

The Role of the Namora Natoras Mandailing Traditional Institutions in Forced Marriage in Affairs Cases

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Abstract

Forced marriage has no legitimacy in Indonesian marriage law, and is instead categorized as a crime of sexual violence. However, these forms of forced marriage are still common, especially in the case of adultery, as happened in Mandailing, and gain legitimacy from its customary institutions. The purpose of this article is to describe how the role and perception of Namora Natoras in forcing an adulterer's marriage to the principle of consent of the bride and groom. This juridical-empirical research was conducted by collecting data through interviews and other secondary data. The data was processed qualitatively by using content analysis. The results show that Namora Natoras plays an effective role as a customary justice institution in cases of forced marriage in adultery cases, in order to fill the legal vacuum. In Namora Natoras' perception, forcing an adulterer to marry an adulteress is a customary sanction, as an effort to find a balance of nature and provide a deterrent effect, preventing children from being born out of wedlock, a form of repentance, and a form of protection for women to avoid worse perceptions from society. Namora Natoras is of the view that forcing adulterers to marry is more beneficial than upholding the principle of consent of the bride and groom in this case in order to protect the rights of women and children.

Keywords: Marriage forced, Namora Natoras, Traditional

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INTRODUCTION

National marriage law, through Article 6 paragraph 1 of Law no. 1 of 1974 concerning Marriage (Law on Marriage), stipulates that a marriage must be carried out based on the consent of the two prospective brides. This Marriage Law does not recognize the form of forced marriage in forming a marriage, out of the construction of the Syafi'i school of jurisprudence, which opens opportunities for a guardian to force a daughter to marry (Nasution & Nasution, 2021). The Compilation of Islamic Law (KHI) itself, in Article 71 letter (f), stipulates those marriages carried out by force can be annulled. Recent developments, the Act on the Crime of Sexual Violence (UU TPKS) includes the act of forced marriage as a form of criminal act of sexual violence.

Forced marriages, until now, are still often found in the community, either in the name of custom or in the name of religion, especially when it comes to adultery, including the case in Woyla Timur, Aceh Barat (SARNURFIANDA, 2018), customary law in Seluma, Bengkulu (Suparlan, 2018), *mashed* in Ponorogo (NIHAYATI, 2018), and customary law in Pelawangan Seberang, Jambi (SEGAF et al., 2019). This forced marriage of adulterers, in the perception of the community itself is sometimes considered *Islamic*, in accordance with the guidance of Islamic law and tradition. The community feels partly responsible for the occurrence of this

form of disobedience to God, so they feel called to punish the perpetrators of adultery as a form of *nahy munkar* by marrying them, although sometimes it overrides the principle of volunteerism of the prospective bride and groom. In fact, according to the fatwa of the Aceh MPU Number 03 of 2009 concerning the Law of Marriage for Meusum Perpetrators, marrying people who commit *khalwat/meusum* is not an 'uqubat according to syar'iat and custom.

Misunderstanding of the law to marry adulterers underlies the public perception to force the marriage of adulterers. In general, the community views that adultery perpetrators must be married, whether as a form of accountability, a form of fulfilling religious and customary norms, or as other forms. This view is supported by the understanding that adulterers must be married to their adulterous partners. In addition, this form of coercion is then juxtaposed with the construction of the Syafi'i school of jurisprudence which legitimizes the concept of *ijbar* in marriage, so that people's attitudes are formed which consider it legitimate to force adulterers to marry their adulterous partners, even though it would violate the principle of approval of the candidate wedding bride.

The case in Mandailing, as the object of study in this article, adds to the long list of forms of forced marriage of adulterers, and was determined by a customary institution called *Namora Natoras*, an institution consisting of elements of the village government presented by the village head as *namora*, and a *hatobangon* consisting of from the traditional chiefs of each tribe or *ripe* and the scholars as elements of *natoras*. In the adultery case in Sirangkap Village, Mandailing, the male perpetrator refused to marry a female adulteress, but *Namora Natoras* views marrying the two as the best choice, both for the village, the families of both parties, as well as for both, and is considered the best choice for children and women.

In previous studies, among others, Tiawan (Tiawan, 2021) in his research confirmed this form of forced marriage to adulterers because it was judged to be in accordance with the concept of *ijbar* in fiqh. Nihayati (Nihayati, 2018) also justifies forced marriages of adulterers because they are considered to have prioritized *mashlahah dharuriyyah*. Effendi in his research (Effendi, 2021) concludes that the *gawal* (forced marriage) against immoral actors in the Tungkal Ulu Malay community is not a violation of human rights because it is carried out based on justification by the local social system. The views of Kiai Krapyak themselves in their research (Kurniawan, 2017) conclude that in general, in practice forced marriage is a legal contract, but a distinction must be made between the concepts of *ijbar* and *ikrah*.

Forced marriages are marriages 'in which one or both parties are forced to marry against their will and under duress, which can include both physical and emotional stress' (Chantler, 2009; Gangoli, 2008). In contrast to the results of the studies above, which are generally carried out in the territory of Indonesia, in the view of the global community, forced marriage, regardless of context, is generally seen as a clash between culture and gender. A study by the Home Office linked forced marriage to domestic violence; see it as a violation of women's human rights and a form of gender-based violence (Samad, 2010). Jains even emphasize that forced marriage is not only a deviation from one of the most basic institutions in society but is also one of the most profound acts of deprivation of liberty that can be perpetrated against a person, causing prolonged mental and physical suffering (Jain, 2008).

This case of forced marriage, both in the perspective of Islamic law and in the framework of national marriage law, is related to the implementation of human rights in marriage which

emphasizes the principle of agreement between the two prospective brides. The enforcement of this principle must be respected by the whole community, but the reality is that especially in the case of adultery, the community considers it more beneficial to marry adulterers even if they must be forced. This case itself has occurred and has been legitimized in various regions in Indonesia with various patterns of thought and local wisdom to fill the legal vacuum against adulterers in certain categories, whereas society in general views any type of adultery as a form of crime. The TPKS Law itself has not accommodated the will of this community, instead categorizing these forms of forced marriage, even though it is carried out based on customs and traditions, as a crime. By looking at the case of forced marriage in Sirangkap Village, the punishment for the forced marriage case must be viewed objectively because it is very casuistic, that not all cases of forced marriage are a form of non-discrimination against women.

In this article the author will describe the perception of *Namora Natoras* in Mandailing in the case of forced marriage against adulterers, to see a different perspective based on the experience and views of the community, which tries to combine religious teachings, mystical beliefs, and traditions (sociology of law). In this article, the author focuses on research studies on cases of forced marriage of adulterers in Sirangkap Village, Mandailing. The research was directed to see how the role of *Namora Natoras*, as the head of village government, customs, and religion, in resolving cases of forced marriages of adulterous couples. More than that, this article will describe how to resolve this adultery case. Then, the author will describe how *Namora Natoras* in this village responds to the principle of consent of the bride and groom in cases of forced marriage to adulterers.

RESEARCH METHODS

This research is a type of juridical-empirical research, namely case study law research, which is in Sirangkap Village, Mandailing, with a time span from June 2021 to December 2021. The data in this study consists of primary data and primary data. secondary. Primary data were obtained through in-depth interviews with participants selected by the author based on certain criteria related to the research results (*purposive sampling*). The criteria for the participants selected in this study were that participants were part of the *Namora Natoras*, namely those who were included as traditional and religious leaders, as well as the Village Head, who directly handled the cases in this study. While secondary data were obtained from various studies that had been done previously on the Mandailing tradition and on cases of forced marriage. The data obtained will be tested for validity including credibility, *transferability*, *dependability*, and *confirmability*. The author extends the observations, discusses the results of the research data again, by checking the data back to the respondents and comparing them with other references. Furthermore, the data in this study will be analysed qualitatively with content analysis techniques developed by Harold Dwight Lasswell, by conducting an in-depth discussion of the contents of written or documented information material, both in the mass media and from books that are research references.

RESULTS AND DISCUSSION

A. *Namora Natoras* as Customary Court Institution in Mandailing

Namora Natoras refers to two meanings: first, it refers to the traditional leaders of the Mandailing community, and second, it refers to institutions, parliament, government councils,

and judicial assemblies, which consist of these *Namora Natoras* themselves (Lubis, 2001). *Namora* refers to the person who is the head of each *parompuan* (including *kahanggi raja*), while *natoras* refers to the eldest of *traditional* relatives of a *huta* (ripe head) (Pulungan, 2018). *Namora* are nobles or *harajaon*, while *natoras* are elders or *hatobangon* (Lubis, 2001). *Harajaon* comes from the family/descendants who opened the *huts*/the founders of the village, and they are the kings of the village. While *hatobangon* is a representative of the *ripe-ripe* that is in a *village*/ village, usually each *ripe* head *ripe*. *Ripe* itself is a group of clans that exist or come to a *huta*, usually in each *huta* there are several *ripe* and each *ripe* head *ripe*) (Pulungan, 2018).

The governing council of *Namora Natoras* is held in *Sopo Godang*. *Sopo Godang* or *Bagas Godang* is in the middle of each *huta* as the residence of the ruler and the council hall. *Sopo Godang* and *Bagas Godang* can still be found today in Mandailing, Sumatra and in Perak, Malaysia as a reminder of the position of *namora-mora* (Lubis, 2001). *Namora Natoras* has a very important role in the functioning of government and customs. The dynamics of *Namora Natoras* are governed by adat, a body of adat and adat law known as *Dalian Na Tolu*. In short, nobles and elders can only act according to the rules and within customary limits. *Namora-Natoras* exercise control over land, administration of justice, market regulation (*onan*) and the workings of the Mandailing social order (Lubis, 2001).

During the reign of the Dutch East Indies, the role and function of *Namora Natoras* was eroded, and after independence, the role and function of *Namora Natoras* was never restored by the government of the republic of Indonesia, which considered traditional government institutions as a feudalistic and colonial legacy (Lubis, 2001). However, in practice in the Mandailing community, perhaps not in all villages, the role and function of *Namora Natoras* continues, even though there have been reforms following the nationalization of village government and the rooting of Islamic teachings in the community, one of which is in Sirangkap Village.

Sirangkap Village is one of the villages in the Mandailing Natal district, precisely in the East Panyabungan sub-district. The inhabitants of this village are Muslim and are of the Mandailing ethnicity with clans, including nasution, lubis, and rangkuti. In this village, the *Namora Natoras* still exists and is upheld by its residents, even though it has undergone a process of renewal. The loss of the institution of *raja huta* as *namora*, replaced by a democratically elected village head through direct elections by the citizens. Meanwhile, the head of the *ripe*, which is an elder or element of *natoras*, is still maintained, even though in this village the head of this *ripe* is referred to as the chief of the tribe. The tribal chiefs in this village consist of nine tribal chiefs, namely Nasution Lancat, Nasution Jambu, Nasution Panyabungan, Lubis Langkitang, Lubis Baitang, Lubis Romodon, Rangkuti Ramli, Rangkuti Muin and Rangkuti Babi. element *Namora Natoras* is the alim-ulama, who are made part of the *hatobangon*, consisting of eight people, namely: Rasmal, Topan, Jahrun, Maliddin, Saddam, Amaran and Marsuki.

The role and function of the *Namora Natoras* continues to run in the Sirangkap Village community as the highest customary institution, as the village's highest decision-making institution. Why is the highest, because there are other institutions under the *Namora Natoras*. In the context of dispute resolution, hierarchically the community will try to resolve problems

amicably. If this is not successful, the respective tribal chiefs can be involved in the matter. The level of dispute resolution above the tribal head will involve the village government or village head. The highest village institution if the lower institutions fail to resolve the dispute is the *Namora Natoras*. institution *Namora Natoras*, as explained earlier, it involves the village head as *namora*, and tribal chiefs and alim-ulama as elements of *natoras*.

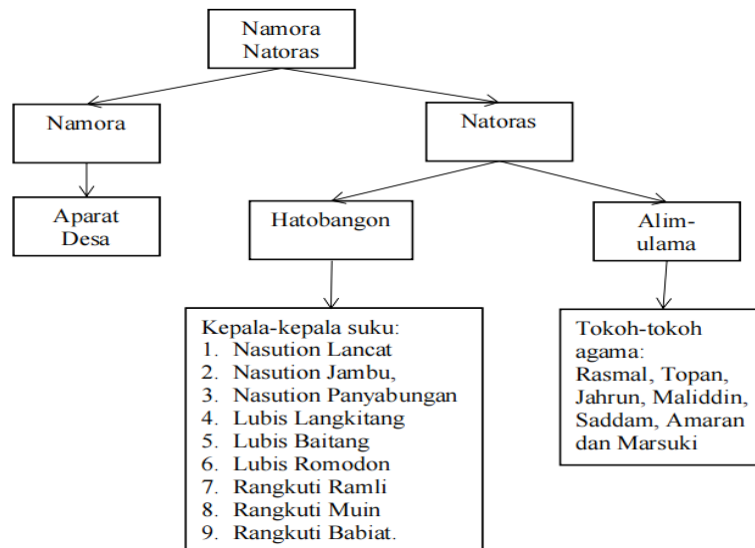


Figure 1. Structure of *Namora Natoras* in Sirangkap Village

Namora Natoras has a very significant role in the implementation of customs and social order in Sirangkap Village. role *Namora Natoras* is not only in the continuation of tradition at the *siriaon* and *siluluton* events, but in addition, *Namora Natoras* plays a role in determining public policies and resolving disputes in the community. As previously described, *Namora Natoras* can act as the highest institution in the hierarchy of dispute resolution or customary justice.

Institution *Namora Natoras* itself has developed in line with the dynamics that occur in Mandailing. The collapse of the system of kingdoms in Indonesia also abolished *harajaon* in the land of Mandailing, so that the *namora* element in the *Namora Natoras* is currently replaced by village officials or village heads. Meanwhile, the increasing influence of Islam has given local scholars an important position so that they must be involved in every village decision and policy so as not to violate the Shari'a. Meanwhile, the control of customs is still held by the *hatobangon* who local traditional leaders are, which in Sirangkap Village consists of tribal chiefs or *ripe*. Thus, the *Namora Natoras* is a combination of custom, religion, and state.

The combination of customs, religion, and state in the *Namora Natoras* is reflected in people's daily lives, especially in *siriaon* and *siluluton* events, as the results of Nasution's research (Nasution, 2020). In the context of dispute resolution, these three elements integrate in the trial to produce decisions that will not violate customary law, religious law, and state law.

The integration of these three elements creates confidence for the people who will carry it out as permanent in the customary corridor as a Muslim with Indonesian citizenship, so that there are no worries in carrying it out, whether as a Mandailing ethnicity, Muslim, or a citizen.

B. Settlement of Disputes Claiming to Marry Adultery Perpetrators at the *Namora Natoras*

The disputes handled by the *Namora Natoras* are very diverse, not limited to family problems, but also dealing with citizen disputes in the realm of jinayah or criminal matters. However, there are indeed many cases of community disputes that do not have to be handled by *Namora Natoras* does not handle enough disputes *Namora Natoras*. The last case that reached the *Namora Natoras* was a dispute over the demands of marrying the adulterer with his adulterous partner.

The family's lawsuit against a man, we call his name Ucok, to marry a woman, we call his name Butet, stems from the case that Ucok and Butet were caught having sex or *khalwat* in a house even though both are not *mahram* and neither have a legal partner. Suspicion about the behavior of the two patterns invited questions from the public so that Ucok and Butet were interrogated by the masses. In the end, the families of Ucok and Butet were brought together to clarify the actual situation between Ucok and Butet at the residence. At that time, Ucok and Butet both admitted that they had committed lewd acts or had sexual relations like husband and wife or adultery.

Based on this confession, Butet's family demanded that Ucok marry Butet. But Ucok refused to marry Butet, even though he admitted to having had sexual relations with Butet. Ucok said that he was not the only one who had sexual relations with Butet, but there were also other people who had similar relationships. It's just bad luck that he was the only one caught off guard. Butet denied this accusation by saying that Ucok was the only man who had been in contact with him. Ucok's refusal to marry Butet led to Butet's family demands to force Ucok to marry Butet.

This case could not be resolved in a family consultation, so the chiefs or *ripes* of each tribe were involved. But this case still finds a dead end. Failing at this stage, the case was then reported to the village government. The village government, through the village head, mediated this case by listening to the views of both parties, Ucok and Butet, as well as the opinions of their respective families and tribal chiefs. But still deadlocked. Ucok emphasized his opinion that he would not want to make peace with the Butet family unless *Namora Natoras* was involved.

Case was brought to the *Namora Natoras* institution, as the highest customary institution in this village. This institution can function as a customary judicial institution, with the following structure: *namora* consisting of the village government, namely the Village Head as the chair of the session and the Village Secretary as the clerk; *natoras* consists of elements of all the tribal chiefs in the village consisting of eight people, plus elements of religious figures or *alim-ulama* several people. Ucok and Butet as the defendants, in the presence of family representatives and several witnesses to the incident.

In the trial, the families of each party gave their statements about the incident and offered solutions to resolve the dispute. The witnesses were also asked for their statements so that the problem became clearer. Since in the previous stages, Ucok and Butet have admitted that they have committed lewd acts, thus facilitating the proof. However, their confessions were still heard at the trial. Regarding this lewd incident, the trial members were satisfied with the defendant's confession, although the witnesses did not actually see the entry of Ucok's penis

into Butet's vagina as evidence of adultery in Islamic law. However, the two confessions at the stage of family deliberation, the involvement of tribal chiefs, mediation of village heads, and the trial of the *Namora Natoras* institution, have sufficed four confessions in different places and times.

The next consideration is the demand to marry Ucok to Butet. The assembly asked Ucok's opinion whether he could voluntarily marry Butet. Ucok refused by accusing Butet of not having sexual relations with him alone. Butet denied the accusations. Ucok could not prove his accusation, which accusation is actually very serious because it can be categorized as *qadzaf* in Islamic law. However, because it seems that Ucok's objection to marrying Butet was based on his suspicions of another Butet partner, the assembly ordered Butet to take an oath that it was Ucok himself who had sex with him.

Decision *Namora Natoras* in this case is to marry the two of them and impose customary sanctions in the form of *Namora Natoras* in the *circumcision* ceremony (an event that is not required by religion to be performed) for the perpetrators within a period of five years. In general, the community is subject to the *Namora Natoras*, even according to the participants of this research, no community has dared to violate the *Namora Natoras* in Sirangkap Village. Thus, it can be said that *Namora Natoras* for the residents of Sirangkap Village is effective because it is carried out by the parties concerned, the conditions are different from court decisions in Indonesia. The submission of the parties to *Namora Natoras* is related to *Namora Natoras* in various lines of people's lives, especially considering the *Namora Natoras* which has involved the village government, traditional leaders, and religious leaders. People are very worried that they will be isolated in society, customs, and religion if they do not comply with the decisions and policies of *Namora Natoras*.

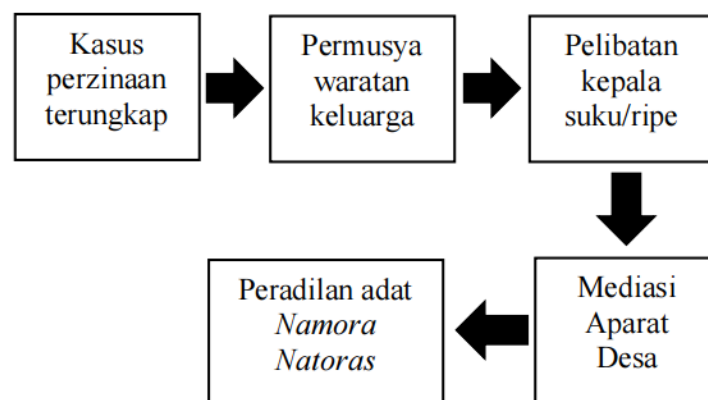


Figure 2. Dispute settlement scheme in Sirangkap Village

C. Perception *Namora Natoras* of Forced Marriage by Zina Perpetrators on the Principle of Approval of the Bride and Groom

In the above case, Ucok finally agreed to marry Butet, but the agreement was not entirely based on the voluntarism of the men but was a form of submission to *Namora Natoras*' decision. Thus, it can be said that the marriage of Ucok and Butet has not really been based on the principle of agreement between the two prospective brides. However, the forced marriage is

not without reason at all and is not just to accommodate the demands of the woman's family. Perception *Namora Natoras'* the second marriage is more beneficial than leaving the two of them unbound in marriage.

At least there are several considerations because marrying adulterers with their adulterous partners is considered more beneficial based on the experience and views of the community. First, marrying off the adulterer to his adulterous partner is a form of customary sanction. In the form of a sanction, a sanction is applied for a violation of legal norms and can basically be applied without the consent of the person who violates it. But indeed, in the perspective of Islamic law, marrying someone as a sanction is not known. Even in the Fatwa of the MPU Aceh Number 03 of 2009 concerning the Law of Marriage for Meusum Perpetrators it is stated that "Marrying a person who commits khalwat/meusum is not *'uqubat* according to syar'iat and custom."

Besides that, is it necessary for the adulterer to get married immediately? In fiqh, the law of marriage can change according to a person's condition, so that for certain people it can become obligatory, haram, makruh and sunnah. According to fiqh experts in general, marriage becomes obligatory if it will convincingly fall into adultery if not married, while the person is able to fulfill marriage expenses such as dowry and wife expenses, fulfills the syar'i rights of marriage, and is unable to maintain himself from committing heinous acts by fasting and the like (Az-Zuhaili, 1996). Marriage becomes obligatory in relation to a person's condition of adultery, whether he is still able to withstand it or is worried about falling into it. That is, the fear of falling into adultery alone has made a marriage mandatory, especially if someone has really fallen into adultery. This has become a proof that the person is indeed unable to protect himself from adultery, so for those who have fallen into adultery, marriage should be obligatory for him. But it remains to be seen whether the marriage will lead to injustice or not. If it is feared that it will bring about injustice, whether in the form of economic, psychological, or physical violence, then the marriage can become unlawful.

Second, the marriage of this adulterous couple is also in the form of maintaining the balance of nature. In the mystical story of the people of Sirangkap Village, when a nasty violation occurs, the figure of a wild animal, called "*nabetengi*", will approach the resident's area as a form of warning of a violation of customary law norms. Figure *nabetengi* will deliberately show himself to several people who go to the fields so that the public will know of his presence. In addition, marrying an adulterous partner is one of the efforts to provide a deterrent effect to the community so that they do not commit the same lewd act.

Third, the marriage of an adulterous couple is also an attempt to prevent the birth of a child out of wedlock. When there has been sexual intercourse between a man and a woman, it is very possible to get pregnant. Indeed, this should be checked by a doctor or wait for some time to confirm the pregnancy. But in the public's perception, they are less familiar with doctor's examination other than it will cost a certain amount of time and money. People also tend to be in a hurry to marry an adulterous partner rather than having to wait for it for some time. Especially when there is a threat of *nabetengi*. The consideration of prioritizing marriage in this case is indeed worth considering the magnitude of the harm for children born out of wedlock.

Fourth, that the couple commits adultery voluntarily. Then why can't they volunteer in goodness, even though they previously did the forbidden act in a consensual condition. In the

eyes of society, marriage is a means of repentance. In religion, it is known advice to replace bad deeds with good deeds so that the good deeds erase the previous sins. In a narration that the Messenger of Allah was asked about a man who committed adultery with a woman, and he intended to marry her. Prophet replied, "In the beginning it was an act of adultery, the end was marriage (*awwaluhu sifah wa Akhiruhu nikah*). What is unlawful will not forbid what is lawful." The scholars took this hadith as the basis that it is not forbidden for a person to marry his adulterous partner (Az-Zuhaili, 1998). However, this does raise other questions because in Islamic law, the sin of adultery is redeemed not by marrying an adulterous partner but by whipping or stoning. This history itself does not oblige the adulterer to marry his adulterous partner. The language is not forbidding adulterers to marry their adulterous partners.

Fifth, marrying an adulterous partner is a form of concern for the future fate of women during poor public perception of adulterous women. Society tends to look worse at women who commit adultery. A woman who commits adultery will find it more difficult to find a halal partner than a man. Moreover, there is a view in society that forbids a believer to marry a woman who commits adultery, even though this view is not appropriate in Islamic law. This perception arises from an understanding of the word of God in QS An-Nur: 3, which reads:

الرَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ وَحُرِّمَ ذَلِكَ عَلَى الْمُؤْمِنِينَ

"Men do not commit adultery but commit adultery., or women who are polytheists; and a woman who commits adultery is not married except to a man who commits adultery or an idolatrous man, and that is forbidden to the believers."

Based on the understanding of this verse, some people tend to understand that an adulterer must also marry an adulterer, not to marry someone else. In the commentaries it is explained that in fact this verse is not in the form of *tasyri'* meaning not in the intention of establishing a law or sharia, but in the form of a *tamhid* or description, that usually an adulteress will not marry except an adulterer too. Adulterers (*az-zani*) in this verse also receive various interpretations, which can be interpreted in two forms of *isim fail*; *al-* or *al-washfi*, whether adultery as an event or adultery as work or has been repeatedly. It means whether the adulterer here is a person who has fallen into adultery or is it an adulterer in the sense that it has become a habit for him to do so. Adulterers in the verse are generally understood in the second form (Assyria, 1984).

Thus, based on this verse, generally or normally, an adulterer will not marry except with an adulterer too. In our own society, let alone adulterers or prostitutes, even a woman who has fallen into adultery, is generally avoided by people to be married, although sometimes by her own boyfriend or his own adulterous partner. Perhaps on this side we find a logical reason why the adulterer is forced to marry his adulterous partner, so that the woman gets a married partner because if it is not forced it will be difficult for outsiders to accept the fact that the woman has already committed adultery. In our society's perception, the status of a widow may be more dignified than an adulteress who is not married at all.

Sixth, in the public's perception there must be a distinction between consent and voluntary. In marriage what is needed is the principle of consent, not voluntary. Volunteering is completely free from any demands or threats. In contrast to consent, it is sometimes accompanied by demands, such as parental demands, or in this case a lawsuit, or is not purely voluntary but agrees with various considerations. In the perspective of Islamic law, for a woman

there is *isti'dzan* and there is *isti'mar*, a request for permission and a request for opinion. In the case of *isti'mar*, a person may not be married without his direct consent, in contrast to the *isti'dzan* where a person can be married only with his permission without his direct consent. Maybe this case of adultery is like that case.

Based on the results of the research above, this study supports and can complement the research results of Tiawan (2021), Effendi (2021), and Kurniawan (2017). The results of this study indicate that the *Namora Natoras* views that forcing the marriage of adulterers to be inconsistent with the practice of Islamic law, is in line with the results of Tiawan's research (Tiawan, 2021) which assesses that the forced marriage of adulterers is in accordance with the concept of *ijbar* in fiqh. Because in practice itself, the marriage is carried out by fulfilling the aspects of the pillars of marriage, as Kurniawan reports (Kurniawan, 2017) regarding the views of Kiai Krapyak who generally conclude that in practice forced marriage is a legal contract.

However, the results of this study are indeed different from those of Suparlon (Suparlon, 2018) and Segaf (SEGAF et al., 2019) which are of the view that forced marriage of adulterers is not in accordance with the concept of Islamic law. This discrepancy can be understood when viewed from the perspective of jinayat law, which does not recognize forced marriage as a form of *ta'zir* or as a *uqubat*. This has also been stated by the Aceh MPU in its fatwa. But if you look more deeply, the community applies the law based on the existence of a legal vacuum, whereas in the public's view any form of adultery is a crime. It is very appropriate if the Aceh MPU gives a fatwa that forced marriage of perverts cannot be used as a sanction because in Aceh itself there is a Qanun that regulates how to treat adulterers, but this is different from the case with people in other regions who do not yet have a certain legal umbrella to deal with these adulterers.

Then, the results of this study show the view of the *Namora Natoras* that the forced marriage of adulterers does not conflict with the enforcement of human rights but is carried out to uphold the rights of women and children, even though the consent of the men is excluded, because it is considered more beneficial. This result is in line with Effendi's research (Effendi, 2021) which concludes that the *gawal* (forced marriage) against immoral actors in the Tungkal Ulu Malay community is not a violation of human rights because it is carried out based on justification by the local social system. The results of this study, thus, refute, contradict, or correct the views of Jain (Jain, 2008) and the results of the home Office study (Samad, 2010).

The results of this study agree with Gangoli's research (Gangoli, 2008) which asserts that the experiences of, and routes to, forced marriages are complex and varied, and that state and legal definitions of forced marriage do not always match those held by individuals, institutions, and communities. community. For example, there is evidence of marriages from African communities where a couple may be forced to marry because of premarital sex or an unplanned pregnancy. Thus, it can be said that forced marriage is not always, and not as simple, a matter of gender inequality. The issue of forced marriage for adulterers, for example, is a very complex problem in society.

At the end of this article, the author reveals that this article is still very limited. The research in this article does not cover, for example, the latest developments regarding the law of forced marriage in the TPKS Law because this research was conducted before the birth of the law, and again the practice of forced marriage of adulterers took place before the enactment

of the law. Therefore, in the future it will be very interesting to see further how the public's perception after the implementation of the TPKS Law on their policy of marrying adulterers. This research also does not cover the criminalization of forced marriages and does not go too far into discussing the point of view of jinayat. Besides all that, the limitations of the author to explore more informants from various regions greatly affect the results of this study. In future research, perhaps it is highly recommended to expand, multiply and deepen the flow of information regarding forced marriages of adulterers.

CONCLUSION

Shari'a does not stipulate a law to force adulterers to marry their adulterous partners. The forced marriage of adulterers is only a form of local wisdom to integrate customs and the Shari'a. When the Shari'a requires caning or stoning, while the indigenous people feel they are not authorized to carry out the punishment, *Namora Natoras*, who feels responsible for the occurrence of adultery, which often harms the whole community, applies a sanction to marry off the adulterer and other forms of sanctions. as a form of effort to seek the balance of nature and provide a deterrent effect, prevent children from being born out of wedlock, a form of repentance to erase mistakes with kindness, a form of concern for the future fate of women during poor public perception of adulterous women. *Namora Natoras* puts aside the urgency of enforcing the principle of consent of the prospective bride and groom because he sees it more problematic to marry off the two adulterers based on their willingness alone, where the benefit of forcing the marriage of the adulterer in this case is to protect the rights of children and women, as well as punishing the male adulterer to take responsibility.

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