

Navigating Stigma and Discrimination: Betrothal Challenges Faced by Descendants of Leprosy in Madura, Indonesia

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Abstract

This article aims to uncover stereotypes against lepers and their descendants by impacting difficulties in finding a potential partner and the risk of being abandoned by a potential partner. This clearly cannot be underestimated and is part of the State and non-state actors' responsibilities in protecting human rights based on Islamic law. This article used ethnography as a methodology of research when dialogue and observation were used as research techniques. This study's findings revealed that the descendants of lepers were considered a threat to the survival of their descendants, so they got discriminatory treatment, exclusion, stigmatization, exile, and inequality which in turn could interfere with their dignity. The Dhohiri School had a different view out of the four Schools of Islamic law namely Hanafi, Maliki, Shafi'i, and Hanbali, where this School rejected divorce because of disability in any form. Dhohiri School had shown partiality and respect for the human rights of lepers and their descendants to engage in Betrothal and marriage without any discrimination, exclusion, stigmatization, banishment, or inequality of any kind. The alignment of the Dhohiri School is in line with the State and non-state actors' efforts to minimize the inhumane and terrible treatments of people with leprosy and their descendants.

Keywords: Discrimination; marriage rights; leprosy stigma; legal protection

Introduction

Lepers and their descendants in Ketapang, Sampang, Madura face discrimination, exclusion, stigmatization, and inequality. On one side, they want to be treated like everyone else. However, on the other side, Madura's Ketapang Community holds on to their understanding and tradition of avoiding marriage with lepers or their descendants. Madura's Ketapang Community worries and feels anxious if family members marry lepers or their descendants. If so they might give birth to a child with leprosy although this societal perspective contradicts the medical viewpoint, which highlights that this disease can be prevented and effectively treated. One of the rights possessed by lepers and their descendants is marriage, but stigmatization manifested through discriminatory treatment, exclusion, banishment, and inequality also aggravates the spiritual and psychological condition of persons and their family members. State actors can actively engage non-state actors¹ through community elders, religious leaders, neighbors, and health workers to minimize this inhumane and horrific treatment.² The actors need to educate the public about the existence of leprosy as a genetic³ disease that can be prevented and treated effectively by the administration of long-term multi-drug therapy.⁴ The actors can think about, express, and play important roles in the social care of people affected by leprosy. Leprosy tends to be contagious, and most can be inherited genetically or non-genetically. Currently, there are technological advances in genome sequencing and functional study approaches that can contribute substantially to dealing with leprosy and other common infectious diseases.⁵

Until 2021, the World Health Organization recorded the prevalence of leprosy in all countries in the world as 133,802 cases and the number of new cases registered as 140,594, while the prevalence in Indonesia was recorded at 12,316 cases, with 10,976 new cases registered.⁶ WHO and all members of the United Nations Security Council have been working together to achieve zero

¹ Ariyadi Ariyadi et al., "Moderation of Homosexual Fiqh in Indonesia: A Study of The Huzaemah Tahido Yanggo's Thought," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (December 1, 2022): 389, <https://doi.org/10.29240/jhi.v7i2.5462>.

² Ruth M. H. Peters et al., "The Meaning of Leprosy and Everyday Experiences: An Exploration in Cirebon, Indonesia," *Journal of Tropical Medicine* 2013 (2013): 1–10, <https://doi.org/10.1155/2013/507034>.

³ Andrea Alter et al., "Leprosy as a Genetic Disease," *Mammalian Genome* 22, no. 1–2 (February 2011): 19–31, <https://doi.org/10.1007/s00335-010-9287-1>.

⁴ Andrea Alter et al., "Leprosy as a Genetic Model for Susceptibility to Common Infectious Diseases," *Human Genetics* 123, no. 3 (April 2008): 227–35, <https://doi.org/10.1007/s00439-008-0474-z>.

⁵ Geison Cambri and Marcelo Távora Mira, "Genetic Susceptibility to Leprosy—From Classic Immune-Related Candidate Genes to Hypothesis-Free, Whole Genome Approaches," *Frontiers in Immunology* 9 (July 20, 2018): 1674, <https://doi.org/10.3389/fimmu.2018.01674>.

⁶ World Health Organization = World Health Organization, "Weekly Epidemiological Record, 2022, Vol. 97, 36 [Full Issue]," *Weekly Epidemiological Record = Relevé Épidémiologique Hebdomadaire* 97, no. 36 (September 9, 2022): 429–52.

cases of leprosy in the year range of 2021–2030.⁷ This decision was made to minimize discrimination, exclusion, stigmatization, banishment, and inequality experienced by lepers and their descendants. The existence of lepers and their descendants are considered a vulnerable group that should get protection for their human rights from State actors and non-state actors.⁸ Therefore, the Government of the Republic of Indonesia has made efforts to contribute to striving for zero leprosy cases 2021–2030 through the Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2019 concerning Leprosy Management.

Marriage preceded by a Betrothal procession is an institution that is respected and considered important by Indonesian society, especially for individuals who are Muslim to ensure the continuity of community life. Marriage is considered a sacred institution for Madurese society which is predominantly Muslim.⁹ Islamic law pays special attention to individuals who suffer from several diseases such as albinism, madness, leprosy, impotence, frigidity, and vaginismus. There is a sharp difference between Islamic legal opinions on this matter, the four Schools of Islamic law namely Hanafi,¹⁰ Maliki,¹¹ Syafi'i,¹² and Hanbali¹³ agree that divorce can occur due to disability, this is by the *maqasid shari'ah* in marriage. Meanwhile, Dhohiri School rejects divorce because of disability in any form.¹⁴

Historically, lepers could marry others even though they lived in remote buildings.¹⁵ This norm is taken by the extended family through joint decision-making carried out in the hope that it can contribute to the possibility of

⁷ World Health Organization, *Towards Zero Leprosy. Global Leprosy (Hansen's Disease) Strategy 2021–2030* (New Delhi: WHO Regional Office for South-East Asia, 2021).

⁸ Guidelines Development Group, External Review Group, & WHO Steering Group, *Guidelines for the Diagnosis, Treatment and Prevention of Leprosy* (New Delhi: World Health Organization, 2018), 13.

⁹ Mohammad Hidayaturrahman, "Integration of Islam and Local Culture: Tandhe' in Madura," *Miqot: Jurnal Ilmu-ilmu Keislaman* 42, no. 1 (25 Agustus 2018): 189, <https://doi.org/10.30821/miqot.v42i1.477>.

¹⁰ Muhammad ibn Abd al-Wahid kamaluddin Ibn al-Hammam, *Syarh Fath Al-Qadir Ala al-Hidayah*, vol. 4 (Beirut: Dar al-Fikr, n.d.), 403.

¹¹ Muhammad ibn Ahmad ibn Muhammad ibn Ahmad Ibn Rusyd al-Hafid, *Bidayat Al-Mujtabid Wa Nibayat al-Muqtasid*, vol. 2 (Qahirah: Dar al-Hadits, 2004), 41.

¹² Yahya ibn Syarf Abu Zakaria al-Nawawi, *Al-Majmu' Syarh Mubadzdzab*, vol. 16 (al-Qahirah: Idarah al-Thiba'ah al-Muniriyyah, 1344), 256.

¹³ Abdullah ibn Ahmad ibn Muhammad Ibn Qudamah, *Al-Mughni*, vol. 7 (Riyadh: Dar Alam, 1997), 603.

¹⁴ Ali ibn Ahmad ibn Sa'id Ibn Hazm, *Al-Muballa Bi al-Atsar*, vol. 10 (Beirut: Dar al-Fikr, n.d.), 58.

¹⁵ Michael W. Dols, "The Leper in Medieval Islamic Society," *Speculum* 58, no. 4 (October 1983): 891–916, <https://doi.org/10.2307/2853789>.

rejection.¹⁶ Regardless of the period or region, leprosy has a profound impact based on their life experiences and their descendants' residence, including in Ketapang, such as interfering with mobility, interpersonal relationships, difficulties in finding a partner,¹⁷ marriage,¹⁸ work, recreational activities, and participation in social and religious activities. This far-reaching social impact eventually led lepers and their descendants to choose to avoid health care. In the later stages, lepers and their descendants, especially the poor, experienced a lack of treatment, deteriorating health, deteriorating socio-economic status, and the emergence of social inequality.¹⁹

Descendants of lepers who received discriminatory treatment from Madura's Ketapang Community tried to fight to protect their right to perform Betrothals.²⁰ The ethnographic data above shows that they experience conditions of stress, disappointment, depression, and heartache. This is a continuous accumulation of the results of public knowledge and beliefs, family pressure of prospective fiancées, and the state of illness suffered by their families. They hope that the community will remove the stigma of leprosy. But instead of getting support, they then do things that add to the chaos occurring in Madura's Ketapang Community. This is in contradiction with human rights, which universally uphold human dignity.²¹ This localized study can illustrate the dynamics of culture and society in understanding lepers and their descendants. Violence and violations of human rights still occur, and this is a global issue that still overshadows the realization of broader human rights protection.

The current study is field research,²² using an ethnographic methodological framework to collect and interpret data on 3 (three) Betrothals carried out by descendants of lepers in Sampang Regency, Madura, East Java.

¹⁶ J.Dennis Mull et al., "Culture and 'Compliance' among Leprosy Patients in Pakistan," *Social Science & Medicine* 29, no. 7 (January 1989): 799–811, [https://doi.org/10.1016/0277-9536\(89\)90079-8](https://doi.org/10.1016/0277-9536(89)90079-8).

¹⁷ Anna T. Van 'T Noordende et al., "The Impact of Leprosy on Marital Relationships and Sexual Health among Married Women in Eastern Nepal," *Journal of Tropical Medicine* 2016 (2016): 1–9, <https://doi.org/10.1155/2016/4230235>.

¹⁸ Hunegnaw Ayele, "Leprosy Stigma and Its Effect on the Marriage Experience of Leprosy Affected People and Their Descendants: The Case of Addis-Tesfa Hiwot Settlements in Ethiopia," *Leprosy Review* 93, no. 2 (June 1, 2022): 149–60, <https://doi.org/10.47276/lr.93.2.149>.

¹⁹ Omobolanle Kazeem and Temitayo Adegun, "Leprosy Stigma: Ironing out the Creases," *Leprosy Review* 82, no. 2 (June 1, 2011): 103–8, <https://doi.org/10.47276/lr.82.2.103>.

²⁰ William Mac Arthur, "Medieval 'Leprosy' In The British Isles," *Leprosy Review* 24, no. 1 (1953), <https://doi.org/10.5935/0305-7518.19530002>.

²¹ Fitrawati Fitrawati, "Diskursus Perkawinan Beda Agama Di Indonesia Dalam Tinjauan Universalisme HAM Dan Relativisme Budaya," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 1 (June 21, 2021): 131, <https://doi.org/10.31958/juris.v20i1.2825>.

²² Cati Coe, "Learning How to Find Out: Theories of Knowledge and Learning in Field Research," *Field Methods* 13, no. 4 (November 2001): 392–411, <https://doi.org/10.1177/1525822X0101300405>.

The location of the study was in Ketapang District, where the subject of the study was the descendants of lepers.²³ Data were collected over 9 months (July 1, 2021-April 20, 2022) through observation and interactive dialogue between the ethnographer and the subject under study, which in the end reflexivity was presented in the form of a description of the ethnographer's ideas and experiences.²⁴ Dialogue, as well as observation, had made it easier for the researchers to obtain information from research subjects.²⁵ The subjects consisted of 3 (three) respondents namely A1, B1, and C1, and 5 (five) informants namely P1, KH, P2, S5, and KY. In this research, They were demanded to articulate and explain their daily social life.

This article used a legal anthropology perspective to explore society's ways of creating laws that prohibit marriage with lepers and their descendants, thus shaping social behavior. This exploration is carried out through a social science approach, Islamic law, national law, and human rights. Data were obtained through the method of observation and interactive dialogue. Anthropology provides a lens to view societal issues. It enabled us not only to critique the prevailing laws within society but also to envision a path towards a better world. This article used an anthropological analysis to understand, criticize, and create alternatives to societal understanding and tradition. Therefore, ethnographers must have research ethics by requiring awareness of a balanced and equal relationship to the subjects under study. Ethnographers should display pleasant behavior and familiarity with the research subjects. This was intended to show concern and empathy for them. This article aims to address the stereotypical descriptions of knowledge and experiences among the descendants of lepers. It provides an overview of the negotiations and strategies undertaken by descendants of lepers to overcome difficulties in finding potential partners and the risk of being abandoned by potential partners. This article does not mention the names or initials of research subjects to maximize confidentiality. Such identities are replaced with capital letters and numbers, for example, A1, B1, C1, and so on. The use of triangulation is an important aspect of data synthesis to establish contextually rich and representative articulations of what is being studied.²⁶ The nature of data analysis in this article is iterative and unstructured, which by description refers to telling and describing data as facts. Analytics refers to the process of examining relationships, factors, and linkages

²³ "Profil Kesehatan Kabupaten Sampang Tahun 2021," n.d., <https://dinkes.sampangkab.go.id/wp-content/uploads/2022/08/Profil-Kesehatan-Kabupaten-Sampang-Tahun-2021.pdf>.

²⁴ Allan Hegelund, "Objectivity and Subjectivity in the Ethnographic Method," *Qualitative Health Research* 15, no. 5 (May 2005): 647–68, <https://doi.org/10.1177/1049732304273933>.

²⁵ HS Salim and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi* (Jakarta: PT. Raja Grafindo Persada, 2014), p. 25.

²⁶ Norman K. Denzin, *The Research Act: A Theoretical Introduction to Sociological Methods* (Somerset: Taylor and Francis, 2009).

across data points. Finally, data interpretation builds understanding or explanation of data beyond data points and analysis.²⁷

Discussion

Unveiling Leprosy's Shadows: Stigma, Betrothal, and Legal Perspectives in Madura's Ketapang Community

The islands of Java and Madura were once the locations of the spread of leprosy with the number of patients reaching thousands of patients.²⁸ Leprosy in the terminology of Javanese and Madurese people is *Daging Jube'* (in Madurese), *Budbuk* (in Javanese and Madurese), *Judem* or *Baros* (mentioned in Madura area).²⁹ Statistics show a decrease in the number of people in the last three years.³⁰

Ketapang is a sub-district in Sampang Regency, Madura located on the coast of the Java Sea, where people still consider leprosy to be a curse disease and can endanger the health of a community. Ketapang was chosen as a research area due to the stigma and exclusion faced by lepers and their descendants,³¹ where the community tried to exclude lepers from social associations through various ways, one of which was through Kyai institutions. Especially Kyai who was domiciled in the countryside did not hesitate to rely on hadith quotes of the Prophet Muhammad SAW. As a result, people likely prefer to behave carefully in their daily social lives with lepers. These lepers were discriminated against, ostracized, stigmatized, and treated unequally in Madura's Ketapang Community. In the community, people have internalized the threat and danger of curses and the transmission of leprosy, so that it can affect the way of thinking, acting, and behaving.³²

²⁷ Scott Reeves et al., "Ethnography in Qualitative Educational Research: AMEE Guide No. 80," *Medical Teacher* 35, no. 8 (August 2013): e1365–79, <https://doi.org/10.3109/0142159X.2013.804977>.

²⁸ Leo van Bergen, *Uncertainty, Anxiety, Frugality: Dealing with Leprosy in the Dutch East Indies, 1816-1942*, History of Medicine in Southeast Asia Series (Singapore: NUS Press, 2018), p. 174.

²⁹ "Elimination Of Discrimination Against Leprosy Affected Persons And Heir Family Members," n.d., <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/AdvisoryCom/Leprosy/PerMaTaNationalIndonesia.doc>.

³⁰ "Profil Kesehatan Kabupaten Sampang Tahun 2021."

³¹ Yosi Marin Marpaung, Ernawati Ernawati, and Agatha Tunjung Dwivania, "Stigma towards Leprosy across Seven Life Domains in Indonesia: A Qualitative Systematic Review," *BMJ Open* 12, no. 11 (November 2022): e062372, <https://doi.org/10.1136/bmjopen-2022-062372>.

³² Nurul Huda, "Pandangan masyarakat terhadap penyandang degging budbuk dalam perkawinan: Studi kasus di masyarakat Desa Ketapang Laok, Kecamatan Ketapang, Kabupaten Sampang" (Universitas Islam Negeri Maulana Malik Ibrahim Malang, 2011); Dina Dwikurniarini dan Ita Mutiara Dewi, "Penyakit Kusta Di Bangkalan Pada Abad Ke-20," *Mozaik: Kajian Ilmu Sejarah* 9, no. 1 (2018).

The information gathered suggests that there are feelings of discrimination, exclusion, and stigmatization when one of the lepers' descendants wants to enter a Betrothal. Moreover, there is a practice of ostracizing marriage for other family members. This is because there is still a community assumption about each lineage as a potential carrier of leprosy. A1,³³ P1,³⁴ and KH³⁵ shared an experience of rejection from the family of the fiancée:

“In 2020, P1 as an uncle of A1's fiancée (a woman) who lives in Sampang City asked the father of A1's fiancée to cancel the Betrothal. P1 reasoned that A1 had a relative who had leprosy. P1 reasoned that A1 was the nephew of a sufferer of leprosy. P1 attempted to force the Father of A1's fiancée to believe the reason and insisted that the Betrothal be canceled because A1's fiancée would not have descendants suffering from leprosy. The father of A1's fiancée conducted a family deliberation and concluded that the Betrothal should be canceled. The family of A1's fiancée appointed KH as the representative of the family to call off the Betrothal. KH was willing and visited A1's house. KH interceded with A1's fiancée's family to convey the cancellation of the Betrothal as well as an apology and reasoned that A1's fiancée still focused on studying at the Islamic Boarding School.”

Regardless of people's attitudes and reactions, people say leprosy is a legal reason for ending Betrothals. This is as told by B1.³⁶

“B1 attempted to pay a visit to the family of B1's fiancée (a woman) to request Betrothal. At first, the family of B1 fiancée accepted B1's good intentions, but after the family of B1 fiancée asked the residents around B1's house, the family of B1 fiancée got information about the history of leprosy owned by B1's biological father. The family of B1's fiancée tried to reject B1's Betrothal intentions, the family of B1's fiancée assumed that B1's father had long been ostracized by Madura's Ketapang Community because of the disease he suffered, so if B1 and B1 fiancée Betrothal went ahead, the family of B1 fiancée were worried about the impact of this descendants who could contract leprosy”.

Another story is also told by C1,³⁷ P2,³⁸ and S5.³⁹

³³ A1, a Leper Descendant, *Summarized the results of dialogues with respondents*, 25 September 2021;

³⁴ P1, the Uncle of A1's fiancée, *Summarized the results of dialogues with informants*, 10 October 2021.

³⁵ KH, the representative of A1's fiancée family, *Summarized the results of dialogues with informants*, 11 October 2021.

³⁶ B1, a Leper Descendants, *Summarized the results of dialogues with respondents*, 7 October 2021.

³⁷ C1, a Leper Descendants, *Summarized the results of dialogues with respondents*, 12 January 2022.

³⁸ P2, Uncle of C1, *Summarized the results of dialogues with informants*, 15 December 2021.

“C1 is the biological son of a woman who has leprosy. C1 met C1 fiancée (a woman) from Ketapang Degeh Village when C1 and C1 fiancée were working together as Indonesian workers in Malaysia in 2004, C1 and C1 fiancée decided to date. P2 (Uncle of C1) and C1 expressed their intention to marry C1's fiancée through her uncles and aunts in one of her uncle's rented houses. After C1 returned home from her uncle's rented house, her uncles and aunts deliberated to determine the acceptance or rejection of C1's application before it was conveyed to C1's fiancée's parents who were in Indonesia. There was a dynamic in the family deliberative event. Some of C1's fiancée's family have accepted C1's proposal, but some of C1's fiancée's family rejected the proposal because they both thought C1 had no manners, C1 was a descendant of a mother who suffered from leprosy. S5 (one of C1's fiancée's uncle) who is a squirrel *blater* insisted that his family reject C1's proposal.”

The results of the dialogue showed that leprosy is a disease that significantly endangers both betrothal and marital relationships. This finding shows that some of the main problems of leper descendants are affected in refusing or maintaining marriage. As in the literature of Islamic law, there are several opinions about divorce that can occur because of disability. This disability is categorized as something that prevents sexual relations between husband and wife. Disability can also prevent the *maqasid shari'ah* of marriage from achieving *sakinah, mawaddah* and *rahmah*.⁴⁰ Several opinions of the companions of the Prophet Muhammad (SAW) indicate the possibility of divorce occurring due to disability, such as:

وَعَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ عُمَرَ بْنَ الْخَطَّابِ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: أَيُّمَا رَجُلٍ تَزَوَّجَ امْرَأَةً فَدَخَلَ بِهَا فَوَجَدَهَا بَرِصًا، أَوْ مَجْنُونَةً، أَوْ مَجْدُومَةً فَلَهَا الصَّدَاقُ بِمَسِيئِهِ إِيَّاهَا، وَهُوَ لَهُ عَلَى مَنْ غَرَّهُ مِنْهَا^{٤١}.

From Said bin al-Musayyab that 'Umar bin al-Khattab (RA) said: "If any man marries a woman and after sleeping with her finds that she is affected with leprosy or insane, she gets her dowry (if he divorces her) for having intercourse with her, and it is returned to him from the one who has deceived him with her.

وَحَدَّثَنِي عَنْ مَالِكٍ أَنَّهُ بَلَغَهُ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ: أَيُّمَا رَجُلٍ تَزَوَّجَ امْرَأَةً، وَبِهِ جُنُونٌ، أَوْ صَرْرٌ، فَإِنَّهَا تُخَيَّرُ. فَإِنْ شَاءَتْ قَرَّتْ. وَإِنْ شَاءَتْ فَارْقَتْ.^{٤٢}

³⁹ S5, the Uncle of C1's fiancée, *Summarized the results of dialogues with informants*, 5 January 2021.

⁴⁰ Ibnu Elmi Acmad Slamet Pelu et al., “Sex Recession Phenomenon from the Perspective Maqashid Sharia Based on Objectives Marriage Law in Indonesia,” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (May 30, 2022): 39, <https://doi.org/10.29240/jhi.v7i1.4204>.

⁴¹ Muhammad bin Ismail al-Shanani, *Subul Al-Salam Syarh Bulugh al-Maram* (Qahirah: Dar al-Hadits, 1997), Juz 3, 199.

Yahya related to me from Malik that he had heard that Said ibn al-Musayyab said that if a man married a woman, and he was insane or had a physical defect, she had the right to choose. If she wished she could stay, and if she wished she could separate from him.

There are two differences of opinions on this matter, namely scholars who allow and who reject divorce that can occur because of disability.

Scholars' opinion that divorce can occur because of disability

Hanafi, Maliki, Syafi'i dan Hanbali Schools: Scholars agree that divorce can occur because of disability	Dhohiri school: Scholars disagree that divorce can occur because of disability
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Scholars from the four Schools namely Hanafi,⁴³ Maliki,⁴⁴ Syafi'i,⁴⁵ and Hanbali⁴⁶ agree that divorce can occur because of disability. They argue that this is by the *maqasid shari'ah* in marriage. However, they have different criteria for determining disability, namely: first, the Hanafi School explains that there is no *khiyar* for women when they encounter their husbands who have albinism, madness, or leprosy. He reasoned that there is no *khiyar* right for women to cancel their husbands' rights because of the three diseases above, but *khiyar* can arise because of aspects of impotence and frigidity.⁴⁷ Second, Muhammad bin al-Hasan who was a disciple of Abu Haneefa stated that there is a *khiyar* right for women to cancel the right of their husbands because of the three diseases above as *khiyar* can arise because of aspects of impotence and frigidity. *Khiyar* rights are obtained by women as a form of preventive measure to prevent damage to themselves. In the end, the Hanafi School agreed that there is no right of *khiyar* for husbands to meet their wives who suffer from albinism, madness, and leprosy because the husband can prevent damage for himself through the institution of divorce.⁴⁸ Third, Maliki,⁴⁹ Syafi'i,⁵⁰ and Hanbali⁵¹ Schools state that there is a right of *khiyar* for husbands when they encounter their wives who have albinism, madness, leprosy, and vaginismus as a hook for reproductive organs and urinary tract and *khiyar* rights for wives when they meet their husbands who have albinism, madness, leprosy, impotence and frigidity.

⁴² Malik Ibn Anas, *Al-Muwaththa'* (Abu Dhabi: Muassasah Zaid bin Shulthan Ali Nahyan li al-A'mal al-Khairiyyah wa al-Insaniyyah, 2004), Juz 4, 808.

⁴³ Ibn al-Hammam, *Syarb Fath Al-Qadir Ala al-Hidayah*, vol. 4, 403.

⁴⁴ Ibn Rusyd al-Hafid, *Bidayat Al-Mujtabid Wa Nibayat al-Muqtasid*, vol. 2, 41.

⁴⁵ al-Nawawi, *Al-Majmu' Syarb Mubadzdzab*, vol. 16, 256.

⁴⁶ Ibn Qudamah, *Al-Mughni*, vol. 7, 603.

⁴⁷ Ali bin Abi Bakr bin Abd al-Jalil al-Marghinani, *Al-Hidayat Fi Syarb Bidayat al-Mubtadi*, vol. 6 (Beirut: Dar Ihya' al-Turats al-'Arabi, n.d.), 62.

⁴⁸ al-Marghinani.

⁴⁹ Ibn Rusyd al-Hafid, *Bidayat Al-Mujtabid Wa Nibayat al-Muqtasid*, vol. 2, 41.

⁵⁰ al-Nawawi, *Al-Majmu' Syarb Mubadzdzab*, vol. 16, 256.

⁵¹ Mansyur bin Yunus bin Idris al-Buhuti, *Kayf Al-Qana' 'an Matn al-Iqna'*, vol. 5 (Beirut: Dar al-Fikr, 1968), 105.

 Different criteria in determining disability that causes khiyar

Hanafi School: no khiyar for women when they encounter their husbands who have albinism, madness, or leprosy, but khiyar can arise because of aspects of impotence and frigidity	Muhammad bin al-Hasan Haneefa: khiyar right for women to cancel the right of their husbands because of albinism, madness or leprosy, impotence, and frigidity. Hanafi School agreed that there is no right of khiyar for husbands to meet their wives who suffer from albinism, madness, and leprosy because the husband can prevent damage for himself through the institution of divorce	Maliki, Syafi'i dan Hanbali School: a right of khiyar for husbands when they encounter their wives who have albinism, madness, leprosy, and vaginismus as a hook for reproductive organs and urinary tract and khiyar rights for wives when they meet their husbands who have albinism, madness, leprosy, impotence, and frigidity
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Scholars of the four Schools who agree on divorce that can occur because of disability use the following propositions:

1. Such as verse 189 of Surah al-A'raf:

هُوَ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَجَعَلَ مِنْهَا زَوْجَهَا لِيَسْكُنَ إِلَيْهَا فَلَمَّا تَغَشَّهَا حَمَلَتْ حَمْلًا خَفِيمًا فَمَرَّتْ بِهِ ۖ فَلَمَّا أَثْقَلَتْ دَعَوَا اللَّهَ رَبَّهُمَا لَئِنْ آتَيْنَا صَالِحًا لَتَكُونَنَّ مِنَ الشَّاكِرِينَ

It is He who created you from one soul and created from it its mate that he might dwell in security with her. And when he covers her, she carries a light burden and continues therein. And when it becomes heavy, they both invoke Allah, their Lord, "If You should give us a good [child], we will surely be among the grateful.

Such as verse 21 of Surah al-Rum:

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

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, those are signs for people who give thought.

These two verses show that *maqasid shari'ah* in marriage is for the attainment of *sakinah*, *mawaddah*, and *rahmah* between husband and wife. If there is a disability that hinders the *maqasid shari'ah* in marriage such as the obstruction of obtaining descendants and the harmony of sexual relations, the

obstacles that can result in the occurrence of domestic violence⁵² in any form must be removed.⁵³

2. Hadith

وعن زيد بن كعب بن عجرة، عن أبيه قال: تزوج رسول الله - صلى الله عليه وسلم - العالية من بني غفار، فلما دخلت إليه ووضعت ثيابها رأى بكشحها بياضًا، فقال: "البيسي ثيابك والحقي بأهلك". وأمر لها بالصدق.⁵⁴

Narrated Zaid bin Ka'b bin 'Ujrah on his father's authority: 'Allah's Messenger married al-'Aaliyah of Banu Ghifar. When she entered in his presence and he removed her clothes, he saw whiteness (of leprosy) around her waist area and the Prophet said: "Put on your clothes and return to your family." He ordered her dowry to be given to her.

This hadith shows the act of the Prophet (peace be upon him) who returned the married woman to her family because of albinism. This hadith is considered by Ibn Hajar as a dhoif hadith.⁵⁵

While other opinions from the scholars of the Dhohiri School point to no divorce that can occur because of any disability in any form from both men and women. Ibn Hazm uses the following postulates:

1. Ibn Hazm argued:

ومن تزوج امرأة فلم يقدر على وطئها - سواء كان وطئها مرة أو مرارا أو لم يطأها قط - فلا يجوز للحاكم ولا لغيره أن يفرق بينهما أصلا، ولا أن يؤجل له أجلا، وهي امرأته - إن شاء طلق وإن شاء أمسك.⁵⁶

If a man marries a woman and this man is unable to have sex with her – whether this man has had sex with her once or repeatedly or not at all, then it is not permissible for the judge or anyone else to separate the couple, or to delay the time for her, in which she remains his wife – it is ultimately up to this man to divorce or continue his marriage.

2. Sunnah

حَدَّثَنَا سُفْيَانُ عَنْ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ. قَالَتْ: جَاءَتِ امْرَأَةٌ رِفَاعَةَ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: كُنْتُ عِنْدَ رِفَاعَةَ. فَطَلَّقَنِي فَبِتَّ طَلَّاقِي. فَتَزَوَّجْتُ عَبْدَ الرَّحْمَنِ بْنَ الزَّيْبِرِ. وَإِنَّ مَا مَعَهُ مِثْلُ هُدْبَةِ الثَّوْبِ. فَتَبَسَّمَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. فَقَالَ: "أَتُرِيدِينَ أَنْ تَزَجِعِي إِلَى رِفَاعَةَ؟ لَا. حَتَّى تَدُوْقِي عَسِيْلَتَهُ وَيَدُوْقَ عَسِيْلَتِكَ". قَالَتْ: وَأَبُو

⁵² Jumni Nelli, "The Problems of Siri Marriage for Women in Tambang District, Kampar Regency: A Gender Swot Analysis Study," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (December 1, 2022): 569, <https://doi.org/10.29240/jhi.v7i2.4740>.

⁵³ Isma'il ibn 'Umar abu al-Fida' Ibn Katsir, *Tafsir Al-Qur'an al-'Adhim*, vol. 6 (Beirut: Dar al-Kutub al-'Ilmiyah, 1419), 277-278.

⁵⁴ Ahmad ibn Ali ibn Muhammad ibn Ahmad Ibn Hajar al-'Asqalani, *Bulugh Al-Maram Min Adillat al-Abkam* (al-Riyadh: Dar al-Falaq, 1424), 307.

⁵⁵ Ibn Hajar al-'Asqalani.

⁵⁶ Ibn Hazm, *Al-Muhalla Bi al-Atsar*, vol. 10, 59.

بَكَرٍ عِنْدَهُ. وَخَالِدٌ بِالْبَابِ يَنْتَظِرُ أَنْ يُؤَدَّنَ لَهُ. فَنَادَى: يَا أَبَا بَكْرٍ! أَلَا تَسْمَعُ هَذِهِ مَا تَجْهَرُ بِهِ عِنْدَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ!⁵⁷

Narrated Sufyan a hadith from al-Zubri, from 'Urwah, from 'Aisha, he said: Rifa'ah's ex-wife came to see the Prophet (peace be upon him) and said: I used to be the wife of Rifa'ah, then Rifa'ah divorced me so that I was separated and could not reconcile anymore. Then I married 'Abdur-Rahman ibn al-Zubayr, but what was with him was like the end of an unwoven cloth. The Prophet (peace be upon him) smiled and said: "Do you want to return to Rifa'ah? No, until you taste a little of his honey and he tastes a little of yours." Aisha said: Abu Bakr was near her, while Khalid was outside the door waiting to be let in. Then Khalid exclaimed: O Abu Bakr, did you not hear this woman of what she said before the Prophet (peace be upon him) in a loud voice?!

Ibn Hazm understood this hadith that Rifa'ah's ex-wife was married to 'Abdurrahman bin al-Zubayr, but they had never had sexual intercourse at all, this ex-wife of Rifa'ah complained to the Prophet (peace be upon him). To divorce 'Abdurrahman bin al-Zubayr to reconcile' with Rifa'ah who was the first husband, but the Prophet (peace be upon him) forbade it. The arguments used by scholars who approve of divorce due to disability are included in the hadith categorized as dhoif.⁵⁸

The disagreement of the Dhohiri School regarding divorce that can occur due to disability, when viewed in the context of the state, is in line with the mandate of the constitution through the 1945 Constitution which instructs the State to protect the human rights of all citizens without discrimination, as stated in Article 28B paragraph (1) and (2), Article 28G paragraph (1), Article 28I paragraph (2) and (4). Specifically, the state protects persons with disabilities, including those with leprosy, in their rights to marry and to find a family, as stipulated in In the Republic of Indonesia's Law Number 39 of 1999 concerning Human Rights, Article 10, paragraphs (1) and (2); Law Number 8 of 2016 concerning Persons with Disabilities, Article 8, letter b; Law Number 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities (Convention on the Rights of Persons with Disabilities).

Unfortunately, the state's support for persons with disabilities, including those with leprosy has not been accompanied by changes in the norms of Republic of Indonesia's Law Number 1 of 1974 on Marriage, Article 39 paragraph (2) letter e, which contains reasons related to disabilities that can be used as a basis for divorce. The state should promptly make changes to the norms in Article 39 paragraph (2) letter e, just as the norms were changed in Article 7 of the Republic of Indonesia's Law Number 1 of 1974 on Marriage, which sets a minimum age limit of 19 years for both males and females to enter

⁵⁷ Muslim bin al-Hajjaj Abu al-Husayn, *Shahih Muslim*, vol. 2 (Beirut: Dar Ihya' al-Turats, 1955), 1055.

⁵⁸ Ibn Hazm, *Al-Muhalla Bi al-Atsar*, Juz 10, 59.

into marriage, as stipulated in Republic of Indonesia's Law Number 16 of 2019 on Amendments to Republic of Indonesia's Law Number 1 of 1974 on Marriage. This change in norms will demonstrate the state's serious commitment to providing human rights protection to persons with disabilities.

The data above, illustrates that families who refuse engagement and marriage are in emotional situations that escalate because they are concerned about leprosy. Their understanding, when analyzed using *sadd al-dzariyah*, is part of rational practices for individuals or communities who experience concerns about leprosy. *Sadd al-dzariyah* is an effort made either intentionally or not to resist, avoid or prevent actions that have the possibility of causing damage, loss, or disability.⁵⁹ Their understanding is also shaped by antecedent conditions that trigger a behavior of a temporary nature and then gradually have a proximal possibility.⁶⁰ Society seeks to evade profit, protect interests, social order, and the welfare of individuals and society.

While Islamic law seeks to promote the values of justice, equality, and non-discrimination, people have different choices regarding the legitimacy of marriage annulment due to leprosy. This pluralism of Islamic law describes the strong interaction among various parties in deciding a legal act according to their interests, needs, and benefits.⁶¹ The differences of opinion among Islamic legal scholars indicate that they are trying to think of preventive measures against the dangers of leprosy by minimizing the risk of transmission. *Sadd al-dzariyah* appears in his opinion that scholars allow divorce because of leprosy.

The findings of these data suggest that the rejection of betrothal to lepers and their descendants by families through repressive attitudes creates conflicts that could have been avoided. They should be positive and open in rejecting engagement to show a sense of justice and equality. The principle of non-discrimination and rejecting stigma should be the major factors in maintaining social order in society. Society and individuals should not merely reject betrothal to lepers and their descendants but still maintain one of the *maqasid shari'ah* values, which is to protect honor and dignity (*hifz al-'Ird*).⁶²

From the perspective of human rights, the findings of the above data show that there is a pattern of discrimination in alarming conditions and

⁵⁹ Muhammad al-Habib ibn al-Khujah, *Muhammad Thabir Ibn 'Asyur wa Kitabuhu Maqashid al-Syari'ah baina 'Imay Ushul al-Fiqh wa al-Maqashid* (Qatar: Wizarah al-Awqaf wa al-Syu'un al-Islamiyyah, 2004), Juz 2, 35.

⁶⁰ Kate Walker et al., "Desistance From Intimate Partner Violence: A Conceptual Model and Framework for Practitioners for Managing the Process of Change," *Journal of Interpersonal Violence* 30, no. 15 (September 2015): 2726–50, <https://doi.org/10.1177/0886260514553634>.

⁶¹ Laura Nader and Jr. Todd, "Introduction: The Disputing Process," in *The Disputing Process—Law in Ten Societies*, ed. Laura Nader and Harry F. Todd (Columbia University Press, 1978), 1–40, <https://doi.org/10.7312/nade93322-004>.

⁶² Jasser Auda, *Membumikan hukum Islam: melalui maqasid syariah, Terjemahan Rosidin dan Ali Abd el-Mun'im*, Cetakan 1 (Bandung: Mizan, 2015), 57.

situations, and there is also a violation of the rights of lepers and their descendants in determining their spouses freely and independently without intervention from anyone. State and non-state actors shall be present in resolving violations of the Universal Declaration of Human Rights in Article 16; International Covenant on Economic, Social and Cultural Rights in Article 10 (1); and the Republic of Indonesia's Law Number 8 of 2016 on Persons with Disabilities in Article 8.

Lepers and their descendants have equal human rights and non-discrimination in determining their spouses, discriminatory attitudes described by families who reject engagement are a form of direct disability discrimination. It is clearly and manifestly prohibited by the Universal Declaration of Human Rights without any multiple interpretations. This violation of the right to autonomy and dignity is contrary to the principle of equality and non-discrimination that every citizen must uphold. Lepers and their descendants are guaranteed in terms of the protection of rights to family life in Article 23 of the Universal Declaration of Human Rights. The ability of state actors and non-state actors is expected to influence people's attitudes and behaviors toward eliminating stigma, labels, and stereotypes about lepers and their descendants by promoting awareness, education, and legal aid services.

Understanding Reactions of Leper Descendants and a Multifaceted Analysis for Comprehensive Prevention

The information gathered shows that leper descendants reacted to the rejection of betrothal, as A1,⁶³ and KH⁶⁴ recount:

“A1 family does not necessarily trust KH who is the intermediary of the A1 fiancée family, A1 family assumes that KH has made a deliberately fabricated excuse to cancel the Betrothal. At a later stage, the A1 family did not accept the reason for this cancellation and started making fun of KH as a disseminator of information if the A1 family was leprosy. A1's family asked KH for a dialogue regarding the cancellation of the Betrothal. A1 family considers that this cancellation has hurt the dignity and dignity of the family. A1's family has a plan to carbid and kidnap A1's fiancée but KH tries to prevent this kidnapping from happening because it will cause unrest and arguments. KH took the initiative to explain to the family of A1's fiancée about the condition of A1 family's leprosy, according to the examination from the Ketapang District Health Center showed that A1 was free from leprosy. For this reason, then the Betrothal procession of A1 and A1 fiancée was finally able to take place.”

⁶³ A1, a Leper Descendants, *Summarized the results of dialogues with respondents*, on 25 of September 2021.

⁶⁴ KH, the representative of A1's fiancée family, *Summarized the results of dialogues with informants*, on 11 of October 2021.

Other reactions are shown by B1⁶⁵ and KY⁶⁶:

“In mid-2018, B1's fiancée, who had already wanted to marry B1, was then desperate to leave his residence without asking permission from his parents. B1 fiancée's parents were panicked by B1 fiancée's recklessness, B1 fiancée's parents went to KY who was Kyai in his village to ask for advice on B1 fiancée's departure. KY tries to calm them down while being committed to solving the case. Parents of B1 fiancée are not allowed to contact the squirrel blater, for fear of blackmail. KY then looked for information about B1's fiancée's whereabouts, it turned out that B1's fiancée ran away from home by inviting B1. B1 and B1's fiancée both stayed at B1's uncle's house in Kamal District, Bangkalan Regency, Madura. KY took the initiative to call Kyai to marry B1 and B1's fiancée with the consent of both families to reduce the turmoil that occurred in Ketapang Laok Village. B1 and B1 fiancée did not perform the marriage before the head of the Office of Religious Affairs.

After marriage, B1 and B1's fiancée were allowed to live temporarily at B1's uncle's house, until the people of Ketapang Laok Village eased their anxiety. Marriage in this vague way is seen as something shameful and troubling in Madura's Ketapang Community. The community assumes that an incident like this will be an example to its community members. Even a cousin from B1's fiancée planned to invite *Carok* and threatened to kill and injure me because B1 was desperate to marry B1's fiancée, this has trampled on the self-esteem of the people of Ketapang Laok Village. However, the public managed to ease her cousin's emotions. KY advised her cousin not to commit reckless acts that even caused unrest in the community.

The family from B1 fiancée intended to send the two of B1 and B1 fiancée back to Ketapang Laok Village to hold a wedding reception, but KY prevented the wedding reception from being canceled first while waiting for the public unrest to subside. KY hopes that our extended family can accept B1 and B1 fiancée as a married couple and can live peacefully and happily. At the end of 2019, B1 and B1 fiancée had a son, B1 fiancée was happy about this marriage, although from the beginning of the marriage, there was opposition and discord in his extended family for fear of giving birth to descendants suffering from leprosy.”

Different reactions are also shown by C1,⁶⁷ and S5⁶⁸:

⁶⁵ B1, a Leper Descendants, *Summarized the results of dialogues with respondents*, on 7 of October 2021.

⁶⁶ KY, Kyai in Kecamatan Ketapang, *Summarized the results of dialogues with informants*, on 21 of October 2021.

⁶⁷ C1, a Leper Descendants, *Summarized the results of dialogues with respondents*, 12 January 2022.

“This rejection from C1's fiancée family made C1 feel very angry and did not accept the discriminatory treatment as a descendant of lepers. C1, frustrated by this refusal, then invited C1's fiancée to have conjugal intercourse which ultimately resulted in pregnancy. S5 panicked and angry over her niece's pregnancy, during this time she was told by the parents of C1's fiancée to look after the honor and safety of her child in Malaysia. But after being suppressed by C1's uncle, S5 tried to accept the reality and told C1's fiancée's parents about their child's pregnancy. The parents of C1 fiancée leave C1 fiancée pregnancy to S5 regarding the solution. In the end, S5 was forced to marry C1 and C1's fiancée both off.

Some of the C1 fiancée family felt abused over this pregnancy. Some of C1's fiancée's family told C1 and C1's fiancée to abort her because the people in her village felt restless and ashamed about this incident. C1 and C1 fiancée agreed to abort. After feeling that the people in his village had calmed down again, at the end of 2007 C1 and C1 fiancée returned to Indonesia.”

Lepers and their descendants are one of the vulnerable groups who experience violence, so affirmation is needed to provide legal protection and human rights. They and their descendants experience this violence due to discrimination, exclusion, stigmatization, banishment, and inequality that can deprive them of their rights. The harmonization between the views of classical Islamic scholars and human rights is considered important to protect all people without discrimination.⁶⁹ The National Commission on Human Rights mentions several groups vulnerable to violence, including the elderly, children, the poor, persons with disabilities, women, prisoners/detainees, minority groups, internally displaced persons, migrant workers, indigenous/indigenous people,⁷⁰ migrant children (including undocumented/stateless/unaccompanied migrant children, homosexuals and people with HIV/AIDS.⁷¹

The descendants of lepers showed a "refuse to give up" response when engaged with their potential partner by taking various risks. They try their best to keep their potential partner despite various forms of rejection through social pressure directed at them, such as keeping their bloodline secret, running away

⁶⁸ S5, the Uncle of C1's fiancée, *Summarized the results of dialogues with informants*, 5 January 2021.

⁶⁹ Tamyiz Mukharrom and Supriyanto Abdi, “Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 40, <https://doi.org/10.22373/sjkh.v7i1.16436>.

⁷⁰ Tim Penyusun, *Pemenuhan Hak Kelompok Minoritas Dan Rentan Di Indonesia: Laporan Tahunan Komnas HAM 2016* (Jakarta: Komisi Nasional Hak Asasi Manusia, 2017).

⁷¹ Ingrid Nifosi-Sutton, *The Protection of Vulnerable Groups under International Human Rights Law*, First issued in paperback, Routledge Research in Human Rights Law (London New York: Routledge, Taylor & Francis Group, 2019).

from their future wives, or impregnating their future wives. This is a strategy as well as that of a leper in Mali who highlighted his courage by reacting against discrimination against his marriage refusal in the hope that the intervention from the family of his wife-to-be subsides.⁷² This finding can also be juxtaposed with Ayele's findings that show how lepers tried to cover up leper lineages as a strategy to fight stigma and rejection.⁷³

The terms "violence" and "crime" are often closely related and used interchangeably. Crimes are divided into two, namely first, involving direct violence such as war crimes, murder, assault, and rape. Second, it does not involve direct violence at all such as tax evasion or the use of narcotics and illicit drugs. In other words, not every case of violence is a crime, and not every crime is violence. Therefore, it is important to distinguish between violence and crime as two different terms that can overlap each other.

Violence – in this case, experienced by descendants of lepers – has deep roots in discriminatory cultural beliefs and attitudes that seek to exert dominance and weakening on lepers and their descendants. The situation will be much worse with the increasing frequency of violence in times of conflict, war, and being in refugee camps as a result of the rule of law being eroded and communities torn apart. Violence during the COVID-19 pandemic also continues to increase, demanding responsibility from State actors and non-state actors.⁷⁴ There are several causes of violence such as:

1. Physical factors, where violence occurs due to lack of physical security such as breakdown of law and order, presence of armed forces/groups, collapse of law enforcement, judicial and family institutions, social structures, or communities. Vulnerable groups leave their communities in search of work, food, water, and/or firewood. Poverty, lack of education and livelihood opportunities, and inadequate access to shelter, food, water, fuel, and income can increase exposure to violence, including forced prostitution or survival sex.
2. Social/cultural/political factors Law, where violence occurs due to social, cultural, or religious norms and practices that marginalize vulnerable groups and fail to respect their rights. The collapse of family, social, and communal structures and disrupted roles in the family often put vulnerable groups at risk and limit coping mechanisms and avenues for protection and redress.

⁷² Eric Silla, *People Are Not the Same: Leprosy and Identity in Twentieth-Century Mali*, Social History of Africa (Portsmouth, NH: Heinemann [u.a.], 1998), 376.

⁷³ Ayele, "Leprosy Stigma and Its Effect on the Marriage Experience of Leprosy Affected People and Their Descendants."

⁷⁴ Fahruddin Ali Sabri, Arif Wahyudi, and Fatekhul Mujib, "Resistance Strategies of Madurese Moslem Women against Domestic Violence in Rural Society," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 15, no. 1 (June 27, 2020): 93–116, <https://doi.org/10.19105/al-lhkam.v15i1.3083>.

Lack of trust and/or trust in social or public institutions, including law enforcement and judicial institutions that prevent victims/survivors from seeking redress.

3. Barriers to justice, and vulnerable groups with access to judicial institutions and mechanisms, result in a culture of impunity for violence and harassment. Lack of adequate and affordable legal advice and representation. Lack of adequate victim/survivor and witness protection mechanisms. Inadequate legal frameworks including national, traditional, customary, and religious laws discriminate against vulnerable groups, fail to guarantee their rights, or expose them to further harm and abuse. For example, national laws may fail to guarantee certain rights (e.g., non-discrimination), fail to criminalize acts (e.g., rape), or fail to interpret them narrowly (e.g., rape which is defined as excluding marital rape). In some cases, national laws also criminalize victimhood (e.g., rape defined as adultery) or criminalize acts allegedly primarily related to women (e.g., witchcraft or witchcraft). In some cases, victims/survivors face harassment, intimidation, and/or severe punishment.
4. Individual barriers and violence breed a shock or fear of stigma, isolation, and social exclusion. Further exposure to violence at the hands of the perpetrator, the community, or authorities, including arrest, detention, ill-treatment, and punishment. Lack of information about human rights and about how and where to seek solutions.
5. Humanitarian programming barriers are violence that fails to address or gets priority for violence in assessment, strategy development, planning, and programming due to a lack of information or understanding of the extent or nature of violence. Lack of gender-sensitive design of programs, services, and facilities, including inadequate registration practices and distribution of food and non-food goods. Sexual exploitation and abuse by peacekeepers, human rights, and humanitarian workers. Other challenges include weak relationships with other assistance and protection programs, lack of confidentiality, confusing reporting and referral mechanisms, isolated violence committees, under-resourced and weak, and lack of support from the wider community.⁷⁵

Other root causes of violence against lepers can be through social norms of a patriarchal nature, structural factors leading to an unequal distribution of power in the family, unequal distribution of care work, culture of perception, poverty, hunger, substance abuse, and personality. Violence can also be a factor of individual intolerance, selfish approach to problems, immaturity, lack of moral standards, disrespect, and lack of social vices. Men who feel inadequate in

⁷⁵ “Handbook for the Protection of Internally Displaced Persons,” UNHCR, accessed November 11, 2022, <https://www.unhcr.org/media/handbook-protection-internally-displaced-persons-0>.

a relationship may use violence to gain control. Violence implies that it can affect victims physically, emotionally, and psychologically.⁷⁶

This violence can have serious and life-threatening long-term consequences for victims/survivors. These can range from permanent disability or death to a range of physical, psycho-social, and health problems that often destroy the survivor's self-esteem and quality of life and expose them to further abuse. Violence can lead to a vicious cycle of violence and abuse as survivors' risk being rejected by their families, ostracized and ostracized by society, and even arrested, detained, and punished – and sometimes harassed again – for seeking protection, help, or access to justice.⁷⁷

From some of the causes of violence above, it can be stated that violence does not have a single factor and is multicausal. Violence can be born from a combination of causal factors, including factors derived from the social or cultural environment of the violent person and factors that represent direct situational forces.

The tendency to commit acts of violence develops in childhood, so these violence prevention programs target young people. Violence prevention can be done through school-based programs, and family or community involvement. These efforts should include actions to:

1. Strengthen and resource women's and feminist organizations and movements. Women's organizations and movements have shown that violence can be prevented and that, if given the opportunity, they are best placed to turn things around through State and non-state actors.
2. Takes systemic, intersectional, and multisectoral approaches and increases funding to address violence. Little by little, fragmented efforts to address violence and inequality will fail to achieve transformative results. A coordinated, comprehensive, and cross-sectoral response is needed, to ensure that survivors can access effective and quality services through State and non-state actors.
3. Building an economy that strengthens resilience to violence. Countries structuring their economic response and recovery in the face of the COVID-19 pandemic will increase or reduce inequality and resilience to violence through State and non-state actors.

⁷⁶ University of Ilorin and Elizabeth Uyanne, “Forms, Causes and Consequences of Gender Based Violence among in-School Adolescence in Ilorin Metropolis,” *The New Educational Review* 65, no. 3 (September 30, 2021): 62–75, <https://doi.org/10.15804/tner.21.65.3.05>.

⁷⁷ “Handbook for the Protection of Internally Displaced Persons.”

4. Collect more and better data. State and non-state actors calculate what they consider important, and gender data collection has been chronically underfunded.⁷⁸

Conclusion

The four Schools of Islamic law namely Hanafi, Maliki, Shafi'i, and Hanbali provide views on divorce that can occur due to disability including leprosy, but there are different opinions from the Dhohiri School that rejects divorce because of disability in any form. The Dhohiri School has shown partiality and respect for the human rights of lepers and their descendants although the disease is epidemiologically an infectious and genetic that can be given long-term multi-drug therapy. Dhohiri School provides a legal protection for lepers and their descendants to perform Betrothals and marriages without any discrimination, exclusion, stigmatization, banishment, or inequality of any kind. The alignment of the Dhohiri School is in line with the efforts of State actors and non-state actors in minimizing the inhumane and terrible treatment of people with leprosy and their descendants. Lepers and their descendants should have the same human rights as all people, with the efforts of State actors and non-state actors to hear and inventory the Betrothal experiences experienced by descendants of lepers in Ketapang, Sampang, Madura who have risked their dignity to avoid breaking the Betrothal relationship filled with insecurity and fear. State and non-state actors should be present in providing protections to lepers and their descendants in various areas of their lives. They must get equal treatment non-discrimination and even affirmation to protect their dignity.

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⁷⁸ Rowan Harvey, *The Ignored Pandemic: The Dual Crises of Gender-Based Violence and COVID-19* (Nairobi: Oxfam International, 2021).

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