

Child Marriage in Male-Feminist: Contextual Qur'anic Interpretation

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Abstract

Child marriage has happened in several regions that apply a Patriarchal culture. It causes an increase in the Indonesian population. Besides, it also impacts when getting married at teenage age, such as the occurrence of domestic violence. It may be worst and may cause many deaths of children and mothers. In the concept of gender equality, the ideal marriage comes from the harmonious cooperation between husband and wife. Therefore, stopping child marriage is not easy. It is due to educational, social, economic, and cultural factors. This research uses a literature study with a qualitative approach that analyses the concept of feminist hermeneutics. The Qur'an does not directly mention the age limits for marriage, but An Nisa 'verse 6 gives a hint related to marriage. This research focuses on the comparative interpretation of the contextual male feminists' criticism, namely KH. Husein Muhammad and KH. MA. Sabal Mahfudh. The results of this research examine that child marriage according to KH. Husein Muhammad is still happening in society because of culture. Then, children should marry with the requirement that they have reached puberty and have mental and physical readiness in line with KH. Sabal Mahfudh suggestion revealed that mujbir's guardians might marry their children. However, it requires permission and approval from prospective adult women. It is very important because if the woman has no inner and outer consent, the marriage carried out will be very dangerous.

Keywords: *Child Marriage, Ideal marriage, Male-feminist qur'anic interpretation, K.H. Husein Muhammad, K.H. Sabal Mahfudh*

INTRODUCTION

Islam as a transcendental religion certainly has a certain point of view on the issue of women's emancipation. There are some limitations because the Islamic teaching does not adhere to western-style absolute liberalism. The Prophet Muhammad had a great mission to lift the women's position in an honorable, equal and free from the shackles of cultural

doctrine (Subhan, 2008). Islam is very concerned about gender equality both for men and women. It also includes the freedom to choose a couple and create an ideal marriage.

The step to achieving an ideal marriage is to uphold the concept of *mu'asyarah bi al-ma'ruf*, as cited in Surah An Nisa' verse 19, treat them fairly, be polite to them and behave well in a relationship, action and dress according to their ability (Ibn Katsir, 2006). Explicitly the *fuqaha* do not agree on the minimum age limit for marriage, but they argue that *baligh* is does not necessarily indicate maturity. In the provisions of puberty, *fuqaha* consider that it is not a matter of whether a person is allowed or not allowed to marry. However, some *madhhab* allows marry teenagers who are still virgins, 15-year-old girls and 16-year-old boys. There is also some opinion that historically the Prophet Muhammad married Aisyah when she was 9 years old, but the Prophet had sexual intercourse when Aisyah was in puberty (al-Jaziry, 2003).

In the context of Indonesian society, the factor that triggers child marriage is the social problems such as worrying about fornication that occurs in teenagers. Further, their pregnancy often affects their friendship (Ali, 2015). The Indonesian demographic and health survey data shows that about 2% of female teenagers aged 15-24 years and 8% of male teenagers commit fornication, and 11% of them experienced unwanted pregnancies. Among couples who have had sex, 59% of women and 74% of men have committed fornication for the first time in 15-19 years (Komenkopmk, 2021).

On the other hand, child marriage often causes unwanted behaviour in the family, such as rape in marriage, violence in the physical and genital organs, child divorce, domestic violence, increased maternal and infant mortality, abnormalities in congenital disabilities, high blood pressure, premature birth, and postpartum depression. Data for infant mortality, as many as 54 babies died in 1000 births. Then, 44% of the cause of domestic violence. Domestic violence is caused by low education (Oktriyanto, 2021). It proved that 44.86% of them just finished junior high school, and only 11.76% completed better education in high school. Meanwhile, the man who mostly graduated, namely only 36.61% of elementary school, 32.25 % of junior high school, and 19.23% completed high school (Kemensos, 2021).

It is necessary to give sufficient attention to discussing child marriage in terms of the interpretation of the Qur'an and to find the ideal concept of marriage. Although, explicitly in the *fiqh*, there is no marriage age limit. Then, there are differences of opinion regarding

the age limit of legal stipulations (Hatta, 2016). The result is that the age limit for marriage is after the man and woman have reached puberty. It is marked by ihtilam, such as experiencing wet dreams in a conscious or unconscious state. Then the signs in girls are menstruating at least at the age of 9 years, as mentioned in the book of fiqh As-Shafi'i. Imam Abu Hanifah state that the provisions on the age of marriage for men are 18 years, while for women is 17 years (Subhan, 2008). It is also explained in QS An-Nisa 'verse 6. Some explain that the measure to achieve marriage is marked by physical and psychological maturity, like the verse that describes the human reproductive system in the letter At-Tariq verses 5-7 (Fadal, 2016). In an ideal marriage, between a man and a woman to protect themselves, which is called *hifz al-'ird* to avoid heinous acts that Islam prohibits by paying attention to physical and spiritual readiness when passing puberty (Muhammad, 2019).

A prior study, “KH. MA Sahal Mahfudh on Family Law, Study of Gender Perspective Analysis”, explained that in the family, there are laws that contain gender. Then each family member has their rights (Munawir, 2017). The prior study of gender equality in the Qur'an only examined and stopped the realm of definition without specifying the discussion in terms of sociology and hermeneutics. Meanwhile, this research will discuss the ideal marriage from the perspective of KH. Husein Muhammad and KH. Sahal Mahfudh specifically in determining the boundaries of marriage presented in the literature on male feminist interpretation by analyzing Surah An-Nisa's verse 6.

DISCUSSION

Definition of Child Marriage

According to WHO, child marriage is a marriage committed by a couple, or one of them is still categorized as children or teenagers under the age of 19 years. According to the United Nations Children's Fund (UNICEF), child marriage is marriage committed officially or unofficially carried out before 18 years. In-Law no. 16 of 2019 states that marriage is only permitted if a man and a woman have reached the age of 19 years. In-Law no. 35 of 2014, Article 1 paragraph 1 states that a child is someone who is below 18 years old, including children who are still in the womb.

According to some opinions of previous (classical) Islamic scholars (ulama) and modern (contemporary) ulama' regarding the definition of child marriage in Islam, they do

not explain in detail the issue of age limits. The Qur'an and hadith only show signs and symbols (Muchtar, 1993).

Globally, child marriage is a great institution to bind two people of the opposite sex who are still teenagers in one family bond. Teenagers themselves are children transitioning between childhood and adulthood, where children experience rapid changes in all fields. They are no longer children, in terms of body shape, attitude, and the way of thinking and acting, but also not mature adults.

Meanwhile, according to the BKKBN, child marriage is a marriage that takes place under the reproductive age, which is less than 20 years for women and less than 25 years for men. Child marriage is vulnerable to reproductive health problems such as increasing morbidity and mortality during childbirth and postpartum, giving birth to premature babies and low birth weight babies and easily stressed.

In addition, Child marriage also has a biological impact which results in the death of the mother and child. The mother will be traumatized and infected due to extensive tearing and endangering the reproductive organs. Then, she also triggers diseases such as infertility, miscarriage, infection, vaginal discharge and continuous bleeding (Herawati, 2022). Psychological parenting of children (teenagers) will greatly affect mental and psychological growth that is unstable and temperamental. In the social aspect, the existence of child marriage reduces the freedom of self-development, stops their higher education, and becomes a disgrace to the family in society (Nurani, 2017). In addition, the child divorce rate increases due to failure to keep the family harmonious and through various kinds of problems. It can lead to domestic violence. It makes a person mentally disturbed or traumatized by marriage failure so that the ideal marriage that he hopes for cannot be realized in his life (Yanti, 2018).

The Ideal Concept of Marriage in the Qur'an

The ideal marriage must obey the concept of *mu'asyaroh bi Al Ma'ruf* as stated in Surah An Nisa' verse 19 and treat them fairly, be polite to them and behave well in a relationship, actions and dressing according to their ability. In a husband and wife relationship, there must be an affection factor that has a role in a household (Hawari, 1996).

The verse that explains about the *sakinah mawaddah wa rahmah* family, and it is explained in the Surah Ar Rum verse 21

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً. إِنَّ فِي ذَلِكَ لَآيَاتٍ
لِقَوْمٍ يَتَفَكَّرُونَ

“And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.” (Ministry of Religion of the Republic of Indonesia, 1993)

Taskunu is taken from *sakana*, which means silent, calm before being shaken or busy. There is also the word *mawaddah*, which means love and *warahmah*, which means affection (Shihab, 2004).

In the Tafsir literature, mufassir such as Buya Hamka argue that understanding the word *mawaddah* is love (the longing of men for women and vice versa) considered natural for Allah (Hamka, 1984). Likewise, Al-Maraghi's opinion is that Allah created every human being with a sexual instinct. Therefore they have to find the opposite sex, and every day they feel restless, and their souls are turbulent if they are not immediately fulfilled. Then, Allah advises humans to marry to get peace, tranquillity, and peace or *mawaddah wa rahmah* (Al-Maraghi, 1993).

Marriage is not only to fulfil biological needs but also to fulfil human and affection needs such as the need to love and be loved, feel safe, be appreciated, be cared for, feel affection, and feel protected. Likewise, the economic need to achieve happiness is not the main basis. If marriage is only based on physical or biological, if the age itself decreases, the marriage bond will be even more fragile (Hawari, 1996).

Several elements must be owned by couples when marriage as follows:

1. The same faith is the first basis in a marriage that must be strong in religion. Islam demands both men and women to marry people who obey their religious teaching (Surah Al-Baqarah: 221). In that verse, there is a prohibition against Muslims marrying polytheists until the woman truly believes because a polytheist woman will negatively impact her husband or children. Especially in children's education, it will play an important role in children's belief development, ethics, and character (Shihab, 2002). The definition of religious tolerance and harmony is not applied by having more than one religion in one family, so choosing a couple of the same religion is important.
2. Choosing from good descent to form a harmonious family (Himyun, 2010) as the following hadith 'beware of vegetables that grow in animal dung. Someone asked; what do you mean, O Messenger of Allah? Rasulullah also said; beautiful woman but comes

from a bad descent' (Riwayat al Daruqunthni from Waqidy). For the beauty or handsomeness factor, it is a relative factor. The most important thing is that no disability will impact being unable in family life.

3. Physical and spiritual health is one of the main things in work, worship, and other activities (Hawari, 1996). On the other hand, it also emphasizes that everyone should eat halal food because food is a healthy provision for a person (Surah Al-Baqarah: 168).
4. Every human has obligations that must be carried out or accounted for. The husband should make a living physically and mentally in the family and provide housing, education, and foster a good family (Kartanegara, 2011).

Thus, the ideal concept of marriage in the Qur'an is that the ideal marriage must uphold the value of *Mu'asyaroh bi Al-Ma'ruf*, which is a good relationship that husband and wife must carry out. It is only understood as God's command that the husband has good sexual intercourse with his wife and does not hurt her either by word or deed. It is an important point for gender equality in the household, which feminists often shout about.

A Glimpse of Male Feminists in Voice Messages of Gender Equality

The emergence of feminist awareness from this group of men goes through various processes. Casey and Smith call this process the beginning of sensitization (awareness) processes that can occur in various ways (Casey, 2010). It includes being raised and educated by feminists and witnessing oppression. The same thing was also found when evaluating the New Men's Alliance movement, a men's pro women's movement in Indonesia that men's involvement in this alliance was after they became aware of the oppression experienced by women around them (Hasyim, 2014). Therefore, the existence of male feminists in voicing messages on gender equality, especially in literary criticism, often faced gender bias in several interpretations, especially the interpretations made by classical mufasir.

The cause of the emergence of gender-biased interpretations of the Qur'an is that the understanding of the notions of gender and sex in defining roles is often not appropriate. The method of interpretation used still refers to a textual, not contextual, approach (Nurani, 2019). Generally, the mufasir are male. Many of them are given the impression that al-Qur'an favours men and supports the patriarchal system. It is influenced by the *israiliyat* story widespread in the Middle East Region (Akmaliyah, 2020). In this context, it is necessary to present an interpretation of the Qur'an that is not gendered biased through the

interpretations of the mufasir, who are also male feminists who voice messages of gender equality. Those are KH. MA. Sahal Mahfudz and KH. Hussein Muhammad.

KH. MA Sahal Mahfudz is an ulama' who comes from Margoyoso, Pati Regency, and since childhood until the end of his life in a pesantren environment (Al-Qurtuby, 1999). KH. Sahal is active in organizing and dedicating himself to the benefit of society. He is also a developer of interpretations through the approach of fiqh, where there is no doubt about his knowledge, with his thinking leaning towards the Imam Ghazali's perspective of various opinions. Kiai Sahal's contextual-contemporary thinking is very beneficial for all because of the changes in modern times (al-Nasr, 2016). Among his works are Al Tsamarat al-Hajainiyah, Tariqat al Husnul ala Ghayat al Wushul, Nuances of Social Fiqh, and others.

Meanwhile KH. Husein Muhammad is a scholar from Arjawinangun, Cirebon. Since childhood, he was educated in a pesantren environment (Nuruzzaman, 2005). KH. Husein was active in community, religious and organizational activities until he was a member of the DPRD in Cirebon and was active in the National Women's Commission for 2 periods. Currently, he is a lecturer at the Fahmina Islamic Institute in Cirebon. In the science of Tafsir, he often uses the opinions of the scholars of At-Tabari, al-Qurthuby, and Ibn Kathir, because at-Tabari is known as an expert scholar of Tafsir in history and uses a social approach to society. Among his works are Women's Fiqh, Kyai Reflections on Religious Discourse and Gender, Islamic Religion is Women-Friendly: Defending Islamic Boarding School Kiai, Taqliq Wa Takhrij Syarh al Lujain, Flower Setaman Marriage: Critical Analysis of the Uqud al-Lujain Book, and others.

On that basis, two male feminists, KH. Sahal Mahfudz and KH. Husein Muhammad often produces interpretations and thoughts that use the Contextual Thinking Methodology to overcome various societal problems, including problems related to child marriage.

Contextual Thinking Methodology in Responding to Child Marriage Problems

Considering the life of Kyai Sahal Mahfudz, in his education and wide association, he formed a mindset of social fiqh patterns. He is concerned about solving social problems in society for the world's benefit (faqihun an masalih al khalqi ai ad dunya). KH. MA. Sahal Mahfudz uses the Istinbath thinking methodology, which is divided into two: the textual method and the contextual method. This method also has the reference value of maslahah.

He used the text method, especially when giving “legal orders” when answering questions posed to him.

This method is one *Istinbath* of the law used in discussing the *fiqh* problems, especially in understanding the existing problems, then obtaining answers in the *fiqh* books of the four *ulama'* *madhhab*. In short, it refers to the text. The answer to the problem is obtained by following the thoughts within the *madhhab* scope. He used this method when giving legal fatwas in answering the questions.

In addition, he used rational reasons from the opinions of previous *ulama'* who contributed textual arguments such as other narrations. The thoughts of KH Sahal Mahfudh in marriage seem to highlight gender equality. According to him, gender equality can dominate legal issues in the family.

His thinking tends to women to spread out the Islamic teachings by optimizing public benefits and preventing damage in all fields. His thoughts also apply appropriate Islamic teachings *maqasid as – shari'ah* who guard religion, reason, soul and descent (Munawwir, 2017).

While K.H Sahal applies the context method when there are Religious Science Forum events such as *bahtsul masa'il Nahdhatul Ulama'*, seminars, or when there are problems that are difficult to solve. Kyai Sahal said it is a must because it is not only because of the *fiqh* text in the *ulama'* book that has been used along with the time and space. However, according to him, studying *fiqh* textually is a form of history and paradox. It is due to *fiqh* is a deep understanding and discussion of legal reasoning. Also, *fiqh* is a *muktasab* science that has the meaning of continuous effort in extracting law according to the times, including discussing child marriage.

It was also not much different from the thinking method of KH. Husein Muhammad in analyzing problems such as child marriage in the *Al-Qur'an* and compares the interpretation of *Ulama* to the verse. Then, if it is explained in the *hadith* or indeed based on the *hadith*, what he uses is the quality of the *hadith* *sanad*. If the *fuqaha* have examined the problem, he re-examines the various decisions of the *ulama'* and the *ushul fiqh* method, *fiqh* rules that can be used affect the social and its relevance that affects the *ulama'* opinion (Muhammad, 2019).

His method focuses on women's problems related to *fiqh* problems. Considering *Al-Qur'an* means positioning *fiqh* and the *Qur'an* at a different level. If *fiqh* is temporal, then

the Qur'an is qadim. Therefore, fiqh is the product of times, which develops according to the times. Fiqh changes when there are social changes. Fiqh also adapts to the ulama's thoughts' differences (Wahid, 2014). Here is the specific concept of thought.

First, understanding the basis of the Qur'an, the method he uses is the concept of Islam which upholds the value of equality. Islam is a religion that is rahmatan lil 'alamin brought by God's chosen man, the Prophet Muhammad PBUH. Since the death of the Prophet Muhammad, Islam has spread in various parts of the world, especially in science (Khoiri, 2018). Second, the position of the Qur'an must be the basis for studying the Qur'an (Muhammad, 2019). It discusses humans. His method determines past and present circumstances and situations by looking at the text contextually. Then, he rereads the book contextually, not textually. According to him, we must read and practice what substantively is in the Qur'an, not only through formal thinking through the text and considering the asbabun nuzul of the verses of the Qur'an. Third, the understanding in a context that ijihad also has a chance to respond the movement and development in society. Fourth, understand the hadith because, according to him, it still needs to be examined from several aspects, both contextually researched to explore more substantive meanings.

Child Marriage in the Interpretation of QS An-Nisa' verse 6 Male Feminist Perspective

Two of the many male feminists in this regard, according to KH. Husein Muhammad and KH. Sahal Mahfudh voiced messages of gender equality related to the concept of ideal marriage by explaining the limits of children being allowed to marry. It is used to avoid physical and spiritual harm that does not happen in marriage.

KH. In his work on Women's Fiqh: Reflections of Kyai on Religion and Gender discourse, Husein Muhammad alludes to the issue of the right to marry teenagers who are still applied in the community. In Indonesia, it has become a concern that some people consider child marriage as not good behaviour. Imam Shafi'i also said that 'fathers should not marry off their daughters until the daughter is mature, because marriage will pass through various responsibilities (Al-Muthu'i, 'Tt).

Based on the statement above, according to Imam Shafi'i, that marriage must be able to fulfil obligations. It could be in a marriage relationship becomes *makruh* because it cannot fulfil its obligations as husband and wife. Then, it is also like men who are *makruh* to marry

who cannot give a dowry and take responsibility for their wife. This point of view forms the basis for other scholars of jurisprudence, the Maliki *madhab*, to argue that marriage is forbidden for a man who still maintains his nature from disgraceful acts such as adultery but cannot take responsibility for his wife. Then Hanafi *madhab*, marriage can be unlawful if it is in a marriage that will lead to prohibited behaviour because it is intended to protect descent (Muhammad, 2019). As in the letter An Nisa 'verse 6 with the editor not allowing children to marry before puberty:

وَابْتَلُوا الْيَتَامَى حَتَّى إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ ۖ وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا
أَنْ يَكْبَرُوا ۚ وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ ۚ وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ ۚ فَإِذَا دَفَعْتُمْ إِلَيْهِمْ أَمْوَالَهُمْ فَأَشْهَدُوا
عَلَيْهِمْ ۗ وَكَفَى بِاللَّهِ حَسِيبًا

“Make trial of orphans until they reach the age of marriage; if then ye find sound judgment in them, release their property to them; but consume it not wastefully, nor in haste against their growing up. If the guardian is well-off, Let him claim no remuneration, but if he is poor, let him have what is just and reasonable for himself. When ye release their property to them, take witnesses in their presence: But all-sufficient is Allah in taking account.” (Depag RI, 2005).

The interpretation of KH. Husein Muhammad states that if children are allowed to marry at teenage age, children still do not need to get married (Muhammad, 2019). In addition, there is an opinion from Ibn Hazm that it is not permissible to marry if you are not yet mature (passing puberty), and it applies to both boys and girls. QS. An-Nisa ': 6 has asbabun nuzul that Imam Abu Hasan Ali bin Ahmad al Wahidi explained that this letter was related to Thabit bin Rifa'ah ra., who was left by his father, then the uncle who took care of him came to the Prophet to ask about the property manager.

Imam al Wahidi explained:

قَوْلُهُ تَعَالَى: وَابْتَلُوا الْيَتَامَى لِأَيَّةٍ. نَزَلَتْ فِي ثَابِتِ بْنِ رِفَاعَةَ وَفِي عَمِّهِ. وَذَلِكَ أَنَّ رِفَاعَةَ تُوِّفِيَ وَتَرَكَ ابْنَهُ ثَابِتًا وَهُوَ
صَغِيرٌ. فَأَتَى عَمَّهُ ثَابِتٌ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنَّ بَنِي يَتِيمٍ فِ جِجْرِي، فَمَا يَحِلُّ لِي مِنْ مَالِهِ
وَمَتَى أَدْفَعُ إِلَيْهِ مَالَهُ؟ فَأَنْزَلَهُ تَعَالَى هَذِهِ الْآيَةَ

“God's word, 'wabtalul yataamaa...[Surah An Nisa' verse 6.]' This verse relates to Thabit Rifa'ah and her uncle. Rifa'ah died and left her son and Thabit still child, and her uncle came to the Messenger of Allah and said, 'Indeed, my brother's son has become an orphan in my care. So what is lawful for me from his wealth, and when can I hand over his wealth to him?' Then the letter An Nisa 'verse 6 is revealed.”

The problems of child marriage that in the view of the fiqh expert. Firstly, he considers the benefit element's presence, or there is no worry about the occurrence of illegal sexual

intercourse in religion, such as adultery if in marriage and its madharat, according to KH. Husein Muhammad, child marriage still occurs in society because of its culture. Then, children should be mature for the marriage limitation (passing the puberty period). So, the children have mental and physical readiness. It is very important in marriage (Muhammad, 2001).

KH. Sahal state that everyone wants to build a household in a marriage bond. A noble and very reasonable wish. No one denies that humans have *hajat* or *jinsiyah* (biological needs or desires), which Allah gave intentionally to Hifz Nasl to process the earth's requirements for the balance welfare (Mughniyah, 1996). In the interpretation of KH. Sahal Mahfudh related to Surah an-Nisa' verse. This verse states that wali mujbir may marry off their children on the condition that they must first ask permission from the prospective woman because if there is no consent from the woman, the marriage carried out will be very dangerous. The condition of both men and women who will get married must be mature, physically and mentally healthy. They can take responsibility for their family and *ridla* each other of their marriage (Mahfud, 2003).

Based on the two male feminist interpretations above, both KH. Husein Muhammad and KH. Sahal Mahfudh in interpreting the QS. An-Nisa's verse 6 is the basis of the verse to respond to the problems in child marriage. Then this child marriage should be avoided if it poses a danger to both boys and girls. Marriage restrictions may be broken if both boys and girls have reached puberty, have physical and spiritual readiness, be responsible with their family, are *ridla* with each other, and work together to build harmony in their marriage.

CONCLUSION

Child marriage has happened in society in the reason of culture. It is better to pay attention to the age limit of child marriage. It is used to avoid dangerous things happening to both men and women. Based on the two male feminist interpretations above, both KH. Husein Muhammad and KH. Sahal Mahfudh in interpreting the QS. An-Nisa's verse 6 is the basis of the verse to respond to the problems in child marriage. Marriage should be considered the benefit factor. It requires that the child has been puberty. They have the ability and mental and physical readiness. According to Islamic teaching, they must be mutually pleased (*ridla*) and work together to build an ideal marriage harmonization, especially the concept of *muasyarah bil ma'ruf and taradhin bainahuma*.

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