

MARRIAGE CANCELLATION DUE TO COERCION FROM MARRIAGE AND ISLAMIC LAW PERSPECTIVES

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Abstract

This study analyzes preventive and repressive legal protection for injured parties in marriages carried out on the basis of coercion in relation to marriage law and Islamic law. The methods used were the juridical normative. The results showed that preventive and repressive legal protection is very important in preventing and handling cases of marriages carried out based on coercion and threats. Preventive protection, such as counseling to the community, pre-marital guidance by the KUA, and the role of the family in increasing awareness of the right to freedom in choosing a life partner. Implementing repressive measures such as filing for marriage annulment and reporting criminal acts based on threats is essential to ensure justice for victims. There must be legal safeguards that guarantee that all marriages are based on the voluntary consent of the bride and groom, as expressly stated in the marriage and Islamic compilation law.

Keywords: Marriage cancellation; Legal protection; Religious court.

Abstrak

Penelitian ini menganalisis tentang perlindungan hukum preventif dan represif bagi pihak yang dirugikan dalam perkawinan yang dilakukan atas dasar paksaan dalam kaitannya dengan hukum perkawinan dan hukum Islam. Metode yang digunakan adalah yuridis normatif. Hasil penelitian menunjukkan bahwa perlindungan hukum preventif dan represif sangat penting dalam mencegah dan menangani perkara perkawinan yang dilakukan atas dasar paksaan dan ancaman. Perlindungan preventif seperti penyuluhan kepada masyarakat, pembinaan pranikah oleh KUA, dan peran keluarga dalam meningkatkan kesadaran akan hak atas kebebasan dalam memilih pasangan hidup. Melaksanakan upaya represif seperti mengajukan pembatalan perkawinan dan melaporkan tindak pidana yang berdasarkan ancaman sangat penting untuk menjamin keadilan bagi korban. Harus ada perlindungan hukum yang menjamin bahwa semua perkawinan didasarkan atas kerelaan hati kedua mempelai, sebagaimana dinyatakan secara tegas dalam hukum perkawinan dan hukum kompilasi Islam.

Kata Kunci: Pembatalan Perkawinan; Perlindungan; Pengadilan Agama.

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INTRODUCTION

Humans as individuals have a tendency to gather with other individuals and form groups to live together. This tendency to group and live together proves that humans are social creatures. Humans need other humans to maintain their lives, thus establishing relationships between themselves. This happens because human needs vary which cannot always be met alone.¹

Living together refers to relationships between individuals at different levels different, such as family, tribe, nation, and the world. This individual union is formed when two or more people live together, so that in the dynamics of this social interaction various types of relationships or bonds emerge which result in these individuals getting to know and influencing each other. This union of individuals is generally known as a society.² Society consists of various groups whose characteristics depend on the basic similarities and goals of the people in that group. The family is one of the smallest groups in society. This family is a form of fulfilling the human desire to have offspring, this of course cannot be done by individuals.

The human desire to produce offspring becomes the impetus for a man and woman to live as a family and ultimately become a state society. This desire is formed from social interactions that occur in society, namely marriage. Marriage is an important part of humans throughout the world, not only a biological need for men and women that is legally recognized, but also an implementation of the natural process of human life. Allah SWT has created humans in pairs in order to create a feeling of love and affection between them. Human existence will not be complete if he lives alone without other humans. Allah SWT gave every human being a sexual instinct, and over time the need to fulfill this instinct will increase. When these instincts are not fulfilled, a persons mind can become confused and full of worry, so Allah SWT prescribes this through marriage.³ This is in accordance with the Word of Allah SWT in QS Ar-Rum (30) verse 21 which means:

“And among His signs (of His greatness) is that He created mates for you from your own kind, so that you would be inclined and feel at ease with them, and He created between you feelings of love and affection. Indeed, in that there are indeed signs (of Allah's greatness) for a people who think.”

Marriage entails legal ramifications for both males and females, including the legal bond between spouses, the legal bond between parents and offspring, and also connections pertaining to marital assets. According to this, marriage should be established on legal regulations. The Law Number 16 of 2019, also known as the Marriage Law, is a legal amendment to Law Number 1 of 1974. It aims to establish regulations governing the marriage relationship between a man and a woman, reflecting the government's commitment to this matter. The purpose of the Marriage Law is to establish a structured and legally binding framework for marriage, ensuring order and clarity in marital relationships.

The regulation of marriage for Muslims in Indonesia is governed by Islamic law and Presidential Instruction Number 1 of 1991, which is known as the Compilation of Islamic Law. The establishment of the Compilation of Islamic Law is closely linked to the Religious Courts. This initiative aims to establish Islamic law as a component of national law by officially recognizing the Religious Courts as a judicial institution in Indonesia, alongside three other judicial institutions. Furthermore, it is anticipated that this Compilation of Islamic Law can serve as a means to mitigate conflicts arising from

¹Abdoel Djamali, “*Introduction to Indonesian Law (Revised Edition)*” (Depok: Rajawali Pers, 2018) p. 1.

²CST Kansil, “*Introduction to Indonesian Law and Legal Administration*”, (Jakarta: Balai Pustaka, 2013) p. 30.

³Lili Ovia and Miftahul Fauziah, “Internalization of Pancasila Values in the Family Perspective of the Al-Qur'an Surah Ar-Rum Verse 21” (*Syakhshiyah Journal of Islamic Family Law* , Vol. 1, No. 1, 2021) p. 5.

differing interpretations, particularly in matters concerning legal assistance, particularly in the context of marriage and inheritance rights.⁴

The law emphasizes that marriage is intended to create a joyful and everlasting family unit founded on a shared belief in a supreme deity. This creates a responsibility for spouses to support and enhance each other's personal growth, leading to both spiritual and material success. Marriage in Islamic law is *sunnatullah*, which means a command from Allah SWT, not just human desires or the fulfillment of human desires. A person who marries in Islam is considered to have implemented part of Islamic law. Marriage in Islam is the main basis for forming a family and must be carried out by humans as an effort to achieve the goals of the Shari'a, namely benefit in life.⁵ This is as stated by Allah SWT in QS An-Nuur (24) verse 32 which means:

“And marry those who are alone among you, and those who are worthy (to marry) of your female servants. If they are poor, Allah will enable them with His grace. And Allah is All-Encompassing in His Gifts, All-Knowing.”

Establishing a joyful and everlasting family undoubtedly necessitates the maturity of both the mind and physical being of the bride and groom. The permission of both the bride and groom is a crucial prerequisite for the execution of the marriage. Marriages frequently occur in accordance with parental preferences. The prospective bride and groom are excluded from the consultation, despite the fact that the marriage should commence with the agreement of both individuals.⁶ Even though the prospective bride and groom were not ready to build a household, they were encouraged by another party to carry out the marriage.

A marriage that is coerced will hinder the establishment of a harmonious family, as it lacks genuine mutual affection, hence fostering marital discord. This act of compulsion demonstrates the disregard for human rights, which are tantamount to the idea of freedom. Freedom, in this context, pertains to the ability to enter into marriage and establish familial connections, including the right to marry without discrimination, as well as the liberty to select a life partner. A marriage is deemed valid if it satisfies the criteria for a legally and harmoniously recognized union, as well as adheres to the prevailing legal regulations in Indonesia. The rules of marriage are implemented as regulations designed to guarantee that the marriage is conducted with sincere intentions, preventing any form of exploitation or ulterior motives that could undermine the fundamental nature of the sacred institution of marriage.

According to legal regulations, if the individuals involved in a marriage fail to meet the necessary conditions, the marriage might be invalidated. According to these regulations, marriages that are forced upon someone can be considered as a violation of the terms of marriage that have been established in the Marriage Law and the Compilation of Islamic Law. Therefore, in such cases, the disadvantaged party can seek a solution by annulling the marriage. An annulment is a legal procedure that declares a marriage to be void or without legal effect. An annulled marriage is considered null and void, meaning that it is regarded as if it never existed or took place, resulting in the individuals involved being considered as never having been married.⁷

Annulment in Islamic law is known as *fasakh*. *Fasakh* is one of the causes of marriage breakdown which means destroying or canceling the ongoing marital relationship. *Fasakh* can be caused by two things, either because there is something that cancels the marriage contract being carried out, or also

⁴Mohamad Badrun Zaman, “Acculturation of Indonesian Culture in the Implementation of Islamic Family Law” (*Tabsyir: Journal of Da'wah and Social Humanities*, Vol. 4, No. 4, 2023) p. 60.

⁵Zaeni Asyhadie (*et. al*), “*Family Law (According to Positive Law in Indonesia)*” (Depok: Rajawali Pers, 2020) p. 51.

⁶Moch. Isnaeni, “*Indonesian Marriage Law*” (Bandung: Refika Aditama, 2016) p. 29.

⁷Yahya Harahap, “*Indonesian Marriage Law*” (Medan: CV Zahir Trading Co, 1978) p. 71.

because of something that is experienced only after the marriage contract is carried out or while married life is progressing.⁸

An instance involving the nullification of a marriage conducted under duress caused by the man's entrapment took place in Depok, as stated in the ruling of the Depok Religious Court, identified as Decision Number 3617/Pdt.G/2021/PA.Dpk. The verdict indicated that the woman sought an annulment of her marriage to her husband through the Office of Religious Affairs (KUA). This marriage was arranged when the husband spontaneously invited and subsequently transported the wife and her family to visit her sick relatives. However, upon arrival, it was revealed that the marriage was being enforced by making the wife's younger brother act as the marriage guardian. The wife was coerced by her mother to sign the marriage document, of which she was unaware until the Marriage Certificate Excerpt was issued by the KUA. After this incident, the husband always terrorized and threatened the wife and her family with harsh words and even threatened to be killed if they did not recognize that the marriage was valid and they lived together.

In another instance, a case arose in Gorontalo, as documented in the Gorontalo Religious Court Decision Number 0308/Pdt.G/2017/PA.Gtlo. The man initiated legal proceedings to annul the marriage on the grounds that it was conducted under duress exerted by the woman's parents. This man was under threat from his parents who stated that if he did not want to marry the woman, he would not be allowed to see the body his mother when he died. In both cases, of course the injured party needs legal protection, especially since there are threats to the injured party to recognize and carry out the marriage. This case proves that the law must be an instrument to protect the legal interests of parties who suffer losses as a result of deviations from the rules regulated in the Marriage Law and the Compilation of Islamic Law. The implementation of a marriage should be based on the consent of both prospective bride and groom, but in neither case does this include a violation of a person's full right to freedom to determine their choice in marriage. Based on this, a problem identification can be obtained, firstly, how is preventive legal protection for aggrieved parties in marriages performed on the basis of coercion linked to marriage law and islamic law? Second, how is repressive legal protection for aggrieved parties in marriages performed on the basis of coercion linked to marriage law and islamic law?

METHOD

The author employed a normative juridical research approach in this work. Legal normative approach methodology This analysis focuses on a legal issue, involving research on legal concepts, legal systematics, and legal synchronization.⁹ The research conducted is an analytical descriptive study that examines the statutory restrictions pertaining to legal theories, specifically focusing on marital annulment as outlined in both the marital Law and Islamic law.¹⁰

RESULT AND DISCUSSION

1. *Preventive Legal Protection For Aggrieved Parties In Marriages Performed On The Basis Of Coercion Linked To Marriage Law And Islamic Law*

In Islamic law, the purpose of marriage is to establish a harmonious and compassionate family, known as *sakinah*, *mawaddah*, and *rahmah*, where love and affection prevail. This allows the bride and groom to build a family in line with the divine instructions of Allah SWT. The Marriage Law further

⁸Ahmad Azhar Basyir, " *Islamic Marriage Law*" (Yogyakarta: UII Press, 1999) p. 85.

⁹Soerjono Soekanto and Sri Mamuji, " *Normative Legal Research: A Brief Overview*" (Jakarta: Rajawali Press, 2003) p. 13.

¹⁰Soerjono Soekanto, " *Introduction Study Law*" (Jakarta: UI Press, 1982) p. 50.

highlights the objective of marriage to establish a joyful and everlasting family founded on faith in the Supreme Being.

Attaining the objective of marriage necessitates both the mental and physical preparedness of the bride and groom, together with their mutual agreement, which is a crucial prerequisite for the execution of the marriage. Frequently, marriages are conducted despite parental objections, and it is not unusual for there to be instances of coercion or intimidation towards the intended bride and groom to proceed with the marriage. Obtaining consent from both the potential bride and groom is a need for conducting a marriage. This is specified in Article 6, paragraph (1) of the Marriage Law, in accordance with Article 16, paragraphs (1) and (2) of the Compilation of Islamic Law. Marriage should be founded on voluntary choice and should not involve any form of coercion or intimidation. This means that neither the woman nor the man can be compelled against their will, ensuring that they can genuinely and happily fulfill their rights and responsibilities as spouses.

Cases in decision number 3617/Pdt.G/2021/PA.Dpk and decision number 0308/Pdt.G/2017/PA.Gtlo are marriages carried out based on compulsion accompanied by threats. These two cases certainly cause losses to several parties and therefore require legal protection, especially since there are threats to the injured party to recognize and carry out the marriage. This case proves that the law must be an instrument to protect the legal interests of parties who suffer losses as a result of deviations from marriage rules that have been regulated in the Marriage Law and the Compilation of Islamic Law. Legal protection is the right of every citizen guaranteed by Article 28 I of the 1945 Constitution:

“Everyone has the right and freedom from discriminatory behavior on any basis and has the right to receive protection against discriminatory treatment.”

Legal protection, as defined by Satjipto Raharjo, refers to the safeguarding of human rights (HAM) that have been violated by others. This protection is extended to the community to ensure their ability to fully exercise all the rights bestowed upon them by the law.¹¹ This legal protection can be provided in preventive or repressive form, both verbally and in writing.¹²

Preventive legal protection is a procedural mechanism that allows the public to raise concerns prior to the finalization of a government decision. Preventive legal protection refers to the government's proactive measures to prevent violations before they happen. These measures are established in legal regulations to prevent violations and provide direction on fulfilling commitments. Preventive protection refers to proactive measures taken to prevent a crime from occurring. The primary focus of preventative activities is to eradicate chances for the commission of crimes.¹³

Facing cases of marriages carried out based on coercion and threats, as happened in the two decisions above, legal protection can be requested in a preventive form first. Preventive protection focuses on preventing forced marriages because prevention is the first step in ensuring justice and protection for all parties involved in the marriage. The forms of preventive protection are:

¹¹ Satjipto Raharjo, “*Legal Science*” (Bandung: Citra Aditya Bakti, 2000) p. 54 .

¹² Reski Eka Putri and Muhammad Amiruddin, “Legal Protection for Women Before the Law” (*Alauddin Law Development Journal (ALDEV)* , Vol. 2, No. 3, 2020) p. 415-416 .

¹³ Phillipus M. Hadjon, “*Protection for the People in Indonesia*” (Surabaya: Bina Ilmu, 1987) p. 4-5.

a. Prevention from family

The first step in preventing forced marriages is through efforts at the family level. Families should increase awareness of the importance of the right to freedom, especially regarding the choice of a life partner. Every person possesses the entitlement to exercise their autonomy, even in the context of marriage, as stipulated in Article 6, paragraph (1) of the Marriage Law, which mandates that marriage should be founded upon the mutual agreement of both the prospective bride and groom, as well as in Article 16, paragraph (1) of the Compilation of Laws. In Islam, it is emphasized that marriage is contingent upon the mutual agreement of the intended bride and husband.

It is necessary to understand that marriage is something complex and requires serious readiness and desire from both parties which is the key in dealing with it. When a marriage is forced, for example on children, it can potentially cause serious problems in the future due to a lack or even absence of seriousness and readiness on the part of one or both parties.¹⁴ Readiness for marriage should come from the consent of both parties, because if there is no consent, let alone readiness to build a household, then the marriage will not have a strong foundation. The family plays a crucial part in carrying out debates. According to Article 6 paragraph (1) of the Marriage Law and Article 16 paragraph (1) of the Compilation of Islamic Law, the first stage in being married requires the agreement of both the bride and groom. According to Article 17, paragraph (2) of the Compilation of Islamic Law, both the prospective bride and groom must give their approval for the marriage to take place. If either one of them does not approve of the marriage, it cannot proceed. This rule shows how important consent is in the implementation of the marriage.¹⁵

b. Counseling to the community by the Women's Empowerment, Child Protection and Family Planning Service

Public education can be an effective strategy as a form of preventive protection. Through counseling, people gain an understanding of the legal provisions governing marriage, such as individual rights in marriage, including the right to determine their choices in marriage. This counseling can be carried out widely and in a targeted manner, as carried out by the Women's Empowerment, Child Protection and Family Planning Service (hereinafter referred to as DP3AKB) of West Java Province through the "Stop Child Marriage" and "21 25 Program", the public can be more aware of the importance comply with legal provisions regarding marriage.

The "Stop Child Marriage" outreach program aims to reduce the number of underage child marriages in West Java Province. DP3AKB carries out outreach and education to the public about the importance of complying with the provisions of Article 7 paragraph (1) of the Marriage Law regarding the age limit for marriage, namely 19 years for women and men. The aim is to provide a better understanding to society about the risks and negative impacts of marrying underage children, as well as encouraging changes in behavior not to marry children under the age set by law.¹⁶

¹⁴Interview with Najmudin as Head of the Rancasari District Religious Affairs Office (KUA), on Wednesday, March 27 2024.

¹⁵Interview with Wiba Tauhidi as Staff for Women and Child Protection (PPA) of the Women's Empowerment, Child Protection and Family Planning (DP3AKB) West Java Province Service, on Tuesday, May 14 2024.

¹⁶Interview with Ani Ros as Staff for Family Quality Improvement (PKK) of the Women's Empowerment, Child Protection and Family Planning (DP3AKB) West Java Province Service, on Monday, May 20 2024.

The counseling entitled “Program 21 25” is a collaboration between DP3AKB and the National Population and Family Planning Agency (BKKBN) which aims to make 21 years the ideal age for women and 25 years the ideal age for men to get married. Through this program, people are given information and understanding about the importance of waiting until they reach a mature age physically and mentally before getting married. This program also places emphasis on women's reproductive health and efforts to prevent health problems in pregnancy and child birth, as well as stunting which can occur due to marriage at a too young age.¹⁷

DP3AKB West Java Province highlights the focus of its sector in trying to protect the rights of women and children, as well as ensuring their health, preventing domestic violence, maternal and infant deaths, and stunting. Although DP3AKB does not directly touch on the issue of forced marriage, DP3AKB's efforts to prevent the marriage of underage children also reflect awareness of individual protection against risks that may occur in the context of marriages that are not in accordance with personal wishes. These endeavors align with the provisions outlined in Article 6 paragraph (1) of the Marriage Law and Article 16 paragraph (1) of the Compilation of Islamic Law. These provisions emphasize that marriage should be founded upon the mutual consent of both the intended bride and groom, as they aim to prevent the occurrence of coerced marriages involving underage individuals.¹⁸

c. KUA preventive efforts through BP4 and pre-marital counseling in overcoming forced marriages

KUA has preventive protection procedures through pre-marital counseling programs. KUA provides advice and guidance to prospective brides and grooms regarding the importance of understanding one's own identity, in terms of one's own behavior and character. The KUA will guide the prospective bride and groom before deciding to get married because uniting two different individuals in a marriage requires mature preparation and a deep understanding of domestic life. KUA emphasizes the importance of having sufficient knowledge and readiness before living a married life. At each pre-wedding counseling, the prospective bride and groom are given advice to understand their rights and obligations and are given an understanding of the challenges they may face in marriage. It is important for prospective brides and grooms to follow this pre-wedding guidance so they can start their marriage with better knowledge and readiness.¹⁹

The purpose of pre-marital counseling is to proactively safeguard against forced marriages and ensure that every marriage is conducted with complete awareness and mutual consent from both individuals, as mandated by Article 6 paragraph (1) of the Marriage Law and Article 16 paragraph (1) Compilation of Islamic Law, which stipulates that marriage should be based on the consent of the prospective bride and groom. The Marriage Development and Preservation Advisory Board (BP4) located at the KUA functions as a preventive measure to maintain household integrity and harmony. BP4 is chaired by the head of the KUA and is tasked with providing guidance and advice to married

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Interview with Najmudin as Head of the Rancasari District Religious Affairs Office (KUA), on Wednesday, March 27 2024.

couples and newlyweds who are experiencing household problems. BP4 makes prevention efforts by providing knowledge and understanding about the importance of consent and readiness in marriage.²⁰

It is hoped that this preventive protection can prevent marriages carried out based on coercion and threats. This preventive measure is a crucial stride towards guaranteeing that every marriage is founded on the voluntary agreement and preparedness of both individuals, as stipulated in Article 6, paragraph (1) of the Marriage Law and Article 16, paragraph (1) of the Compilation of Islamic Law. This preventive protection not only protects an individual right to choose their life partner, but also helps create a strong foundation for a harmonious household. This preventive protection is an important step in ensuring justice and legal protection for all parties involved in a marriage, in accordance with the provisions of the Marriage Law and the principles of Islamic law.

2. Repressive Legal Protection for Aggrieved Parties in Marriages Performed on the Basis of Coercion Linked to Marriage Law and Islamic Law

Repressive legal protection is a type of legal safeguard that prioritizes the resolution of conflicts. This is the ultimate stage in legal safeguarding that include the imposition of sanctions, such as monetary fines, incarceration, and further punishments, in response to violations or disputes. Repressive protection refers to the implementation of sanctions by law enforcement authorities in response to a criminal conduct or crime.²¹

Marriages based on coercion and threats, as occurred in decision number 3617/Pdt.G/2021/PA.Dpk and decision number 0308/Pdt.G/2017/PA.Gtlo, can be asked for protection in a repressive form if the marriage has been consummated. This repressive legal protection is important to provide justice and recovery for victims after violations occur. The following are several forms of repressive legal protection that can be taken:

a. Submission of application for annulment of marriage

The primary measure for seeking legal protection against marriages that fail to meet the necessary legal criteria is to submit a request for marriage annulment in either the Religious Court or the District Court. For Muslim couples, the Religious Court is the appropriate authority to submit a request for marriage annulment. Non-Muslim couples, on the other hand, should approach the District Court for the same purpose.

The grounds for marriage annulment are outlined in Article 22 of the Marriage Law, which stipulates that marriages failing to meet the necessary criteria can be declared null and void. Marriage annulment is frequently grounded on breaches of legal prerequisites, such as the requirement for the consent of the intended bride and groom, as stipulated in Article 6 paragraph (1) of the Marriage Law, which mandates that marriage must be founded on the agreement of the intended bride and groom.

An annulment of a marriage can be requested under Article 71 letter (f) of the Compilation of Islamic Law, which stipulates that a marriage can be invalidated if it is conducted under duress. A marriage that lacks the consent of the potential bride and groom is in violation of Article 16, paragraph

²⁰Interview with Tjetje Djunaedi as Head of Public Relations of the Bandung City MUI, on Monday, March 4 2024.

²¹Elly Kurniawati, "Factors that cause domestic violence and efforts to overcome it (a criminological review)" (*Jatiswara Law Journal* , Vol. 26, No. 3, 2011) p. 91.

(1) of the Compilation of Islamic Law, which stipulates that marriage must be based on the mutual agreement of the individuals involved.

An annulment of a marriage can be requested under Article 27 paragraph (1) of the Marriage Law, which permits a spouse to seek annulment if the marriage was conducted under the danger of breaking the law. The annulment of a marriage due to threats is in line with Article 72 paragraph (1) of the Compilation of Islamic Law, which states that marriages conducted under unlawful threats can be invalidated through a request for annulment. If the court approves the application, the marriage is deemed invalid from the beginning and holds no legal validity.

b. Reporting criminal acts if the marriage contains elements of threat

Legal protection for parties who suffer losses in marriages carried out on the basis of coercion and threats is not only limited to requests for marriage annulment, but also includes other steps, including reporting criminal acts. The person that feels wronged can file a criminal complaint for the act of making threats in order to coerce them into acknowledging the marriage. The fundamental principle of marriage is that it should be founded on one's own volition to establish a household, free from any form of coercion, as stipulated in Article 6 paragraph (1) of the Marriage Law and Article 16 paragraph (1) of the Compilation of Islamic Law. These provisions affirm that marriage must be based on the mutual consent of both the prospective bride and groom. This requirement emphasizes the importance of free and conscious consent from both parties in entering into a marriage, therefore if there is coercion or threats that cause someone to be forced to marry, then this action violates the human rights of the individual concerned.²²

The threat in question must meet several criteria in order to be reported as a criminal act. First, the threat must cause real harm, for example psychological trauma experienced by the victim. This psychological trauma can take the form of significant mental or emotional disorders, for example the victim becomes afraid and cannot leave the house for a long time because he is afraid of meeting the perpetrator of the threat. The trauma can also be supported by medical or psychological reports. Second, this threat must be accompanied by witnesses who can provide information regarding the threat incident. Witnesses are very important to support claims of threats and help strengthen evidence in legal proceedings.²³

This threat can not only be carried out directly but also through social media. The crime of threatening is regulated in Article 359 of the Criminal Code (hereinafter referred to as the Criminal Code). The subjective element of threatening acts in the context of marriage, as in the two cases, is with the intention of benefiting oneself or another person unlawfully. Article 369 paragraph (2) of the Criminal Code states that this crime is an absolute complaint offense, that is, this act can be prosecuted based on a complaint by the person affected by the crime. ²⁴Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) can also be used if the threat is made via electronic media or social media.

²²Interview with Mooris M. Sihombing as Special Class 1A Bandung District Court Judge, on Monday, April 22 2024.

²³Interview with Berra Pripama as Lawyer at SBP & Partners Law Office, on Tuesday 28 May 2024.

²⁴Ismu Gunadi and Jonaedi Efendi, "*Quickly & Easily Understanding Criminal Law*" (Jakarta: Kencana, 2014) p. 138.

This repressive protection aims to ensure that every marriage is carried out in accordance with the principles of justice and human rights. Marriage annulment provides legal certainty that a marriage that was invalid from the start has no legal force. Reporting criminal acts against threat actors ensures that the perpetrators receive appropriate sanctions, as well as preventing similar cases from occurring in the future. This combination of protection through civil and criminal law shows the commitment of Indonesian law to protect individual rights in marriage, as regulated in the Marriage Law and Islamic law. This effort also emphasizes that every individual has the right to the freedom to choose their life partner without pressure, coercion or threats, so that they can carry out the goal of marriage well to form a happy and eternal family.²⁵

CONCLUSION

Preventive and repressive legal protection is very important in preventing and handling cases of marriages carried out based on coercion and threats. Preventive protection such as counseling to the community, pre-marital guidance by the KUA, and the role of the family in increasing awareness of the right to freedom of every individual in carrying out marriage and choosing a life partner, are key in preventing forced marriages.

Repressive protection through filing marriage annulments and reporting criminal acts based on threats is also important to provide justice to victims and prevent the recurrence of similar cases in the future. Legal protection needs to be implemented to ensure that every marriage is based on the free consent of both prospective bride and groom, in accordance with Article 6 paragraph (1) of the Marriage Law and Article 16 paragraph (1) of the Compilation of Islamic Law.

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- Yahya Harahap, “*Indonesian Marriage Law*” (Medan: CV Zahir Trading Co, 1978)
- Zaeni Asyhadie (*et. al*), “*Family Law (According to Positive Law in Indonesia)*” (Depok: Rajawali Pers, 2020).