq, *Fikih Sunnah jilid 3*, (Jakarta: Cakrawala Publishing, 2008), 209.

<sup>22</sup> Abu Abdillah Muhammad bin Ismail al-Bukhari, *Shahih Bukhari Juz 7 Nomor 5066*, (Beirut: Daar Tuq Al-Najah, 2001), 3.



*We were with the Prophet while we were young and had no wealth. So Allah's Messenger said, "Hai young people! Whoever among you can marry should marry because it helps him lower his gaze and guard his modesty and private parts against committing illegal sexual intercourse, and whoever is not able to match should fast, as fasting diminishes his sexual power."*

#### b. Sunnah

Marriage is a sunnah for someone who desires but he is also not afraid of committing adultery. Then physically and mentally, he can provide a living.<sup>23</sup> Even so, marriage is more important for him than doing sunnah worship. This is the opinion of the majority of scholars.

وَعَنْ أَنَسٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِذَا تَزَوَّجَ الْعَبْدُ فَقَدْ اسْتَكْمَلَ نِصْفَ

الدِّينِ فَلْيَتَّقِ اللَّهَ فِي النِّصْفِ الْبَاقِي»<sup>24</sup>

*Anas reported Rasulullah SAW as saying, "When a man marries he has fulfilled half of the religion; so let him fear God regarding the remaining half."*

#### c. Mubah

People in normal conditions are not afraid to fall into adultery if they are not married and are not afraid to oppress their partners if they are married. This marriage is based on fulfilling pleasure, not on maintaining religious honor and fostering a prosperous family.<sup>25</sup>

<sup>23</sup> Muhammad Hasyim Asy'ari, *Fiqh Munakahat Praktis Tarjamah Kitab Dhau' Al-Mishbah Fi Bayan Ahkam Al-Nikah*, (Malang: UIN Maliki Press, 2013), 9.

<sup>24</sup> Muhammad Ibn Abdullah al Khatib al Tabrizy, *Mishkat al Masabih*, (Beirut: Darul Fikr, 1991), 3096.

<sup>25</sup> Abdul Rahman Ghazaly, *Fiqh Munakahat*, (Jakarta: Prenadamedia Group, 2003), 15.

#### d. Makruh

It is makruh to get married for someone who wants to get married, and that person has been unable to provide both physically and mentally. So he should prepare provisions to prepare for marriage in advance. He can also entirely refrain from committing adultery, such as not getting married.<sup>26</sup>

وَلْيَسْتَغْفِرِ الَّذِينَ لَا يَجِدُونَ نِكَاحًا حَتَّى يُعْزِيَهُمُ اللَّهُ مِنْ فَضْلِهِ ۚ وَالَّذِينَ يَبْتَغُونَ الْكِتَابَ مِمَّا مَلَكَتْ أَيْمَانُكُمْ فَكَاتِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا ۚ وَآتُوهُمْ مِّنْ مَّالِ اللَّهِ الَّذِي آتَاكُمْ ۚ وَلَا تُكْرِهُوا فَتِيَاتِكُمْ عَلَى الْبِغَاءِ إِنْ أَرَدْنَ تَحَصُّنًا لِّتَبْتَغُوا عَرَضَ الْحَيَاةِ الدُّنْيَا ۚ وَمَنْ يُكْرِهْهُنَّ فَإِنَّ اللَّهَ مِنْ بَعْدِ إِكْرَاهِهِنَّ غَفُورٌ رَّحِيمٌ<sup>27</sup>

*And let those who do not have the means to marry keep themselves chaste until Allah enriches them out of His bounty. And if any of those “bondspeople” in your possession desire a deed of emancipation, make it possible for them if you find goodness in them. And give them some of Allah’s wealth which He has granted you. Please do not force your slave girls into prostitution for your worldly gains while they wish to remain chaste. And if someone coerces them, then Allah is certainly All-Forgiving, Most Merciful to them after such coercion.*

#### e. Haram

Marriage is unlawful for a person who wishes to marry and intends to neglect and neglect his wife.<sup>28</sup> Then the person also does not have an urgent reason that requires immediate marriage.

<sup>26</sup> Abdul Rahman Ghazaly, *Fiqh Munakahat*, 16.

<sup>27</sup> Tim Yayasan Penafsir Al-qur'an dan Tim Lajnah Pentashihan Mushaf Al-Qur'an, *Al-Qur'an Terjemah Tafsir Perkata* (Bandung: Semesta Al-Qur'an, 2013), 354.

<sup>28</sup> Sudarto, *Buku Fikih Munakahat*, (Sleman: Deepublish, 2017), 15.

### 3. Terms and Pillars of Marriage

The Syafi'iyah School explains that the pillars of marriage consist of;

- a. Husband
- b. Wife
- c. Guardian
- d. Two witnesses
- e. Shigat<sup>29</sup>

### 4. Wali of Marriage

A guardian is a person who makes a marriage contract that can be valid, and if a marriage is carried out without a guardian, then the marriage is considered invalid. The guardian is a pillar the bride and groom must fulfill to get married.<sup>30</sup>

The legal basis for the existence of this guardian is based on the Qur'an, surah al-Baqarah ayat 232

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُنَّ

بِالْمَعْرُوفِ ۚ ذَلِكَ يُوعِظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ ذَلِكُمْ أَزْكَى لَكُمْ وَأَطْهَرُ ۚ

وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ

*When you have divorced women, and they have reached the end of their waiting period, do not prevent them from re-marrying their ex-husbands if they get a reasonable agreement. This is enjoined on whoever has faith in*

<sup>29</sup> Hasanuddin, "Rukun Dan Syarat Dalam Ibadah Nikah Menurut Empat Mazhab Fiqh", *Mimbar Akademika*, no.1(2018), 8.

<sup>30</sup> Sudarto, *Buku Fikih Munakahat*, 71.

*Allah and the Last Day. This is purer and more dignifying for you. Allah knows, and you do not know.*<sup>31</sup>

Regarding guardians, not everyone can be the guardian of the bride and groom who will marry. The person named must meet several conditions;

- a. Muslim
- b. Grown-up (*Baligh*)
- c. Man
- d. Independent
- e. Fair
- f. Not doing ihram

Apart from the requirements for marriage guardians, there are also several types of guardians and their orders as stipulated in positive law and Islamic law, namely

- a. Wali Nasab

This lineage guardian is a person who comes from the family of the prospective bride and has the right to become a Wali. Jumhur Ulama in determining lineage guardians, divided them into two major groups, Wali *Qarib* dan Wali *Ab'ad*.

Wali *Qarib* consists of a father and grandfather. At the same time, the Wali *Ab'ad* consists of biological brothers, half-brothers, children of biological brothers, children of half-brothers, biological uncles, sea-

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<sup>31</sup> Tim Yayasan Penafsir Al-qur'an dan Tim Lajnah Pentashihan Mushaf Al-Qur'an, *Al-Qur'an Terjemah Tafsir Perkata*, 37.

fathers, children of biological uncles, children of uncles-father, heirs of relatives. Other.<sup>32</sup> The writing of the order above must be appropriate, meaning that it may not choose a guardian at random, it must be sequential, and for example, no person is replaced by the following..

b. Wali Hakim

A person appointed by a government or ordinary community institution to be a judge is authorized to act as a guardian in a marriage.<sup>33</sup> Wali hakim can replace the position of the lineage guardian if the prospective bride does not have a Wali Nasab.

c. Wali Muhakkam

A person appointed by the bride and groom to act as a guardian in their marriage contract. Usually, this Wali Muhakkam is a respected religious figure and has comprehensive spiritual knowledge, and fulfills the requirements of a Wali.

## 5. Prohibited Marriage

a. Mut'ah's Marriage

Mut'ah marriage is a man married to a woman at a certain time limit; a day, two days, a month, a year, or more, depending on mutual agreement in exchange for money or other assets given by the man to the woman. The scholars' have agreed on the prohibition of mut'ah marriage.

b. Syighar's Marriage

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<sup>32</sup> Aspiandi, "Pernikahan Berwalikan Hakim Analisis Fikih Munakahat Dan Kompilasi Hukum Islam", *Ahkam*, no.1(2017), 102.

<sup>33</sup> Moh Zahid, "Keabsahan Pengangkatan Wali Muhakkam Di Madura Berdasarkan Fikih Syafi'i", *Karsa*, no.2(2012), 302.

A syighar marriage is someone who marries his daughter, sister, or other woman over whom he has guardianship rights, provided that the other person (prospective husband) is willing to marry his daughter or sister to him. This kind of marriage is broken (illegitimate) and haram, according to the consensus of the scholars. Whether the dowry is mentioned or not.

c. Muhallil's Marriage

Muhallil marriage is a man marries a woman who has been divorced three times by her husband and has completed her iddah, with the intention that the woman becomes lawful for the first husband. And what is taken into account in this case is the intention of the second husband (muhallil). This kind of marriage is broken (illegitimate) and forbidden, according to Jumhur ulama'.

## B. Forced Marriage

### 1. Definition

Forced marriage is a marriage that is not based on the sincerity of one or both partners, but is forced by a guardian or family.<sup>34</sup> Another definition of forced marriage is marriage that is not carried out on the basis of the will of the individual concerned, or marriage that occurs because of pressure or pressure from other parties.<sup>35</sup>

### 2. Types of Forced Marriage

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<sup>34</sup> Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, (Jakarta: Balai Pustaka, 1998), 518.

<sup>35</sup> W.J.S. Poerwadarminta, *Kamus Umum Bahasa Indonesia*, (Jakarta, Balai Pustaka, 1984), 697.

- a. Child marriage;
- b. Forced marriage in the name of cultural practice; or
- c. Forced marriage of the victim with the perpetrator of the rape.<sup>36</sup>

### 3. Status Division of Forced Marriage based on Status

- a. Forced marriages committed against widows

A widow who has gone through puberty may not be married off without her permission, either from her parents or her guardian. The scholars agree to enforce a woman's will to be married with the condition of explicit approval from the widowed woman. To get permission from the widowed woman, it was necessary to deliberate, and then the final decision was in the hands of the widowed woman, so a guardian needed to get precise requirements regarding her permit.

- b. Forced marriages carried out on virgins who have reached puberty (adults)

It is the same with the widow's provisions above, where parents or guardians may not force their children to marry of their choice because someone who has reached the adult stage can determine what is good and what is wrong according to his conscience to be his life partner.

- c. Forced marriages committed against virgins but not yet mature (young)

Girls who are still young or have thoughts that are still childish may be forced into marriage by their parents or guardians because they are not capable and do not understand what permission is, are quiet and reluctant to interact correctly, and are not able to think maturely. Parents and

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<sup>36</sup> Pasal 4 Ayat 1 Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual

guardians marry off their children who are not yet mature forcibly because it is feared that unwanted actions will occur, such as adultery.<sup>37</sup>

#### 4. The Crime of Forced Marriage

Based on the academic text of law number 12 of 2022, it is explained that the criminal act of forced marriage is sexual violence carried out in the form of abusing power with violence, threats of violence, deception, a series of lies, or other psychological pressure so that a person cannot give actual consent to do marriage.<sup>38</sup> Forced Marriage, is one type of sexual violence because forced sexual intercourse is an integral part of marriage that the woman does not desire.<sup>39</sup>

#### 5. Factors in the occurrence of forced marriages

##### a. Economy

The condition of the community, such as those living in rural areas or even remote areas, tends to apply forced marriage to their daughters due to economic factors. This applies to the middle to lower and lower-economic communities. This is inversely proportional to the reality that occurs in people in urban environments, but not a few can also apply it. People whose economic factors are middle to lower cause a guardian to be

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<sup>37</sup> Octamaya Tenri Awaru, *Sosiologi Keluarga*, (Bandung: CV Media Sains Indonesia, 2021), 307-308.

<sup>38</sup> Kementerian Hukum dan Hak Asasi Manusia RI, *Naskah Akademik Rancangan Undang-Undang Tindak Pidana Kekerasan Seksual*, 49.

<sup>39</sup> Komnas Perempuan, *Perempuan dalam Jeratan Impunitas: Pelanggaran dan Penanganan, Dokumentasi Pelanggaran HAM Perempuan Selama Konflik Bersenjata di Poso 1998-2005*, Komnas Perempuan, 2009, 132.



compelled to carry out marriages by finding husbands for their daughters with men who have a higher economic level or are able.

Parents who marry their daughters by force have the desire to see a good and comfortable life for their children better than their parents and not as experienced before and can get whatever the children want. The decision to find a husband candidate for her daughter with a man whose economic level is higher than theirs will be taken, even though the daughter disagrees with the prospective husband her guardian is looking for. The guardian does not care about this, and the important thing is that the candidate, the groom decides to be married to his daughter.<sup>40</sup>

In addition to the reason for happiness, it is hoped that the life of the child can be sufficient, also so that the daughter-in-law can help the economy in her family, significantly to help reduce school fees for her younger siblings and it is hoped that her child's household is more feasible than before. So that the burden on parents is reduced. So it is clear that the role of the economy in the family is significant to achieve tranquility and peace in life.

Another connection also with the occurrence of forced marriages that for someone whose life is wholly deprived while their child is being proposed to by someone who is economically established or at least there is the hope of being able to ease the burden on parents, in this case, there

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<sup>40</sup> Achmad Mukhlis dan Mukhlis, *Hukum Kawin Paksa di Bawah Umur Tinjauan Hukum Positif dan Islam*, (Surabaya: CV Jakad Publishing Surabaya, 2019), 17.

is a very high chance of coercing their child to carry out the marriage even though the child is not ready to marry.<sup>41</sup>

b. Descendants

The hereditary factor in forced marriage is crucial in its implementation. The purpose of heredity is the presence of a guardian from the woman's side who will marry off her daughter's future husband in terms of heredity. The hereditary factor here is a guardian looking for a prospective husband for his daughter, looking for a man who comes from a descendant who has the same degree, namely in terms of wealth and position in society as his daughter's family, because the role of her offspring, tends to increase harmony from the household of a husband and wife if an unequal parent or guardian seeks the prospective husband. However, at least the man who will marry is a descendant of good morals and religion. So that their daughters can always be treated well, under Islamic teachings, in addition to looking for a potential husband from his descendants, a guardian with common sense must have instincts that can bring his family life to a peaceful and serene atmosphere.<sup>42</sup>

This heredity factor also greatly influenced the implementation of marriage based on coercion because the guardians were looking for a mate (husband) for their children, seen from their religious observance, good economy, and promising offspring. In this case, the guardian usually looks

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<sup>41</sup> Samsidar, "Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone." *Supremasi*, no.1(2019), 28.

<sup>42</sup> Achmad Mukhlis dan Mukhlis, *Hukum Kawin Paksa di Bawah Umur Tinjauan Hukum Positif dan Islam*, 19.

for a prospective husband for the children. Their children are with people well known by the guardians because if the guardians already know them well, they can learn about the descendants of these men.<sup>43</sup>

This discussion explains that forced marriages that occur are usually adjusted to the level of their descendants, such as the descendants of the kyai will also get the descendants of the kyai, and the descendants of the nobility will also get the descendants of the elite, so forced marriages are usually carried out between brothers and sisters themselves and are adjusted to their descendants so that they know better. In-depth about his future son-in-law's ins and outs and their extended family relationship did not break.

The purpose of the guardians is to find prospective husbands for their daughters with men who come from good descendants. It is hoped that the man who becomes the husband of his child has good behavior so that he can treat his wife well and guide his wife and children in the family. In the future, he will be able to build a good household and produce pious and pious offspring. So, in this case, the guardians in marrying their daughters also have good ethics for their families, but their way is wrong (matching without asking permission from their daughters).

c. Do not understand the law of marriage

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<sup>43</sup> Kementerian Hukum dan Hak Asasi Manusia RI, *Naskah Akademik Rancangan Undang-Undang Tindak Pidana Kekerasan Seksual*, 47.

People with low education levels make these people less understanding of marriage law. This dramatically affects the level of experience of knowledge, especially knowledge of national marriage law. In addition, the dominant community living in the pesantren environment also influences the understanding of marriage law. They need help understanding the content and intent of the national marriage law, which relates to Law no. 1 of 1974 Chapter II Article (6) and Islamic marriage law, especially regarding forced marriages.<sup>44</sup>

The lack of understanding of marriage, whether it is national marriage law (Law No. 1 of 1974) or Islamic marriage itself, is because the community has a low level of education, and the majority of their education is from Salaf Islamic boarding schools which highly respect the teachings of the Shafi'i school, This is one factor in coercion in marriage or matchmaking in the community.

Lack of understanding of Law no. 1 of 1974, especially in the implementation of Chapter II Article 6 paragraph (1) among the public will facilitate marriage based on coercion by their parents (guardians) because they do not understand and examine the intent and content of Law number 1 of 1974 Article 6 paragraph (1). It is easy for the community to marry off their daughters to a man of their parent's choice, that according to them if a father has already found a boy as a prospective girl, the child must

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<sup>44</sup> Achmad Mukhlis dan Mukhlis, *Hukum Kawin Paksa di Bawah Umur Tinjauan Hukum Positif dan Islam*, 19.

agree to it. Because if the child does not want it, he will be said to be less devoted to the parents who have cared for and educated him since childhood. Suppose a father needs to find out whether his child is willing or not to matchmaking, even if the child wants to be forced and is afraid of his parents.<sup>45</sup>

People whose population is mostly pesantren graduates know that Islamic marriage law regulates ijbar rights, but these people need to understand and understand deeply how to apply ijbar rights. In Islam, a guardian or father is allowed to find a prospective husband for his daughter, but the respondents do not understand and understand the limitations and conditions of a guardian or father to be able to exercise his right of ijbar to his daughter.

In addition, there is also a strong motivation among the community to carry out Islamic teachings, especially the instructions of the Shafi'i madhhab, so that fathers (guardians) tend to find potential husbands for their daughters under their knowledge of Islamic law that guardians allow marrying his daughter, so that according to them if a father (guardian) can find a husband for his children and can match them, it means that a father has implemented some of the teachings of Islamic law, even though fathers do not understand what the requirements of a father are. The guardian can perform and apply ijbar in his family life.

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<sup>45</sup> Samsidar, "Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone." *Supremasi*, no.1(2019), 26.

#### d. Tradition

The tradition of an area significantly affect the way of life of a group of people, these customs play a role in regulating the life of a community, and the community always follows the traditions that apply in their respective regions, as is the case with the people of Akkor Village who highly respect the habits of their ancestors. The majority of them carry out forced marriages against their daughters.<sup>46</sup>

Most of their children also approve of prospective husbands obtained based on arranged marriages from their fathers. Some people who have married based on arranged marriages agree because they are forced to because they are afraid of being said to be unfilial to their parents. Become a tradition of the village community. The purpose of the local community to match or marry their daughters forcibly is to strengthen kinship ties so that the offspring in their extended family is not lost.<sup>47</sup>

This is influenced by the habits of the local community that are still strong, where they practice matching their children both from small to large and their daughters growing up. Marriage culture and its rules that apply to a society or a nation cannot be separated from the influence of culture, the environment in which the community is located, and the association of the community. It is influenced by the knowledge, experience, belief, and religion of the community concerned, just as

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<sup>46</sup> Achmad Mukhlis dan Mukhlis, *Hukum Kawin Paksa di Bawah Umur Tinjauan Hukum Positif dan Islam*, 24.

<sup>47</sup> Samsidar, "Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone." *Supremasi*, no.1(2019), 25.

Indonesian marriages are not only influenced by the cultural customs of the local community but are also influenced by the religious teachings they profess. This is under the customs that exist in the community.

The old community tradition that is thick with marriage based on coercion or what is known as matchmaking for their daughters, whether matchmaking is carried out by those who are young or have reached adulthood in determining a prospective husband is the full right of parents (*wali*).

Most of their children agree with their future husbands on forced arranged marriages by their parents, although some rebel against their father's wishes, from the respondent's confession, that they marry based on arranged marriages because they are forced and afraid to be called children who are less filial to their parents. Has also become a tradition or habit of society.<sup>48</sup>

It is permissible in Islamic law, especially in the Shafi'i mazhab, for a father or a guardian to find his daughter, encouraging people who are obedient and religious fanatics to perform and enforce forced marriages in their children's marriages without asking for their consent, the father who commits it. *Ijbar* doesn't think about whether his son wants the man of his choice as his future husband. The most important thing is that his father is happy and compatible with his future son-in-law.

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<sup>48</sup> Masthuriyah Sa'dan, "Menakar Tradisi Kawin Paksa Di Madura Dengan Barometer Ham." *Musawa*, no.2(2015), 150.

## C. Sexual Violence

### 1. Definition

Sexual violence is any treatment that humiliates, insults, attacks, and other acts done to a person against the body, sexual desire, and reproductive function of a person, whether male or female. And by force, against the will of the person, which will cause the person to be unable to give voluntary consent in a situation due to an imbalance between power and gender, which results in suffering and suffering mental, physical, psychological, sexual, economic, social, cultural, and political of a person.

### 2. Types of Sexual Violence

- a. Non-physical sexual harassment;
- b. Physical and sexual harassment;
- c. forced contraception;
- d. Forced sterilization;
- e. Forced marriage;
- f. Sexual torture;
- g. Sexual exploitation;
- h. Sexual slavery; and
- i. Electronic based sexual violence.<sup>49</sup>

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<sup>49</sup> Reno Efendi, Firda Yanis Hardianti, dkk. "Urgensi Percepatan Pengesahan Rancangan UndangUndang Penghapusan Kekerasan Seksual." *Suara Hukum*, no.1(2021), 29.



### CHAPTER III

#### DISCUSSION OF RESEARCH

#### A. Concept of Forced Marriage As Criminal Act of Sexual Violence In Law Number 12 of 2022

##### 1. Definition of Forced Marriage

Forced marriage, by definition in Law Number 12 of 2022, it is stated that every person unlawfully coerces, places someone under his class or another person, or abuses his power to perform or allow marriage to be carried out with him or with another person, shall be punished for coercion. Marriage.<sup>50</sup>

For a more comprehensive understanding of the concept of forced marriage in Law Number 12 of 2022, it is necessary to know this basic meaning. Etymologically, the word moving when written in Arabic is commonly known as Ijbar (إجبار), The term is usually used to mean forced marriage (إجبار النكاح).<sup>51</sup> The meaning of ijbar in the book Fathu Al-Qadhir by Imam Kamal Ibn Al-Humam s explained.

معنى الإِجْبار أن يباشر العقد فينفذ عليها شاءت أو أبت

*The meaning Ijbar Nikah is the guardian who carries out the marriage contract for the girl he trusts, likes, or dislikes the girl.*<sup>52</sup>

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<sup>50</sup> Pasal 10 Ayat 1 Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual

<sup>51</sup> Ahmad Zarkasih, *Kawin Paksa*, (Jakarta: Rumah Fiqih Publishing. 2019), 7.

<sup>52</sup> Imam Kamal Ibn Humam, *Fathu Al-Qadir jilid 3*, (Beirut: Darul Kutub), 260.

From the explanation above, it can be seen that, by definition, there is a meeting point between the notion of forced marriage in the concept of the criminal act of sexual violence.

## 2. The Background Of The Regulation On Forced Marriage In The Law Number 12 Of 2022

It is crucial for legal protection against cases of sexual violence in Indonesia. Based on the available data, Indonesia can be categorized as an emergency. This is based on data from Komnas Perempuan's annual records in 2022. The information on gender-based violence against women in 2021 is 338,496 cases. This number has increased by 50% compared to 2020. Cases of sexual violence are still relatively high.

According to Komnas Perempuan, forced marriages are more targeted at women because of their subordinate position in society. Using violence and coercion against a person to enter a wedding is an element of the pressure of marriage. Many factors contribute to the occurrence of forced marriages, especially in Indonesia.<sup>53</sup> The existence of forced marriages to be included as part of sexual violence has the same reasons as all cases that can cause harm to others, for claims that are part of sexual violence can be seen in the information above. Many losses are obtained from victims of sexual violence. In addition to material losses, they also suffer personal losses. Even then, the

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<sup>53</sup> Junita Fanny Nainggolan, Ramlan, Rahayu R. Harahap. "Pemaksaan Perkawinan Berkedok Tradisi Budaya: Bagaimana Implementasi CEDAW terhadap Hukum Nasional dalam Melindungi Hak-Hak Perempuan dalam Perkawinan?" *Uti Possideti*, no.1(2022), 59.

impact cannot immediately disappear from the minds of victims of sexual violence.

According to data from Aprissa Taranau, as chairman of the National Board of Association of Women with Theological Education in Indonesia (PERUATI) Sumba, there were seven cases of caught marriages from 2016 to June 2020.<sup>54</sup> This case contained elements of bullying and also violence against women because the bride-to-be was kidnapped first, then the man was forcibly married -the man who kidnapped her. Forced marriage is also classified as gender-based violence.<sup>55</sup>

Impact on Fulfillment of Women's Human Rights and Social Relations

The physical and psychological effects experienced by victims are often exacerbated by public reactions to victims. Victims are placed in challenging conditions to be able to carry out their social roles, which can then have a further impact on their existence in social relations in society. Socially, the result that is usually quickly recognized is that the victim has difficulty building relationships with other people, both with the closest environment, such as family, or with the broader environment. Such difficulties, in extreme cases, cause the victim to feel more "safe" in living with the world he has built himself. They tend to be unproductive and lose enthusiasm for work. This

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<sup>54</sup> Liza Tambunan, "Kawin Tangkap: Kisah perempuan diculik untuk dinikahi di Sumba, menangis sampai tenggorokan kering," *BBC News Indonesia*, 8 Juli 2020, Diakses 8 Desember 2022, <https://www.bbc.com/indonesia/indonesia-53317050>.

<sup>55</sup> Junita Fanny Nainggolan, Ramlan, Rahayu R. Harahap. "Pemaksaan Perkawinan Berkedok Tradisi Budaya: Bagaimana Implementasi CEDAW terhadap Hukum Nasional dalam Melindungi Hak-Hak Perempuan dalam Perkawinan?" *Uti Possideti*, no.1(2022), 60.

indirectly causes the community and the state to lose the potential of their citizens in building the nation.

Economic Impact Sexual violence also has an economic impact on women victims and their families. The victim/family must pay for emergency treatment, inpatient/outpatient treatment, recovery, and medicines. Victims who choose to resolve violence through legal channels need to spend money during the investigation process in court. This will be very difficult for poor women and will cause women/families to be more impoverished.

Who can prevent the impacts above preventively with the existing rules in Law number 12 of 2022. Which end of this is the achievement of the goal:

- a. Preventing incidents of sexual violence in various aspects of society as a whole;
- b. Develop and implement prevention, handling, protection, and recovery mechanisms that involve various levels of society and also from the side of the victim so that victims can handle the violence they experience;
- c. Provide justice for victims of sexual violence through various programs to reduce the negative impact on victims through rehabilitation, criminal sanctions, and strict action for perpetrators of sexual violence;
- d. Ensuring the implementation of state administration, the role of the family, community participation, and bureaucratic responsibility in creating a safe and accessible environment for sexual crimes.

### 3. The Concept of Forced Marriage According to Law Number 12 of 2022

The concept of forced marriage in Law number 12 of 2022 concerning the crime of sexual violence has multiple meanings. Quoted from the journal written by Mohsi, he explained that three points became the basis for making it.

- a. The guardian carries out the existence of forced marriage on the pretext that it is contrary to the concept of marriage and does not prioritize the child's interests. This is based on marriage in the interests of parents on the pretext that they have the right to force their children to be married according to their will.
- b. Low understanding or misconceptions from the general public regarding the existence of mujbir guardians
- c. The strengthening of a patrilineal life with the appearance that men are superior and robust figures and have extraordinary power over women.<sup>56</sup>

The academic text of Law Number 12 of 2022, especially on forced marriage. There are some practices of marriage where women do not have their own will to decide, such as:

- a. When a woman feels that she has no choice but to follow her parents' wishes to get her married, even if it is not with the person she wants or even with someone she does not know. This situation is often called forced marriage.

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<sup>56</sup> Mohsi, "Analisis Perkawinan Paksa Sebagai Tindak Pidana Kekerasan Seksual Dalam Rancangan Undang-Undang Penghapusan Kekerasan Seksual", *Al-Adalah*, no.1(2020), 11-12.

- b. The practice of forcing a rape victim to marry the perpetrator. The marriage was considered to reduce the disgrace of the rape that occurred.
- c. The practice of hanging divorce is when a woman is forced to continue in the marriage bond even though she wants a divorce. However, the divorce lawsuit was rejected or not processed for various reasons, both from the husband and other authorities.
- d. The practice of “Kawin Cinta Buta” is forcing women to marry someone else for one night to reconcile with their ex-husband after triple talaq (divorce for the third time in Islamic law). This practice is prohibited by religious teachings but is still found in many areas.

These several points still indicate that many forced marriages occur in Indonesia. Many practices collide with the correct concept of forced marriage because cultural practices in Indonesia related to forced marriage are still low. The method is still much pratinielism which causes lovers to marry because it cannot achieve the essence and purpose of marriage, namely Sakinah and mawaddah, warahmah.

#### 4. The Problems of Forced Marriage

Marriage as a sacred ritual strongly influences a person's personality. A person's willingness and love are entirely given to his prospective legal partner to jointly carry out worship for a lifetime, harmoniously together as a family. This situation, which is the desire of everyone, can be realized in the smallest scope of society at the family level, which is a matter of great responsibility in life.

Forcing someone to marry on an illogical basis with reasons that seem one-sided on the part of the guardian is not a good thing. Consent and willingness to marry is the full right of the two prospective brides. Under the existing rules in Law Number 1 of 1974 Chapter II article 6, paragraph 1, it is stated that “Marriage must be based on the approval of the two prospective brides.”<sup>57</sup>

The state culture and traditions of the people in Indonesia, especially, are still quite fanatical about practices, so in determining marriage, they still use the forced marriage tradition, both with people who are still related by blood or not. Forced marriage, known as matchmaking, is usually carried out between the parents of both parties as guardians to realize a sense of parental responsibility for the mandate given by Allah to nurture, educate, become Muslim and approve and marry off their daughters according to maturity and maturity. A girl to avoid disobedience and sin. However, the tradition of implementing forced marriages so far is not under Law Number 1 of 1974 concerning marriage, Article 6 paragraph 1, namely marrying off their daughters without asking the opinion and approval of the bride and groom.

A real example is what happened in Indonesia, such as Lamurukung Village and Bone Regency residents. There is a treatment carried out by parents there, and some marry off their children without giving the child the right to choose their mate. They are not allowed to openly express their hearts to choose a husband or wife to get married because if this is done, the child is

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<sup>57</sup> Kitab Undang-Undang Hukum Perdata, (Grahamedia Press, 2013), 66.

classified as a woman who can be embarrassing in her family life. The people there still adhere to the principle that a good woman is obedient.<sup>58</sup>

Marriage must be willing by both parties. Islam provides a concept or rule for a good wedding, including that marriage can be carried out if it gets the approval and consideration of the prospective bride and groom and there is no coercion. Forced marriages in Islam have differences of opinion, and most scholars agree that forced marriages are not justified, clearly contrary to the essence of the purpose of marriage.<sup>59</sup>

The science of fiqh explains that communicating to ask for permission and approval from a woman in a marriage case can be done with the consent of a girl and a widow. For people who are widowed don't need to be asked for their permission first because they know more about their circumstances and have experience in carrying out domestic life before. Meanwhile, a girl's permission can only be silenced because girls are usually easily embarrassed to say what they like directly. A girl who is silent or she smiles and does not scream or cry sadly, and then it can be used as a sign of her approval to get married. So consent in marriage by the prospective bride and groom has been regulated in Islamic law and positive law in Law Number 1 of 1974.<sup>60</sup> From this, who can understand that implementing forced marriages is very

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<sup>58</sup> Samsidar, "Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone." *Supremasi*, no.1(2019), 22.

<sup>59</sup> Arso Sosroatmojo, *Hukum Perkawinan di Indonesia*, (Jakarta: PT. Bulan Bintang, 1978), 85.

<sup>60</sup> Achmad Mukhlis dan Mukhlis, *Hukum Kawin Paksa di Bawah Umur Tinjauan Hukum Positif dan Islam*, 4.



complex. On the other hand, the fact that marriages are undeniable still occurs.

## **B. Concept Of Syafi'i Based Fiqh Regarding The Existence Of Forced Marriages In The Right Of Ijbar As A Criminal Act Of Sexual Violence**

### **1. The Concept of Forced Marriage**

Forced marriage in Islamic jurisprudence has several terms used to refer to marriage, namely, Ijbar. The word has a close relationship with marriage in Islam. The concept of forced marriage in the Shafi'i school is stated that the father has the power or the right to ijbar, then the grandfather has the ijbar right if there is no father.<sup>61</sup>

In terms, Ijbar itself is a right given to a person by Islamic law to a marriage guardian to carry out the marriage contract of someone under his guardianship to be asked for an opinion by force, whether he is happy or not with the decision. The concept of forced marriage and the existence of wali mujbir as a third party in this event must remain based on the vision and mission of human rights. who must find the mission and vision of humanity on the provisions of fiqh, which is an interpretation of the concept of wali mujbir itself.

In the Syafi'i school, it is permissible for a mujbir to marry off his young daughter, a crazy woman, and a mature and mature virgin without the

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<sup>61</sup> Achmad Mukhlis dan Mukhlis, *Hukum Kawin Paksa di Bawah Umur Tinjauan Hukum Positif dan Islam*, 2.

permission and pleasure of the child. It must be based on conditions that must be met;<sup>62</sup>

- a. There is no natural enmity between the daughter and her guardian. The hostility is unclear if there is only speculation or potential. So, the right of the mujbir guardian remains and does not fall
- b. Sekufu` between the child and her future husband;
- c. There is no enmity between a daughter and her future husband, both physically and mentally
- d. The prospective husband can give a dowry

These four conditions must be fulfilled, which results in the validity of a marriage. Then the guardian may carry out the contract or make a contract. The bride and groom then add another condition, namely;

- a. Expressing pleasure with the marriage if marrying it with a dowry, for example;
- b. If the dowry is based on valuables in the country;
- c. And the dowry is paid in cash<sup>63</sup>

From this, it can be seen that, indeed, in favorable legal rules, who cannot separate the application of the existing law from the role of fiqh, which becomes a reference for establishing a legal authority at the state level.

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<sup>62</sup> Abdul Rohman Al Jaziri, *al-Fiqh Ala Madzahib al Arbaati al Jaziri Juz 4*, (Beirut: Dar al-Kutub al-ilmiyah, 2018) 24.

<sup>63</sup> Arif Kurniawan, "Kawin Paksa Dalam Pandangan Kiai Krapyak", *Al Ahwal: Jurnal Hukum Keluarga Islam*, no.1(2017), 101. <https://doi.org/10.14421/ahwal.2016.09107>.

For all the conditions described in the data above, applying the right of ijbar cannot be made arbitrarily. According to the provisions of fiqh, it is inevitable that there is no or almost no coercion for women to marry, whether they are a widow or she is a virgin. Indeed, if the person is widowed, he is no longer bound to the wali, he is free to make his own choice of marriage, and there is no conflict. As for those who are still virgins, although the Shafi'i school agrees that there is a right of ijbar for fathers and grandfathers, the conditions that become a reference for its application do not seem to have an element of coercion in it. This is because all of the above conditions are controlled by the connection to the benefit of all parties involved, especially for children who are still virgins.

## 2. The Right Of Ijbar In The Forced Marriage

A father or grandfather can be categorized as a guardian of Mujbir. They can marry off their daughters without the parties consent, and the marriage is legally valid. Who cannot separate this issue of ijbar from the wali mujbir as the subject, Guardian in marriage is defined by the presence of someone who makes the marriage contract valid and invalid without it.

ثقات ينظرون ما عندها، فإن كانت البكر بالغاً فلاب والجد اجبارها على النكاح وإن أظهرت

الكرهية، وبه قال ابن أبي ليلى وأحمد وإسحاق<sup>64</sup>

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<sup>64</sup> Abu Zakaria Muhyuddin an-Nawawi, *Majmu' Syarh al-Muhadzab*, 266.

*If the virgin child is an adult or has reached puberty, his father or grandfather may force him to marry, even if the child shows disapproval. This is also the opinion of Ibn Abi Laila Ahmad and Ishaq.*

Based on the meaning according to the authority of the Guardian, Islam divides it into two, namely *wali mujbir* and *wali ghairu mujbir*. *Wali mujbir* is a guardian with the right to marry someone under his control or guardianship without permission or approval. Meanwhile, *Wali ghairu mujbir* is a guardian who can marry off his custody by requiring approval and authorization from that person as a condition for being able to exercise his rights.<sup>65</sup>

قال الشافعي في البويطي : لا يكون الولي الا مرشدا : وقال في موضع آخر : وولي الكافرة

كافر.<sup>66</sup>

*Asy-Syafi'i said in Al Buwaithi, "It is not permissible to become a guardian except for someone who can provide guidance." He also said elsewhere, "The guardians of a disbeliever woman are an infidel."*

There are five narrations from the jurists of the Syafi'iyah School that discuss this issue. *First*, Syaikh Abu Hamid's opinion, argues that a *fasik* person should not be a guardian in a marriage. In addition, other scholars who put forward an argument, namely Al Qaffal, argued that *fasik* could be the Guardian in marriage.

<sup>65</sup> Wahbah Zuhaili, *Fiqhul Islam Wa Adillatuhu* Cetakan ketiga, (Damaskus: dar al fikr, 1984), 208.

<sup>66</sup> Abu Zakaria Muhyuddin an-Nawawi, *Majmu' Syarh al-Muhadzab*, 158.

On the other hand, there is the opinion of the Syafi'iyah scholars who discuss this *wali mujbir*,

وقال أبو اسحاق المروزي ان كان الولي ممن يجبر على النكاح كالأب والجد في تزويج البكر لم يصح أن يكون فاسقاً لأنه يزوج بالولاية ، والولاية لا تثبت مع الفسق، كفسق الحاكم والوصي وان كان على النكاح كمن عدا الأب والجد من الأولياء ، وكتزويج الأب والجد للثيب صح تزويجه ، وان كان فاسقاً ، لأنه يزوج باذنهما فهو كالوكيل<sup>67</sup>

*Abu Ishaq Al Marwazi said, "If the Guardian includes people who can force a marriage, such as a father and a grandfather who can push a virgin girl to marry, then it is not permissible for a fasik person because he matches with a guardian, while guardianship is not valid if the perpetrator is vicious, such as hostile judge and willed evil man. Meanwhile, if he is not a person who can use coercion, such as people other than father and grandfather, for example, father and grandfather marry a widow, then the marriage is valid even though he is a fasik person because he can match with the permission of the woman so that it is like a representative."*

This statement indicates that the guardianship of the wicked applies. From this opinion, there is still ikhtilaf of thought among the scholars about what is called evil here, regarding what is considered a demonic guardian

<sup>67</sup> Abu Zakaria Muhyuddin an-Nawawi, *Majmu' Syarh al-Muhadzab*, 266.

because it is still unknown whether he can become a marriage guardian or not.

From this explanation, who can understand that if a marriage guardian is a wicked person, meaning that he improperly squanders his wealth, then he cannot be a guardian in marriage. Meanwhile, if he is conscientious in worldly affairs, he may become a guardian in the union.

In addition to the above opinion, other scholars provide views. In this case, there are two opinions besides Imam Asy-Syafi'i.

- a. The wicked may be guardians in marriage, regardless of the circumstances.

This is the opinion of Malik and Abu Hanifa, based on the word of Allah,

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ

فَضْلِهِ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ

*“And marry those who are alone among you and those who are worthy (to marry) from your male slaves and your female slaves. If they are poor, Allah will enable them with His grace. And Allah is Extensive (His gift) and All-Knowing.”*<sup>68</sup>

This is an order for the saints without distinguishing between the just and the wicked. Besides, if an infidel can marry his daughter who is an infidel, then a sinful Muslim who is taller than him is undoubtedly more entitled to marry off a daughter.

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<sup>68</sup> Tim Yayasan Penafsir Al-qur'an dan Tim Lajnah Pentashihan Mushaf Al-Qur'an, *Al-Qur'an Terjemah Tafsir Perkata*, 354.

- b. He is illegitimate to be a guardian. This is a well-known opinion in the syafi'i school, based on the words of the Prophet SAW, "It is not valid to marry except with a guardian." It was also narrated to another from Ibn Abbas RA that he said,

لَا نِكَاحَ إِلَّا بِوَلِيِّ وَشَاهِدَيْنِ عَدْلٍ<sup>69</sup>

*"Marriage is not valid except with a guardian who can provide guidance (a good guardian) and two fair witnesses."*

In the book of kifayatul akhyar, it is also mentioned that it,

لَا نِكَاحَ إِلَّا بِوَلِيِّ مُرْشِدٍ وَشَاهِدَيْنِ عَدْلٍ

*There is no marriage except with a wise guardian and two just witnesses.*

In the word, "One who can give guidance" is a name that contains praise, while the wicked is not a commendable title. Besides that, a guardian is a person who has the right to marry another person so that a dishonest person cannot do it in religion, such as a crooked judge.<sup>70</sup>

Regarding the issue of ijbar, Imam asy-Syafi'i based his opinion on a hadith that tells of the Prophet's marriage to Aisyah, daughter of Abu Bakr, RA.

<sup>69</sup> Muhammad bin Idris asy-Syafi'i, *Al-Umm Juz 5* (Beirut: Dar al-Fikr, tth), 246.

<sup>70</sup> Abu Zakaria Muhyuddin an-Nawawi, *Majmu' Syarh al-Muhadzab*, 242-246.

حَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلَاءِ ، حَدَّثَنَا أَبُو أُسَامَةَ ح ، وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ ،

قَالَ : وَجَدْتُ فِي كِتَابِي ، عَنْ أَبِي أُسَامَةَ ، عَنْ هِشَامٍ ، عَنْ أَبِيهِ ، عَنْ عَائِشَةَ ، قَالَتْ :

تَزَوَّجَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِسِتِّ سِنِينَ ، وَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ

*Aisyah said, "The Messenger of Allah married me when I was seven years old and had sex with me when I was nine years old."*<sup>71</sup>

As it is known that in these conditions, no permission is required. So who can see that his father married him without his consent. That's why fathers and grandfathers may force a young woman to marry, while it is not permissible for other guardians before she reaches puberty.<sup>72</sup> Discussed in the book of fiqh regarding the authority of the mujbir guardian to marry a woman without the consent of the person concerned is no longer known in Indonesian Islamic law.<sup>73</sup>

Imam Syafi'i believes that the illat of marriage that applies the concept of ijbar from its guardianship is the nature of virginity. On the other hand, Imam Abu Hanifah gave a different opinion. According to him, the illat of ijbar marriage is the age of the girl who has not reached puberty. This guardianship is permanent until the woman reaches maturity (adult) or puberty as long as she is still a girl. This is because girls are still seen as

<sup>71</sup> Muslim Hajjaj al-Naysaburi, *Sahih Muslim* (Beirut: Dar al-Kutub al-Ilmiyah, 2013), 604.

<sup>72</sup> Abu Zakaria Muhyuddin an-Nawawi, *Majmu' Syarh al-Muhadzab*, 265.

<sup>73</sup> Tim Literasi Nusantara, *Kompilasi Hukum Islam*, (Malang: PT Literasi Nusantara Abadi Grup, 2021), 49.



not fully understanding the benefits of marriage and cannot understand men's character.

The meaning of the girl conveyed by Imam Shafi'i is a woman who has not lost her virginity or virginity and resembles a girl-in-law. Included in the category of women who resemble girls are those created without purity or lost their virginity without intercourse, for example, due to falls, strong menstruation, insertion of fingers, and intercourse through the anus. Ijbar marriage is considered valid if the girl. She was married to a husband who was loyal and able to provide a living. However, if she is married to a husband who is not trustworthy and unable to provide a living, then the marriage is not valid.

In this Ijbar provision, it is also recommended to continue to deliberate and reach a consensus with people who want to enter into marriage to obtain permission or approval from the person concerned. According to Syafi'i, there must be deliberation with a girl, then Allah obliges girls to be obedient, but in the thinking, there is good for them.

### **C. Similarities And Differences In The Concept Forced Marriage As A Criminal Act Of Sexual Violence**

#### **1. Similarities And Differences**

Sexual violence has various forms and types, including the formation of visual views or in the form of touches that have elements of *Fashiyah* (taboo), such as kissing, touching, or touching the intimate organs of the

opposite sex or their own and shown to particular groups, and maybe even in the form of text or sound.

On the other hand, sexual violence is also considered a violation of human rights, a crime against human honor and dignity, and discriminatory behavior that should eliminate. Referring to Article 1, paragraph 1 of Law Number 12 of 2022 concerning the Crime of Sexual Violence are all acts that meet the elements of a criminal act as regulated in this Law and other acts of sexual violence as regulated in the Law as long as it is not specified in this Law.

Table 3.1 Similarities

No	Indicator	Law Number 12 of 2022	Syafi'i Legal Based
1	Culture	Forced marriage in the name of cultural practice is included in the category of sexual harassment.	Forced marriage in the name of cultural practice is included in the category of sexual harassment
2	Object	Persons under the guardianship of the perpetrator of the forced marriage	Persons under the guardianship of the perpetrator of the forced marriage

Table 3.2 Differences

No	Indicator	Law Number 12 of 2022	Syafi'i Legal Based
1	Age	Particular classification on the forced marriage of children under 18 years of age	Classification on the status of people who are married, namely widows, virgins who are mature (adult), virgins who are not yet ripe (young)
2	Person	Anyone without exception is subject to criminal action if he violates it	Wali Ijbar (Father and Grandfather) in coercing marriages have particular criteria if they are wicked and do not take the path of deliberation first.

3	Law	Those who carry out forced marriages will be subject to sanctions or criminal penalties by the law	Those who carry out forced marriages are not subject to criminal penalties but in fiqh as norms or rules that serve as guidelines.
4	Opportunity for coercion	There is no loophole or opportunity for forced marriage to occur.	Still allowing the mujbir wali to enter into forced marriages. As stated in the condition that there is no external enmity between the guardian and his child

The conclusion of the similarities and differences between law number 12 of 2022 and Syafi'i based fiqh above illustrates that both have the same concept in two aspects, such as culture and objects. The culture here means that both of them agree that forced marriages in the name of culture are considered wrong, as well as the object of forced marriage, namely people under their guardianship. Meanwhile, there are differences in several other indicators, such as age, the perpetrator (person), legal aspect, and opportunity for coercion. law number 12 of 2022 focuses on general classification in the form of numbers for age, anyone can be affected if they commit and receive criminal sanctions, and there are no loopholes in implementing forced marriages. Whereas fiqh focuses on the status of people who are about to get married, people who can do that are reserved for the *wali mujbir* only with certain conditions, the legal consequences are more at the end of the marriage, and there are still loopholes in implementing forced marriages with the requirements already mentioned.

## 2. Analysis Of The Concept Of Forced Marriage As A Crime Of Violence In Law Number 12 Of 2022 And Syafi'i Legal Based

Previously, in the Academic Manuscripts of the TPKS Law the definition of sexual violence had three types of sexual violence whose norms were found in existing laws and regulations, namely: rape, sexual exploitation, and trafficking in persons, although it did not specifically mention for sexual purposes. However, the legal rules of the three forms of sexual violence are minimal compared to the facts of the types of sexual violence that have been identified.

Based on the Komnas Perempuan report, there are 15 types of sexual violence, including

- a. Rape;
- b. Sexual Intimidation, including Threats or Attempted Rape;
- c. Sexual Harassment;
- d. Sexual Exploitation;
- e. Trafficking of Women for Sexual Purposes;
- f. Forced Prostitution;
- g. Sexual Slavery;
- h. Forced marriage, including hanging divorce;
- i. Forced Pregnancy;
- j. Forced Abortion;
- k. Forced contraception and sterilization;
- l. Sexual Torture;

- m. Punishment is inhumane and sexually nuanced;
- n. Traditional sexual practices that harm or discriminate against women; and
- o. Sexual control, including through discriminatory rules based on morality and religion.

*Illat* which is used as the basis that is included in the category of sexual harassment, is the element of forcing other people to watch or hear, accept and consume something that contains pornographic elements against their will.

حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ، حَدَّثَنَا مُعَمَّرُ بْنُ سُلَيْمَانَ الرَّقِّيُّ، عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ، عَنْ عَبْدِ الْجَبَّارِ بْنِ وَائِلِ بْنِ حُجْرٍ، عَنْ أَبِيهِ، قَالَ اسْتُكْرِهَتْ امْرَأَةٌ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَدَرَأَ عَنْهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْحَدَّ وَأَقَامَهُ عَلَى الَّذِي أَصَابَهَا وَلَمْ يُذَكَّرْ أَنَّهُ جَعَلَ لَهَا مَهْرًا . قَالَ أَبُو عِيسَى هَذَا حَدِيثٌ غَرِيبٌ وَلَيْسَ إِسْنَادُهُ بِمُتَّصِلٍ وَقَدْ رُوِيَ هَذَا الْحَدِيثُ مِنْ غَيْرِ هَذَا الْوَجْهِ . قَالَ سَمِعْتُ مُحَمَّدًا يَقُولُ عَبْدُ الْجَبَّارِ بْنُ وَائِلِ بْنِ حُجْرٍ لَمْ يَسْمَعْ مِنْ أَبِيهِ وَلَا أَدْرَكَهُ يُقَالُ إِنَّهُ وُلِدَ بَعْدَ مَوْتِ أَبِيهِ بِأَشْهُرٍ . وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَغَيْرِهِمْ أَنَّ لَيْسَ عَلَى الْمُسْتَكْرِهَةِ حَدٌّ .<sup>74</sup>

*Narrated 'Abdul-Jabbar bin Wa'il bin Hujr: That his father said: "A woman was forced to commit illegal sexual relations during the time of the Messenger of Allah (ﷺ). The Messenger of Allah (ﷺ) did not enforce the legal punishment upon her, but he enforced it upon the one who had done it to her." And the narrator did not mention him assigning a dowry to her.*

The elements of forced marriage that make it can be said as a criminal act of sexual violence namely:

- a. There is an action
- b. Threats, both physical and mental.
- c. There is an object of an action

<sup>74</sup> Muhammad bin Isa bin Saurah at-Tirmidzi, *Jami' at-Tirmidhi*, (Beirut: Dar Al Fikr, tt), 1453.

- d. Coercive desires to be obeyed
- e. There is an element of freedom of action
- f. There are several types of coercion related to the power to perform a forced act.<sup>75</sup>

The presentation of the data indicates that favorable and Islamic laws have similarities in the concept of understanding that forced marriage is not justified in the context of both. Fulfillment of rights for various people must be equally obtained, not only from the side of the guardian who gets it but also from those who undergo marriage must be considered.

Marriage can be called a personal right of every individual who wants to pursue happiness. Most people who want to find happiness can get it through marriage. In essence, marriage is a love between two pious individuals who love and care for, an obligation to fulfill sexual desires and continue offspring legally and legally according to Islamic law and Positive Law.

Islam defines love as the first pillar of a marriage, even its motivation. This is as stated in QS. Ar-Ruum verse 21.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً ۚ إِنَّ فِي

ذَٰلِكَ لَآيَاتٍ لِقَوْمٍ يَعْتَكِرُونَ

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<sup>75</sup> E.Y Kanter dan S.R Sianturi, *Asas-asas Hukum Pidana di Indonesia dan Penerapannya*, (Jakarta: Storia Grafika, 2002), 273 - 276.

*And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought.*<sup>76</sup>

The obligation in marriage is cooperation on both sides of the husband and wife in navigating the ark of the house of life. And this is what becomes love, and its development as love itself becomes a strong impetus for husband and wife in the sense of passion that will always color the journey of marriage.

On the other hand, the Compilation of Islamic Law says that it is permissible to revoke guardianship rights, as stated in Article 109 that "The Religious Courts can revoke the guardianship rights of a person or legal entity and transfer them to another party at the request of their relatives if the guardian is a drunkard, gambler, spender, crazy and or neglect or abuse their rights and authority as guardians for the benefit of people under their guardianship." The rules are apparent: parents/guardians are not allowed to abuse their guardianship rights, and revocation of guardianship rights is not a general offense but is included in a complaint offense.

Based on the Law on the Elimination of Sexual Violence, there is an article regarding coercion in marriage. There are also causes, namely,

- a. That there are many forced marriages by parents.
- b. Deviant understanding in marriage

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<sup>76</sup> Tim Yayasan Penafsir Al-qur'an dan Tim Lajnah Pentashihan Mushaf Al-Qur'an, *Al-Qur'an Terjemah Tafsir Perkata*, 406.

c. Patrilineal life.<sup>77</sup>

Another point of view of positive law in Indonesia which uses law number 16 of 2019 concerning amendments to law number 1 of 1974 concerning marriage, which regulates marriage regarding the marriage age of prospective brides, for men age 19 and women age 19 as well, it can be less likely to do *ijbar*. Moreover, with the addition of Law Number 12 of 2022 concerning the Crime of Sexual Violence, which stipulates that those who commit forced marriages will be subject to criminal threats, this directly indicates a good application of Indonesian law, both in terms of norms and enforcement of justice to provide certainty. Law for the Indonesian people.

However, regarding the right of *ijbar*, it is also necessary to pay attention because the tendency of the tradition of forced marriage is also still often carried out by the community. It is essential to provide new direction and understanding to ordinary people, especially in rural areas and those who still hold the tradition of forced marriage, that the right to *ijbar* is not entirely parents' property. Therefore, in marrying children, they must prioritize several things:

- a. Parents guide their children by providing religious teachings and provide broad insight into choosing a life partner later so that they are fully understood

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<sup>77</sup> Ayu Umami, "Analisis Yuridis Penyimpangan Hak Perwalian Orangtua Terhadap Tindakan Pemaksaan Perkawinan Di Bawah Umur" *Lex LATA*. no.3(2022), 359.



- b. Marrying their children should occur after each of them has reached the stage of maturity, both physically-biologically and mentally-psychologically because underage marriage can kill the child's survival.
- c. There is a compromise and a unified two-way communication or relationship between the bride and groom and between the two families of the bride and groom.<sup>78</sup>

Coercion in marriage in the Indonesian legal system is contained in the draft law on eliminating sexual violence (RUU PKS). Incorporating an article on oppression in marriage in the Draft Law on the Elimination of Sexual Violence can minimize the occurrence of deviations in understanding guardianship rights in marriage.

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<sup>78</sup> Taufiq Hidayat, "Rekonstruksi Konsep Ijbar," *De Jure*, no.2(2009), 66.

## CHAPTER IV

### CLOSING

#### A. Conclusion

1. The data above shows that the concept of forced marriage contained in Law Number 12 of 2022 is a sexual crime because there is an element of coercion which is the reference for its determination. The categories included in forced marriage referred to by law are; Child marriage, Forced marriage in the name of cultural practices, and forced marriage between victims and perpetrators of rape. The rules also make it clear that it is not permissible for anyone to force someone else to marry. The law already regulates that those who push will be charged with a crime.
2. In the context of Islamic law, especially in munakahat fiqh, which is based on the Imam Syafi'i school of thought, it is known that in Islam, forced marriages are also regulated by the existence of ijbar rights given to guardians, in this case, fathers and grandfathers. Both have ijbar rights, prescribed in Islam, but the reality of these rights remains on the principle of benefit for the child, which is the primary reference for implementing ijbar rights, not just anyone who can apply them. One of the indications that is a requirement is that a guardian is not wicked. An ungodly guardian cannot marry someone under his guardianship by using Ijbar rights, and conditions must be met for mujbir guardians. In sexual violence, forced marriage is also considered the same. The reason for this is coercion against other people, so their rights are not obtained.

3. The bottom line from the overall data from this research is that the concepts in positive law are more of sanctions and Islamic law is more of norms. In the law, anyone who commits acts of forced marriage will be subject to penalties and sanctions because the rules in the TPKS Law provide a deterrent effect to the perpetrators so as not to do this arbitrarily. And Islamic law is also in line with that, but more to the rules as a norm. There are guidelines so that the implementation of forced marriage is minimized so that who can fulfill the creation of a *sakinah* family under the basic principles of marriage.

## **B. Suggestion**

Based on the research results above, the researchers in this study will suggest further discussing forced marriage in positive Indonesian law by implementing justice for victims of sexual violence, so with the discussion points described above, further researchers can develop further on that.

### **1. Government and Institutions**

It is expected that the Government and Institutions, as institutions that have authority in confectionary in the protection of the community, must be more stringent in taking action against forced marriages because those who are victims must be protected. The practice of forced marriages still occurs in several regions. The existence of Law number 12 of 2022 is the hope of many people in taking action against this.

### **2. Academia**

The researcher hopes that the academic community can use this as material for study, opening data, and subsequent research on issues,

especially sexual violence in forced marriages and ijbar rights. As an academic, you must be able to provide education and guidance to the general public that marriage is not a good thing. There were many moral and material losses for the victims. So that giving education about forced marriages also educates the public that there is already a law that regulates the criminal act of forced marriage even though what they are doing is forced marriage based on custom.

### 3. Public

It is hoped that people will understand and learn more about the nature of marriage. Coercion in marriage is not a good thing for their children, and it needs to be understood that having the right in the form of Ijbar from a guardian cannot be justified in forcing marriage against their guardianship. Ijbar rights cannot be used freely. Some conditions must be met.

## BIBLIOGRAPHY

### Book

- Al-Qur'an, Tim Yayasan Penafsir dan Tim Lajnah Pentashihan Mushaf Al-Qur'an. *Al-Qur'an Terjemah Tafsir Perkata*. Bandung: Semesta Al-Qur'an. 2013.
- Awaru, Octamaya Tenri. *Sosiologi Keluarga*. Bandung: Media Sains Indonesia. 2021.
- Candra, Mardi. *Pembaruan Hukum Dispensasi Kawin dalam Sistem Hukum di Indonesia*. Jakarta: Kencana. 2021.
- Fahrudin Adi, dkk. *Pembangunan Sosial: Isu dan Dinamika*. Bandung: Widina Media Utama. 2022.
- Manalu, Karto. *Hukum Keperdataan Anak di Luar Kawin*. Pasaman Barat: CV Azka Pustaka. 2021.
- Muhlis, Achmad, Mukhlis. *Hukum Kawin Paksa Di Bawah Umur (Tinjauan Hukum Positif dan Islam)*. Surabaya: CV Jakad Publishing Surabaya. 2019.
- Nasar, Fuad. *H.S.M Nasaruddin Latif Biografi dan Pemikiran*. Jakarta: Gema Insani Press. 1996.
- Nasution, Syukri Albani. *Hukum Perkawinan Muslim: Antara Fikih Munakahat dan Teori Neo-Receptie in Complexu*. Jakarta: Kencana. 2019.
- Nusantara, Tim Literasi. *Kompilasi Hukum Islam*. Malang: PT Literasi Nusantara Abadi Grup. 2021.
- Sabiq, Sayyid. *Fiqh al-Sunnah*. Mesir: Dar al-Fath lil I'lamy al-Araby. 2011.
- Sarwat, Ahmad. *Ensiklopedia Fikih Indonesia 8: Pernikahan*. Jakarta: PT Gramedia Pustaka Utama. 2018.
- Sirin, Khaeron. *Perkawinan Mazhab Indonesia: Pergulatan Antara Negara, Agama, dan Perempuan*. Yogyakarta: Deepublish. 2018.
- Sosroatmojo, Arso. *Hukum Perkawinan di Indonesia*. Jakarta: PT. Bulan Bintang. 1978.
- Subhan, Arief, dkk. *Citra Perempuan dalam Islam Pandangan Ormas Keagamaan*. Jakarta: PT Gramedia Pustaka Utama. 2003.

Syaifuddin, Muhammad, Sri Turatmiyah, dan Annalisa Yahanan. *Hukum Perceraian*. Jakarta: Somar Grafika. 2013.

Zarkasih, Ahmad. *Kawin Paksa*. Jakarta: Rumah Fiqih Publishing. 2019.

Zuhaili, Wahbah. *Fiqh Islam Wa Adillatuhu Jilid 9*. Depok: Gema Insani Press. 2022.

## **Law**

Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual

Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan

## **Journal**

Asman. "Keluarga Sakinah Dalam Kajian Hukum Islam." *Al-Qadha*. no.2(2020).  
<https://doi.org/10.32505/qadha.v7i2.1952>

Faizah, Niswatul, "Konsep Wali Mujbir Imam Syafi'i Dalam Perspektif Ham (Human Right)," *Pro Justice*, no.2(2019).

Herawati, Netty. "Faktor-Faktor Yang Berpengaruh Terhadap Kebahagiaan Pasangan Pada Masyarakat Madura." *Personifikasi*. no.1(2012).

Hidayat, Syaiful. "Hak Ijbar Wali Nikah Dalam Kajian Historis Fiqh Shafi'i," *Tafaqquh: Jurnal Penelitian Dan Kajian Keislaman*. No.1(2015).

Hidayat, Taufiq. "Rekonstruksi Konsep Ijbar," *De Jure: Jurnal Hukum dan Syari'ah*. no.1(2009).

Khaerani, Siti Nurul. "Faktor Ekonomi Dalam Pernikahan Dini Pada Masyarakat Sasak Lombok." *Qawwam*. no.1(2019).

Khoiruddin, M. "Wali Mujbir Menurut Imam Syafi'i (Tinjauan Maqashid Al-Syari'ah)," *Al-Fikra'*, no.2(2019). DOI: 10.24014/af.v18.i2.8760

Mohsi, M. "Analisis Perkawinan Paksa Sebagai Tindak Pidana Kekerasan Seksual Dalam Rancangan Undang-Undang Penghapusan Kekerasan Seksual PKS." *Al-Adalah: Jurnal Hukum dan Politik Islam*. no.1(2020).

Muttaqin, Muhammad Ngizzul, Nur Fadhilah. "Hak Ijbar Wali Tinjauan Maqashid Syari'ah dan Antropologi Hukum Islam," *De Jure: Jurnal Hukum*

*dan Syar'iah*, no.1(2020). DOI: <http://dx.doi.org/10.18860/j-fsh.v12i1.7580>

Nurisman, Eko. "Risalah Tantangan Penegakan Hukum Tindak Pidana Kekerasan Seksual Pasca Lahirnya Undang-Undang Nomor 12 Tahun 2022." *Jurnal Pembangunan Hukum Indonesia*. no.2(2022).

Salamor, Yonna Beatrix, dan Anna Maria Salamor. "Kekerasan Seksual Terhadap Perempuan (Kajian Perbandingan Indonesia-India)," *Balobe*, no.1(2022).

Samsidar. "Dampak Kawin Paksa Terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone." *Supremasi*. No.1(2019).

Umami, Ayu. "Analisis Yuridis Penyimpangan Hak Perwalian Orang Tua Terhadap Tindakan Pemaksaan Perkawinan Dibawah Umur." *Lex Lata*. no.3(2022).

Yusriana, "Analisis Pemaksaan Menikah Menurut Hukum Islam," *Juripol*, no.2(2021).

### **Internet / Website**

Fauzia, Mutia. "Kementerian PPPA Sebut UU TPKS Bisa Cegah Peningkatan Angka Perkawinan Anak," *Nasional Kompas*, 19 April 2022, diakses pada 13 Desember 2022, <https://nasional.kompas.com/read/2022/04/19/10061991/kementerian-pppa-sebut-uu-tpks-bisa-cegah-peningkatan-angka-perkawinan-anak>.

Haryudi. "Pernikahan dini meningkat 300%, kawin paksa salah satu faktornya," *Sindo News*, 9 Juni 2021, diakses pada 13 Desember 2022, <https://nasional.sindonews.com/newsread/450486/15/pernikahan-dini-meningkat-300-kawin-paksa-salah-satu-faktornya-1623218771/20>.

Humas, Biro. "Undang-Undang TPKS Langkah Progresif Cegah Perkawinan Anak," *Kementerian Pemberdayaan Perempuan dan Perlindungan Anak*, 18 April 2022, diakses pada 13 Desember 2022, <https://www.kemenpppa.go.id/index.php/page/read/29/3857/undang-g-undang-tpks-langkah-progresif-cegah-perkawinan-anak>.

Jatim, Tim Detik. "Komnas Perempuan Sebut Anak Kiai Tuban Kawin Paksa Pelajar yang Dihadilinya," *Detik*, diakses 6 Agustus 2022. <https://www.detik.com/jatim/hukum-dan-kriminal/d->

6195122/komnas-perempuan-sebut-anak-kiai-tuban-kawin-paksa-pelajar-yang-dihamilinya.

Perempuan, Tim Pers Komnas. “Hentikan Praktik Kekerasan Terhadap Perempuan yang Mengatasnamakan Tradisi,” *Komnas Perempuan*, diakses 6 Agustus 2022. <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-atas-praktik-kawin-tangkap-di-sumba-24-juni-2020>.

Pratama, Rizky Kurniawan. “Sepanjang 5 Tahun, 64 Kasus Kekerasan Seksual Terjadi di Kota Malang,” *Malang Times*, 15 September 2022, diakses 08 November 2022, <https://malang.times.co.id/news/berita/gud3pdkv43/Sepanjang-5-Tahun-64-Kasus-Kekerasan-Seksual-Terjadi-di-Kota-Malang>.

Sitohang, Veryanto, dkk, “Pencegahan dan Penanganan Kekerasan Seksual di Industri Film Nasional: Sebuah Kemendesakan,” *Komnas Perempuan*, 30 Maret 2022, diakses 6 Agustus 2022, <https://komnasperempuan.go.id/siaran-pers-detail/tentang-hari-film-nasional-tahun-2022>.

Tambunan, Liza. “Kawin Tangkap: Kisah perempuan diculik untuk dinikahi di Sumba, menangis sampai tenggorokan kering,” *BBC News Indonesia*, 8 Juli 2020, Diakses 8 Desember 2022, <https://www.bbc.com/indonesia/indonesia-53317050>.



## APPENDIXES



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Perspective Of Law Number 12 Of 2022 And Syafi'i Based Fiqh

No	Day/Date	Subject of Consultation	Signature
1	Friday, 16 September 2022	Consultation Chapter I	
2	Tuesday, 27 September 2022	ACC Chapter I	
3	Tuesday, 25 October 2022	Consultation Chapter II	
4	Tuesday, 1 November	ACC Chapter II	
5	Monday, 7 November 2022	Consultation Chapter III	
6	Monday, 7 November 2022	ACC Chapter III	
7	Thursday, 10 November 2022	Consultation Chapter IV	
8	Thursday, 10 November 2022	ACC Chapter IV	
9	Monday, 14 November 2022	Consultation Abstract	
10	Monday, 14 November 2022	ACC Abstract and ACC Thesis	

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