

WOMEN'S RIGHT TO CHOOSE SPOUSES: A SOCIO-LEGAL STUDY IN RURAL ISLAMIC COMMUNITIES

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Abstract

The research aims to understand how religious, cultural, and social norms intersect in shaping marital decisions affecting women in Tunggulsari Village, Tulungagung. In Islamic law, marriage is not only a religious institution but also a legally protected contract that demands mutual consent from both parties. However, in many Muslim communities, including in rural Indonesia, cultural practices often override women's autonomy in choosing a marriage partner. This study investigates the gap between the Islamic legal right of women to select their spouse and the socio-cultural reality of forced or arranged marriages driven by parental authority. This study employs a socio-legal empirical approach, using qualitative fieldwork methods including in-depth interviews and participant observations. Primary data were collected from women in low-income households in Tunggulsari Village, who have experienced or are facing arranged or forced marriage. Findings reveal that women's freedom to choose a marriage partner is heavily influenced—and often restricted—by parental decisions, local customs, and socio-economic factors. Despite Islamic legal provisions affirming the necessity of female consent in marriage, many respondents reported familial pressure, threats of ostracism, and emotional coercion. In several cases, women were compelled to marry based on parental social or economic alliances. The study demonstrates a clear dissonance between Islamic law, which mandates consent, and the cultural application that often sidelines women's agency. It underscores the urgent need for legal and educational reforms to reconcile religious norms with gender equality.

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Introduction

Islam provides guidelines for marriage so that people can achieve their goals (Yamani, 2021). Determining the right life partner is one of the steps that can be taken to prepare for domestic happiness (Wallerstein, 2019). The most difficult thing is to determine a companion who is according to Islamic teachings. In Islamic teachings, a person must meet several requirements to choose his or her life partner so that they can function properly as a partner (Rismawati, 2019).

The choice of life partner is the first step in the marriage stage (Miller, 2021). In general, everyone wants to have a partner or lover. Because couples are a natural need to meet each other's needs, everyone has the right to have dreams about their life companion and have an equal opportunity to find an ideal and suitable partner (Gabb & Fink, 2017). Everyone wants to have a good partner for this world and the hereafter, because marriage is a worship forever. Therefore, don't be careless when choosing a partner or companion. When a person has decided to get married, they must be careful and observant in determining their potential partner because the marriage bond is a bond that is not only in a short period but also in a lifetime period (Smith-Hefner, 2018).

Everyone who can afford to get married is encouraged to do so. Marriage creates a family of sakinah mawaddah warahmah. And a calm, safe, and happy family (Tabroni & Dodi, 2022). Marriage has been considered a halal and holy way to channel the sexual desires of men and women in Islam (Gutiérrez, 2012). So that both couples can follow the rules of Islam and remain holy. However, it is very important to be careful in choosing your life partner before marriage because marriage is meant to be for a lifetime or forever.

Islam strongly recommends that a woman choose a husband who is of good character, pious, and obedient to her religion (Tong & Turner, 2008). That's what makes a man unique. In the Islamic view, the success of a marriage is greatly influenced by the character and quality of the husband. Therefore, choosing a wise husband-to-be can form a solid foundation for married life. But Islam also rejects all forms of coercion in marriage. Coercion can be dangerous and disrupt domestic harmony.

The agreement and willingness of both parties are the basis of Islamic marriage. Therefore, marriages based on agreement and love will last longer and produce more happiness. Therefore, Islam combines the encouragement to choose a partner who has good morals with the rejection of forced marriage. (Ali, 2016) This makes marriage in Islam the basis of moral values, justice, and balance, creating a balance between the wisdom of choosing a partner and the freedom of the individual. In the Islamic faith, both men and women have equal rights in this verse. There is no difference between men and women other than their faith and piety to Allah SWT to raise and lower the status of every human being. Thus, this verse not only provides a basis for equal rights between men and women but also invites Muslims to remain silent.

Islam states that it is the right of women to choose their life partner. However, as Islam developed and the intensity of local cultural interactions, there was an opinion that women did not have the freedom to choose a partner. Even women can be forced to marry men chosen by their families (El-Solh & Mabro, 2020). In this regard, in the books of fiqh, there is the concept of wali mujbir, which means a male parent who has the authority to marry his daughter to the man of their choice. However, in classical fiqh books, this concept only applies to unmarried women. However, for married women or widows, wali mujbir does not apply, and they have the freedom to choose their partner.

Forced marriage may give rise to new social problems (Igareda, 2017), such as the fertility of unprosperous families, and lead to divorce (C. M. Becker et al., 2017). A woman who

refuses to marry by her parents' choice will be seen as disobedient and sinful, and she will be ostracized from her family and relatives. Therefore, it is not surprising that many women end up accepting their parents' choices even though they themselves do not want to. Every human being has an instinct to choose his or her own life partner; without it, humans would not live on Earth (Lyons, 2018). It is *sunnatullah* that there is an element of attraction between the man and the woman, and these needs complement each other (Sumarno et al., 2022). To meet needs and complement each other, a legal and halal couple is needed, namely through marriage. The process of finding a life partner is the first step towards marriage. In general, everyone wants to have a partner or a loved one. Everyone, both men and women, has the right to have dreams about a life partner or soul mate. They also have an equal opportunity to choose an ideal and good partner (Carol, 2018).

Article 6, paragraph 1 of the Law of the Republic of Indonesia No. 1 of 1974 states that the two prospective brides must agree to marry, as stated in the Compilation of Islamic Law Article 16, paragraph 1. Therefore, if both brides-to-be have agreed to marry, including their parents, neither party can refuse the marriage. However, if one or both of the brides-to-be do not agree, the state also has the right to reject the marriage. Freedom in choosing a life partner is part of human rights protected by the state through the Republic of Indonesia Law No. 39 of 1999 concerning Human Rights, especially in article 10 paragraph 2 which states that "A valid marriage can only take place on the free will of the prospective husband and future wife concerned, by the provisions of laws and regulations". It affirms that a valid marriage can only take place if both brides-to-be agree without any coercion. In addition, in the Universal Declaration of Human Rights, article 16, paragraph 2 affirms that men and women have the right to marry and build their own families, with free consent and based on equal rights. Therefore, every woman has the right to determine certain criteria in choosing a prospective husband.

Previous research has shown that the process of arranged marriage can occur. Aminatus Zuhria, Ayfa Fayzayil Enri Auni, Iklilah, and Isnaini discussed marriage that is carried out through the matchmaking process without considering the will of the bride. However, happiness in a marriage can only be achieved if the marriage is done voluntarily without any coercion. Muhammad Kudhori described that women's right to choose their husbands is often taken by force by their parents, using a hadith that states that 'her father's virgin married her' as a justification for such actions. The journal also explains that women have full rights and freedoms in choosing their husbands without any coercion from parents, emphasizing that in terms of choosing a husband, it is entirely a woman's right and not based on parental coercion (Zuhria et al., 2021). Masthuriyah Sa'dan emphasized that the right of women to choose their life partner as determined by their guardians is part of Islamic law (fiqh), which is listed in various classical literature, especially in the yellow book, which is the view of several classical fiqh scholars. This view, while difficult to refute, is often discriminatory and contrary to human rights, as it restricts women's freedom in choosing a life partner, while men are given complete freedom in this regard (Sa'dan, 2016). Rayno Dwi Adityo explained that in fiqh, a woman has the right to choose her future husband, because permission for her is her right, both for widows and girls. Forced marriages are not by the laws in force in our country, so women's rights to determine their life partner must be respected and protected by laws and regulations (Adityo, 2020).

Research Method

This research uses an empirical research (Creswell, 2003) method whose object is related to symptoms, events, and phenomena that occur in society, institutions, or countries that are

non-Literature by looking at phenomena found in society. The primary data source of this study is informants who know clearly and in detail about the problem being researched. The informants of this study are poor women in Tunggulsari Village, Kedungwaru District, Tulungagung Regency.

Results and Discussions

The Absence of Women's Agency in Marital Decisions

In Islam's view, marriage is not only a civil matter, not just a family affair and cultural matter, but a religious problem and event (Platt, 2017). Because the marriage is carried out to fulfill the Sunnah of Allah and the Sunnah of the Prophet. Therefore, Islam provides guidelines for choosing the right soul mate (Bradley, 2004). Choosing a partner is the beginning of entering a relationship at the level of engagement or infidelity. Choosing a partner who is not right and not what is desired will have a bad impact on the life of the family concerned and the family of the elderly (Maqsood, 2005).

The consequences of improper choice of a partner can cause disharmony in the family life in question (Sabour Esmaeili & Schoebi, 2017). A mismatch of values, goals, or expectations can be a source of prolonged conflict, creating tension and instability in the relationship. In addition, the impact is not only felt by the couple themselves, but also by other family members, including the in-laws' family. Therefore, keep in mind that choosing a partner is a decision that has a long-term impact. Taking the time to understand each other, such as character traits and personalities, can help ensure that the selection of a partner is done wisely and thoroughly (Darakchi, 2019). To propose means to express a request to marry from a man to a woman or vice versa through a trusted person. The marriage is shari'a in a marriage whose implementation time is held before the marriage contract (Faisal et al., 2021). According to etymology, proposing or proposing means asking a woman to be a wife (for oneself or others). Meanwhile, according to terminology, marriage is an activity that seeks to establish an arranged relationship between a man and a woman.

The process of choosing a prospective husband for women in Tunggulsari Village, Kedungwaru District, Tulungagung Regency is to choose a partner for a woman's family. In a man's family, choosing a partner is not about looking directly but waiting for the arrival of a marriage. In the stage of choosing a partner for a female family, there are several forms of partner selection. First, the desire to choose comes from a woman's family, and usually this desire is the desire of both female parents. This desire is based on a family of women who want to establish a relationship and unite two families in a family bond that has been desired for a long time, or this male figure is the person who is highly expected by both female parents. As the results of the interview with Ms. D, who experienced the case:

"I was engaged until marrying someone was the initiative and desire of both parents because my parents did not agree if I married my lover, because my lover was a resident of the village from Tunggulsari Village. My parents still strongly believe in the local Javanese customs, if I violate it will have fatal consequences" (Ms. D, personal communication, December 30, 2022).

Second, by waiting for a request from a family who wants to propose, this usually happens because the man's family is an old friend of the woman's parents. So the request for an engagement or engagement came from the man's family. Several cases like this have also happened to one of the women in Tunggulsari Village, where the woman's family is the recipient of the dowry from the male family. As the results of the interview with Ms. E, who experienced the case:

“At that time, I received the pinanga at the insistence of my parents, who wanted to establish a family relationship with their old friend. And another reason I don't get the blessing of marrying my lover is because my lover's father is a gambler and a drunkard” (Ms. E, personal communication, February 17, 2023).

The case was also experienced by Ms. S, according to the results of the interview:

“I used to marry my husband because of my parents' choice, who was the child of my father's friend. My previous relationship with my lover did not get the blessing because I was the first child and my lover was the third child. In the environment where I live, the first child and the third child should not marry later will be fatal” (Ms. S, personal communication, September 3, 2023).

These three marriages were agreed upon by both parties. This is the background of both parents having cooperation in work, so they recorded an agreement to marry their child, so that this cooperative relationship leads to a cooperative family relationship. So the request for a marriage came from the man's family based on mutual agreement. As a result of the interview with Ms. J, he said:

“One of my friends is a resident of southern Tunggulsari Village, she married her husband at the will of her parents and her husband's parents. Even though her friend already had a lover who intended to propose to her first, she decided to marry her husband now only because she obeyed her parents' wishes” (Ms. J, personal communication, December 3, 2023)

In holding back the selection of a prospective husband like this, women usually do not have the opportunity to reject the prospective husband of their parents' choice, especially if the decision to accept the proposal is more influenced by the choice of both parents.

The next stage is the determination of a mate. After there is a request or the woman's family wants the man of her choice, there will be a discussion between the elders of the male family. Meanwhile, the women's family only celebrated the results of the deliberations. Likewise, girls can only accept decisions from their families. At the courtship stage, it is usually carried out with a simple event or only involves women's families and men's families. The male family member comes to propose by bringing a handover or a gift given to the prospective woman. According to the results of the interview with Mr. Jio, he said:

“Usually, after a request or desire from the woman's family to the male family. The male side will first rub with their elders, and the woman's family is just waiting for the results of the rub. At the time of the proposal, the male family came to the house, the woman brought a gift or a delivery. The application process is usually just a simple event between the two sides of the family” (Mr. Jio, personal communication, November 3, 2023).

Then this was clarified again by Ms. K, who said:

“The application process is usually only carried out with a simple event that is only attended by both families, with the male party bringing a delivery or a gift. Luxurious and magnificent events are usually at the time of the marriage contract and wedding reception” (Ms. K, personal communication, May 3, 2023).

Based on the results of provisional observations obtained by researchers in Tunggulsari Village, Kedungwaru District, Tulungagung Regency, regarding the process of poor women in choosing prospective husbands, where all the process of choosing a spouse or prospective husband is based on the family, especially for women. The decision to choose a future husband is often the authority and responsibility of parents who base their choice on social, economic, and sometimes local cultural or customary considerations.

Women's Strategies in Maintaining Partner Choice

Regarding choosing a life partner, every woman also has her own choices regarding her

future husband (Spacks, 2022). In the case of marriage it determines the life partner not only from the male side but also from the female side but also from the female side. However, some of the people of Tunggulsari Village think that the responsibility of determining a life partner for girls is the responsibility of both parents. This makes marriage often based on coercion, which does not rule out the possibility of disharmony in the household leading to divorce (Zalesne & Dexter, 2018).

Coercion in the selection of life partners can create psychological pressure for the individuals involved, trigger unhappiness, and even damage family bonds. Therefore, it is important to discuss openly first about your life partner (Crossman & Hardesty, 2018). Enabling girls to convey clearly while still respecting the values and suggestions given by their parents. Involving both sides in the decision-making process can create a better understanding and minimize potential conflicts in the future.

The frequent occurrence of marriages that are not in the wishes of the prospective bride, especially women, causes a desire or effort to try to retain the prospective husband of her choice (Forkuor et al., 2018). This is as Ms. J said in her effort to defend her choice: "One of the efforts that I can do is to introduce my chosen husband to my parents and give my parents an understanding of the nature, character, personality and work of my chosen prospective husband" (Ms. J, personal communication, December 3, 2023).

Then this was clarified again by Ms. K who said: "Introducing my chosen future husband to parents about nature, character, personality and work must be good and slow, and it is necessary to maintain emotional stability between both parents and children so that this introduction runs smoothly" (Ms. K, personal communication, May 3, 2023)

From the two statements above, in considering a prospective husband for their child, parents pay close attention to the nature, character, and ability of the religious knowledge possessed by their child's future husband. The understanding and seriousness of the future husband in matters of religion is an important factor, because this reflects his ability to educate, guide, and give wise advice to his daughter after marriage.

A husband-to-be who has a deep understanding of religious values can not only be a good example in daily life, but also be able to provide a solid spiritual foundation in guiding his family in the future (Wong, 2021). The ability to give positive views and advice based on religious values becomes a strong foundation for building a harmonious family full of moral values. Therefore, for parents, this is an important consideration in choosing a spouse or prospective husband who will accompany their child on the journey of married life.

In addition to the effort to introduce the future husband, other efforts are made, such as the one made by Ms. D:

"I tried to give a strong reason why I chose him as my future husband, because that way it could be considered by my parents to accept my future husband" (Ms. D, personal communication, December 30, 2022)

It can be concluded that communication between parents and children in this case plays an important role in knowing the opinions of children and decisions from parents who are experienced in terms of marriage. Parents who have more life experience can provide views and insights about building a household. On the other hand, involving the child in discussions and listening to the child's opinions, as well as open and respectful communication, allows the child to feel valued and heard, while parents can better understand their child (Murray, 2019). Involving children in the decision-making process of the family can create a harmonious bond and mutual understanding. This provides an opportunity for children to learn from parents' experiences, while parents can get a perspective from the younger generation's perspective.

Furthermore, other efforts that can be made in maintaining the choice of a future

husband, according to Ms. S, said:

“I discussed with my lover the efforts we made to get the blessing of my parents, and I advised my lover to come home with the purpose of friendship with my parents” (Ms. S, personal communication, September 3, 2023)

Silahturahmi has great merit value and can maintain harmony in a relationship. Getting together is a meaningful moment. Showing politeness, humility, and respect is key to creating a positive impression. This step will not only strengthen the relationship between the husband-to-be and the woman's parents, but will also create a closer bond in terms of family. With this, the husband-to-be can show respect, care, and commitment to the wife-to-be's family. Staying in touch with your family is a good way to build a strong foundation for starting a married life.

Continued by Ms. J, who also has efforts or efforts that can be made in retaining the prospective husband of her choice. Ms. J said:

“My future husband and I showed the seriousness of our relationship to my parents to continue our relationship to the level of marriage. My future husband also showed his sense of responsibility and his care and concern for me to my parents” (Ms. J, personal communication, December 3, 2023).

Through the act of showing the seriousness of their relationship to their parents, they can create a positive impression and indirectly convey that this relationship is built not only on romance but also on a serious commitment. The seriousness in the relationship shown creates a growth of trust and strengthens the confidence of the female parent (G. Becker, 2022).

The sense of responsibility, attention, and concern in small matters for his future wife shown to the two old brothers is a positive picture of the quality of the future husband's personality. Responsibly, he is not only committed to fulfilling his duties and obligations in the relationship as a husband, but also engaging in supporting his wife with great care. An attitude of attention and concern in small matters, such as listening attentively, providing emotional support, or even engaging in daily activities, creates the impression that this future husband sees the relationship not only as a responsibility but also as an opportunity to build a close and harmonious closeness. With this, the husband-to-be is not only a responsible partner in the eyes of his future wife, but also creates trust and confidence from the woman's parents. Female parents can also see that the future husband of their child's choice understands the true meaning of marriage and is ready to face all obstacles and tests together (Lederman & Weis, 2020).

Conclusion

This study concludes that although Islamic law guarantees the right of women to consent to marriage, this right is frequently compromised by socio-cultural traditions in rural Indonesia. The empirical evidence from Tunggulsari Village highlights the prevalence of forced or arranged marriages where women's voices are often marginalized in favor of familial or social interests. The research contributes to the discourse on gender justice and Islamic law by exposing the legal-cultural disjunction that affects women's autonomy. It emphasizes the necessity of contextual legal reform and educational outreach to bridge normative Islamic rights with lived social realities. A major limitation of the study is its localized scope, focused on a single village. Future research should involve comparative studies across regions and incorporate the voices of religious leaders and legal practitioners to develop holistic policy recommendations. Collaborative efforts between government, religious authorities, and civil society are essential to ensure that women's right to choose their life partner is protected both in law and in practice.

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