Arranged Marriage: Adjusting Kafa’ah Can Reduce Trafficking of Women

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Abstract

This study aims to find the concept of match making or coercion in marriage against women. Women are more sensitive to match making issues and express disagreement with practices that violate women’s rights and endanger their future. However, previous researchers also considered match making coercion, so we tried to research what if it was adapted to the concept of kafa’ah according to Shariah. The method used in this research is a literature review by looking at the book an-nikah by Shaykh Muhammad Arsyad Al-Banjari, written in the 17th century AD. Through a hermeneutical approach, the researcher explores the marriage problems that her parents thought to becornering women in marriage problems. We try to uncover marriage problems that are sometimes considered to push women into marriage problems by their parents. This research proves that the concept of kafa’ah in al-Banjari theory can eliminate the perception of match making with a coercive system, because in the kafa'ah what is prioritized is a person's faith relationship which is ultimately able to maintain the honor of his wife and family. Not only in terms of material, but more inclined to approach immaterial needs. The Immaterial approach is evidenced by the harmonious relationship between the two families of the bride and groom.

Keywords: Marriage, kafa'ah, forced, crime, women.
Abstrak


Kata kunci: Pernikahan, Kafa’ah, Kejahatan, Perempuan

Introduction

According to Shyamal, due to natural shocks in Bangladesh, the conditional payment from husbands to wives in the event of divorce and dowry, a move from the bride’s family to the groom at the time of marriage, has fluctuated in Bangladesh.¹ We are creating a marriage market model in which dowry functions as a price for grooms, while more serves to avoid inefficient divorces.² Our comparative statics findings show that in shocks that increase (lower) profits, more and dowry are both increasing (decreasing).³

Traditionally arranged marriages take place in Africa, South-East Asia, Latin America, and the Near East. The activity has been brought to western nations (SURGIR) through migratory phenomena. In reaction to this, using

³Chowdhury, Mallick, And Roy Chowdhury, “Natural Shocks And Marriage Markets,” 129.
legislative steps, hardening immigration laws, and requesting family reunification conditions, European countries seek to avoid this situation. It is common practice in many countries to pay a dowry to the family of the bride. Since marrying a daughter provides the family with money, the future husband is selected according to his wealth. In return for a dowry, in which women accept marriage to a man chosen by their parents, this hidden selling reduces the woman to goods, with the subsequent arranged marriages. This practice ensures that young brides are frequently required to marry men twice their age, or even very old.

There are arranged and forced marriages that must be distinguished; the latter happens when one of the partners does not approve or is forced to enter marriage. Forced marriages are also forced marriage when one partner is under 18 years of age or early marriage. Forced marriages are not purely for economic purposes but are also made to restore the family's dignity. Forced and organized marriages will lead women into a cycle of poverty and lack of security, most of which being subjected to rape, violence, and forced sexual intercourse.

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10Isabelle Poutrin, “Theorizing Coercion And Consent In Conversion, Apostasy, Ordination, And Marriage (Sixteenth And Seventeenth Centuries),” In Forced Conversion In Christianity, Judaism And Islam (Brill, 2019), 86–109; Mehrdad RayejianAsli And Mojgan Amrollahi Byouki, “Forced Marriage In Islamic Countries: The Role Of Violence In Family
There are also cases in which marriages are neither arranged nor coerced since either the girls are young or the child refuses to marry the man the family has chosen for it. Such marriages may have significant repercussions for women’s physical and mental health and lead to suicide at times. We remember that women are more open to the issue by arguing that the practice contradicts the Koran and their disagreement.¹¹ Unlike marriage in Islam, Islam accepts a kafa’ab (equality) approach to maintaining a harmonious marriage relationship.¹²

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

The problem of kafa’ab in marriage began to grow in contrast to Iffatin,¹⁶ By looking at the physical-spiritual state, heredity, freedom status, occupation, income, education level, to again in a broad sense, in reality, requiring only an agreement between the two sides of the bride and groom. Zuhri also believes that marriage, especially in Islam, should be needed for

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kafa’ab. Non-Muslims, because of imbalances in religion, should not kafa’ab with Muslims.17

This study becomes interested when the researcher finds a principle in selecting the bride and wife in marriage, sometimes under different models of coercion systems of marriage systems. This idea is now intended to minimize the occult crime of marriage.18 This study will eventually address that al-Banjari’s idea of kafa’ab is considered capable of fixing marital problems, such as believing that women are sold according to dowry or jujur.19 Suppose the marriage arrangement fails to comply with the family’s request, and the child’s choice is assumed to be based solely on appearance or content. In that case, this is often considered to be less critical since many divorces are exclusively due to economic factors. This paper is deemed worthy of addressing these issues. This research shows that in the theory of al-Banjari the idea of Kafa’ab will eradicate the impression of a coercive structure, as the focus is the relationship of faith between a person and his wife and his relatives, essentially. This is the way the kafa’ab works.

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

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

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

From Ibn Umar Radhiyallahu’anbuma that Muhammad Rasulullah Saw. Said: ”Arabs are equal to each other and mawali (former servants who have been freed) with each other, except the shamans and cupping workers.

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

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

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

The concept of Al-Banjari and *Kitab al-Nikah*

Syekh Muhammad Arsyad is from Martapura, South Kalimantan, Banjar. He was born in Lok Gabang on 17 March 1710, and died in DalamPagar, South Kalimantan, on 3 October 1812. *Sabi al-Muftadin li al-Tafaqqub fi Amriddin, Kitab Kanz al-Makrifah, Kitab Ushuluddin, Kitab Nuqtatul’Ijlan, Tuhfat al-Raqibin, Luqat al’Ijlan fi Bayan al-Haidwa Istihbada wa Nijas al-Niswan, al-Qawl al-Mukhtasar, and Kitab Fara’id* are among his works. Shaykh Muhammad Arshad al-Banjari composed *Kitab al-Nikah*, concentrating on marriage. According to Abu Daud, on 13 Safar 1289 H (1872 AD), the book was written in Banjar Jawi Arabic.\(^{22}\)

In general, as taught by the Prophet Muhammad and adapted to the Banjar community’s customs at that time, the book addresses the rule of marriage and its implementation. This book was written because, in the 17-18 century AD, it was based on the Banjar people’s situation. At that time, the Islamization system process was relatively new, so we needed a system to strengthen the values of sorrow in the Banjar culture.\(^{23}\)

The Concept of *Kafa’ah* According to al-Banjari

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

The quotes in the text of the book are:

Concerning the first ranking, al-Banjari stated:

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\text{بَرَمُول يَعُ مُعَمَّنُدَكَي كَوْفُو إِيَت فُرُفُوْن جَوَا تِيَادْ وَاكَيْ ۴ مُكَّ لَآكُمُ لُةَ فُكْرَال كَوْفُو}
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\text{هيِت لِيَمُ فُكْرَال:}
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First, safe from all the disgrace that caused him to be married to a khiar fasakh like mad or mingled brackets or celak or worn ringworm and cut off by his testicles and weak testicles, then a man who goes missing with one of these conditions is not a scholar with a woman who doesn’t exist. And women who have ever stood over a woman of the same type even with the disgrace of that man. The disgrace that blows khiar is like being blind and cutting off his hands and being evil in appearance, so there is no harm.

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

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

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

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

The third qualification of kafa’ab is nasab (descent). al-Banjari said:

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

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

The fourth qualification of kafa’ab is related to diversity (’iffah); al-Banjari explained that:

27al-Banjary, 27.
Fourth, instead of ‘iffah’ means not to work haram and that is the reason why there is no kufu of bad men and women who are not wicked, and there is no kufu of men who are bid’ab with women who are ablusunnah.

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

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

The fifth of kufu is birfah, which is the intelligence required by him is rizqi, so men who have low intelligence are not in line with women who have intelligence that is superior to them.

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

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

**Determination of Immateriality in Coercive Settlement**

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

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29al-Banjary, 28–29.
So it is clear that wealth is not or does not matter in Kafa’ah. Because the treasure can be lost and exists, someone who has a deep disposition and feelings will not make a problem with the wealth in his life.30

Wealth is not a matter in kafa’ah, according to Syekh Muhammad Arsyad al-Banjary. It is because wealth or property is like lost and found things. Richness is pomp or prestige among the world’s experts. Meanwhile, the person with a healthy (moral) character and a deep (strong) heart will not be proud of his money. So they do not challenge other people’s riches in kafa’ah.

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

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

Therefore, if each family member matches, particularly for the partner, the significant gain would be easier to achieve. The role of kafa’ah in marriage is, therefore substantial and essential. If each party understands each other, is open to each other, and respects each other, which comes with the nature of equilibrium and harmony between husband and wife, it can mitigate or even avoid conflict or household problems. If the definition of kafa’ah is well known, it will be imposed proportionally. Meanwhile, a rigid interpretation of the kafa’ah

30 al-Banjary, 30.
definition has repercussions for stabilization disruption. If so, it will not be right for you; it will do you harm and even damage.

**Conclusion**

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

There are still several flaws in this study, such as the matching model by pressuring girls to marry a variety of jujuran or the influence of jujuran on nominal matchmaking. The custom almost seems that women are sold at a high nominal price. They are going to deny it if it is too tiny. This recommendation can at least drive the next researchers’ ideas for improving the initial findings of al-Banjari Book of Kitab an-Nikah.

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