



## NAVIGATING THE COMPLEXITIES OF MUT'AH MARRIAGES: THE ROLE OF WEST JAVA'S LOCAL GOVERNMENT IN PROTECTING COMMUNITIES

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**Abstract:** Adultery is one of the reasons Islam pays excellent attention to marriage. The danger due to adultery is very great, as well as being categorised as a major sin that Allah SWT hates. Islam really expects all forms of adultery, let alone an act of adultery that is defended and justified and packed with values that seem to be true. Mut'ah marriage, which often occurs in the peak tourist area, which is known as the "Arab village," is one of the justifications for the act of adultery. The research method used is normative-empirical. In addition, researchers employed a case-and-law approach to review findings from field observations obtained through interviews and other data-collection techniques. The results of this study suggest that contract marriages in the Puncak area, also known as Kampung Arab, are common; however, since the onset of the COVID-19 pandemic, they have decreased somewhat due to policies limiting activities across countries to curb the spread of COVID-19. The Cianjur Regency government is carrying out efforts to counteract the practice of mut'ah marriage by making a district regulation that specifically prohibits this practice. In addition, the role, awareness, and concern of the surrounding community remain strong in efforts to restore Cianjur's image as a city of students.

**Keyword:** Prostitution, Mut'ah, Trafficking

**Abstrak:** Islam melarang praktik perzinahan dan masuk dalam kategori dosa besar yang sangat dibenci Allah SWT. Salah satu jalan perzinahan ialah nikah mut'ah, yang dalam beberapa pendapat dianggap sebagai perkawianan yang sah. Namun bagi sebagian besar ulama Islam terutama di Indonesia menganggap perbuatan tersebut sebagai perzinahan. Kampung Arab di Kabupaten Cianjur terkenal sebagai tempat yang populer dilakukannya praktik nikah mut'ah dan bahkan menjadi daya tarik wisata prostitusi. Kondisi ini bertentangan dengan image Kabupaten Ciampea sebagai kota Santri. Penelitian ini bertujuan untuk mengkaji bagaimana pemerintah daerah setempat mengatasi permasalahan prostitusi terselubung ini dengan pendekatan yuridis empiris. Data-data yang digunakan dikumpulkan melalui teknik wawancara mendalam dan pengamatan yang diperkuat dengan data sekunder. Temuan penelitian menunjukkan bahwa usaha pemerintah Kabupaten Cianjur untuk mengatasi praktik nikah mut'ah yang lumrah terjadi melalui peraturan bupati Nomor 38 Tahun 2021 tentang Pencegahan Kawin Kontrak. Terjadinya pandemi Covid 19, seakan membantu pemerintah mengurangi jumlah pengunjung yang berniat untuk melakukan praktik tersebut, sehingga menjadi momentum pemerintah daerah dalam menghilangkan praktik tersebut, dan memulihkan reputasi Cianjur sebagai kota santri. Perlu adanya penelitian lanjutan mengenai efektivitas peraturan daerah tersebut pasca Pandemi Covid-19.

**Kata-kata Kunci:** Prostitution, Mut'ah, Trafficking

## Introduction

Currently, technological and information development has progressed rapidly. In addition, social development has had various impacts.<sup>1</sup> As a result, everyone is forced to keep up with the times, even though they are not fully prepared. This lack of preparedness has led to moral and ethical issues in society. Furthermore, various phenomena are deliberately concealed under the guise of justification or disguised as religion.<sup>2</sup> In the researchers' initial study, several facts were found that West Java is one of many regions where prostitution is practised and packaged in short-term marriages, or what is known as mut'ah marriage. One area where this practice occurs is the Puncak region between Cianjur and Bogor. Indeed, Islam is a complete religion that takes excellent care of its followers. Through the maqasid al-shariah, Islam regulates daily activities, from waking to sleeping.<sup>34</sup> The term maqasid al-sharia refers to the objectives that must be fulfilled under Islamic law, applicable in some or all legal contexts.<sup>5</sup>

One of the aspects of muamalah that is highly regulated in Islam is the aspect of marriage, from the contract to the consequences of divorce. Marriage is frequently mentioned in the Quran and hadith and is an essential aspect of human life. Islam places

<sup>1</sup> Piotr Werner and Bartłomiej Iwańczak, "Impacts of ICT on the Spatial Differentiation of Social Vulnerability to Natural Hazards in Poland," *Miscellanea Geographica* 19, no. 4 (2015): 64 – 71, <https://doi.org/10.1515/mgrsd-2015-0026>.

<sup>2</sup> Isnawati Rais, "The Practice of Mut'ah Marriages in Indonesia in the Review of Islamic Law and the Law of Marriage.; [Praktek Kawin Mut'ah Di Indonesia Dalam Tinjauan Hukum Islam Dan Undang-Undang Perkawinan]," *Ahkam: Jurnal Ilmu Syariah* 14, no. 1 (2014): 97 – 104, <https://doi.org/10.15408/ajis.v14i1.1246>.

<sup>3</sup> Taufiqurohman and Nelli Fauziah, "The Evaluation of Maqāṣid Asy-Syarī'ah on Discourses of the Islamic Family Law," *El-Usrah* 6, no. 1 (2023): 81 – 90, <https://doi.org/10.22373/ujhk.v6i1.13035>.

<sup>4</sup> Iffatin Nur, Ali Abdul Wakhid, and Lestari Handayani, "A Genealogical Analysis of the Concept and Development of Maqashid Syarī'ah; [Analisis Genealogis Konsep Dan Pengembangan Maqashid Syarī'Ah]," *Al-'Adalah* 17, no. 1 (2020): 1 – 30, <https://doi.org/10.24042/alah.v17i1.6211>.

<sup>5</sup> See Muhammad Thâhir bin Asyûr, *Maqâṣid al-Syarī'ah al-Islâmiyyah*, (Amman: Dâr al- Nafâ'is, 2001), hlm. 252. Wahbah al-Zuhaylî, *Ushûl al-Fiqh al-Islâmî*, (Damaskus: Dâr al-Fikr, 1998), Juz II, hlm. 1045

great value on the institution of marriage. Therefore, adultery is a major sin that Allah SWT intensely hates because it contradicts the essence of the sanctity of marriage that Allah SWT has outlined in Islam.<sup>6</sup>

In Islam, several types of marriages are forbidden, such as *nikah tahlil* (marrying a woman who has been divorced three times from her husband with the intention of reconciling with him first), *nikah syighar* (marrying someone with the condition that the person also marries the daughter of the other party), marriages that do not require both parties to marry, marriages that are accompanied by certain conditions that are burdensome, as well as *mut'ah marriage*.<sup>7</sup>

As previously explained, one of the prohibited marriages is *mut'ah marriage*. *Mut'ah marriage* is a marriage between a man and a woman for a specified period; after the time expires, they automatically separate without pronouncing a divorce or transferring inheritance. In the process of *mut'ah marriage*, the man who intends to marry the woman usually does so without a guardian or witnesses, and they agree on the dowry for the agreed-upon period. Even more concerning, there is no financial support or waiting period (*iddah*), except for *istibra* (a period for a woman to undergo menopause, two periods for a regular woman, and four months and ten days if her husband dies, with no clear lineage).<sup>8</sup>

Based on prior research, several studies have examined various dimensions of *mut'ah marriage*, their societal impacts, and the government's role in addressing these practices. In the context of Indonesia, Rais (2014)<sup>9</sup> highlights that *mut'ah marriage* is a practice permitted within Shia Islam, but forbidden by the Sunni majority, who view it as deviant and unlawful. Despite this, the practice remains prevalent in some regions of Indonesia, even though it conflicts with the prevailing legal framework, including Law No. 4 of 1974 and Government Regulation No. 9 of 1975 on marriage. Meanwhile, Kinasih et al. (2019)<sup>10</sup> emphasise that cultural factors and the influence of local religious leaders play a significant role in perpetuating the practice of marriage contracts. These religious leaders sometimes justify the practice as a means to legitimise sexual relations, which, in turn, leads to women being trapped in vulnerable and disadvantageous situations.

Furthermore, Wardi (2019)<sup>11</sup> examines the legitimacy of *mut'ah marriage* from the perspectives of Sunni and Shia schools of thought. He explains that the differing viewpoints on *mut'ah*, particularly concerning the status of women involved in these

<sup>6</sup> Sayyid Sabiq, *Fiqh Sunnah*, Juz II (Kairo: Maktabah Dar al-Salam, 2006), 104.

<sup>7</sup> Wahyudin Darmalaksana, "The Ratio Of Mauquf Hadith And Companions' Ijtihad In Islamic Law Istinbath," *Khazanah Hukum* 3, no. 3 (2021): 137 – 142, <https://doi.org/10.15575/kh.v4i3.24893>.

<sup>8</sup> Ibnu Qudamah, *Al-Mughni Fi Fiqh Al Imam Ahmad Bin Hanbal* (Beirut: Darul Fikri, 1984), 46.

<sup>9</sup> Isnawati Rais, "Praktek Kawin Mut'ah Di Indonesia Dalam Tinjauan Hukum Islam Dan Undang-Undang Perkawinan," *AHKAM : Jurnal Ilmu Syariah* 14, no. 1 (2014): 97–104, <https://doi.org/10.15408/ajis.v17i1.1246>.

<sup>10</sup> Sri Endah Kinasih, Toetik Koesbardiati, and Siti Mas'udah, "Javanese Women under a Marriage Contract in Indonesia; [Mujeres Javanesas Bajo Contrato de Matrimonio En Indonesia]," *Opcion* 35, no. Special Issue 22 (2019): 2899 – 2921, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85084527350&partnerID=40&md5=39a38c0599ccb75b768c1c2dc33fae>.

<sup>11</sup> Fithriah Wardi, "The Legitimacy of *Mut'ah Marriage* Based on the Twelve Imamate and the Islamic Schools of Thought Point of View," *Malaysian Journal of Syariah and Law* 7, no. 2 (2019): 51–63, <https://doi.org/10.33102/mjsl.v7i2.127>.

marriages, often lead to intense debates. For Shia Muslims, engaging in mut'ah marriage is believed to grant forgiveness of sins for the women involved, while Sunni Muslims equate it with zina (adultery). This theological divide highlights how mut'ah marriages are not only a social issue but also deeply intertwined with religious doctrines, which complicates governmental efforts to regulate or mitigate these practices. Additionally, research by Praratya et al. (2021)<sup>12</sup> suggests that local governments in West Java, through programs such as Sekoper Cinta, aim to address gender inequality and mitigate the impacts of practices such as mut'ah marriages by empowering women through education and skill-building.

Based on the evidence presented, it can be concluded that mut'ah marriage serves as a form of defence against irrational desires that lead to zina. Mut'ah marriage also has the potential to create dangerous and complex effects, particularly for women who often experience harassment and degradation of their dignity. In fact, it is very clear that in Islam, women have a special place as they will become the first educators for their descendants. Currently, zina is becoming increasingly widespread and localised, practised openly and secretly in various regions, especially in West Java. If home-based prostitution, referred to as mut'ah marriage, is allowed to continue, it will have a very negative impact on the values of tawhid, morality, and ethics. Therefore, the researcher feels compelled to delve deeper into the issue of prostitution related to the practice of mut'ah marriage.

## Methods

The source of this research is field study techniques. Meanwhile, data are collected through direct interaction with participants (interviews). This research is descriptive, aimed at providing a comprehensive, easily understandable depiction of certain social phenomena or issues. This research employs two approaches: a review of all relevant regulations governing the legal matters at hand and a case-based approach that examines court decisions with final and binding legal force. The case mentioned in this research is the imposition of penalties for the unlawful practice of mut'ah marriage prostitution in the West Java region.<sup>13</sup> Meanwhile, primary data are obtained through interviews with informants or statements from relevant parties, including victims, local officials, victims' families, and other related individuals. Secondary data are obtained from official documents, such as books, dictionaries, journals, and court rulings, on the effects of the mut'ah marriage practice and its handling in West Java.

## The Phenomenon of Mut'ah Marriage in Islamic and National Regulations

Based on data from West Java Province's open data on the number of social problems by district/city, Cianjur District and Bogor District can be categorised as areas with a high risk or potential for human trafficking or crimes against humanity. The complete data can be seen as follows:<sup>14</sup>

<sup>12</sup> Atalia Praratya et al., "Communication in Pentahelix Collaboration for Nonformal Womens School in West Java," *Review of International Geographical Education Online* 11, no. 5 (2021).

<sup>13</sup> Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi* (Jakarta: Kencana Prenada Media Group, 2014).

<sup>14</sup> Open Data Provinsi Jawa Barat, 2020

Table 1.1 PMKS in Regencies and Cities in West Java in 2020

KABUPATEN/KOTA	Children Victims of Violence	Social Outcasts	trafficking victims	Violence Victims	Migrant Workers with Social Problems	Socioeconomically Vulnerable Women: The Poor/Poor Households	The Poor/Poor Households	Quantity
KABUPATEN CIANJUR	0	258	9	319	382	302	211,066	212,336
KABUPATEN BOGOR	26	2,127	86	169	26	5,439	1,318,885	1,326,758
KABUPATEN SUKABUMI	84	9	46	13	23	4,770	82,807	87,752
KABUPATEN BANDUNG	9	17	1	2	400	0	0	429
KABUPATEN GARUT	17	110	40	1,159	1,378	7,798	281,587	292,089
KABUPATEN TASIKMALAYA	3	0	0	0	46	180	211,896	212,125
KABUPATEN CIAMIS	16	10	2	6		8,097	154,337	162,468
KABUPATEN KUNINGAN	66	28	9	10	2	5,462	53,889	59,466
KABUPATEN CIREBON	0	0	0	0	400	60	0	460
KABUPATEN MAJALENGKA	4	182	2	92	166	6,672	31,476	38,594
KABUPATEN SUMEDANG	56	237	0	58	2,983	11,451	78,399	93,184
KABUPATEN INDRAMAYU	365	1,361	332	290	2,415	23,342	248,154	276,259
KABUPATEN SUBANG	8	824	5	5	50	657	211,890	213,439
KABUPATEN PURWAKARTA	1	215	1	1	2	1,478	27,653	29,351
KABUPATEN KARAWANG	0	158	9	154	379	15,009	61,293	77,002
KABUPATEN BEKASI	0	181	0	0	0	26,282	578,922	605,385
KABUPATEN BANDUNG BARAT	0	240	198	83	0	17,940	567,478	585,939
KABUPATEN PANGANDARAN	24	30	0	0	1	2,615	41,583	44,253
KOTA BOGOR	32	29	25	35	37	6,703	50,550	57,411
KOTA SUKABUMI	45	10	4	10	0	1,477	95,714	97,260
KOTA BANDUNG	21	60	1	0	0	6,772	136,019	142,873
KOTA CIREBON	47	38	1	18	0	4,797	27,881	32,782
KOTA BEKASI	93	211	960	45,099	1,771	152	2	48,288
KOTA DEPOK	28	319	2	43	1	2,528	77,408	80,329
KOTA CIMAHI	35	5	18	74	4	1,851	10,205	12,192
KOTA TASIKMALAYA	13	401	1	1	4	6,619	72,785	79,824
KOTA BANJAR	43	26	4	12	0	1,174	11,834	13,093
JUMLAH	1,036	7,086	1,756	47,653	10,470	169,627	4,643,713	4,881,341

Source: Open Data Jawa Barat, 2020

Table 1.1 presents the results from data classification and sorting conducted by researchers in accordance with the data requirements of this study. Several types of problems required are research supporting data that play a role in or have the potential to lead to human trafficking, one of which is in the form of contract marriage or mut'ah. The definitions of each type of research are as follows:

### **Victims of Violence**

Violence is an attitude or behaviour intended to hurt others. There are many definitions of violence as an act of aggression. In general, behaviour that includes the use of violence against others, whether overt or covert, offensive or defensive, is referred to as violence.<sup>15</sup>

<sup>15</sup> Shani A L Buggs, Julia J Lund, and Nicole Kravitz-Wirtz, "Voicing Narratives of Structural Violence in Interpersonal Firearm Violence Research and Prevention in the United States," *Frontiers in Public Health* 11 (2023), <https://doi.org/10.3389/fpubh.2023.1143278>; Akrimatil Izzat and Siti Afifah Ahmed Mulki, "Legal Discourse on Contract Marriage in Indonesian and Islamic Law," *Contemporary Issues on Interfaith Law and Society* 1, no. 1 (2022): 1 – 22, <https://doi.org/10.15294/ciils.v1i1.56710>.

This violence is usually characterised by the consequences of such behaviour, which causes a person to suffer physical and psychological injuries. Violence against children can be defined as behaviour that results in injury to the child. Violence against children is mainly caused by domestic problems that are categorised as not being okay. These problems usually involve a husband-and-wife couple, leading to venting of anger on the child as the target or victim. Problematic domestic situations are, of course, based on intentions or goals in building a household that are not noble, whereas the noble goal of a household is. In addition to violence against children, several cases occur against women and men.

Marital relations based solely on lust or sexual gratification usually occur in the practice of mut'ah marriage. This is a marriage based on a temporary agreement for economic reasons and sexual gratification, without any consideration for the future of the children born from such a marriage.<sup>16</sup> Even if a child is born from such a mut'ah marriage, it will only lead to neglect by the parents, especially the father who entered into the mut'ah marriage. Based on the above data, the number of cases of violence against children in 2020 reached 26 in Bogor Regency. Meanwhile, based on the 2019 annual report, the rate of violence against children in Bogor Regency reached 18 cases, with the following details: 15 male and female victims who did not attend school, 31 elementary school-aged victims, 29 junior high school-aged victims, 27 high school-aged victims, and 18 higher education-aged victims. Meanwhile, acts of violence against women and men in Bogor Regency reached 200 cases throughout 2019. The majority of violence was committed by husbands against their wives. This was followed by violence against women who were not married, and finally, violence experienced by men. The details are as follows:<sup>17</sup>

Table 1.2 Acts of Violence

No	Acts of Violence	Number	Unit
1	Violence Against Wives	61	Case
2	Violence Against Husbands	2	Case
3	Violence Against Women	16	Case

Source: Open Data Kab. Bogor

Meanwhile, Table 1.2, in the Cianjur district, no data is available. However, based on the results of a survey conducted by researchers in the field, many widows were found to be abandoned with their children, who were the result of mut'ah marriages with foreigners, predominantly from the Middle East.<sup>18</sup> To reinforce this, researchers also cite online news reports stating that the Cianjur District Government will provide education and health insurance for children born of contract marriages. Meanwhile,

<sup>16</sup> Sümeyra Yakar and Emine Enise Yakar, "A Critical Comparison between the Classical Divorce Types of Hanbalî and Ja'fârî Schools; [Klasik Hanbelî ve Caferî Mezheplerinde Uygulanan Boşanma Türlerinin Karşılaştırmalı Analizi]," *Darulfunun Ilâhiyat* 31, no. 2 (2020): 275 – 298, <https://doi.org/10.26650/di.2020.31.2.803260>.

<sup>17</sup> Open Data Kabupaten Bogor, Bogor Regency Open Data, Number of Cases of Violence Against Women and Children in 2019, accessed on November 10, 2021.

<sup>18</sup> editor, Pemkab Cianjur Jamin Pendidikan-Kesehatan Anak Hasil Kawin Kontrak" selengkapnya <https://news.detik.com/berita-jawa-barat/d-5598929/pemkab-cianjur-jamin-pendidikan-kesehatan-anak-hasil-kawin-kontrak>, diakses pada 10 November 2021.

according to information from the Integrated Service for Women and Children Empowerment (P2TP2A) in Cianjur Regency, the number of children and women who experienced violence in 2019 was relatively high, with 22 cases of violence against children and 7 cases of violence against women.<sup>19</sup>

### Prostitutes

Women of ill repute, or WTS for short, is a profession given to women who earn a living by selling themselves to lecherous men. The behaviour associated with WTS is clearly categorised as human trafficking in the context of sexual exploitation.<sup>20</sup> A husband-and-wife relationship can be established only with a legally valid spouse after the marriage process, and not for commercial purposes.<sup>21</sup> Once again, economic reasons are the main factor for both the perpetrators and victims of human trafficking, which is why they are classified as people with social welfare problems. The number of prostitutes in the Bogor district is very alarming. Of the total 27 districts/cities in the entire West Java region, the Bogor district ranks first as the area with the most prostitutes, namely 2,127 people in 2020. Meanwhile, Cianjur district ranks sixth with a total of 258 people.

### Poor Households and Women Vulnerable to Socio-Economic Issues

People with incomes below a certain threshold can be considered less prosperous economically. Meanwhile, the poverty line (GK) represents the minimum amount of rupiah required to meet the basic food and non-alcoholic beverage needs of each person, equivalent to 2100 kilocalories per capita per day, as well as basic non-food needs.<sup>22</sup> The poverty line is needed to assess and measure the condition of underprivileged communities. Ultimately, every resident whose income from their livelihood is below the poverty line is classified as poor. In accordance with the region's resource and potential conditions, the poverty line will differ across regions.<sup>23</sup>

The term 'economically vulnerable women' refers to women aged 18-59 who live in low-income households and are therefore eligible for PMKS (social welfare benefits). Compared with other districts and cities in West Java, Bogor District has the highest number of poor people (1,318,885) and socio-economically vulnerable women (5,439). Meanwhile, 211,066 and 302 people are affected by socio-economic vulnerability and poverty in Cianjur District, respectively.

<sup>19</sup> Editor, "Deretan Kasus Kekerasan Terhadap Anak dan Perempuan di Cianjur" pada <https://today.line.me/id/v2/article/YNzMpa>, diakses pada 10 November 2021.

<sup>20</sup> Mary C Burke, Barbara Amaya, and Kelly Dillon, *Sex Trafficking as Structural Gender-Based Violence: Overview and Trauma Implications*, *The Palgrave International Handbook of Human Trafficking*, vol. 1, 2019, [https://doi.org/10.1007/978-3-319-63058-8\\_22](https://doi.org/10.1007/978-3-319-63058-8_22).

<sup>21</sup> Carole Beth Cox, "Sex Trafficking in Cyprus: An in-Depth Study of Policy, Services, and Social Work Involvement," *International Social Work* 61, no. 6 (2018): 867 – 883, <https://doi.org/10.1177/0020872816681657>.

<sup>22</sup> Dean Jolliffe and Espen Beer Prydz, "Societal Poverty: A Relative and Relevant Measure," *World Bank Economic Review* 35, no. 1 (2021): 180 – 206, <https://doi.org/10.1093/wber/lhz018>.

<sup>23</sup> Jinghu Pan and Yaya Feng, "Spatial Distribution of Extreme Poverty and Mechanism of Poverty Differentiation in Rural China Based on Spatial Scan Statistics and Geographical Detector," *Dili Xuebao/Acta Geographica Sinica* 75, no. 4 (2020): 769 – 788, <https://doi.org/10.11821/dlx202004008>.

Poverty line data is urgently needed for this study. This aims to determine the percentage of women and low-income individuals who are socio-economically vulnerable and have incomes below the poverty line. The poorer a person is, the lower their income. Thus, they can be considered a vulnerable group at risk of becoming victims of crimes involving human trafficking. This is because poverty is the single most fundamental cause of human trafficking, both sexual and non-sexual. This is important to note when assessing the potential for human trafficking, both in the form of mut'ah and akad marriages, which are common in the research sample area.

### **Migrant Workers with Social Problems**

According to the Minister of Social Affairs Regulation No. 22 of 2013, Migrant Worker Issues (PMB) refers to individuals, whether working domestically or abroad, who have experienced violence, exploitation, expulsion, neglect, social inconsistency, or an inability to adapt due to impaired social functioning. Therefore, Indonesian Migrant Workers with Problems (TKIB) are migrant workers who work abroad without a work permit, do not have valid documents, and/or work in violation of their work permit, and have experienced cases of violence, neglect, or social incompatibility. Problem migrant workers have various contributing factors, including poor skills, lack of proficiency in other languages, lack of education, and illegal shipping practices. In 2020, there were 26 and 382 migrant workers with social problems each year in Bogor and Cianjur Regencies.

### **Trafficking Victims**

Data on human trafficking victims in Bogor and Garut districts show 86 and 9 newly uncovered cases, respectively. Of course, this cannot be considered valid, as researchers believe there are still many undetected cases related to this crime. This is certainly not an easy task to investigate and resolve, given that human trafficking itself is an extraordinary crime that is organised systematically and on a massive scale.

### **The Practice of Mut'ah Marriage**

The practice of mut'ah marriage, which has been widely discussed, is prevalent in the Cianjur-Bogor Regency, known as 'Kampung Arab' (Arab Village). According to one community leader interviewed by the research team, several years before the COVID-19 pandemic, this region was often used as a cover for immoral practices through contract marriages or mut'ah marriages. Tourists from the Middle East predominantly carried out these mut'ah marriages, he added. It is usually conducted during the Hajj season because, when it occurs, offices and workplaces in the Middle East are often closed, providing workers with an opportunity to take leave.<sup>24</sup>

The holiday momentum was utilised by brands, one of which visited Indonesia, a country renowned for its tourist destination in the Puncak area. This did not rule out the possibility that Middle Eastern tourists learned about it from someone who had visited before, who then told them about the tourist attractions in the Puncak area and even the 'plus' offers.

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<sup>24</sup> Interview by the Research Team with one of the sources, conducted on June 2, 2021

Ultimately, this has become a unique attraction for tourists, particularly men, to visit the mountainous area near Gadog Village. Based on the Research Team's dialogue with one of the informants, the following facts can be stated: First, several years ago, the practice of mut'ah marriage was widespread in the mountainous area. The women who were victims of this practice were not only residents in the area. In fact, many of them came from outside the area and became victims under the pretext of seeking income. Secondly, many businesses in the tourist area deliberately create an Arabian atmosphere throughout, from accessories and souvenirs to restaurants, accommodation, and Arabic-style signage.

This is done solely to attract tourists from the Middle East to visit the area. One mistake that has not been fully realised is that Middle Eastern tourists' appeal to the area is not solely for holiday purposes but, more importantly, to engage in mut'ah marriage, which is currently widespread there. Third, the strategy of prostitution mainly carried out by tourists from the Middle East in the region is to soften the language by using the term mut'ah marriage. Thus, the process is carried out in the same way as a normal marriage, with the result that some ordinary people consider this act to be different from prostitution carried out by pimps and prostitutes in general.

Fourth, most women involved in mut'ah marriage are not fully aware that they have committed an act that is not justified, either religiously or legally. The reason they believe this is because of their lack of understanding or ignorance and because the practice of mut'ah marriage is carried out in the same way as a general legal marriage, including the presence of witnesses, guardians, and a priest during the marriage ceremony, the only difference being that in a contract marriage, there is sometimes a time limit (tentative). In fact, they are entirely unaware that they have become victims of trafficking and exploitation of women. In some cases, many women who engage in temporary marriage experience domestic violence, are not provided with monthly financial support as promised, and are abandoned while pregnant or after giving birth.

Fifth, the average motivation for women who engage in mut'ah marriage is economic factors. For them, the most important thing is to obtain a dowry to support their livelihood. This is because, on average, tourists who enter into contract marriages typically make an advance payment of approximately 10 million rupiah as a dowry, in addition to daily living expenses and other costs. This is what motivates local women to engage in temporary marriage practices.

Sixth, the COVID-19 pandemic has at least helped to reduce the high rate of temporary marriage practices in the region. Based on a survey conducted by researchers, many places, restaurants, and tourist facilities in the area are usually crowded with tourists who often engage in sudden mut'ah marriages, but are now quiet. This is because lockdown policies and restrictions on activities implemented by all countries, including Indonesia, to suppress the spread of COVID-19 have tightened requirements for foreign tourists to enter and exit the country. This has also impacted the tourist area known for its practice of mut'ah marriage. However, it is not guaranteed that the natural handling of this practice will persist after the pandemic ends. Therefore, serious efforts from various stakeholders are needed to develop measures to eradicate such practices and prevent their recurrence.

## According to Islamic Law

From the point of view of meaning, it can be concluded that mut'ah is not in accordance with the meaning of marriage as intended in Islam.<sup>25</sup> This is because the purpose of marriage is to establish a strong bond and a firm agreement, based on the intention to live together, between husband and wife, to reap the spiritual rewards outlined by Allah SWT in the Qur'an, namely peace, love, and affection.<sup>26</sup><sup>27</sup> Meanwhile, the worldly purpose is for the development of offspring and the continuity of human life.<sup>28</sup> As Allah SWT says:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً  
وَاتَّقُوا اللَّهَ الَّذِي تَسْأَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

“O humanity, fear your Lord, who created you from a single soul and created from it its mate, and from the two of them He spread many men and women. And fear Allah, through whom you ask one another, and preserve the ties of kinship. Verily, Allah is ever watchful over you.” (QS. An-Nisa: 1)

In principle, mut'ah marriage is very much at odds with the values inherent in marriage as outlined in Islam. Some of these contradictions include: (1) In mut'ah marriage, the end of the divorce is limited by time rather than by talaq, (2) the marriage bond is only for the purpose of seeking momentary pleasure and not for the purpose of producing offspring as the next generation, (3) In mut'ah marriage, there is no limit to the number of women a man can have mut'ah with, whereas in the Qur'an it is very clearly limited to only four (4) with the terms and conditions that have been set, (4) There is no cause and effect of marriage, such as inheritance rights and so on.

A hadith narrated by Ibn Mas'ud reports that the Prophet once permitted temporary marriage for up to three days, but later forbade it. This occurred because Islam was still in a transitional period from the era of ignorance, and it happened when the Muslim army was at war and far from their wives. As a way to avoid adultery, mut'ah was permitted before the Prophet Muhammad SAW issued a definitive command prohibiting it. According to Dr Abdus Shomad, the hadith indicating the permissibility of mut'ah has been abrogated. This is stated in the following hadith:

حَدَثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنُ نَعْمَانَ، حَدَثَنَا أَبِي هُرَيْرَةَ، حَدَثَنِي الْرَّبِيعُ بْنُ سَبْرَةَ الْجَهْنَمِيُّ، أَنَّ  
أَبَاهُ، حَدَثَهُ أَنَّهُ، كَانَ مَعَ رَسُولِ اللَّهِ فَقَالَ: يَا أَيُّهَا النَّاسُ إِنِّي قَدْ كَنْتُ أَذْنَتُ لَكُمْ فِي الْإِسْتِمْتَاعِ مِنَ النِّسَاءِ وَإِنْ

<sup>25</sup> Abd Qohar et al., “Mut'ah Marriage Law in Perspective of Sayyid Husain Al-Thaba'thaba'i and Their Relevance with Family Law in Indonesia,” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022): 223 – 240, <https://doi.org/10.29240/jhi.v7i1.3714>.

<sup>26</sup> Sabbir Hasan, “Islamic Guidance on Resolving Marital Discord: A Critical Analysis,” *Ascarya: Journal of Islamic Science, Culture and Social Studies* 3, no. 1 (2023): 14 – 35, <https://doi.org/10.53754/iscs.v1i1.482>.

<sup>27</sup> Ismail Siti Zubaidah and Awang Mat Muhamad Zahiri, “The Concepts of Sakinah, Mawaddah and Rahmah as Foundation for Marital Happiness According to the Holy Quran: An Analysis Based on Ayat 21, Surah Al-Rum; [Konsep Sakinah, Mawaddah Dan Rahmah Sebagai Asas Kebahagiaan Rumahtangga Menurut Al-Quran: Suatu Analisis Berdasarkan Ayat 21, Surah Al-Rum],” *AlBayan* 14, no. 2 (2016): 206 – 222, <https://doi.org/10.1163/22321969-12340039>.

<sup>28</sup> Mohd Idris Ramulyo, *Hukum Perkawinan Islam* (Jakarta: Bumi Aksara, 2002), 25.

الله قد حرم ذلك إلى يوم القيمة فمن كان عنده منهن شيء فليحل سبيله ولا تأخذوا مما آتتكموهن شيئاً  
(رواه مسلم)

“O my friends, I once permitted you to practise mut’ah, but know that Allah has forbidden it until the Day of Judgement. So whoever has a woman whom he has taken through mut’ah, let him release her and do not take back anything you have given them.” (Narrated by Muslim)<sup>29</sup>

## According to Positive Law

To assess the permissibility and prohibition of mut’ah marriage based on state regulations or laws, it can be concluded based on the definition of marriage itself. In addition, it is necessary to consider several human values enshrined in Pancasila as the basic rules of the state, particularly the first principle, ‘Belief in One God,’ and the second principle, ‘Just and civilised humanity.’

Furthermore, the mandate in the 1945 Constitution Amendment 4, chapter 31 on religion, and Article 29 paragraphs (1) and (2) require all citizens to follow the guidelines prescribed by their respective beliefs. Therefore, as Muslims, it is imperative to refer to the Qur'an and Sunnah in all matters, including marriage itself.

In addition, several definitions of marriage are regulated in the law as follows: (1) As stated in Article 1 of Law Number 1 of 1974, marriage is a spiritual and physical bond between a man and a woman as husband and wife to form a happy and eternal family based on the One Almighty God. (2) According to Articles 2 and 3 of the Compilation of Islamic Law (KHI), marriage according to Islamic law is a marriage contract or mitsa'qan galizan, which is a firm commitment to obey Allah's commands and to carry them out as worship and to realise a household life of *mawaddah*, *sakinah*, and *rahmah*. Based on the definition of marriage as stipulated in these regulations, it is very clear that mut’ah is not permissible in Indonesia, a country with a Muslim majority.

## Handling of Mut’ah Marriage Practices

The issue of mut’ah marriage must be treated as a common enemy, and a solution must be found so that it is not practised again in the region. This is for the following reasons: (1) Mut’ah marriage is not in accordance with the rules of marriage contained in Islamic law or positive law; (2) Mut’ah marriage violates human rights, especially those of women or mothers, who should have a noble position but are instead treated as objects to be bought and sold. Therefore, the practice of mut’ah marriage can be categorised as an act of trafficking, which has been defined as an extraordinary crime. (3) The impact of mut’ah marriage is very harmful, such as a child who does not have or cannot identify their parents, disrupting inheritance rights, and potentially abandoning children and wives as victims of mut’ah.

Based on field research, there are at least several efforts that have been and will be made to address the issue of mut’ah marriage in the region, namely: (1) The Regent of Cianjur has signed a regent regulation that explicitly regulates the prohibition of

<sup>29</sup> Abd. Shomad, *Hukum Islam; Penormaan Prinsip Syariah Dalam Hukum Indonesia* (Jakarta: Kencana Predana, 2010), 313.

mut'ah marriage in the Cianjur region. This regulation is still under review by the West Java provincial government and will be decided upon in the near future. However, the legal content of this regulation is still considered incomplete because it does not include sanctions that could deter perpetrators of mut'ah marriage; (2) the community around the mut'ah marriage area still plays a strong role in showing its concern. Cianjur Regency, known as the city of santri, is working to restore the area's good image. This will undoubtedly be easier and faster to achieve if there is cooperation and support from various sectors of society within the Cianjur region.

## Conclusion

In the years leading up to the COVID-19 pandemic, the practice of mut'ah marriage was common in the Puncak tourist area. The women who were victims of this practice were not only residents, but also included women from outside the region. During the pandemic, temporary marriages ceased to occur because each country implemented policies restricting activities to suppress the spread of COVID-19, resulting in tighter controls on the entry and exit of foreign nationals into Indonesia. Temporary marriage, based on Islamic and state regulations, is not permitted in Indonesia for any reason. This is because the negative impacts of temporary marriage are considered to be significant and dangerous. Temporary marriage can be categorised as a criminal act of human trafficking. Efforts have been made to eradicate the problem of mut'ah marriage, including the issuance of regional regulations that specifically prohibit mut'ah marriage. In addition, the level of concern and awareness among the surrounding community remains high, with a focus on restoring the image of Cianjur Regency as a city of santri (Islamic students).

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