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## **Abandonment of Women's Rights in Child Marriage; An Islamic Law Perspective**

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### **Abstract:**

The number of child marriages has recently increased significantly, particularly during the Covid-19 pandemic. This is caused by assumption that child marriage will save the child's financial and social security. In fact, child marriage actually causes many problems, especially regarding the abandonment of women's rights in domestic life. This is contrary to the purpose of marriage in Islam which is to create

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harmonious, prosperous and happy household. This study aims to gain an in-depth understanding on the forms of abandonment of women's rights in child marriage cases and how the Islamic family law perspective perceives it. The data were obtained through observation, interviews, and literature searches. The research location was conducted in Palembang City, South Sumatra, Indonesia. Data analysis is carried out with an interpretive approach to give meaning so that it has coherence between one another. The research findings show that the forms of abandonment of women's rights in child marriage cases include three types, namely the abandonment of economic rights, human rights and reproductive rights. The abandonment occurs because of community's legal culture which considers the action as commonplace in the household. Even, the victim of abandonment allowed herself stuck in that position. According to Islamic family law, the abandonment of women's rights in the household is an act of disobedience against justice as well husband's reluctance to the wife. It is a form of violation of the commands of Allah and His Messenger which is also emphasized in the legislation with the existence of both social and criminal sanctions.

**Keywords:**

Abandonment; Women's Rights; Child Marriage; Islamic Family Law

**Abstrak:**

Jumlah perkawinan usia anak baru-baru ini mengalami peningkatan signifikan, khususnya selama Covid-19. Ini diakibatkan oleh anggapan bahwa perkawinan usia anak dapat menyelamatkan finansial dan keamanan sosial. Padahal, perkawinan usia anak justru banyak menimbulkan masalah terutama terkait pengabaian hak-hak perempuan dalam kehidupan rumah tangga. Hal demikian bertolak belakang dengan tujuan perkawinan dalam Islam; yaitu mewujudkan rumah tangga yang harmonis, sejahtera dan bahagia. Studi ini bertujuan untuk mendapat pemahaman mendalam tentang bentuk pengabaian hak-hak perempuan serta bagaimana perspektif hukum keluarga Islam memandangnya. Data diperoleh melalui observasi, wawancara, dan penelusuran literatur. Analisis data dilakukan dengan pendekatan

interpretatif untuk memberikan makna terhadap data sehingga didapatkan koherensi antara satu data dengan yang lain. Temuan penelitian menunjukkan bahwa bentuk-bentuk pengabaian terhadap hak perempuan meliputi tiga hal, yakni pengabaian terhadap hak-hak ekonomi, hak asasi dan hak reproduksi. Pengabaian tersebut terjadi karena budaya hukum masyarakat yang menganggap bahwa tindakan semacam itu lumrah terjadi dalam rumah tangga. Bahkan, korban pengabaian sendiri membiarkan diri mereka tetap pada kondisi tersebut. Dalam hukum keluarga Islam, pengabaian terhadap hak-hak perempuan dalam rumah tangga semacam itu merupakan sekaligus *nusyuz* suami terhadap istri. Pengabaian tersebut merupakan bentuk pelanggaran terhadap perintah Allah dan Rasul-Nya yang juga dipertegas dalam aturan perundang-undangan dengan adanya sanksi sosial maupun pidana.

**Kata Kunci:**

Pengabaian; Hak Perempuan; Perkawinan Usia Anak; Hukum Keluarga Islam

**Introduction**

Since the emergence of the COVID-19 pandemic, there has been an increase in cases of child marriage. Data from the Department of Women's Empowerment and Child Protection (*Dinas Pemberdayaan Perempuan dan Perlindungan Anak, PPPA*) shows that 13.44% of South Sumatran practice this type of marriage<sup>1</sup> and the result is 11.21% higher than the national average.<sup>2</sup> One of them is the city of Palembang as the area with the highest number of child marriage cases. This situation indicates that the tradition of child marriage has been considered common in the community. Child marriage is carried out by adolescents between 13 to 19 years old in either the prospective

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<sup>1</sup> Muhamad Amin, "Pernikahan Usia Dini Di Sumsel Melonjak Selama Pandemi," 2021, <https://rri.co.id/palembang/metropolitan/1202044/pernikahan-usia-dini-di-sumsel-melonjak-selama-pandemi>.

<sup>2</sup> Komnas Perempuan, "Melihat Dampak Pandemi COVID-19 Dan Kebijakan PSBB Melalui Kacamata Perempuan Indonesia" (Jakarta, 2021), <https://komnasperempuan.go.id/download-file/496>.

bride or groom<sup>3</sup> or even both. This practice is prohibited in the marriage law which has determined a minimum age of 19 years (Article 7 paragraph (2) of Law No. 16 of 2019). The increase, in the proportion of cases presented in earlier data, indicates a contradiction to the rule.<sup>4</sup>

Several studies demonstrate the causes of child marriage. One of which is the family's weak economic factor that leads to the social belief that child marriage can preserve the family's finances.<sup>5</sup> There is also a parental assumption that marriage is a solution to prevent children from promiscuity.<sup>6</sup> In addition, the low educational factor makes individuals not consider the consequences. A lack of understanding regarding marriage preparedness requirements in religious beliefs also leads to an immature decision. These factors are believed to trigger an increasing number of child marriages.<sup>7</sup>

Under the present phenomena, upon entering a marriage life, one is confronted with a variety of challenges, such as the inability to meet family economic needs, unearned work troubles, unstabled relations, unreadiness to become a parent at a very young age, and other issues.<sup>8</sup> These challenges may interfere with psychological stability and mental health among individuals in the family which then lead to uncontrolled situations even violations. They range from economic abandonment, injustice in work distribution, demands on

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<sup>3</sup> Fathur Rahman Alfa, "Pernikahan Dini Dan Percerain di Indonesia," *JAS: Jurnal Ilmiah Ahwal Syakhshiyah* 1, no. 1 (2019).

<sup>4</sup> Lilis Suryani and Farida Agus Setiawati, "Peran Dan Kualitas Perkawinan Orang Tua Terhadap Perilaku Anak Usia Dini," *Jurnal Obsesi: Jurnal Pendidikan Anak Usia Dini* 6, no. 2 (2019): 977-88, <https://doi.org/10.31004/obsesi.v6i2.1561>.

<sup>5</sup> Abdi Fauji Hadiono, "Pernikahan Dini Dalam Perspektif Psikologi Komunikasi," *Jurnal Darussalam; Jurnal Pendidikan, Komunikasi dan Pemikiran Hukum Islam* 9, no. 2 (2018): 385-97.

<sup>6</sup> Mubasyaroh, "Analisis Faktor Penyebab Pernikahan Dini Dan Dampaknya Bagi Pelakunya," *Yudisia: Jurnal Pemikiran Dan Penelitian Sosial Keagamaan* 7, no. 2 (2016): 385-411.

<sup>7</sup> Fransiska Novita Eleanora and Andang Sari, "Pernikahan Anak Usia Dini Ditinjau Dari Perspektif Perlindungan Anak," *PROGRESIF: Jurnal Hukum* 14, no. 1 (2020): 14.

<sup>8</sup> Satih Saidiyah and Very Julianto, "Problem Pernikahan Dan Strategi Penyelesaiannya: Studi Kasus Pada Pasangan Suami Istri Dengan Usia Perkawinan Di Bawah Sepuluh Tahun," *Jurnal Psikologi Undip* 15, no. 2 (2016): 124-33.

women to become the backbone of the family to frequent result in the emergence of violent crimes both physical and mental ones.<sup>9</sup> Problems that often arise in marital life result in women's disadvantages because they are considered weak parties. They are also considered dependent on their husbands in economic matters.<sup>10</sup> In a case of child marriage, the abandoning of women's rights is particularly a significant concern at the present days.<sup>11</sup>

The pandemic has increased cases of child marriage because it has dramatically impacted the economic and social life of the community. The government provides a social restriction policy to stop the spread of the Covid-19 outbreak by limiting community activities in economic activities. The long pandemic conditions have caused a decline in economic growth, so unemployment and poverty rates are increasing.<sup>12</sup>

The literature discussing the abandonment of rights focuses on three factors. *First*, the abandonment of women's rights in an intimate relationship which is based on intimate financial violence and resources in the family.<sup>13</sup> *Second*, the experiences of domestic workers subjected to workplace violence, discrimination, and violation of rights by their employer.<sup>14</sup> Regulation on protecting domestic workers

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<sup>9</sup> Arianus Harefa, "Faktor-Faktor Penyebab Terjadinya Tindak Pidana Kekerasan Dalam Rumah Tangga," *Jurnal Panah Keadilan* 1, no. 1 (2021).

<sup>10</sup> Ayu Setyaningrum and Ridwan Arifin, "Analisis Upaya Perlindungan Dan Pemulihan Terhadap Korban Kekerasan Dalam Rumah Tangga (KDRT) Khususnya Anak-Anak Dan Perempuan," *MUQODDIMAH* 3, no. 1 (2019): 11.

<sup>11</sup> Sukiati and Ratih Lusiani Bacin, "Perlindungan Perempuan Dan Anak: Studi Akibat Hukum Pengabaian Pencatatan Perkawinan," *Gender Equality: Internasional Journal of Child and Gender Studies* 6, no. 1 (2020): 121-34.

<sup>12</sup> Nurul Aeni, "Pandemi COVID-19: Dampak Kesehatan, Ekonomi, dan Sosial COVID-19 Pandemic: The Health, Economic, and Social Effects," *Jurnal Litbang: Media Informasi Penelitian, Pengembangan dan IPTEK* 17, no. 1 (2021): 18.

<sup>13</sup> Christina Vogels and Ayesha Scott, "Becoming Unstuck: The Emotional Challenges of Researching Women's Experiences of Intimate Financial," *Women's Studies*, 2020, 1-18, <https://doi.org/10.1080/00497878.2020.1861454>.

<sup>14</sup> Beth Goldblatt, "Social and Economic Rights to Challenge Violence against Women - Examining and Extending Strategies," *South African Journal on Human Rights* 35, no. 2 (2019).

are also well discussed<sup>15</sup>. *Third*, the voices of women who have been victims of violence and marginalization.<sup>16</sup> Of the three factors mentioned, there has been no writing that focuses on the forms of abandonment of the rights of women who do child marriage, women's attitudes towards the abandonment they experience and how Islamic family law views such the abandonment.

Islamic teachings contained in the Qur'an emphasize the obligations of the husband which is the right of his wife.<sup>17</sup> The husband is the head of the family and the most responsible person to provide a living for the wife.<sup>18</sup> This rule is confirmed in Sura Al-Baqarah verse 233 which indicates that the husband has to provide for the family as a welfare guarantor. Likewise, An-Nisa verse 34 states that the right of leadership is given because of the husband's obligation to bear the burden as a protector of the family's livelihood. Based on this verse, the act of abandonment of rights is a form of non-compliance with the divine provisions. Abandonment of women's rights in child marriage indicates a decrease in community compliance with the law. As a guideline, the legal position of Islamic families is mandatory to be implemented in the life of a Muslim. Incompliance with these rules can destroy the harmonious order in the household.<sup>19</sup>

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<sup>15</sup> Antony Jesu Rajan, Vettriselvan, and Divyaranjani, "Human Rights Violations against Rural Women Workers," *International Journal of Management Research and Social Science (IJMRSS)* 6, no. 1 (2019), <https://doi.org/10.30726/ijmrss/v6.i1.2019.61001>.

<sup>16</sup> Subrata Banarjee, "Identifying Factors of Sexual Violence against Women and Protection of Their Rights in Bangladesh," *Aggression and Violent Behavior*, 2020, 8.

<sup>17</sup> Umi Supraptiningsih and Khoirul Bariyyah, "Marriage Settlement among Minority Muslim by Datok Imam Masjid in South Thailand," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 14, no. 2 (2019): 221-35, <https://doi.org/10.19105/al-ihkam.v14i2.2631>.

<sup>18</sup> Ahmad Rajafi, "Reinterpretasi Makna Nafkah dalam Bingkai Islam Nusantara," *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 13, no. 1 (2018): 24, <http://orcid.org/0000-0002-8945-0299>.

<sup>19</sup> Ahmad Lonthor, "Moluccas Local Wisdom in the Role of Marriage Arbitrators for Preventing Domestic Violence," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 15, no. 2 (2020): 201-23, <http://dx.doi.org/10.19105/al-ihkam.v15i2.3677>.

In several previous studies, abandonment was described as a violation that can lead to divorce lawsuits<sup>20</sup>. The legitimacy of judicial institutions confirms this condition for parties who feel disadvantaged in their rights to seek for civil and criminal justice.<sup>21</sup> The abandonment of living in Islam is not justified even if it is on the grounds of the husband's inability in economic matters. The obligation of living imposed in Islam is in accordance with the abilities possessed by the husband as explained in article 80 of *Kompilasi Hukum Islam* (KHI; Islamic Law Compilation).<sup>22</sup>

The fact on the high cases of abandonment of women's rights in child marriage in Indonesia shows that the current positive law has not been fully complied with by the community. This is evidenced by the number of complaints from victims and the public regarding the abandonment case to various authorized institutions as data reported by the Women Crisis Center (WCC) Palembang city numbering 39 cases of abandonment of wives.<sup>23</sup> The approach of perspective of Islamic family law will further emphasize how the abandonment of women's rights as a violation of religious teachings is perceived. The adoption of Islamic family law should be more readily accepted as a solution to the abandonment problem because most perpetration of child marriage are from Muslim communities. It is known from reports from judicial institutions that cases of marriage dispensation have continued to increase, especially during the pandemic.<sup>24</sup>

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<sup>20</sup> Papreen Nahar and Annemiek Richters, "Suffering of Childless Women in Bangladesh: The Intersection of Social Identities of Gender and Class," *Anthropology & Medicine* 18, no. 2 (2011): 327-38, <http://dx.doi.org/10.1080/13648470.2011.615911>.

<sup>21</sup> Sundari Anitha, Anupama Roy, and Harshita Yalamarty, "Gender, Migration, and Exclusionary Citizenship Regimes: Conceptualizing Transnational Abandonment of Wives as a Form of Violence Against Women," *Violence Against Women*, 2017, 1-28.

<sup>22</sup> BPHN, "Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 Tentang Penyebarluasan Kompilasi Hukum Islam" (Bphn.Go.Id, 1991).

<sup>23</sup> Suara Sumsel ID, "Tidak Mirip Lesti Kejora, WCC: Wanita Di Palembang Cenderung Tak Cabut Laporan KDRT," n.d., <https://sumsel.suara.com/read/2022/10/19/184257/tidak-mirip-lesti-kejora-wcc-wanita-di-palembang-cenderung-tak-cabut-laporan-kdrt>.

<sup>24</sup> Mahkamah Agung RI, "Signifikannya Perkara Dispensasi Kawin Terus Meningkatkan di Masa Pandemi Covid-19," 2022.

Positive law takes this issue seriously by imposing prison sentences for perperation of neglecting women's rights as stipulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence which applies to all citizens of the Republic of Indonesia.<sup>25</sup> According to the terminology of Islamic law, the act of imposing sanctions by the government is in line with the concept of *ta'zir*. The concept of *ta'zir* is a punishment for someone who commits a crime and the punishment does not have a certain size.<sup>26</sup> Thus, the concept is applied to mistakes whose punishment is not determined by the Shari'ah. The government can therefore determine sanctions as a form of effort to realize the benefit of society.

This research was conducted to complement existing studies on the neglect of women's rights in child marriage from the perspective of Islamic Law. It was conducted empirically to discuss the phenomenon of abandonment of women's rights in child marriage through its types and according to Islamic law.

### Method

This study examines women who experience abandonment of rights in child marriage by elaborating on primary data (interview results) in the field and conducting a discussion from the point of view of Islamic family law.<sup>27</sup> The selection of issues is based on the increase in cases of child marriage and domestic violence in young couples' households. This study was built on research conducted in Palembang, South Sumatra. The selection of this location was based on the fact that Palembang is the location with the highest number of child marriages. This strengthens the researcher to choose Palembang as the research location.

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<sup>25</sup> "UU Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga," n.d.

<sup>26</sup> MH Siregar, "Konsep Ta'zir Dalam Pendekatan Fiqh" (2015).

<sup>27</sup> Zulmi Ramdani, Tintin Supriyatin, and Susi Susanti, "Perumusan dan Pengujian Instrumen Alat Ukur Kesabaran Sebagai Bentuk Coping Strategy," *Jurnal Psikologi Islam dan Budaya* 1, no. 2 (October 31, 2018): 97-106, <https://doi.org/10.15575/jpib.v1i2.2955>.



The data used for the baseline analysis were obtained from primary and secondary sources.<sup>28</sup> Primary data were obtained through interviews, namely form of statements from respondents. The secondary data, meanwhile, were obtained from a literature study in articles or other sources relevant to this paper.

Data from interview and literature study were then grouped based on the pattern of respondents' opinions about their experience in an abandonment situation.<sup>29</sup> The grouping was placed as material ready for further processing. Data analysis, after that, employs an interpretive strategy to provide coherent meanings while facilitating writing. Specifically, interview data were analyzed through restatement, description, and interpretation of the abandonment situation. Restatement is by referring to the interview quotes based on the informant's experience, while the data was described to show the inclination of the respondents' opinions. Meantime, the interpretation process is carried out by understanding the results of observations and interviews, textually and contextually.

Respondents consisted of seven women who experienced neglect of their rights in household life. The selection is based on the criteria of women working in the public sector, getting married at an early age, having children, and having a husband who does not have a permanent job. Statements obtained from respondents became the main basis of analysis.

## **Discussion and Result**

### **Forms of Abandonment Women's Rights in the Household**

National Commission on Anti Violence against Women (*Komisi Nasional Anti Kekerasan Perempuan, KOMNAS Perempuan*) conveyed that in the religious courts, there was a spike in child marriages almost threefold compared to the previous year. Marriage dispensation jumps from around 23 thousand to 64 thousand in the

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<sup>28</sup> Russell D. Ravert, "‘You’re Only Young Once’: Things College Students Report Doing Now Before It Is Too Late," *Journal of Adolescent Research* 24, no. 3 (May 2009): 376-96, <https://doi.org/10.1177/0743558409334254>.

<sup>29</sup> John W Creswell and J David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, Fifth Edition (Sage Publications, 2018).

Religious Courts in 2020.<sup>30</sup> The number is so large that it will provide important information and strengthen the urgency of the research. Child marriage contradicts children's right to education, pleasure, health, and freedom of expression. It is due to many reasons. By getting married, children will be busy with household matters, so they can no longer continue their education and enjoy their teenage year.<sup>31</sup> In addition, marriage during underage results in poor maternal and reproductive health.<sup>32</sup> The dimensions seriously impact the sustainability of their family life. The data on all respondents in this study can be seen in the following table 1.

Table 1. Respondents Demography

No.	Initial	Age	Occupation	Age at Marriage	Number of Children
1.	K	19	Household Servant	14 years old	2
2.	W	19	Vegetable Trader	15 years old	3
3.	N	18	Vegetable Trader	15 years old	2
4.	R	19	Laundress	15 years old	2
5.	KR	23	Night Club Waitress	14 years old	4
6.	H	25	Breakfast Seller	15 years old	2
7.	A	20	Masseus	15 years old	2

Table 1 above is brief information on respondents of this current study. The table describes the respondent's initial names, current ages, occupation, age at marriage and the number of children each the respondent has.

<sup>30</sup> Komnas Perempuan, "Perkawinan Anak Merupakan Praktik Berbahaya (Harmful Practice) Yang Menghambat Indonesia Emas 2045," 2021, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tentang-perkawinan-anak-merupakan-praktik-berbahaya-harmful-practice-yang-menghambat-indonesia-emas-2045-3-agustus-2021>.

<sup>31</sup> Ahmed Abdus Saleh Saleheen et al., "Sociodemographic Factors and Early Marriage among Women in Bangladesh, Ghana and Iraq: An Illustration from Multiple Indicator Cluster Survey" 7 (2021): e07111, <https://doi.org/10.1016/j.heliyon.2021.e07111>.

<sup>32</sup> Susan Lee-Rife et al., "What Works to Prevent Child Marriage: A Review of the Evidence," *Studies in Family Planning* 43, no. 4 (2012).

The neglect of women's rights is a form of abandonment of the right to live, defend, and live with other beings.<sup>33</sup> The narrative of the division or polarization of public and private spaces has a significant impact on the occurrence of difficulties and neglect of women's rights.<sup>34</sup> Similarly, women's rights are increasingly being voiced due to the neglect of the domestic domain.<sup>35</sup> This is concerned with the right to personal freedom, family, work, and welfare.<sup>36</sup> Additionally, the right to health impedes women from acquiring complete reproductive health and sexual rights.<sup>37</sup> The abandonment of rights is a process of indifference carried out by women regarding the authority in selecting and determining their lives.

The effect can occur through unbalanced marital relations and unfair societal gender norms and relations among women.<sup>38</sup> Excessive participation or multiple roles is a form of abandonment of welfare.<sup>39</sup> Generally, the COVID-19 pandemic presents a challenge for women.

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<sup>33</sup> Cho Cho Zaw Raheema and Myat Min Mohd Omar, "Five Pillars of Islam in Relation to Physical Health, Spiritual Health and Nursing Implications," *IJUM Medical Journal Malaysia* 17, no. 1 (July 18, 2018), <https://doi.org/10.31436/imjm.v17i1.1019>.

<sup>34</sup> Lohani Meenakshi and Aburaida Loai, "Women Empowerment: A Key to Sustainable Development," *The Social ION* 6, no. 2 (2017), <https://doi.org/10.5958/2456-7523.2017.00006.4>.

<sup>35</sup> Sigoro Atnike, Abby Gina, and Dewi Komalasari, "Portrait of the Impact of the Implementation of Large-Scale Social Distancing during COVID-19 Pandemic towards Women and Marginalized Groups through the Perspective of Intersectional Feminism," *Jurnal Perempuan* 25, no. 4 (2020): 295-308.

<sup>36</sup> Anu Manchikanti Gomez, Emily S. Mann, and Vanessa Torres, "'It Would Have Control over Me Instead of Me Having Control': Intrauterine Devices and the Meaning of Reproductive Freedom," *Critical Public Health* 28, no. 2 (March 15, 2018): 190-200, <https://doi.org/10.1080/09581596.2017.1343935>.

<sup>37</sup> Majel McGranahan, "Realising Sexual and Reproductive Health and Rights of Adolescent Girls and Young Women Living in Slums in Uganda: A Qualitative Study," *Reproductive Health* 18, no. 125 (2021), <https://doi.org/10.1186/s12978-021-01174-z>.

<sup>38</sup> Sylvain Y. M. Some, Christy Pu, and Song-Lih Huang, "Empowerment and Use of Modern Contraceptive Methods among Married Women in Burkina Faso: A Multilevel Analysis," *BMC Public Health* 21, no. 1 (December 2021): 1498, <https://doi.org/10.1186/s12889-021-11541-x>.

<sup>39</sup> Nesrin Varol et al., "The Role of Men in Abandonment of Female Genital Mutilation: A Systematic Review," *BMC Public Health* 15, no. 1 (December 2015): 1034, <https://doi.org/10.1186/s12889-015-2373-2>.

Job loss and childcare demands that are only emphasized to women create a high level of psychological stress.<sup>40</sup> Therefore, the influence of rights neglect provides a narrow space for women in life practices.<sup>41</sup>

Based on the finding of this current research, the types of abandonments of women's rights in child married cases are classified into three forms. They are abandonment of economic rights, human rights, and reproductive rights. The following is explanation on each of the three:

### *The Abandonment of Economic Rights*

During the pandemic, the child marriage wives endured tough time, particularly those who were economically in the lowest class. The economic crisis has resulted in the unemployment and homelessness of men, formerly the backbone of the families. This condition forces their wives to work extra, as the following four women confessed:

*"Since my husband was laid off, I did not get enough family spending. To buy milk for my child, I had to work as a domestic assistant" (K, 19 years old)*

*"The Covid pandemic resulted in my husband's shop going bankrupt. To meet the needs of my family, every day I had to leave the house at 03.00 am, shopping for vegetables and fish at the central market and sell around the housing complex" (W, 19 years old)*

*"My husband lost his job because the office reduced employees. In addition to taking care of my young child, taking care of the house, I work in a laundry that requires me to work from 08:00 am to 05:00 pm" (N, 18 years old)*

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<sup>40</sup> Linda L. Carli, "Women, Gender Equality and COVID-19," *Gender in Management: An International Journal* 35, no. 7/8 (September 30, 2020): 647-55, <https://doi.org/10.1108/GM-07-2020-0236>.

<sup>41</sup> Odette van Brummen-Girigori et al., "Father Abandonment and Jealousy: A Study among Women on Curaçao," *Personality and Individual Differences* 96 (July 2016): 181-84, <https://doi.org/10.1016/j.paid.2016.02.048>.

*"Our family's economy collapsed due to the pandemic. There is no government assistance in any form. My husband does not have any fixed income. By the end of 2020, I have decided to be a seller, and every day at 04:00 am, I have to prepare herb ingredients and sell them to traders in the market. After returning home, I must carry out the routine household task and care for sick parents." (R, 19 years old).*

*"Since getting married, my husband has never provided a living. Therefore, to meet my daily needs, I have to work, especially since I have 4 children. I work in a night club." (KR, 23 years old).*

*"Before the pandemic, my husband worked as a furniture maker. However, since the pandemic, he hadn't worked at all. To meet household needs, I have to work as a breakfast seller every morning". (H, 25 years old)*

*"My husband worked as a construction worker, but since the pandemic, he has often been unemployed because there are no offers for his job. Therefore, I work as a masseuse. Sometimes, I also go to the market to get paid to peel onions". (A, 20 years old).*

The interview data above shows that women experienced stacked jobs to earn economic income during the pandemic. Those wives who initially took care of domestic affairs eventually got additional duties after their husbands were laid off. Additionally, the pandemic has forced them to accept all jobs randomly by not considering their own choice. These women's lack of skills or expertise due to their low education and unemployment have led them to get various jobs that do not require specific expertise. Formerly, they got married at the average age of 16 years or during the school age. Later, they are required to have responsibilities for the family's economic resilience.<sup>42</sup>

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<sup>42</sup> Lohani Meenakshi and Aburaida Loai, "Women Empowerment: A Key to Sustainable Development" 6, no. 2 (2017), <https://doi.org/10.5958/2456-7523.2017.00006.4>.

At this point, the dual role, as mentioned by an expert, is a form of abandonment of women's welfare.<sup>43</sup> The dismissal of husbands from work has forced their wives to maintain the family's economic stability. In this position, these women appear more resilient and responsible for the crisis experienced, as shown by R in her description. The condition of those hit by family economic difficulties imply that women are the backbone of the family.<sup>44</sup>

The findings in this section imply that during the pandemic, the rights of women from child marriage practitioners were neglected. In addition, it is also seen that Indonesian women have extraordinary resilience in an effort to maintain the integrity of their household. In fact, one of factors in the occurrence of child marriage is the illusion on achievement of social and financial security.<sup>45</sup> However, during the pandemic, the neglect of women's rights actually made their situation worse than before.

The abandonment of economic rights indicates that early marriage of women will further add to the unfair treatment. Injustice in the unbalanced division of labor can burden them extra workload. Hence, the abandonment of women's rights will trigger a rift in the household of young couples and even increase the potential for divorce. The results also show that underaged married wives from the middle and lower economic circles are very vulnerable to domestic violence. It is because economic hardship factors and domestic violence are inseparable.

### *The Abandonment of Human Rights*

Human rights are based on the universality concept which states that everyone has equal rights without discrimination. Furthermore, the notion of the indivisible, acknowledgment, and interdependence of multiple rights encompass the fulfillment of civil, political, economic, social, and cultural rights. In this context, human

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<sup>43</sup> Dwi Edi Wibowo, "Peran Ganda Perempuan Dan Kesetaraan Gender," *MUWÂZÂH* 3, no. 1 (2011): 356-64.

<sup>44</sup> Sri Fadilah, "Kesetaraan Gender: Fenomena Pergeseran Peran Ekonomi Wanita Dari Tulang Rusuk Menjadi Tulang Punggung," *Mitra Gender (Jurnal Gender dan Anak)* 1, no. 1 (2018): 18-26.

<sup>45</sup> Siti Nurul Khaerani, "Faktor Ekonomi dalam Pernikahan Dini pada Masyarakat Sasak Lombok," *Qawwaw* 13, no 1(2019): 1-13.

rights are concerned with equal and non-discriminatory treatment. Underaged marriage wives tend to lose their right to education and are vulnerable to physical and psychological violence. This is as stated by four respondents during interviews.

*"I did not finish elementary school because of parental economic factors. As a result, I got unregistered marriage at a very young age. During this pandemic, my husband did not have a job, and when I asked for money to buy household needs, we often argued each other hard. I got harsh words even once slapped" (K, 19 Years old)*

*"I went to junior high school but at the age of 15, in the 10th grade, I was dismissed because I often did not attend the class. Finally, I decided to get married. The desire to maintain the integrity of the household and the feeling of shame when divorced make me endure working to earn money, even though I often get abusive treatment from my husband" (W, 19 Years old)*

*"I got married when I was 15 because I did not continue my education after finishing junior high school. With the low education background, I can only work as a worker in the laundry. Much workload makes me often tired, and the relationship with my husband is increasingly tense. Therefore, I often make conflicts with him who is not currently working. It is this conflict that often results in him uttering inappropriate words" (N, 18 Years old)*

*"The economic difficulties I experienced as a child resulted in my early marriage to reduce the burden on parents, even though my life did not get better. During the pandemic, my husband lost his permanent job. My parents are sick and need treatment. It resulted in an economic problem, and I had to work for a living. However, my unemployed husband is often angry when I am late to return home" (R, 19 Years old)*

*"I got married at the age of 14 because my parents could not afford to continue my education. I did not even finish elementary school. My husband often used violence and said rude things to me, even it's been a year since he left me physically. He never gave me and our*

*child a living, so I had to work at a nightclub. We are not divorced yet, because we only got unregistered married (sirri) so I have difficulties in filing a divorce lawsuit. To deal with administration related to our marriage, I have no money.” (KR, 23 years old).*

*“I did an unregistered (sirri) married at the age of 15 years. I didn't continue my education because my parents couldn't afford the tuituin so I only finished my elementary school. Since the beginning of our marriage, my husband had often abused me so we had divorced. However, I was ashamed of my status as a widow, so we reconciled. My husband's habit of being rude to me continues, especially since he didn't have a job during the pandemic. Therefore, I have to work as a breakfast seller every morning to meet household needs.” (H, 25 years old).*

*“I come from a poor family so I only finished elementary school. I got unregistered (siri) married at the age of 15 to reduce the burden of my family. However, my husband often used violence against me, especially since he was often unemployed during the pandemic. In order to meet the needs of my family I have to work as a masseuse.” (A, 20 years old).*

Physical violence against women is an intense action where men assert power and control to cause pain.<sup>46</sup> Interview descriptions indicate that the 15-year-old woman is more susceptible to physical violence, including slapping and abusive treatment. Data from the Ministry of Women 's Empowerment and Child Protection shows that the increasing workload on women, the double burden of being a wife and mothers, and online teaching at home have resulted in higher violence against women during the pandemic.<sup>47</sup>

The violence experienced by the seven informants was also influenced by their low educational factors and low-income family history. In this case, there is a significant relationship between the

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<sup>46</sup> Shireen Lateef, “Wife Abuse Among Indo-Fijians 1,” in *Sanctions and Sanctuary*, 1st Edition, Cultural Perspectives on the Beating of Wives, 2019.

<sup>47</sup> Amin, “Pernikahan Usia Dini Di Sumsel Melonjak Selama Pandemi.”



education level of the victims and the violence experienced.<sup>48</sup> Low education makes it difficult to get a job with a decent income. It can even cause unemployment, especially during the pandemic. This is the common cause of economic crisis in the household and the economic crisis has led to frequent occurrence of violence against women. Furthermore, marriage at the child's age does not reflect physical and scientific maturity.<sup>49</sup>

Psychological violence, furthermore, causes loss of confidence and helplessness or inability to defend oneself.<sup>50</sup> This is like what happened to several respondents who experienced feelings of loneliness, fear of the future, and felt unable to continue their life well. Women themselves cannot stop the double burden in physical and psychological violence they suffer because of internal factors. Those include feelings of shame when they want a divorce,<sup>51</sup> harsh comments from men, pressure from the family, and the likes. The occurrence of domestic violence was also due to the unpreparedness of mental health and childish psychology of the couple.<sup>52</sup> Consequently, the violence resulted in impairment of women's quality life and the risk of psychological violence ranging from depression to unwantedness<sup>53</sup>.

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<sup>48</sup> Ogadimma Arisukwu, "Perception of Domestic Violence among Rural Women in Kuje," *Heliyon* 7 (2021): e06303, <https://doi.org/10.1016/j.heliyon.2021.e06303>.

<sup>49</sup> Ajwang Warri, "Child Marriages, Child Protection and Sustainable Development in Kenya," *African Journal of Reproductive Health* 23, no. 2 (2019): 121-33, <https://www.jstor.org/stable/26772609>.

<sup>50</sup> Ramesh Adhikari, "Child Marriage and Physical Violence: Results from a Nationally Representative Study in Nepal," *Journal Of Health Promotion* 6 (2018).

<sup>51</sup> Sofia Strid, Runa Baianstovu, and Jan-Magnus Enelo, "Inequalities, Isolation, and Intersectionality: A Quantitative Study of Honour-Based Violence among Girls and Boys in Metropolitan Sweden," *Women's Studies International Forum* 88 (2021), <https://doi.org/10.1016/j.wsif.2021.102518>.

<sup>52</sup> Gimba Victor Kyari and Joseph Ayodele, "The Socio-Economic Effect of Early Marriage in North Western Nigeria," *Mediterranean Journal of Social Sciences* 5, no. 14 (2014): 11.

<sup>53</sup> Behice Han Almiş, Funda Gümüştas, and Emel Koyuncu Kütük, "Effects of Domestic Violence Against Women on Mental Health of Women and Children," *Psikiyatride Güncel Yaklaşımlar-Current Approaches in Psychiatry* 12, no. 2 (2020): 232-42, <https://doi.org/10.18863/pgy.567635>.

### ***The Abandonment of Reproductive Rights***

Article 72 of the Health Law regulates reproductive rights, including healthy, safe, and freedom from coercion and violence. In addition, it also guarantees the right to determine readiness and desire for sexual life and pregnancy.<sup>54</sup> Meanwhile, the results of the interviews below show a disregard for women's reproductive rights.

*"After marriage, even though I was very young, I immediately became pregnant without thinking about my physical and economic readiness. To my knowledge, married women do have to get pregnant and have children. I do not have a BPJS (health insurance) card because I am afraid that the monthly dues will not be paid" (W, 19 Years old)*

*"I had a child at 15 and gave birth to three. I do not practice birth control because I am always busy and have no time to go to a midwife. Furthermore, I do not have BPJS because there is insufficient income to pay monthly costs." (K, 19 Years Old)*

*"I gave birth at the age of 16 after 1 (one) year of marriage, and I had a miscarriage in early 2021 due to exhaustion during the day. But at that time, I did not realize I was pregnant." (N, 18 Years Old)*

*"I have two children aged 2.5 and 1.5 years, and the second child was born during the pandemic. I continue to trade on the market even though my pregnancy has reached the age of 8 (eight) months. There is a sense of worry when in the market. However, the demands of economic needs and the cost of giving birth require me to keep making money" (R, 19 Years old)*

*"I got married at the age of 14. Shortly after marriage, I became pregnant. I now have 4 children. The birth spacing between my children is not too far." (KR, 23 years old).*

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<sup>54</sup> Margaret Burnett, "A History of Abortion in Canada: The Quest for Women's Reproductive Rights," *Journal of Obstetrics and Gynaecology Canada* 41 (December 2019): S293-95, <https://doi.org/10.1016/j.jogc.2019.08.011>.

*"I got married at 15 years old. I got pregnant not long after the wedding. I currently have 2 children. After I got married I didn't use birth control because I was afraid that I would be considered infertile. It is common in society that if someone married then she does not get pregnant, then she is considered infertile."* (H, 25 years old).

*"I got pregnant at the age of 15, not long after I got married. I have 2 children. The distance between the first and second pregnancies is very close, which is less than one year."* (A, 20 years old).

Child marriage has had an impact on women's reproductive problems. According to the seven women, the young age marriage impacts the abandonment of their reproductive rights. This is mainly clear at the statement like; "I do not have birth control." Women reproductive problems mainly caused the fall in the family's financial ability that avoid them to purchase contraception instruments. In addition, another informant stated, "I do not have time to go to the midwife." This statement implied that the main concern is inability to pay medical fee or insurance in addition to abundant workload that give them no space to access medical service like contraception. An absence of contraception resulted in unplanned pregnancies, making the family more economically degraded. Above all, the economy is the main factor behind the lack of health insurance to cover health costs. Additionally, health insurance does not get much attention because of low knowledge.

Lack of knowledge about reproductive health has created obstacles for women to achieve full reproductive health and sexual rights.<sup>55</sup> They have no idea that pregnancy at a young age increases the risk of medical complications like bleeding, miscarriage, and even premature pregnancy and death because the body's anatomy is not ready for the process of conceiving to giving birth. The lack of communication with parents and poor understanding about reproductive health from the school also trigger this phenomenon. Lack of knowledge as well as physical and mental unpreparedness

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<sup>55</sup> McGranahan, "Realising Sexual and Reproductive Health and Rights of Adolescent Girls and Young Women Living in Slums in Uganda: A Qualitative Study."

experienced by the seven women furthermore result in pregnancies with short intervals and even unwanted pregnancies. This situation makes them unable to carry out normal social functions. The absence of commitment to reproductive health has also led to sexual abuse.<sup>56</sup> One of them is violence against women through sexual activities that are unpleasant for them.

### **Islamic Law through *Kompilasi Hukum Islam* (KHI; Compilation of Islamic Law) in Viewing Abandonment in Women's Right**

Women's role as the backbone or breadwinner of the family is perceived an abandonment of their economic rights. It is proved by the shift of responsibility in bearing the household economy from husband to wife. In Islam, marriage is an inner bond between a man and a woman to form a *sakinah* (harmony) household based on *mawaddah warahmah* (love and affection). One way of building household harmony is the implementation of rights and obligations between members. Household harmony will not be achieved without the awareness and care of each individual.<sup>57</sup>

The obligation of husband to fulfill material need of wife is the provision of legal subsistence which is mandatory. These obligations are in the form of proper food, clothing, and housing. This rule is stated in article 80, paragraph 4, and article 81, paragraphs 1, 2, and 3 *Kompilasi Hukum Islam* (KHI). Based on the provisions in these articles, the abandonment of women's rights is a form of violation. This violation's impact can lead to filing lawsuits against husbands through religious court institutions.<sup>58</sup>

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<sup>56</sup> Majel McGranahan, "Realising Sexual and Reproductive Health and Rights of Adolescent Girls and Young Women Living in Slums in Uganda: A Qualitative Study," *Reproductive Health* 18, no. 125 (2021), <https://doi.org/10.1186/s12978-021-01174-z>.

<sup>57</sup> Haris Hidayatulloh, "Hak Dan Kewajiban Suami Istri Dalam Al-Qur'an," *Jurnal Hukum Keluarga Islam* 4, no. 2 (2019): 143-65.

<sup>58</sup> Sarah Brayne, "Surveillance and System Avoidance: Criminal Justice Contact and Institutional Attachment," *American Sociological Review*, 2014, 1-25, <https://doi.org/10.1177/0003122414530398>.

In domestic life, women have the right for equal treatment with a balanced position with the husband.<sup>59</sup> However, some women experienced the abandonment of human rights, such as the right to education and safety from any physical and psychological violent treatment. The Compilation of Islamic Law confirms this in the article 79, paragraph 1, concerning equality of rights and position of husband and wife in the household and social life. In addition, article 80, paragraph 2, states that the husband must protect the wife and provide education and learning opportunities to obtain valuable and beneficial knowledge for religion, society, and the nation. Opportunities should be created for the wife to learn independently by reading books or by giving him permission to spend time studying outside through Islamic discussions.<sup>60</sup>

On the other hand, the attainment of a good physical, mental, spiritual, and social condition concerning the reproduction system, function, and process will be hindered when women cannot access their reproductive rights. Additionally, women with undeveloped reproductive organs can become pregnant in early marriage cases.<sup>61</sup> In fact, they should be independent to determine their physical and psychological readiness to become pregnant and the number of pregnancies according to their health and choice.<sup>62</sup> They should also be protected from the possibility of unwanted pregnancies to prevent abortions that can endanger their safety and reproductive health. Article 80 of *Kompilasi Hukum Islam* (KHI) emphasizes that even though a husband is a guardian in the family, the wife should decide essential matters for the household, such as birth planning, child education, child care and maintenance, housing and so on.<sup>63</sup>

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<sup>59</sup> Amiur Nurudin and Azhari Tarigan, *Hukum Perdata Islam Di Indonesia*. (Jakarta: Prenada Media Grup, 2016).

<sup>60</sup> Ahmad Rofiq, *Hukum Islam Di Indonesia* (Jakarta: PT Raja Grafindo Persada, 2003).

<sup>61</sup> Ani Purwanti and Tridewiyanti Kunthi, *Stop Perkawinan Anak Dan Penghapusan Kekerasan Seksual Bagi Perempuan & Anak* (Thafa Media., 2019).

<sup>62</sup> Deborah Ottenheimer et al., "Physician Complicity in Human Rights Violations: Involuntary Sterilization among Women from Mexico and Central America Seeking Asylum in the United States," *Journal of Forensic and Legal Medicine* 89 (July 2022): 102358, <https://doi.org/10.1016/j.jflm.2022.102358>.

<sup>63</sup> BPHN, "Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 Tentang Penyebarluasan Kompilasi Hukum Islam."

Indonesia laws and regulations also explicitly state that acts of domestic violence are a form of crime in the marriage that can be given criminal sanctions as stipulated in the Law on the Elimination of Domestic Violence (Undang-Undang Penghapusan Kekerasan dalam Rumah Tangga, UUPKDRT) articles 44-53 of Law No. 23 of 2004. Article 5 of the Law on PKDRT states that domestic violence includes physical violence, psychological violence, sexual violence, and abandonment of the household (Undang-Undang Penghapusan Kekerasan dalam Rumah Tangga, UUPKDRT).<sup>64</sup> Physical violence is an act that can cause pain, fall ill, or be seriously injured (article 6 UUPKDRT). The informants (K., W., KR., H and A) in this study experienced physical violence by being slapped and mistreated by their husbands.

Psychological violence, meanwhile, is an act that can cause fear, loss of self-confidence, loss of ability to act, feeling helplessness, and/or severe psychological suffering in a person (Article 7 UUPKDRT).<sup>65</sup> All informants (K., W., N., R., KR., H and A) experienced psychological violence from their husbands. The victim received psychological violence, such as harsh and inappropriate words, and was often scolded. This violence causes fear, shame, loss of confidence, and helplessness.

All informants (K., W., N., R., KR., H and A) experienced economic abandonment. Their husbands have lost their jobs due to the pandemic, so they cannot provide a living for their families. This condition forced the informants to earn a living to meet their daily needs. The responsibility for maintenance lies with the husband instead of wife, so this condition puts them as the victims of economic abandonment in this case (Article 80, KHI).<sup>66</sup>

In line with the Qur'an's commands in Q.S An-Nisa: 19 and the *Kompilasi Hukum Islam*, the husband is obliged to get along well with his wife in domestic life. *Kompilasi Hukum Islam* implicitly prohibits committing violence in any form in domestic life. It also provides

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<sup>64</sup> JDIK BPH RI, "Undang-Undang (UU) No. 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga," 2004, <https://peraturan.bpk.go.id/Home/Details/40597/uu-no-23-tahun-2004>.

<sup>65</sup> JDIK BPH RI.

<sup>66</sup> BPHN, "Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 Tentang Penyebarluasan Kompilasi Hukum Islam."

strict rules in article 116 concerning acts of violence in any form that can be used as a reason to file for divorce.<sup>67</sup> Islamic Law Compilation provides detailed rules regarding the rights of wives in domestic life. The abandonment of these rights is categorized as a crime regulated by the law on PKDRT.

### **Conclusion**

Child marriage causes the abandonment of economic, basic human, and reproductive rights for women, even though it aimed for attainment of social and financial security. The abandonment of rights experienced by informants is all forms of domestic violence that they suffer and can be subject to criminal sanction. This situation has only gotten worse since the pandemic. Underage married women endured heavy burdens and suffering including losing the opportunity to live their desired life. However, they have tremendous resilience to maintain the integrity of their households. The use of the concept of rights in this paper has enabled a fundamental understanding of the neglect that occurs to underaged married women. They really need more attention, primarily related to fulfilling the rights of all human beings. Ignoring women's rights in the household according to an Islamic perspective is an act of husband's *nusyuz* towards his wife. In fact, a husband has an obligation to protect his wife and provide everything necessary for household life (a living, cloth and a place to live) according to his means. Such neglect is a form of violation of the commands of Allah and His Messenger.

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