**The Practice of Paneta Mawinne (Kawin Tangkap) in The Sumbanese Tribe of East Nusa Tenggara Perspective of Islamic Law**

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**ABSTRACT:** *This research aims to further investigate the phenomenon of forced marriage in Sumba, East Nusa Tenggara, with a particular focus on its implications within the framework of Islamic law. In this context, researchers will investigate whether this behavior is in line with or deviates from Islamic beliefs and laws. In this research, the author used secondary data and literature reviews from various credible sources. Data collection techniques were carried out over several months to find complete sources from journal articles, online newspapers, and several videos from social media. In conclusion, the practice of arrest marriage (Paneta Mawinne) among the Sumba tribe in East Nusa Tenggara, from an Islamic legal perspective, is considered inappropriate because it involves an element of coercion which is contrary to the principles of justice and freedom in Islamic teachings. The principle of consent of both parties in a marriage is central to Islamic law's assessment of this practice.*

**Keywords:** *Arrest Marriage, Islamic Law, Culture, Traditions, The Bride.*

1. **INTRODUCTION**

Indonesia is a country that has many diverse tribes, languages, cultures, and customs spread across all the islands in the archipelago. This is a treasure trove of Indonesian wealth and local wisdom that is not shared by other nations in the world. One of the riches possessed by Indonesia is the tradition of wedding procession rituals such as the wedding traditions of the Batak tribe in Sumatra, the Dayak tribe in Kalimantan, the Javanese tribe on the island of Java, and other areas. The eastern region of Indonesia is no exception, which has a unique culture and traditions as its characteristics ([Amin and Muhdi](#no3), 2021; [Amrin et al](#no4)., 2020; [Apriantoro, Makin, and Maarif](#no5), 2023; [Dewi](#no10), 2022).

The development of community culture and traditions in various tribes in Indonesia cannot be separated from the progress and development of human resources. This also tends to be followed by a shift in values ​​in tradition and culture itself. Developing culture continues to experience changes as usual, because it is influenced by several factors. These factors appear as cultural influences that come from outside or emerge from within, either due to technology, discoveries in various scientific disciplines, or due to the influence of certain religious teachings or beliefs. The form of change or development is usually known through its structure and life at one time, then compared with what happened in the past ([Amrin](#no4) [et al](#no4)., 2020; [Ati](#no6), 2021; [Dewi](#no10), 2022; [Muhdi](#no23), 2020).

Marriage is a ubiquitous institution and has enormous meanings and consequences in all societies ([Shamad](#no28), 2017; [Taufik](#no32), 2017). The practice of marriage varies in different regions of the world, encompassing different forms, traditions, and procedures that reflect social, cultural, and religious values. Indonesia, as a country rich in cultural and religious diversity, also shows diversity in its marriage customs ([Florea](#no12), 2023; [Subeitan](#no30), 2022).

An interesting and distinctive marriage custom that is still prevalent in some regions of Indonesia, such as Sumba in East Nusa Tenggara, is known as "kawin tangkap" ([Kamuri and](#no17) [Toumeluk](#no17), 2021). This practice results in marriage without the full consent of one or both parties involved in the marriage. Although capturing marriage has been a long-standing tradition in Sumba culture, derived from customs, there are concerns about its adherence to the teachings of Islamic law that have developed in the society ([Dewi](#no10), 2022; [Mardiani](#no22), [Jati Nugroho, and Rogo Yuono](#no22), 2021; [Tanggu, Kudubun, and Utomo](#no31), 2021).

An act of arrest or arrest in marriage refers to a situation where a person marries without full permission or awareness of the marriage ([Doko, Suwitra, and Sudibya](#no11), 2021; [Kamuri](#no17) [and Toumeluk](#no17), 2021). In this practice, one or both parties in the marriage often feel involved in undesirable circumstances and are sometimes even forced to enter into the marriage. Such marriages can have a profound impact, especially on individual freedoms, such as the freedom to choose a partner, the freedom to give consent, and the freedom to enjoy a legal and satisfying marital union ([Tanggu, Kudubun, and Utomo](#no31), 2021).

The practice of catching a partner (Paneta Mawinne) is a customary law adopted by the people of Sumba, East Nusa Tenggara (NTT). The custom of kidnapping brides has been passed down and continues to be carried out by various tribes in remote parts of Sumba Island, especially the Kodi and Wawewa tribes. Traditionally, the practice of capture marriage was mostly done by wealthy men who wanted to propose to the woman they wanted to marry. However, this happens when there is mutual understanding between two parties, namely the male family and the female family. Mutual consent lends significant credibility to the conduct of these capture marriages ([Bembot and Sermada](#no7), 2022; [Doko, Suwitra, and Sudibya](#no11), 2021; [Kamuri and Toumeluk](#no17), 2021; [Tanggu, Kudubun,](#no31) [and Utomo](#no31), 2021).

Recently, the tradition of capturing marriage caused a polemic among the public when in June 2020, a viral video showed the arrest of a Sumba woman by some men. The woman was loaded into a car and taken by the men to the home of the man who was going to marry her. The same thing happened in another video that went viral on social media in December 2019 ([Kleden](#no18), 2017; [Mardiani, Jati Nugroho, and Rogo Yuono](#no22), 2021). The central government, through the Minister of Women and Child Empowerment, sees this event as a form of violence against women and children for cultural reasons. The same thing was conveyed by Komnas women who considered arrest marriage as a form of sexual harassment against women as forced marriage ([Ati](#no6), 2021; [Bire et al](#no8). 2023; [Campmajó](#no9), 2020; [Subeitan](#no30), 2022).

Capture marriage serves as a means to promote propaganda against women ([Bire et al](#no8). 2023). Therefore, Muhdi views the practice of capturing marriage in Islamic law as a prohibited religion ([Indrama](#no15), 2022). Matchmaking practices can be influenced by various factors such as family finances, social standing, education, and cultural values ([Sanjaya and](#no26) [Rahardi](#no26), 2021). According to Johanis Putratama, the practice of captive marriage on Sumba Island involves a hegemonic process influenced by a patriarchal society ([Kamuri and](#no17) [Toumeluk](#no17), 2021). According to Martha Mardiani, the practice of forced marriage has become outdated in today's society because it limits women's autonomy ([Mardiani, Jati](#no22) [Nugroho, and Rogo Yuono](#no22), 2021). The same thing was also conveyed by Astrid Budi Ati who explained that the customary practice of marriage and kidnapping in Sumba creates an unfavorable position for women ([Ati](#no6), 2021).

It is important to understand the perception of Islamic law regarding the practice of Islam in Sumba, which is one of the religions adopted by some ([Toriq](#no33), 2023). In addition to the social and cultural dimensions, questions arise regarding the suitability of the institution of marriage with the teachings and doctrines of fiqh adopted by certain individuals in Sumba. Islam enforces strict marriage rules and ethics governing the protocol of the rights and responsibilities of married individuals ([Hakim](#no13), 2021). Therefore, it is important to examine the Islamic legal viewpoint regarding this activity and ensure its conformity with Islamic sharia or vice versa.

In addition, it is important to recognize that the issue of marriage is not just a local issue, but has broader implications. Gaining insight into the phenomenon of forced marriage through the lens of Islamic law can offer a clearer understanding of efforts to protect individual rights within a range of social and cultural regulations. In addition, it can encourage contemplation on the potential contributions of law and religion to promote beneficial transformation in society.

This study aims to further investigate the phenomenon of Kawin Tangkap (Paneta Mawinne) marriage in the Sumba Tribe of East Nusa Tenggara, with a special focus on its implications within the framework of Islamic law. In this context, researchers will investigate whether these behaviors are in line with or deviate from Islamic beliefs and laws.

**Table 1. Showing The Gaps and Indicators in the Practice of Kawin Tangkap (Paneta Mawinne) n East Nusa Tenggara**

| Aspect | Positive Indicators (Supporting) | Negative Indicators (Contradictory) | Existing Gap |
| --- | --- | --- | --- |
| Culture & Tradition | Considered part of Sumbanese customs, symbolizing masculinity and social status. | Contradicts human rights and gender equality values. | Differences in perspective between local customs and human rights principles. |
| Customary Law | Still accepted in certain communities with belis (bride price) payment. | Lacks legality under Indonesian national law, often considered abduction. | Conflict between customary law and state law. |
| Islamic Law Perspective | Islam emphasizes marriage based on mutual consent. | Does not align with the Islamic ijab qabul requirement, which requires the bride’s approval. | The absence of consent and justice in the marriage contract. |
| Women's Protection | Some families of the bride accept this tradition as part of their customs. | Women often become victims of physical and psychological violence. | Lack of protection for women within the customary legal system. |
| Social & Economic Aspects | Can be part of agreements between families within the community. | Often leads to social conflicts and trauma for the victims. | No mechanism to ensure women's protection and well-being. |
| National Law | Customary law is still respected in certain contexts in Indonesia. | Considered a violation of rights and can be prosecuted under laws on abduction and violence against women. | Incompatibility between customary practices and state law. |

This table illustrates the contradictions between local customs, Islamic law, and national law in the practice of Kawin Tangkap in Sumba

1. **METHOD**

In this study, the author uses qualitative research methods with the type of literature review from various credible sources. The data collection technique was carried out for several days to find complete sources from journal articles, online newspapers, and some videos from social media ([Manurung](#no21), 2022). There are several concepts used in this study, namely the concept of Islamic law, marriage, and capture. The research question to be answered in this study is related to how the tradition of capture marriage (Paneta Mawinne) in Sumba, East Nusa Tenggara is viewed from the perspective of Islamic law.



Figure 1. Research Location

1. **RESULT AND DISCUSSION**

**The Context of the Practice of Capture Marriage in Sumba, East Nusa Tenggara**

**Definition of Capture Marriage**

Indonesia is a country of wealth, both biological and non-biological wealth from Sabang to Marauke a lot of biological and non-biological wealth, especially culture and tradition. Let's look at and discuss one of the cultures or traditions of captive marriage. The tradition of Capture marriage is defined as marriage after the arrest of a pair of women by the family of the man, where they are secluded in a house or other quiet place with indications of conjugal relations ([Dewi](#no10), 2022; [Setiyanto](#no27), 2018; [Subeitan](#no30), 2022).

In other studies that discuss capture marriage, it can be interpreted as forced marriage where marriage can occur due to family problems such as; Zina, Being alone in a quiet place, Visiting beyond visiting hours, or Being pregnant out of wedlock ([Israfil et al](#no16). 2021). So capture marriage can be interpreted as forced marriage where the marriage occurs because there is an indication that a man and woman have a relationship like husband and wife or can also be accused of conjugal relations ([Agust](#no1), 2022; [Sanjaya and Rahardi](#no26), 2021; [Toriq](#no33), 2023).



Figure 2. Procession and Discussion of the Implementation of Capture Marriage

**History and development of the practice of captive marriage in Sumba, East Nusa Tenggara**

The practice of capturing marriage in Sumba, East Nusa Tenggara (NTT) has recently attracted controversy. This tradition is considered to lead to the abduction of women, and violations of women's rights and human rights. Capture mating is considered a tradition from their ancestors for generations to this day ([Agust](#no1), 2022; [Kleden](#no18), 2017).

In the old tradition of Sumba society, capture marriage is usually carried out by the groom's family who is hindered by belis or high dowry from the woman's side. Capture marriage is a category of marriage without marriage that occurs because there is no family agreement on the amount of belis or dowry. At the beginning of this tradition, a woman was dressed. The bridegroom has also been dressed in traditional clothes and riding a horse. The woman was arrested and taken to the man's family home. This tradition is unique because it involves the good name of both families, especially with the background of the family. After being arrested, the male party would bring a machete and a horse to the female side as a sign of apology and a sign that the woman was already in the man's house ([Dewi](#no10), 2022; [Mardiani, Jati Nugroho, and Rogo Yuono](#no22), 2021; [Tanggu, Kudubun, and Utomo](#no31), 2021).

Along with the times, the practice of captive marriage that was carried out was not by the initial procedures of tradition. Later, this tradition went awry and harmed women personally. Recent captive marriages seem to make women feel like they are kidnapped, tortured, abused, even humiliated, and worthless ([Agust](#no1), 2022; [Kleden](#no18), 2017; [Mahfudhi](#no19) [and Arrosid](#no19), 2021; [Sanjaya and Rahardi](#no26), 2021).

Influential factors in marriage include economic factors in terms of debt-related, social strata factors, education, and trust. Women in this case are used as ransom for family debts. One of the factors that became the motive for captive marriage was to build kinship between the two families so that relations remained and the wealth given as belis was not given to others ([Toriq](#no33), 2023).



Figure 3. The action of "Marriage Arrest" Caught on Camera

**Islamic Legal Perspectives on the Practice of Capture Marriage**

**Overview of captive marriage practice in Islam**

Muslims are now facing very complex challenges related to conflicting legal, customary, and religious issues. Among these issues are human rights (HAM), gender equality, relations between Muslims and non-Muslims, the environment, human resource development, and the development of science and technology are very prominent issues ([Shamad](#no28), 2017; [Yayuli](#no35), 2015).

According to fiqh scholars, initially, the pattern of government relations with the people was determined by customs. Because these customs are not written, in this relationship there are no strict boundaries regarding the rights and obligations of each party. All forms of response that often emerge from Muslims to these challenges are defensive-apologetic attitudes and counter-productive actions. Some have carried out ijtihad, but are still limited to reading old things over and over again and do not dare to carry out new ijtihad ([Harun](#no14), 2012).

The ideals of Islam seem to be drowned out by the awkward performance of some Muslims. Many agendas are touted as reforming the understanding of Islamic teachings, even though they are only decorations for the treasures of the old Islamic civilization. Therefore, it is urgent to put on the agenda a reform of the understanding of Islamic law that is in line with the development of modern science which in our opinion will have a major impact on the Islamic education system, constitutional system, national and state life as well as social and cultural issues in general ([Mahfudhi and Arrosid](#no19), 2021; [Malisi](#no20), 2022; [Shamad](#no28), 2017; [Yayuli](#no35), 2015).



Figure 4. Marriage Captures Islamic Perspective

Compared to aqidah and morals, Islamic law and fiqh are much more intense in their struggle with the dynamics of contemporary life, fiqh is directly related to everyday reality. Faced with contemporary dynamics, the old scientific knowledge of jurisprudence is no longer able to answer it. Therefore, reform efforts towards the understanding of Islamic teachings should not be aimed at Islamic law or fiqh, but should be aimed directly at Islamic legal philosophy or ushul al-fiqh which is the producer of fiqh laws which in this case is related to how Islamic law is viewed and whether it is practiced. paneta mawinne (arrest marriage) in the Sumba tribe of East Nusa Tenggara is from the perspective of Islamic law itself ([Indrama](#no15), 2022; [Malisi](#no20), 2022; [Siswanti](#no29), 2021; [Yayuli](#no35), 2015; [Zulfikar](#no36) 2020).

Capture marriage when viewed from practice can be classified as kidnapping because it is carried out without the consent of the woman. Kidnapping is a criminal act and is a prohibited act in the teachings of Islam, which is known to the wider community and can be described as the deprivation and abduction of others against their will ([Bire et al](#no8). 2023; [Musyafah](#no24), 2020). In practice, capture mating can occur either by the use of force or by deception or inducement. Before and after the change in practice in capture marriage, both were carried out without the consent of women and ended in coercion ([Aisa et al](#no2)., 2022).

If you look at the source or basis of marriage law, such as the Qur'an, al-Sunnah, or Ijma', of course, this capture of marriage is not explicitly mentioned. While the law of origin of marriage is mubah (permissible). However, the law can be changed to obligatory, sunnah, makruh, and haram, depending on the 'illat that affects ([Campmajó](#no9), 2020; [Doko, Suwitra,](#no11) [and Sudibya](#no11), 2021; [Ridlo, Muhammad Rosyid, Imron rosyadi](#no25), 2022; [Undang-undang et al](#no34)., 2022).

The marriage law becomes mandatory if a person is considered physically mature and has a fixed income, and he is very willing to marry so that if he does not marry he is feared to fall into adultery. Al-Qurthubi said, "A person who is able and worried about himself and his religion becomes corrupted by celibacy, so that it is impossible to overcome it except by marrying, there is not the slightest difference of opinion to declare that he is obliged to marry. Still, if the desire for marriage is great but unable to provide for the wife, then it should carry out the direction of Allah SWT ([Indrama](#no15), 2022). In his statement Q.S An-Nur Verse 33 which reads:

وَلْيَسْتَعْفِفِ الَّذِيْنَ لَا يَجِدُوْنَ نِكَاحًا حَتّٰى يُغْنِيَهُمُ اللّٰهُ مِنْ فَضْلِهٖ ۗوَالَّذِيْنَ يَبْتَغُوْنَ الْكِتٰبَ مِمَّا مَلَكَتْ اَيْمَانُكُمْ فَكَاتِبُوْهُمْ اِنْ عَلِمْتُمْ فِيْهِمْ خَيْرًا وَّاٰتُوْهُمْ مِّنْ مَّالِ اللّٰهِ الَّذِيْٓ اٰتٰىكُمْ ۗوَلَا تُكْرِهُوْا فَتَيٰتِكُمْ عَلَى الْبِغَاۤءِ اِنْ اَرَدْنَ تَحَصُّنًا لِّتَبْتَغُوْا عَرَضَ الْحَيٰوةِ الدُّنْيَا ۗوَمَنْ يُّكْرِهْهُّنَّ فَاِنَّ اللّٰهَ مِنْۢ بَعْدِ اِكْرَاهِهِنَّ غَفُوْرٌ رَّحِيْمٌ

*Means: And those who are unable to marry should keep them chaste until God enables them with His gifts. And if the servants of the sahaya you have desired a covenant (freedom), make a covenant with them, if you know there is good in them, and give them a portion of the treasure of Allah which He has given you. And do not force your female servants to engage in prostitution, while they desire chastity, for you seek the benefits of worldly life. Whoever forces them, then truly, Allah is Most Forgiving, Most Merciful (to them) after they are forced.*

The law of marriage becomes sunnah when a person is seen from his natural physical growth and he tends to have a desire to marry and already has a steady income. The marriage law becomes makruh when a person is physically and of sufficient age even though it is not too urgent. But he does not have a fixed income so if he marries it will bring life misery to his wife's children. The law of marriage becomes haram when a man marries a woman to molest or ridicule or to take revenge ([Apriantoro, Makin, and Maarif](#no5), 2023; [Doko, Suwitra, and Sudibya](#no11), 2021; [Indrama](#no15), 2022; [Kamuri and Toumeluk](#no17), 2021).

From the marriage law above, we can see that for a marriage to be considered religiously invalid depending on the ability of a man to marry his future wife. Seeing the traditions carried out in the Sumba area of East Nusa Tenggara, we as people who understand marriage law must be able to advise the local traditional leader so that the marriage does not become haram for the couple. Remembering marriage or marriage is a very big worship reward because all our romantic actions toward the wife are the source of our reward as husbands there ([Mahfudhi and Arrosid](#no19), 2021; [Sanjaya and Rahardi](#no26), 2021; [Setiyanto](#no27), 2018; [Subeitan](#no30), 2022).

1. **CONCLUSION**

From the perspective of Islamic law, the practice of capturing marriage or marriage involving elements of coercion is not by the values of justice and freedom advocated in Islamic teachings. Islam stresses the importance of the consent of both parties in marriage. Such practices can be considered to violate the basic principles of Islamic law.

In conclusion, the practice of capture marriage (Paneta Mawinne) in the Sumbanese tribe in East Nusa Tenggara, from the perspective of Islamic law, is considered inappropriate because it involves elements of coercion that are contrary to the principles of justice and freedom in Islamic teachings. The principle of consent of both parties to marriage becomes central in Islamic law's assessment of the practice.

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