



The Controversy of Child Marriage Culture in The Perspective of *Maqāṣid al-Ushrah*: A Case Study of The Authority of Lebe' in Brebes

Dwi Aprillianto^{1*}, Farida Ulvi Na'imah², Ahmad Fauzi³, Lu'lu' il Maknuun⁴

^{1*}Universitas Islam Lamongan

Jl. Veteran No.53A, Jetis, Kec. Lamongan, Kabupaten Lamongan, 62211 Indonesia

^{2,4}Universitas KH Abdul Chalim Mojokerto

Jl. Tirtowening Bendungan Jati Pacet Mojokerto, 61374 Indonesia

³Universitas Islam Tribakti Lirboyo, Kediri

Jl. KH Wachid Hasyim No.62, Bandar Lor, Kec. Mojoroto, Kota Kediri, 64114 Indonesia

Email: ¹dwiaprillianto4324@gmail.com, ²ahmadfauzi007@gmail.com, ³faridaulvi@gmail.com,

⁴luluilmaknuun92@gmail.com

Submitted : 17-04-2024

Accepted : 26-07-2024

Revision : 22-06-2024

Published : 08-08-2024

Abstract: This research is backdrop by the role of *Kiais* (religious figures) whose opinions regarding the permissibility of child marriage are widely followed by their local community. It aims to investigate the relevance of child marriage law in the Regency of Brebes from the perspective of *maqāṣid al-usrah*. This research was conducted in Banjarharjo, Pararaja, Banjarnegara, and Brebes districts of the Regency of Brebes by employing legal anthropology and *Ushul al-Fiqh* approaches. The theories used in this research are internalization theory and *maqāṣid al-usrah*. Data were collected through interviews, observations, and document analysis. The practice of child marriage in Brebes society is, in principle, irrelevant to the concept of *maqāṣid al-usrah*, which was theoretically explained by Jamal al-Din 'Atiyyah. This research found that religious understanding that is internalized in the community traditions resulted in a fiqh product entitled *Kitāb al-Nikah* authored by an Indonesian ulama and the authority of *Lebe'* which has had a significant influence on the practice of child marriage in Brebes Regency. The practice of child marriage should not only be based on authoritative texts but also requires consideration of *'aqil baligh* as well as consideration of suitability, namely *rushd* (capability) as well as considering *maqāṣid al-usrah*, regulating the relationship between men and women (*tanzīm al-'alaqah bayn al-jinsayn*), realization of peace, love, and compassion (*taḥqīq al-sakn wa al-mawaddah wa al-raḥmah*), maintaining religion in the family (*hifz al-tadayyun fi al-usrah*), regulating the essential aspects of the family (*tanzīm al-jānib al-mu'assasī li al-usrah*), and Family Financial Regulation (*tanzīm al-jānib al-mālī li al-usrah*).

Keywords; Child Marriage; *Lebe'*; *Maqāṣid al-Ushrah*

Abstrak: Penelitian ini dilatarbelakangi oleh peran kiai yang berpendapat mengenai diperbolehkannya perkawinan anak dan banyak dianut oleh masyarakat setempat. Tujuan penelitian untuk menganalisis relevansi hukum perkawinan anak di Kabupaten Brebes ditinjau dari *maqāṣid al-usrah*. Penelitian ini dilakukan di Kabupaten Banjarharjo, Pararaja, Banjarnegara, dan Brebes dengan menggunakan pendekatan antropologi hukum, dan *ushul al-fiqh*. Teori-teori yang digunakan dalam penelitian

adalah teori internalisasi, teori ahliyyah, dan *maqāṣid al-usrah*. Pengumpulan penelitian dilakukan dengan menggunakan teknik wawancara, observasi, dan studi dokumen. Praktik perkawinan anak di masyarakat Brebes pada prinsipnya tidak relevan dengan konsep *maqāṣid al-usrah* yang secara teoritis ditelaah oleh Jamal al-Din ‘Atiyyah. Penelitian ini menghasilkan temuan: Pemahaman keagamaan yang terinternalisasi dalam tradisi masyarakat, melahirkan produk fiqh bertajuk Kitab al-Nikah serta peran dari *Lebe’* yang memberikan pengaruh signifikan terhadap praktik perkawinan anak di Brebes, Praktik perkawinan anak hendaknya tidak hanya didasarkan pada nash-nash yang otoritatif (halal) saja, tetapi juga memerlukan pertimbangan ‘aql baligh serta pertimbangan kesesuaian yaitu *rushd/mampu* serta mempertimbangkan *maqāṣid al-usrah* dalam mengatur hubungan antara laki-laki dan wanita (*tanzīm al-’alaqah bayn al-jinsayn*) terwujudnya kedamaian, cinta dan kasih sayang (*taḥqīq al-sakn wa al-mawaddah wa al-raḥmah*) memelihara agama dalam keluarga (*hifz al-tadayyun fi al-usrah*) dan mengatur aspek pokok keluarga (*tanzīm al-jānib al-mu’assasī li al-usrah*), peraturan keuangan keluarga (*tanzīm al-jānib al-māl li al-usrah*).

Kata Kunci: Perkawinan Anak; *Lebe’*; *Maqāṣid al-Ussrah*.

Introduction

Child marriage that is practiced in Indonesia is a complex discourse, especially in traditional communities living in rural areas. Child marriage intersects with various aspects ranging from religious, economic, social, health, legal, and customary elements.¹ Not all aspects of the issue of child marriage can be discussed and researched. However, there are always certain limitations in scientific research.² This marriage practice is still widely circulated around religious topics, especially in traditional student bases with theological motives; this means that this practice is sustainable because the normative basis of religious texts justifies it.³

The widespread basis often expressed is the legality of the prophet’s marriage to *sayyidah* ‘Aishah,⁴ who was still a child then. Therefore, classical jurisprudence studies do not determine minimum limits for men or women to carry out marriage. Even the argument for child marriage has a positive connotation if it is carried out based on considerations of benefit and religion.⁵ Marrying children at an early age is also considered a form of achievement by many people because it is thought to help prevent the children from promiscuity; some people even feel this marriage as worship because it is believed to have saved their religion.

The issue of child marriage practices also intersects with the legal realm. Diametrically, the State strictly regulates it in Law no. 16 of 2019 concerning the minimum age limit for someone permitted to marry, namely 19 years, and the Compilation of Islamic Law (KHI), which sets the minimum age at 19 years for men and 16 years for women. Therefore, marriages performed under an age determined by law fall into the category of child marriages.

¹ Qodariah Barkah et al., ‘Abandonment of Women’s Rights in Child Marriage; An Islamic Law Perspective’, *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (31 December 2022): 383–411, <https://doi.org/10.19105/al-lhkam.v17i2.6725>.

² Ayako Kohno et al., ‘Investigation of the Key Factors That Influence the Girls to Enter into Child Marriage: A Meta-Synthesis of Qualitative Evidence’, *PLOS ONE* 15, no. 7 (17 July 2020): e0235959, <https://doi.org/10.1371/journal.pone.0235959>.

³ Maila D. H. Rahiem, ‘COVID-19 and the Surge of Child Marriages: A Phenomenon in Nusa Tenggara Barat, Indonesia’, *Child Abuse & Neglect* 118 (1 August 2021): 105168, <https://doi.org/10.1016/j.chiabu.2021.105168>.

⁴ Muh ammad bin Isma’il Al-Bukhari, *Shahih Al-Bukhari*, 1987.

⁵ Nazir Ullah, Saidatul Nadia Binti Abd Aziz, and Rao Qasim Idrees, ‘Child Marriages: International Laws and Islamic Laws Perspective’, *Journal of Educational and Social Research* 11, no. 3 (10 May 2021): 60, <https://doi.org/10.36941/jesr-2021-0051>.

From a traditional perspective, the practice of child marriage often occurs because of cultural encouragement in a community that perceives women as a second-class group. As a result, various reasons emerge to speed up marriage, such as women not needing to be highly educated.⁶ They consider that higher education for women is not that important because it will increase women's resistance against men. Due to parents' concerns about the stigma of spinsterhood in society, economic independence becomes unimportant because the husband will ultimately be fully responsible for the living.⁷

From an economic perspective, the phenomenon of child marriage in rural and inland communities is easily found. It is not surprising that many underdeveloped countries in the world have a relatively high number of child marriage cases. Families with a weak economy tend to marry off their children as soon as possible, so the burden of supporting their children's lives ends quickly. They have high hopes that the economy will grow and improve after marrying off their children at an early age.

From a health perspective, child marriage, according to the UN, is considered a dangerous tradition and can pose high health risks to the perpetrators, including maternal mortality⁸ at a young age due to premature pregnancy, damage to the cephalopelvic bone, and nutritional deficiencies (malnutrition).

Third, religious figures (*kiai*) are influential in society. Obedience to *Kiai* is rooted in scientific genealogy. So, their view is still literalist regarding the opinions of classical scholars as well as the solid religious arguments from a charismatic religious figure who still considers child marriage to be legal and halal.⁹ The *kiai*'s readings, which refer to the yellow books they studied in Islamic boarding schools, are then practiced in the community and also include leading the public to an understanding of the concept of *baligh* based on the al-Shafi'i as the authoritative *madhhab* in Indonesia.¹⁰

According to al-Shafi'i, the sign of *bāligh* is having dreamed to the point of producing semen (*iḥtilām*) for boys and menstruating for girls at least nine years of age.¹¹ If the boys and girls do not experience both, the age limit is determined by age, namely, 15 years old.

This research was carried out in the villages of Banjarharjo, Parareja, and Banjaran of the Regency of Brebes. The villages of Banjarharjo and Parareja were chosen as research locations because child marriage in these villages is prevalent.¹² Meanwhile, Banjaran Village was selected because it is prone

⁶ Madkan and Lusya Mumtahana, 'Islam Dan Tradisi Perspektif Al-Qur'an Dan As-Sunnah', *At-Tadzkir: Islamic Education Journal* 1, no. 1 (2022): 55-62, <https://doi.org/10.59373/attadzkir.v1i1.5>; Muhamad Afrizal Sholichuddin, Nicky Estu Putu Muchtar, and Rizky Dwi Ratna, 'The Relationship of Islam and The State in Contemporary Islamic Political Discourse in Indonesia', *Dirasah International Journal of Islamic Studies* 1, no. 2 (29 October 2023): 78-88, <https://doi.org/10.59373/drs.v1i2.11>.

⁷ Mizanul Hasanah, 'The Role of Parents in Children Memorizing the Qur'an in Middle School Based on the Amanatul Ummah Islamic Boarding School', *Tafkir: Interdisciplinary Journal of Islamic Education* 2, no. 2 (25 July 2021): 139-56, <https://doi.org/10.31538/tijie.v2i2.43>; Erie Hariyanto et al., 'Sakinah Family Empowerment by Optimizing the Role of BP4 and Parents Mental Revolution Perspective', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (26 December 2021): 619-47, <https://doi.org/10.22373/sjkh.v5i2.10965>.

⁸ 'UNICEF Innocenti Research Centre', 2015.

⁹ Siti Aisyah et al., 'Kiai Leadership Concept in The Scope of Pesantren Organizational Culture', *Tafkir: Interdisciplinary Journal of Islamic Education* 3, no. 1 (2022): 40-59, <https://doi.org/10.31538/tijie.v3i1.106>; Farid Wajdi et al., 'The Pattern of Leadership of Kiai in Managing Learning Pesantren', *Nidhomul Haq: Jurnal Manajemen Pendidikan Islam* 7, no. 1 (20 March 2022): 15-30, <https://doi.org/10.31538/ndh.v7i1.1832>.

¹⁰ Abdur Rahman Al Jaziri, *Kitab Al-Fiqh 'ala al-Madhahib al-Arba'ah* (Beirut: Dar al-Fikr, n.d.).

¹¹ Sulaiman bin Mansur Al-Jamal, *Hashiyah Al-Jamal* (Beirut: Ihya' al-Turath al-'Arabi, n.d.).

¹² 'Women's Empowerment, Child Protection and Family Planning Agency', 2022, <http://dp3kb.brebeskab.go.id/>.

to landslides, resulting in many obstacles to access, such as education. Many people have experienced trauma due to hundreds of landslide victims, so they choose to stop studying and decide to improve their future by getting married early. Some others, work outside the area for a more decent life.¹³

The practice of child marriage cannot be prohibited haphazardly just because it appears to have the potential to give rise to negative impacts. *Mafsadah* and *maṣlahah* must be measured based on their respective considerations, namely considerations of the level of *ḍarūriyyah*, *ḥājīyyah* and *taḥsīniyyah*. Therefore, for certain contexts, the practice of child marriage may be the best choice when it is believed to be sure to save someone from committing adultery or sexual relations outside of marriage (*ḥifz al-nasl*), even though in its implementation, it has the potential to give birth to other *mafsadah*. At the *ḍarūri* level, protecting oneself from adultery is of a *ḍarūri* nature. However, if there are no urgent conditions or new reasons, then the practice of child marriage should be avoided.

This is a field research that implemented direct interaction with the community to study their habits, beliefs, and social processes. This research is in the socio-legal research category, namely legal studies research using a social science methodology approach. The provisions in these three legal sources are studied carefully and critically using a legal anthropology approach, which depicts the scope of culture in people's lives. This research was conducted in the districts of Banjarharjo, Salem, and Brebes of the Regency of Brebes. The research uses a descriptive qualitative approach because it provides a holistic (comprehensive) and clear picture of the social situation.¹⁴

This research investigates the process of internalizing the local traditions of the Brebes community in child marriage law and describes the results. The primary data sources are information from village officials, *lebe'* (*mudin*), heads of KUA, religious organizations, religious leaders, and educational practitioners. Meanwhile, the secondary data sources are in the form of legal product documents that have been internalized by Sundanese traditions, namely *Kitāb al-Nikāḥ* written by al-Shaykh Abu 'Abdillah al-Mahfani, a scholar from Cirebon and the *ushūl al-fiqh* and *maqāṣid al-usrah* approach that was theoretically studied by Jamal al-Din 'Aṭīyyah.¹⁵ They are used to determine the suitability of a person to carry out the practice of marriage, not just based on the legal requirements, but the person must be intelligent and at the same time make him competent to carry out a legal rule.

Maqāṣid al-Usrah in Marriage

Maqāṣid al-sharī'ah according to Jamaluddin 'Aṭīyyah begins with a discussion of whether or not *maqāṣid al-ḍarūriyyah* is limited to a summary of five classical scholars (namely *ḥifz al-dīn*, *ḥifz al-naḥs*, *ḥifz al-nasl*, *ḥifz al-aql* and *ḥifz al-māl*). At the practical level, which is shaded by the five movements of *maqāṣid al-kullīyyah*, he developed 24 *maqāṣid*, which are applied into four spaces of movement, wherein each of these movements, *maqāṣid al-kullīyyah* is not there must be five things. The four spaces for movement are individual space (*al-fard*), family space (*al-usrah*), community space (*al-ummah*), and humanitarian space (*al-insāniyyah*).¹⁶

Ḥifz al-nasl (guarding offspring) is one of the parts of *maqāṣid al-sharī'ah*. Some people interpret it as protecting the child's lineage over his father. If explored further, the meaning of *ḥifz al-nasl*

¹³ Lutfi, Interview, 02 October 2023

¹⁴ Sulistyowati Irianto dan Sidharta (Ed), *Metode Penelitian Hukum, Konstelasi Dan Refleksi* (Jakarta: Yayasan Obor Indonesia, 2009). 251.

¹⁵ Jamaluddin 'Aṭīyyah, *Nahw Tafīl Maqāṣid al-Sharī'ah* (Virginia: The International Institute of Islamic Thought, 2008). i

¹⁶ 'Aṭīyyah. 134.

will be very broad. Several meanings can be mentioned, including giving birth to a new generation/regeneration (*injāb*), protecting the nasab of humankind (*ḥifz al-nasab*), and protecting and educating children (*ri'āyah*).

To emphasize the aim of determining lineage as an essential part of *ḥifz al-nasl*, Islam teaches that marriage should always be announced openly and not hidden (*sirri*). In the following era, this form of announcement was legalized as an official note or marriage certificate by the State. A marriage that is known to the public and recognized by the State will protect women and children who will be born as a form of marriage that is legal according to religion and the State. *Sirri* marriage is not only considered to violate the universal goals of *ḥifz al-nasl*, but also disfunctions the legal relationship between the child and his parents. *Sirri* marriage will question the true identity of the lineage.¹⁷ According to Jamāluddīn 'Aṭiyyah, there is an explanation that the purpose of making marriage mandatory is to guarantee human life or what is usually called *baqa' al-nasl*. Jamaluddin 'Athiyyah's aim in formulating a *maqashid* dimension of marriage is so that the objectives of marriage law can be known and become an effort to obtain guarantees of a good life so that it follows the framework desired by the shari'ah. Therefore, humans can be kept away from damage so *maqāshid al-usrah* is to guarantee the continuation of human life itself (*baqā' al-nasl*). Further, he stated the details as follows:

Regulation of relationship between men and women (*tanzīm al-'alaqah bayn al-jinsayn*). This first *maqāshid* contains the determination of rights and obligations for married couples to avoid disputes that could disrupt the harmony of their marriage.¹⁸ Therefore, sufficient knowledge is needed for each partner to understand their rights and obligations reasonably and proportionally. Should marriage be done to a young girl, this consideration will be overlooked.

Realization of peace, love, and compassion (*taḥqīq al-sakn wa al-mawaddah wa al-raḥmah*). In realizing this *maqṣad*, the Shari'ah has established household ethics for husband and wife, such as the ethics of civilized and humane intercourse, socializing, and building a good household. These ethics are commonly called *mu'āsharah bi al-ma'rūf* which means treating your partner (either husband or wife) well so as not to hurt either partner.¹⁹

Guard of Religiosity in the Family (*ḥifz al-tadayyun fi al-usrah*). This *maqṣad* is realized through the procedure of choosing a partner according to religious recommendations by paying attention to 4 aspects, namely: his religion, his property, his lineage, and his beauty. The head of the household must teach religious knowledge to all family members, both in the aspects of '*aqidah*, *shari'ah*, and morals.²⁰

Regulation for the essential aspects of the Family (*Tanzīm al-Jānib al-mu'assasī li al-usrah*). The crucial elements of married life according to Jamāluddīn 'Aṭiyyah include the longevity of the marriage bond, deliberation, resolving problems between husband and wife, the willingness of each partner to submit to sharia rules, maintaining the relationship pattern between all family members including husband and wife family.²¹ Family Financial Regulation (*tanzīm al-Jānib al-māl li al-usrah*). Sharia stipulates that there are detailed matters regarding property matters between husband and wife, whether dealing with past or future issues; therefore, the Sharia stipulates the existence

¹⁷ Abd Majid Najjar, *Maqasid Al-Shari'ah Bi Ab'ad Jadidah* (Beirut: Dar Garib al-Islami, 2008). 152-154.

¹⁸ 'Atiyyah, *Nahw Taf'il Maqasid al-Shari'ah*. 149.

¹⁹ 'Atiyyah. 143-144

²⁰ 'Atiyyah. 143

²¹ 'Atiyyah. 143

of a dowry, living, inheritance, custody of children, law on wills for the family, *waqf*, and law on custodianship of assets (control and management of assets).²²

Child Marriage Culture

Here are data of women who have ever-been married by the age of ten and over in the Regency of Brebes. The data are based on the age of the first marriage.

Table 1. Percentage of Women Who Have Ever Married by the Age of 10 Years Old and Over by the First Marriage in the Regency of Brebes (Percent)

Marriage Age	2017	2018	2019
-17	20.75	22.58	26.80
17-18	27.02	27.11	27.30
19-24	43.94	39.49	-
≥ 25	8.30	5.52	-
19-20	-	-	21.55
≥ 20	-	-	24.34

Source: <https://brebeskab.bps.go.id/indicator>

The data above shows that in the age range of 10-17 and 17-18, the number of married people is above that of the adult age group (19-24 years). It means that the vital teachings of dominant village elders support people’s belief in good times and days. According to the *lebe’* of Banjaran village, many people are fanatical about good days. Sometimes, when village officials are still meeting or out of town, they insist on getting married that day. *Lebe’* Herman conveyed the description of a society that still adheres to the principles of its elders.

“People often banged on the door at night, sometimes in the middle of a meeting; even when I was showering, someone asked me to marry them. I told them why now. They answered that it must be today, this hour, this second, and this minute,” said the elder. “This condition made things difficult for me. I often said that all days were good, but they still rejected my explanation and chose to follow the instructions of the village elders”.

As village officials responsible for marriages, the government elite should control all village lines to control the community efficiently and ensure it complies with existing regulations. Weak leadership will be easily influenced by other cultures emerging from society because of the government’s inability to open up these opportunities. The community in Banjaran village, which often engages in child marriage, admits that it is because *lebe’* has never strictly prohibited it; even the village staff acknowledged that they are unable to control the attitude of people who break the rules because until now, *lebe’* still has a traditional mindset.²³

Apart from Salem, Banjarharjo District also experienced the same case; based on the confession

²² 'Atiyah. 154

²³ Herman, Interview, 9 October 2023

of one of the residents, he admitted that implementing child marriage was not tricky, just carrying out a health test, seeing the freedom of the uterus from the fetus, and ensuring the readiness of the prospective bride and groom, the village officials still gave concessions because According to tradition, there are many perpetrators of child marriage in the area, the government has proven not to have the courage to make changes frontally.²⁴

Table 2. Dispensation of Marriage in Brebes 2020-2022

Year	2020	2021	2022
Amount	549	544	514

Source : 'Kumpulan Dataset Perkara Peradilan Agama', 2022, <https://kinsatker.badilag.net/>

In child marriage, many things cause women to accept early marriage. Sometimes, myths that arise in society also explain why a woman finally agrees to get married at an early age, as with the following factors.

Family Pressure

Family is very determined in a person's marriage practices, especially parents, who act as marriage guardians. Because its presence is an absolute requirement for the validity of a marriage contract, the family as a representative institution can be said to be the most authoritative party among other institutions. The sense of belonging between family members, or a parent's sense of belonging to their child, is so strong that it also determines their child's marriage and future.

In Brebes, the family is more substantial and decisive than existing institutions, even though they conflict with state institutions. In matters of marriage, the presence of State institutions is secondary. They are not worried if state institutions, in this case, the Religion Affairs Office (KUA), are unwilling to marry them. Herman, a *lebe'* in Banjaran Village, said: Here (Brebes), if you are *naib* you can't marry off couples, their guardians could immediately marry them off. Usually, Naib is afraid because he is not old enough. Most guardians themselves marry their children off. Sometimes, a cleric takes over the authority to marry them off.²⁵

The case above was in line with what Abdul Muis, head of the Religion Affairs Office (KUA) Banjarharjo District, stated "Some people want to marry off their children. Because he wasn't old enough", the *naib* said that he didn't want to marry off the couple. The answer was "If the Naib doesn't want to marry them off, then I myself will marry them off".²⁶

Authority *Lebe'*

Lebe' is both an individual and an institution. The institutional function is to administrate marriage registration as an assistant officer to the KUA. *Lebe'* mostly plays himself as a religious authority who facilitates the implementation of marriage contracts considered valid according to religion. It is also not uncommon for *lebe'* to act as witnesses in implementing the marriage contract. The party who serves as the guardian who marries the two child-married couples is sometimes

²⁴ Rahmat, Interview, 14 July 2023.

²⁵ Herman, Interview, 10 October 2023

²⁶ Abdul Muis, Interview, 11 October 2023

carried out by the girl's guardian. However, they often represent them to village kiai, as researchers found in Banjaran Village, Salem District, Brebes Regency. *Lebe'* is also faced with real situations and conditions in society with various cases, including cases of child marriage. *Lebe'* is the first party contacted by the residents to marry off their members, even if they are underage. However, *lebe'* also has a responsibility to socialize marriage legislation.

Marrying children at an early age is not only a manifestation of the achievements of the parents or the children. However, it is also considered a positive point for *lebe'* or village officials because it is supposed to help prevent children from promiscuity. This practice is even regarded by some people as worship because the *lebe'* in question is considered to have saved his religion even though his income is not much. The income is even far from that when he was still working in Kalimantan. Here is a statement from *Lebe'* Herman:

“They say it's impressive; salute, sir. Yes, from the son of an adulterous father, some people want to help. That's right. I was removed (from the *lebe'* department); it's okay. I'm not an official (KUA officer) like this. My salary was even higher before I became an official. And tens of millions before, now the salary is only 2,000,000 a month”.²⁷

Perception of Getting Married Early as a Social Achievement

Achievement in the household life takes the form of a peaceful life both in the public and domestic areas (social relations) that are well established. It is not seen through whether one is young or old. The people of Banjarharjo believed that early marrying off children is excellent. Here is the explanation from the Head of Parareja Village, Banjarharjo District,

Wow, that's not there anymore, but many of them exist. So, there are contradictions in society; yes, there are people who believe in early marriage. There is a culture here that marrying off children early is better. However, we still try to ensure that married children participate in non-formal education (package B or C) so that they continue to receive education. For those whose education was still in the elementary or middle school levels and then dropped out of school, we encourage them to participate in the non-formal education packages.²⁸

Based on information from the *Lebe'* of Banjaran Village, Salem District, many parents wish to marry off their children early. They hope that with this early marriage, they will earn as early as possible, especially as their parents will have less responsibility. They choose to work outside Java to work and support their families, whatever the risks. Mr. Herman, as the *lebe'* of Banjaran Village, admitted that he could not refuse the residents' request so that child marriages could still take place; here is his statement:

Yes, that's cultural. You already want to get married, so you don't need to go to school; after all, your husband will work in Kalimantan, Jakarta, or wherever you can go with your husband. That makes us confused; it's a sin not to marry off children. It could become adultery later. Finally, the KUA looked for a solution to just get married first in an unregistered manner. The limit is 16 years old for women; less than a day is impossible. People are forcing it; they say they want 16-year-olds, but it's still insufficient. The residents said it's okay, sir; delaying it for a long time is not good.²⁹

²⁷ Herman, Interview, 10 October 2023

²⁸ Wachid, Interview, 12 October 2023

²⁹ Herman, Interview, 10 October 2023

Neglect of Higher Education

The people of Banjarharjo and Salem districts think the opposite; they believe that higher education for women is not that important because it increases women's resistance efforts against men. This condition often occurs in these two districts. Here is the statement from C, one of Salem's residents who embraced marrying off girls earlier than those who have matured because children are more obedient than adults.³⁰

This matter aligns with what was conveyed by Mr. Wachid, Head of Parareja Village, Banjarharjo District, whose party encourages young couples to pursue non-formal education (packages A, B, and C). Although they are married at a very young age, at least their education is complete.

In 2017, we admitted 19 children to junior high school, *Madrasah Tsanawiyah*, private high school, and vocational school, 20 to package B, and 22 to package C. Well, this is our effort to return and also an effort to prevent early marriage. We try to ensure that marriage follows the law, namely 16 years. We never allow underage marriages, and even at 16 years, we warn people not to get married first, as much as possible, go to school first. We explain that they are still of productive age."³¹

The Role of the Village *Kiai*

Community obedience to *kiai* is rooted in the scientific genealogy tradition, which necessitates the existence of a chain connection (*sanad*) between teachers and students. So their views still use classical society's opinions in a literalist way, as stated by Mr. Abdul Muis, who is the Head of the KUA of Banjarharjo Village:

My friend said, "The law is like a tree with leaves, branches, and fallen twigs. But here the priority when talking about law is *kama qāla ulama, kamā qala kiai*. So, because Mr. Kosim and I are immigrants, the way to handle this problem is to first look at who the person is, what their culture is like, and what their philosophy of life is like. But after knowing, and when he talks like that, that's a lesson. Another example regarding waqf. Here, if it is a waqf item, for example, a glass, even if it breaks, no one dares to throw it away because it is a waqf item. That's the way of understanding here."³²

Apart from that, the most challenging obstacle for the KUA is the solid religious arguments from a charismatic religious figure who still considers the practice of child marriage to be legal and halal. Instead of socializing the law regarding marriage age limits, some of the village heads and KUA officials are also religious leaders in their villages who have two social roles, namely as religionists who, in conventional religious views, allow child marriage, on the other hand, as KUA officials who must implement laws that prohibit the practice of child marriage.

Kiai Ma'ruf, a religious figure in Parareja Village, Banjarharjo District, who always places *bāligh* as the limit for someone being allowed to marry, has the view that a person has entered puberty, which is marked by *iḥtilām* (wet dreams) for men and menstruation for women, then she is allowed to marry. According to him, if someone is pregnant and has not yet been married, or has an arranged marriage, or if they both like each other, they should get married immediately. Registering

³⁰ C and R, Interview, 10 July 2023

³¹ Wachid, Interview, 15 October 2023

³² Abdul Muis, Interview, 10 October 2023

marriages for religious figures is not much of a concern. According to him, religion makes it easy for its adherents to get married.³³

Kiai Ma'ruf's statement above is considered understandable. On the one hand, the problem of free and uncontrolled promiscuity among teenagers has had an impact on the practice of free sexuality and pregnancy outside of marriage. On the other hand, religious leaders have a high responsibility.

In Brebes, precisely in Banjarharjo Village Banjarharjo District, one of the religious leaders (kiai) named Kiai Nur still has the manuscript of the book *An Nikah* written by an Indonesian ulama named Abu 'Abdillāh Husayn bin Aḥmad al-Mahfani.

The author of the book explains the first pillar of marriage is that the prospective bride (*al-maḥall*) must be a woman who does not have any sharia obstacles to marry, such as for *mahrām* reasons. It also discusses the context in which marriage becomes prohibited, either temporarily or permanently.³⁴ The future husband can be an adult or a child, crazy, or an enslaved person.³⁵ When a child reaches maturity, there is no barrier for him to marry or be married off. Then, when explaining the requirements for the groom to be mature and of sound mind, he can choose between accepting the consent himself or representing it to someone else. Meanwhile, grooms who are not yet mature can only be married by their father or grandfather.³⁶ The characteristics of the book (*An Nikah*) are different from those of Fiqh books in general. This formulation seems to be the result of Sundanese cultural internalization of the product of child marriage law in Brebes, where marriages that take place by children are common.

Child Marriage Culture in Brebes in the *Maqāsid al-Ushrah* Perspective

Tanzīm al-'Alaqaḥ bayn al-Jinsayn (Regulating the Ties between Two Types of Humans)

Marriage is a physical and spiritual bond between husband and wife, as well as between them and society, so that the bond is a solid agreement, *mīthāqan ghalīzān*. Therefore, marriage requires physical, biological, psychological, and sociological maturity from everyone who wants to undergo it. This maturity will reflect the *maqāsid* values or the main objectives of implementing sharia.³⁷

From a gender perspective, child marriage tends to occur more frequently among girls. As happened in Salem and Banjarharjo Districts, gender is a concept that refers to the differences between men and women based on social construction; it can change over time and varies significantly within and between cultures. As opposed to biologically determined traits, gender refers to learned behavior and demands conforming to one's image of masculinity and femininity.³⁸

Psychologically, mental maturity and emotional stability will greatly determine a household's happiness level. Meanwhile, if someone can marry, they will be considered able to bear the social

³³ Ma'ruf, Interview, 15 October 2023

³⁴ Abu 'Abdillāh Husayn bin Aḥmad Al Mahfani, *Kitab al-Nikah*, 36.

³⁵ Abu 'Abdillāh Husayn, 38.

³⁶ Abu 'Abdillāh Husayn, 39.

³⁷ Chloe M. Harvey et al., 'Premarital Conception as a Driver of Child Marriage and Early Union in Selected Countries in Southeast Asia and the Pacific', *Journal of Adolescent Health*, Shared Roots, Different Branches: Expanding Understanding of Child Marriage in Diverse Settings, 70, no. 3, Supplement (1 March 2022): S43-46, <https://doi.org/10.1016/j.jadohealth.2021.11.003>; Mhd Rasidin, Natardi Natardi, and Doli Witro, 'The Impact of Unequal Marriage on Household Harmony (Case Study in Sungai Penuh City, Jambi)', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 2 (28 December 2020): 313-36, <https://doi.org/10.22373/sjhk.v4i2.8083>. *Journal of Adolescent Health*, Shared Roots, Different Branches: Expanding Understanding of Child Marriage in Diverse Settings, 70, no. 3, Supplement (1 March 2022)

³⁸ Dede Oetomo, 'Sex Diversity, Gender and Sexuality', *Sophia Journal*, 2017, 5.

burdens immediately attached to someone starting a household. However, if a person's age is too young when he/she gets married, it will have negative impacts.³⁹

Child marriages will encounter problems when the female partner experiences pregnancy, giving birth, and raising children. The pregnancy process requires the readiness of the reproductive organs of the mother who bears it. Children under 16 years of age are not ready to have sexual intercourse, let alone experience pregnancy and childbirth. Pregnancy at a young age can put you at risk of developing cancer and even lead to maternal death. Another risk is the potential for a baby to be born with defects because a young woman's pelvic space is not yet large enough, making it difficult for the baby to move when it turns around to come out. This kind of condition even carries a risk of infant death.⁴⁰ Of course, this risk threatens the realization of protection for the soul (*hifz al-nafs*).

The paradigm that has been created in society so far makes women as servants for men. This assumption occurs in the realm of education, work, decision-making, and also in their household. Low education also explains why women do not seem to have the right to speak. For these women, obeying orders from their parents is an obligation.⁴¹ Women's position in the household is also often the second person because even though women work, they only support men. This condition will be made worse because women's position has received little attention at the first place, so whatever women do will still be wrong.

Tahqīq al-Sakn wa al-Mawaddah wa al-Rahmah (Realization of Peace, Love, and Compassion)

Adolescence is often known as a period of searching for ego identity, so instability and opposition are usually shown in many ways.⁴² Therefore, at this age, children frequently experience balance disorders in thinking. He is not yet stable in acting, which can trigger conflict in the family.⁴³

This emotional condition is exacerbated by a lack of awareness of responsibility in carrying out household activities. As a result, marriage not only fails to realize the goals of marriage, namely realizing tranquillity (*sakīnah*), love (*mawaddah*), and affection (*rahmah*),⁴⁴ but it can even lead to early divorce. If marriage is carried out at a mature age physically and mentally, then according to Jamāluddīn 'Aṭiyyah, the realization of peace and affection (*tahqīq al-sakn wa al-mawaddah wa al-rahmah*) will be materialized.

Psychologically, marriage is also expected to bring comfort and tranquillity because a person's sexual desires can be channeled. However, the relationship between husband and wife is not always

³⁹ Umi Sumbulah and Faridatul Jannah, 'No Title Early Marriage and Its Implications for Family Life in Madurese Society (Legal and Gender Perspective)', *Egalita Journal* VII, no. 1 (2012): 84.

⁴⁰ Nawangsari Rahma Pramudya, *Early Marriage and the Health Impact of Women's Reproductive Organs (Uterus) from an Islamic Legal Perspective* (Yogyakarta: Arruz media, 2010).

⁴¹ Ayse Elmali-Karakaya, 'Interfaith Marriage in Islam: Classical Islamic Resources and Contemporary Debates on Muslim Women's Interfaith Marriages', *Religions* 13, no. 8 (August 2022): 726, <https://doi.org/10.3390/rel13080726>; Mohd Anuar Ramli et al., 'Women's Right of Inheritance in Islam: Between the Sharia Provision and Demand of Socio-Cultural Changes', *Khazanah Hukum* 5, no. 2 (28 August 2023): 171-82, <https://doi.org/10.15575/kh.v5i2.29181>. Both Muslim men and women are prohibited from marrying mushriks and are required to marry only other believers. However, Muslim scholars' definitions of 'believers' and 'mushriks' differ for men and women. Whereas kitabī (Jewish and Christian

⁴² and Dona Eka Putri Januar, Villi, 'Body Image in Young Women Married and Having Children', *Journal of Psychology* 1, no. 1 (2017): 57.

⁴³ Marlina Nur, 'Relationship Between Parental Education Level and Emotional Maturity and the Tendency to Marry Early', *Empathy Journal* 2, no. 1 (2013): 13.

⁴⁴ (Al-Qur'an, 30: 21)

about satisfying the libido. The relationship between them requires mutual understanding and protection of each other. This attitude will be born from a couple with emotional maturity and mental readiness. Therefore, at a young age (childhood), a person often experiences balance disorders in thinking. He is not yet stable in acting, which can trigger conflict in the family.

Therefore, to bridge the two, definite boundaries are needed. Shari'ah ultimately established the concept of *bāligh* as a solution because the maturity of reasoning and thinking can only be realized if a person has reached the age of *bāligh*. Psychological readiness is necessary for entering married life so the couple can face various problems wisely and not easily worry and despair. At the age of 20-24, teenagers enter early adulthood, approaching the time of physical and emotional maturity.

***Tanzīm al-Jānib al-Māl li al-Urah* (Financial Regulation for the Family)**

People with limited access to work will force themselves to work unprofessionally because they lack skills and knowledge. When conditions get worse and economic access becomes more complex, such conditions gradually lead them to poverty, a condition that can lead to neglect.

For children in particular, the difficult economic conditions of their parents can result in children not getting enough nutritious food, which has implications for hampering their physical and brain development.⁴⁵ Health insurance will also be disrupted so that children are vulnerable to disease and, at a certain point, have the potential to experience hunger, and their survival is threatened. The Qur'an has given a firm warning that parents, fathers, and mothers must not harm their children.⁴⁶

Child marriage also threatens the existence of reason (*hifz al-'aql*) and has the potential to cause the child's education to fail. If marriage occurs during school age, the threat of dropping out of school is enormous. Low education certainly has implications for a person's lack of knowledge.⁴⁷ Someone who marries as a child will not completely lose the function of their mind, but dropping out of school generally will result in a lack of knowledge. This low level of expertise has implications for limited social life access, which requires adequate readiness, skills, and expertise. One of them is access to the fields of work and the economy.⁴⁸

A person with limited access to work will force himself to work unprofessionally because of his lack of skills and knowledge. So, child marriage can threaten financial regulation for families (*tanzīm al-jānib al-māl li al-urrah*) because low access will have an impact on family economic difficulties. When conditions worsen and the economy becomes complex, such conditions gradually lead them to poverty. These conditions can cause neglect of something fundamental in family life. For children in particular, the difficult economic conditions of their parents can result in children not getting enough nutritious food, which has implications for hampering their physical and brain development.

⁴⁵ Zainal Abidin, 'Tradisi Pendidikan Pesantren Dalam Mengembangkan Jiwa Kepemimpinan Profetik', *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 5, no. 1 (2024): 84-97, <https://doi.org/10.31538/munaddhomah.v5i1.773>; Yusuf Olawale Owa-Onire Uthman, 'Effective Repentance: Its Concept, Islamic Standpoint, And Way Of Its Application', *At-Tadzkir: Islamic Education Journal* 2, no. 1 (31 January 2023): 16-24, <https://doi.org/10.59373/attadzkir.v2i1.14>.

⁴⁶ Al-Qur'an: 2:233

⁴⁷ Yusuf Hanafi, 'Child Marriage Prevention Based on Integrated Plan of Policy and Action to Reduce the Index of Case and Practice of Child Marriage in Remote Areas' (Proceedings International Conference on 'Language, Society, Culture in Asian Context', Universitas Negeri Malang, 2016), <http://repository.um.ac.id/930/>; Rasidin, Natardi, and Witro, 'The Impact of Unequal Marriage on Household Harmony (Case Study in Sungai Penuh City, Jambi)'. Society, Culture in Asian Context \\ uc0 \\ u8217}, Universitas Negeri Malang, 2016

⁴⁸ M. Anwar Nawawi et al., 'Harmonization of Islam and Human Rights: Judges' Legal Arguments in Rejecting Child Marriage Dispensation in Sukadana, Indonesia', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (1 September 2022): 117-34, <https://doi.org/10.18326/ijtihad.v22i1.117-134>.

Hifz al-Tadayyun fi al-USrah (Maintaining Diversity in the Family)

Based on *Kitāb al-Nikāh*, when explaining the requirements for the groom to be mature and rational, he can choose between accepting the consent himself or representing it to someone else. Meanwhile, grooms who are not yet mature can only be married off by their father or grandfather.⁴⁹

The distrust of the people of Brebes towards the concept of higher education, viewed from the aspect of *hifz al-'aql*, namely the protection of reason, underage marriage has the potential to fail the education of the child. If the marriage occurs during school age, the threat of dropping out of school is enormous.⁵⁰ Low education, of course, has implications for a person's lack of knowledge. Therefore, child marriage can eliminate a person's opportunity to develop their intellectual potential and expertise.⁵¹

Seeking knowledge is not only done through formal education; everyone can do it informally, with anyone, and anywhere. However, responsibilities as a husband or wife in the household require extra time and energy, so opportunities to develop knowledge will experience obstacles.⁵² Husbands and wives need sufficient knowledge. They are required to have skills in managing family life. The husband is the head of the household,⁵³ and the wife acts as an excellent companion.⁵⁴ They are responsible for managing their household according to their roles, especially when a child is born.

Parents are required to be able to educate their children well. Children are a gift from God to their parents, who must be looked after and educated well. In the Qur'an, this responsibility is explained by introducing divinity, religious commands, and prohibitions to ways of living in society.⁵⁵ This responsibility begins when the child is still a toddler. Including when a divorce occurs to decide the best fate for the child. Making the best decisions requires skill and maturity in thinking. Because of this, child-married couples will experience severe difficulties in carrying out this, which can disrupt the child's growth and development process.

Lack of religious education for children also means threatening *hifz al-tadayyun fi al-usrah* (maintaining religion in the family) for them.⁵⁶ Someone who marries as a child will not completely

⁴⁹ Jalaluddin bin Abi Bakr. al Suyuti, *Al Jami' al Saghir* (Damaskus : Dar Al Qalam, n.d.).

⁵⁰ Mauhibur Rokhman et al., 'Consideration of Parents in Choosing Islamic Schools in the Digital Era', *Nazhruna: Jurnal Pendidikan Islam* 6, no. 3 (1 December 2023): 403-19, <https://doi.org/10.31538/nzh.v6i3.4026>; Mohammed Qasserras, 'Character and Peacebuilding in Islamic Pedagogy, "Tazkiyah" and "Taaruf" Concepts as A Case Study', *At-Tadzkir: Islamic Education Journal* 3, no. 1 (25 February 2024): 26-34, <https://doi.org/10.59373/attadzkir.v3i1.50>.

⁵¹ Arisal A, Widyawati Widyawati, and Fajri Dwiayama, 'The Value of Pangadereng as A Model For Lecturer Performance Development', *Nazhruna: Jurnal Pendidikan Islam* 7, no. 1 (4 March 2024): 122-39, <https://doi.org/10.31538/nzh.v7i1.4600>; Murharyana Murharyana et al., 'The Effects of Islamic Religious Education Learning on Students' Motivation', *At-Tadzkir: Islamic Education Journal* 3, no. 1 (10 February 2024): 1-14, <https://doi.org/10.59373/attadzkir.v3i1.44>.efficiently, and accountably. The research objectives were to find: 1

⁵² Nisa Fitriani, Syamsul Anam, and Asep Maulana, 'Building Literacy of Early Age Students' Language; Teacher Managerial Competence and Legal-Rational Authority of Boarding School Leaders', *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 5, no. 1 (2024): 41-50, <https://doi.org/10.31538/munaddhomah.v5i1.707>.

⁵³ Al-Qur'an, 4: 34

⁵⁴ Ahmad ibn 'Ali Abu Bakr al-Razi Al-Jassas, *Ahkam Al-Qur'an*, III (Beirut: Dar Ihya' al-Tura th al-'Arabiyy, n.d.). 149.

⁵⁵ Muh ammad al-Tahir Ibn 'Ashur, *Al-Tahrir Wa al-Tanwir* (Tunis: al-Dar al-Tunisiyyah li al- Nash, 1984). 164.

⁵⁶ Karman Karman et al., 'Enhancing Student Learning Outcomes in The Qur'an Interpretation Course Through The Implementation of The Start From Reading (SFR) Cooperative Learning Model', *Nazhruna: Jurnal Pendidikan Islam* 7, no. 1 (10 March 2024): 156-70, <https://doi.org/10.31538/nzh.v7i1.4657>; Siti Aniah, Nefi Darmayanti, and Junaidi Arsyad, 'Pengaruh Minat Dan Gaya Belajar Terhadap Kemampuan Menghafal Alquran Siswa Program Tahfizh', *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 4, no. 3 (14 July 2023): 634-44, <https://doi.org/10.31538/munaddhomah.v4i3.465>.Cooperative learning, characterized by group-based activities, fosters an interactive and communicative learning atmosphere. Embracing the principles of Cooperative learning, the Start from Reading (SfR

lose the function of their mind, but dropping out of school generally will result in a lack of knowledge. This low level of expertise has implications for limited social life access, which requires adequate readiness, skills, and expertise. One of them is access to the fields of work and the economy.⁵⁷

Tanzīm al Jānib al-Mu'assis li al-Usrah (Regulating the Essential Aspects of the Family)

As a physical and spiritual bond, maturity and skills in building a household must be a critical concern for every candidate who wants to get married. The Qur'an states that readiness and maturity in marriage are marked by the nature of *al-rushd* (maturity). This message is confirmed in QS. Al-Nisā' (4) verse 6.

According to al-Alusi, the word *rushd* means expertise or ability to manage wealth. These skills are also related to worldly and spiritual matters.⁵⁸ The verse above speaks in the context of the skills of orphans in managing the assets they own. This verse explains that the child's assets must be handed over by his guardian when he has reached marriageable age, which is indicated by his personality of being busy or competent.⁵⁹ However, if you pay attention, this verse is also a series of marriage themes explained in the previous verse, namely QS. Al-Nisā' (4): 34. Therefore, the structure of the verse above is a reasonably strong signal regarding the standard provisions for a person's eligibility to have a family through marriage.

This conclusion refers to two points: First, the verse explicitly states, "until they reach the age of marriage." Second, the verse mentions the word *rushd*, which means skill. Based on the interpretation conveyed by al-Alusi above, the skills referred to do not only concern worldly matters but also hereafter. In a marriage relationship, a husband and wife are responsible for fulfilling material needs for family survival, especially when children are present.⁶⁰ The husband and wife run a competent family and prepare hereafter affairs. Skills and readiness in managing family affairs will provide a household life that follows the values of *maqāsid al-usrah*, namely *tanzīm al-jānib al-mu'assasī li al-usrah* (regulating the side organization for the family).

Thus, the practice of child marriage cannot be seen from one *maqāsid* value alone, such as the purpose of avoiding adultery. Marriage is also related to how to guarantee the realization of *ḥifz al-nafs* (protection of the soul), *ḥifz al-māl* (guarantee of wealth and ownership), *ḥifz al-'aql* (guarantee of the continuity of functions intellect) and *ḥifz al-dīn* (protection of religious values). That is, the practice of child marriage cannot be implemented only considering the achievement of one goal, while the protection of other *maqāsid* is neglected. It all depends on the value of benefits and elements of harm in it. The presence of elements of *maṣlahah* (positive impact) and *mafsadah* (negative effect) in the practice of child marriage should be a mature consideration. As explained above, some aspects of the advantages and disadvantages of child marriage have their *maqāsid* references.

⁵⁷ Sholichuddin, Muchtar, and Ratna, 'The Relationship of Islam and The State in Contemporary Islamic Political Discourse in Indonesia'.

⁵⁸ As-Sayyid Al-Mahmud Al-Bagdadi Al Alusi, *Ruh Al-Ma'ani*, (Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.).

⁵⁹ Muhammad Annas Budiarto and Unik Hanifah Salsabila, 'Optimizing Islamic Education Towards the Golden Era of Indonesia', *Tafkir: Interdisciplinary Journal of Islamic Education* 3, no. 1 (29 January 2022): 1-19, <https://doi.org/10.31538/tjije.v3i1.105>; Quentin Wodon, 'Early Childhood Development in the Context of the Family: The Case of Child Marriage', *Journal of Human Development and Capabilities* 17, no. 4 (1 October 2016): 590-98, <https://doi.org/10.1080/19452829.2016.1245277>.

⁶⁰ Mursyid Djawas et al., 'The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (27 June 2022): 139-55, <https://doi.org/10.22373/sjhk.v6i1.11904>; Beni Azwar, 'The Role of The Counseling Teacher In Developing The Social Dimensions of Children With Special Needs', *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 3, no. 2 (19 December 2022): 126-38, <https://doi.org/10.31538/munaddhomah.v3i2.238>; *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 3, no. 2 (19 December 2022).

However, paying attention to one aspect of the *maqāsid* and ignoring the other side of the *maqāsid* is not a wise attitude because it can eliminate the universal message of the Qur'an. The existence of elements of *mafsadah* and the value of *maṣlaḥah* in the practice of child marriage above can be referred to as one of the rules in the formation of the following Qur'anic law: Rejecting *mafsadah* takes precedence over attaining *maṣlaḥah*.⁶¹

Conclusion

The traditions of the Brebes people have been internalized into a fiqh product entitled *Kitāb al-Nikāh*. This book has a different character from other jurisprudence; for example, regarding the pillars of marriage, it states that one of the pillars of marriage (the groom) may come from a group of children. The practice of child marriage in Brebes society is, in principle, irrelevant to the concept of *maqāsid al-usrah*, which was theoretically explored by Jamāl al-Dīn 'Atiyyah. In his theory, 'Atiyyah explains *maqāsid* in five things, namely: *tanzīm al-'alaqah bayn al-jinsayn* (regulating the bonds of two types of humans), meaning marriage requires physical, biological, psychological, and sociological maturity from everyone who wants to undergo it. This maturity will reflect the *maqāsid al-syar'ah* values and the dangers of child marriage. Children are not ready to have sexual relations, let alone experience pregnancy and childbirth. *Taḥqīq al-sakn wa al mawaddah wa al raḥmah* (realization of peace, love, and affection), means the relationship between husband and wife requires mutual understanding and protection of each other. This attitude will be born from a couple with emotional maturity and mental readiness. Therefore, at a young age (childhood), a person often experiences balance disorders in thinking. He is not yet stable in acting, which can trigger conflicts in the family. *ḥifz al tadayyun fi al-usrah* (maintaining diversity in the family) means parents are the ones who primarily influence their child's life concerning what to eat and how to live. Parents who are educated and mature tend to raise their children wiser. While education is a critical factor, there is no one-size-fits-all solution to child marriage. *Tanzīm al-jānib al mu'assis li al-usrah* (regulating essential aspects of the family) means maturity in marriage reduces the chances of divorce. Also, it gives time to know and understand a spouse's rights, obligations and needs, and what has to offer a spouse and *tanzīm al jānib al-māl li al-usrah* (family financial regulation) means effective financial regulation is a crucial process to help a family map out the future. Someone who marries as a child will not completely lose the function of their mind, but a low level of expertise has implications for limited social life access, which requires adequate readiness, skills, and expertise. All of these aspects are entirely irrelevant to child marriage law. In the case of the practice of child marriage, it cannot be prohibited haphazardly just because it appears to have the potential to give rise to negative impacts. *Mafsadah* and *maṣlaḥah* must be measured based on their respective considerations, namely consideration of the level of *ḍarūriyyah*, *ḥājīyyah* and *taḥsīniyyah*. Therefore, in specific contexts, the practice of child marriage can be an option because it is believed that it can save someone from committing adultery or sexual relations outside of marriage (*ḥifz al-nasl*). However, in its implementation, it has the potential to provide other *mafsadah*, which can reach dangerous levels for the bride and groom.

⁶¹ Ahm ad ibn al-Shaykh Muhammad Al-Zarqa, *Sharh Al-Qawa'id al-Fiqhiyyah* (Damaskus: Dar al-Qalam, 1989). 205.

References

- A, Arisal, Widyawati Widyawati, and Fajri Dwiwama. 'The Value of Pangadereng as A Model For Lecturer Performance Development'. *Nazhruna: Jurnal Pendidikan Islam* 7, no. 1 (4 March 2024): 122–39. <https://doi.org/10.31538/nzh.v7i1.4600>.
- Abd Majid Najjar. *Maqāṣid Al-Shari'ah Bi Ab'ad Jadidah*. Beirut: Dar Garib al-Islami, 2008.
- Abidin, Zainal. 'Tradisi Pendidikan Pesantren Dalam Mengembangkan Jiwa Kepemimpinan Profetik'. *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 5, no. 1 (2024): 84–97. <https://doi.org/10.31538/munaddhomah.v5i1.773>.
- Aisyah, Siti, Munaya Ulil Ilmi, Muhammad Amirudin Rosyid, Eni Wulandari, and Fandi Akhmad. 'Kiai Leadership Concept in The Scope of Pesantren Organizational Culture'. *Tafkir: Interdisciplinary Journal of Islamic Education* 3, no. 1 (2022): 40–59. <https://doi.org/10.31538/tijie.v3i1.106>.
- Al-Bukhāri, Muhammad bin Ismā'il. *Shahīḥ Al-Bukhāri*, 1987.
- Al-Jamal, Sulaimān bin Mansur. *Hashiyah Al-Jamal*. Beirut: Iḥyā' al-Turāth al-'Arabī, n.d.
- Al-Jaṣṣās, Ahmad ibn 'Ali Abu Bakr al-Razi. *Ahkām Al-Qur'ān*. III. Beirut: Dār Iḥyā' al-Turāth al-'Arabiy, n.d.
- Alusi, As-Sayyid Al-Mahmud Al-Bagdadi Al. *Ruḥ Al-Ma'ānī*. Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.
- Al-Zarqa, Ahmad ibn al-Shaykh Muḥammad. *Sharḥ Al-Qawā'id al-Fiqhiyyah*. Damaskus: Dār al-Qalam, 1989.
- Aniah, Siti, Nefi Darmayanti, and Junaidi Arsyad. 'Pengaruh Minat Dan Gaya Belajar Terhadap Kemampuan Menghafal Alquran Siswa Program Tahfizh'. *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 4, no. 3 (14 July 2023): 634–44. <https://doi.org/10.31538/munaddhomah.v4i3.465>.
- 'Ashur, Muhammad al-Tāhir Ibn. *Al-Taḥrīr Wa al-Tanwīr*. Tunis: al-Dār al-Tunisiyyah li al-Nash, 1984.
- 'Atiyyah, Jamāluddīn. *Naḥw Tafīl Maqāṣid al-Shari'ah*. Virginia: The International Institute of Islamic Thought, 2008.
- Azwar, Beni. 'The Role of The Counseling Teacher In Developing The Social Dimensions of Children With Special Needs'. *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 3, no. 2 (19 December 2022): 126–38. <https://doi.org/10.31538/munaddhomah.v3i2.238>.
- Barkah, Qodariah, Arne Huzaimah, Siti Rochmiyatun, Andriyani, and Zulmi Ramdani. 'Abandonment of Women's Rights in Child Marriage; An Islamic Law Perspective'. *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (31 December 2022): 383–411. <https://doi.org/10.19105/al-lhkam.v17i2.6725>.
- Budiarto, Muhammad Annas, and Unik Hanifah Salsabila. 'Optimizing Islamic Education Towards the Golden Era of Indonesia'. *Tafkir: Interdisciplinary Journal of Islamic Education* 3, no. 1 (29 January 2022): 1–19. <https://doi.org/10.31538/tijie.v3i1.105>.
- Dede Oetomo. 'Sex Diversity, Gender and Sexuality'. *Sophia Journal*, 2017, 5.
- Djawas, Mursyid, Gamal Achyar, Nursyirwan Bustanul Arifin, Masri Reza, and Baharuddin Umar Yakub. 'The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)'. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (27 June 2022): 139–55. <https://doi.org/10.22373/sjkh.v6i1.11904>.

- Elmali-Karakaya, Ayse. 'Interfaith Marriage in Islam: Classical Islamic Resources and Contemporary Debates on Muslim Women's Interfaith Marriages'. *Religions* 13, no. 8 (August 2022): 726. <https://doi.org/10.3390/rel13080726>.
- Fitriani, Nisa, Syamsul Anam, and Asep Maulana. 'Building Literacy of Early Age Students' Language; Teacher Managerial Competence and Legal-Rational Authority of Boarding School Leaders'. *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 5, no. 1 (2024): 41–50. <https://doi.org/10.31538/munaddhomah.v5i1.707>.
- Hanafi, Yusuf. 'rasah'Child Marriage Prevention Based on Integrated Plan of Policy and Action to Reduce the Index of Case and Practice of Child Marriage in Remote Areas'. Universitas Negeri Malang, 2016. <http://repository.um.ac.id/930/>.
- Hariyanto, Erie, Abd Hannan, Arif Wahyudi, Eka Susylawati, and Bhismoadi Tri Wahyu Faizal. 'Sakinah Family Empowerment by Optimizing the Role of BP4 and Parents Mental Revolution Perspective'. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (26 December 2021): 619–47. <https://doi.org/10.22373/sjhk.v5i2.10965>.
- Harvey, Chloe M., Ingrid FitzGerald, Jo Sauvarin, Gerda Binder, and Karen Humphries-Waa. 'Premarital Conception as a Driver of Child Marriage and Early Union in Selected Countries in Southeast Asia and the Pacific'. *Journal of Adolescent Health*, Shared Roots, Different Branches: Expanding Understanding of Child Marriage in Diverse Settings, 70, no. 3, Supplement (1 March 2022): S43–46. <https://doi.org/10.1016/j.jadohealth.2021.11.003>.
- Hasanah, Mizanul. 'The Role of Parents in Children Memorizing the Qur'an in Middle School Based on the Amanatul Ummah Islamic Boarding School'. *Tafkir: Interdisciplinary Journal of Islamic Education* 2, no. 2 (25 July 2021): 139–56. <https://doi.org/10.31538/tijie.v2i2.43>.
- Jannah, Umi Sumbulah and Faridatul. 'No Title Early Marriage and Its Implications for Family Life in Madurese Society (Legal and Gender Perspective)'. *Egalita Journal* VII, no. 1 (2012): 84.
- Januar, Villi, and Dona Eka Putri. 'Body Image in Young Women Married and Having Children'. *Journal of Psychology* 1, no. 1 (2017): 57.
- Jaziri, Abdur Rahman Al. *Kitāb Al-Fiqh 'ala al-Madhāhib al-Arba'ah*. Beirut: Dār al-Fikr, n.d.
- Karman, Karman, Maslani Maslani, Rosihon Anwar, Rully Agung Yudhiantara, and Djubaedi Djubaedi. 'Enhancing Student Learning Outcomes in The Qur'an Interpretation Course Through The Implementation of The Start From Reading (SFR) Cooperative Learning Model'. *Nazhruna: Jurnal Pendidikan Islam* 7, no. 1 (10 March 2024): 156–70. <https://doi.org/10.31538/nzh.v7i1.4657>.
- Kohno, Ayako, Teeranee Techasrivichien, S. Pilar Suguimoto, Maznah Dahlui, Nik Daliana Nik Farid, and Takeo Nakayama. 'Investigation of the Key Factors That Influence the Girls to Enter into Child Marriage: A Meta-Synthesis of Qualitative Evidence'. *PLOS ONE* 15, no. 7 (17 July 2020): e0235959. <https://doi.org/10.1371/journal.pone.0235959>.
- 'Kumpulan Dataset Perkara Peradilan Agama', 2022. <https://kinsatker.badilag.net/>.
- Madkan, and Lusia Mumtahana. 'Islam Dan Tradisi Perspektif Al-Qur'an Dan As-Sunnah'. *At-Tadzkir: Islamic Education Journal* 1, no. 1 (2022): 55–62. <https://doi.org/10.59373/attadzkir.v1i1.5>.
- Murharyana, Murharyana, Ibnu Imam Al Ayyubi, Rifqi Rohmatulloh, and Shoutika Nawadya Ikromi. 'The Effects of Islamic Religious Education Learning on Students' Motivation'. *At-Tadzkir:*

- Islamic Education Journal* 3, no. 1 (10 February 2024): 1–14. <https://doi.org/10.59373/attadzkir.v3i1.44>.
- Nawawi, M. Anwar, Sulastri Sulastri, Relit Nur Edi, and Agus Setiawan. 'Harmonization of Islam and Human Rights: Judges' Legal Arguments in Rejecting Child Marriage Dispensation in Sukadana, Indonesia'. *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (1 September 2022): 117–34. <https://doi.org/10.18326/ijtihad.v22i1.117-134>.
- Nur, Marlina. 'Relationship Between Parental Education Level and Emotional Maturity and the Tendency to Marry Early'. *Empathy Journal* 2, no. 1 (2013): 13.
- Pramudya, Nawangsari Rahma. *Early Marriage and the Health Impact of Women's Reproductive Organs (Uterus) from an Islamic Legal Perspective*. Yogyakarta: Arruz media, 2010.
- Qasserras, Mohammed. 'Character and Peacebuilding in Islamic Pedagogy, "Tazkiyah" and "Taaruf" Concepts as A Case Study'. *At-Tadzkir: Islamic Education Journal* 3, no. 1 (25 February 2024): 26–34. <https://doi.org/10.59373/attadzkir.v3i1.50>.
- Rahiem, Maila D. H. 'COVID-19 and the Surge of Child Marriages: A Phenomenon in Nusa Tenggara Barat, Indonesia'. *Child Abuse & Neglect* 118 (1 August 2021): 105168. <https://doi.org/10.1016/j.chiabu.2021.105168>.
- Ramli, Mohd Anuar, Muhammad Ikhlas Rosele, Adang Darmawan Achmad, and Hudzaifah Achmad Qotadah. 'Women's Right of Inheritance in Islam: Between the Sharia Provision and Demand of Socio-Cultural Changes'. *Khazanah Hukum* 5, no. 2 (28 August 2023): 171–82. <https://doi.org/10.15575/kh.v5i2.29181>.
- Rasidin, Mhd, Natardi Natardi, and Doli Witro. 'The Impact of Unequal Marriage on Household Harmony (Case Study in Sungai Penuh City, Jambi)'. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 2 (28 December 2020): 313–36. <https://doi.org/10.22373/sjhc.v4i2.8083>.
- Rokhman, Mauhibur, Fadly Usman, Fatimah Usman, Azman Bin Haji Kassim, and Muslihun Muslihun. 'Consideration of Parents in Choosing Islamic Schools in the Digital Era'. *Nazhruna: Jurnal Pendidikan Islam* 6, no. 3 (1 December 2023): 403–19. <https://doi.org/10.31538/nzh.v6i3.4026>.
- Sholichuddin, Muhamad Afrizal, Nicky Estu Putu Muchtar, and Rizky Dwi Ratna. 'The Relationship of Islam and The State in Contemporary Islamic Political Discourse in Indonesia'. *Dirasah International Journal of Islamic Studies* 1, no. 2 (29 October 2023): 78–88. <https://doi.org/10.59373/drs.v1i2.11>.
- Sulistiyowati Irianto dan Sidharta (Ed). *Metode Penelitian Hukum, Konstelasi Dan Refleksi*. Jakarta: Yayasan Obor Indonesia, 2009.
- Suyuti, Jalāluddīn bin Abī Bakr. al. *Al Jāmi' al Saghīr*. Damaskus : Dar Al Qalam, n.d.
- Ullah, Nazir, Saidatul Nadia Binti Abd Aziz, and Rao Qasim Idrees. 'Child Marriages: International Laws and Islamic Laws Perspective'. *Journal of Educational and Social Research* 11, no. 3 (10 May 2021): 60. <https://doi.org/10.36941/jesr-2021-0051>.
- 'UNICEF Innocenti Research Centre', 2015.
- Uthman, Yusuf Olawale Owa-Onire. 'Effective Repentance: Its Concept, Islamic Standpoint, And Way Of Its Application'. *At-Tadzkir: Islamic Education Journal* 2, no. 1 (31 January 2023): 16–24. <https://doi.org/10.59373/attadzkir.v2i1.14>.

- Wajdi, Farid, Achmad Sanusi, Dedi Mulyasana, Sofyan Sauri, Ahmad Khorri, and Saepuloh Saepuloh. 'The Pattern of Leadership of Kiai in Managing Learning Pesantren'. *Nidhomul Haq: Jurnal Manajemen Pendidikan Islam* 7, no. 1 (20 March 2022): 15–30. <https://doi.org/10.31538/ndh.v7i1.1832>.
- Wodon, Quentin. 'Early Childhood Development in the Context of the Family: The Case of Child Marriage'. *Journal of Human Development and Capabilities* 17, no. 4 (1 October 2016): 590–98. <https://doi.org/10.1080/19452829.2016.1245277>.
- 'Women's Empowerment, Child Protection, and Family Planning Agency', <http://dp3kb.brebeskab.go.id/>, 2022.

