

# The Manipulation of Religion and The Legalization of Underage Marriages in Indonesian

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## **The Manipulation of Religion and The Legalization of Underage Marriages 5 in Indonesia**

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**Abstract:** Cases of underage marriage have continued to increase, supported by religious law, and accepted by Indonesian Muslims. To analyze this phenomenon, this study used a qualitative descriptive approach. Data were collected through observations, interviews, and reviews of religious texts or references, this article explores the correlation between underage marriage and the *naskh* (abrogation) of the Qur'an and Hadiths. It shows that this exegetical approach has helped perpetuate the practice of underage marriage, as it not only promotes a partial and purely textual understanding of Islam's teachings regarding marriage but is also easily manipulated to promote certain views, as a form of religious manipulation of underage marriages. As a result, marriage is taught and understood from a purely doctrinal perspective, without considering the health and wellbeing of the married couple. Instead, this study recommends using an integrated approach that continuously strives to prevent underage marriage, one capable of obtaining a comprehensive understanding that recognizes the interests of all stakeholders including underage couples. Only then can a comprehensive understanding of religious teachings and experiences be obtained

**Keywords:** Underage marriage, manipulation of religion, *naskh*, Qur'an, religious practices, Muslim society

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**Abstrak:** : Perkawinan usia dini yang terus mengalami peningkatan jumlah kasus mendapat dukungan dari agama dan public Muslim di Indonesia. Untuk menganalisis fenomena tersebut studi ini menggunakan pendekatan dekriptif kualitatif, dengan menggunakan data yang diperoleh baik dari hasil observasi, wawancara, dan penelusuran teks/dalil agama, analisis dibangun untuk menjelaskan hubungan antara praktik perkawinan usia dini dengan penggunaan nash al-Qur'an dan Hadis. Melalui analisis data, studi ini menunjukkan adanya kontribusi nash agama terhadap pelanggaran perkawinan usia dini saat ini. Hal ini terjadi akibat adanya pemahaman yang tekstual-parsial terhadap nash mengenai anjuran perkawinan. Penggunaan nash yang cenderung dimanipulasi berdampak pada kepatuhan-kepatuhan atas perintah agama. Demikian pula, pemahaman yang tekstual-parsial berdampak pada pengamalan ajaran agama yang hanya mempertimbangkan satu sisi khususnya keagamaan, tanpa melihat dampak lain seperti jaminan keselamatan bagi pasangan perkawinan usia dini. Studi ini menyarankan perlunya upaya-upaya terintegrasi untuk selain mencegah perkawinan usia dini terus terjadi, juga memberikan pemahaman terhadap ajaran agama secara komprehensif dengan melibatkan semua pihak terkait, termasuk pelaku perkawinan usia dini sehingga terbentuk pemahaman yang utuh mengenai pengamalan ajaran agama

**Kata Kunci:** Perkawinan usia anak, manipulasi agama, Nash, Qur'an, praktik beragama, masyarakat Muslim

## Introduction

Underage marriage has become an increasingly common practice in Indonesia. According to data from Statistics Indonesia,<sup>1</sup> South Sumatra has the highest rate of underage marriage in Indonesia, with 13.5% of women marrying before the age of 18; this is far higher than the national average, 10.82%. This situation cannot be separated from ongoing misunderstandings of *naskh* (the abrogation of a religious text to resolve contradictions) and religious doctrines, which produce partial and purely textual understandings of Islamic teachings that result in mistaken approaches to religious practices. The practice of underage marriage has been legitimized through *naskh* and justified as preventing such deviant practices as *zina* (fornication). At the same time, however, the risks borne by underage couples are ignored. Underage marriage significantly and detrimentally affects the health of women, and mortality rates are particularly high among young mothers (under the age of 20) and their children.<sup>2</sup>

<sup>1</sup> Statistics Indonesia in 2019.

<sup>2</sup> Reni Kartikawati, "Dampak Perkawinan Anak Di Indonesia," *Jurnal Studi Pemuda*, 2015; Riska Afriani and Mufdlilah, "Analisis Dampak Pernikahan Dini Pada Remaja Putri Di Desa Sidoluhur Kecamatan Godean Yogyakarta," *Rakernas Aipkema*, (2016).

Many scholars have investigated underage marriage, “often investigating the practice within the context of its use to fulfill religious expectations by staving off temptation and sinful behavior”<sup>3</sup> or “its health consequences.”<sup>4</sup> A number of scholars have investigated the “factors that contribute to underage marriage”.<sup>5</sup> “And other studies on child marriage and the potential for exploitation”.<sup>6</sup> Such studies have yet to explore underage marriage as a religious practice that is motivated by partial and textual understandings of religious teaching<sup>6</sup>s. Consequently, this article explores how religion is manipulated to justify the practice of underage marriage in Indonesia.

This article seeks to contribute to the literature by investigating how *naskh* is used among Indonesian Muslims to justify underage marriage. It seeks to understand why religion is used to justify underage marriage, even as the practice detrimentally affects those involved (particularly the women) and threatens their wellbeing. More specifically, this article examines three important elements of the practice of underage marriage amongst Indonesian Muslims. *First*, the use of *naskh* to legitimize particular marriage practices; this is closely associated with the public's misunderstanding of Islam's teachings regarding marriage. *Second*, the Muslim public's understanding of 'obedience' within the context of religious doctrine, including the belief that marriage is a means of staving off temptation and sinful behavior. *Third*, the legitimization of religious practices by government

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<sup>3</sup> Al-Ustadz Yazid bin 'Abdul Q<sup>11</sup> Jawas, “Anjuran Untuk Menikah,” *Almanhaj – Media Salafiyah Ahlus Sunnah*, (2013), <https://almanhaj.or.id/12977-anjuran-untuk-menikah-2.html>; Afriani and Mufdlilah, “Analisis D<sup>26</sup>ak Pernikahan Dini Pada Remaja Putri Di Desa Sidoluhur Kecamatan Godean Yogyakarta”; Akhmad Farid Mawardi Sufyan, “Analisis Kritis Makna ‘Al-Syabab’ Dan ‘Istitha’ah’ Pada Hadits Anjuran Menikah,” *Al-Ulum : Jurnal Penelitian Dan Pemikiran Ke Islaman*, (2017), Warsito Warsito, “Hadist Peri<sup>52</sup> Memperbanyak Keturunan Tinjauan Textual Dan Kontekstual Dalam Prespektif Ekonomi,” *Riwayah : Jurnal Studi Hadis*, (2018).

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<sup>4</sup> Badan <sup>40</sup> at Statistik, “Perkawinan Usia Anak Di Indonesia,” *The British Journal of Psychiatry*, 2017; Rina Yulianti, “Dampak Yang Ditimbulkan Akibat Perkawinan Usia Dini,” *Pamator Journal* 3, no. 1 (2010), Afriani and Mufdlilah, “Analisis Dampak Pernikahan Dini Pada Remaja Putri Di Desa Sidoluhur Kecamatan Godean Yogyakarta”; Kartikawati, “Dampak Perkawinan Anak D<sup>4</sup>ndonesia.”

<sup>5</sup> Ahmed Hamed and Fouad Yousef, “Prevalence, Health and Social Hazards, and Attitude toward Early Marriage in Ever-Married Women, Sohag<sup>1</sup> Upper Egypt,” *Journal of Egyptian Public Health Association* 92, no. 4 (December 2017), Kasjim Salenda, “Abuse of Islamic Law and <sup>24</sup> Child Marriage in South-Sulawesi Indonesia,” *Al-Jami'ah: Journal of Islamic Studies*, (2016), Eva F. Nisa, “Muslim Women in Contemporary Indonesia: Online Conflicting Narratives behind the Women Ulama Congress,” *Asian Studies Review* 43, no. 3 (July 2019), p. 434–54 <sup>20</sup>

<sup>6</sup> Susanne Louis B. Mikhail, “Child Marriage and Child Prostitution: Two Forms of Sexual Exploitation,” *Gender and Development*, (2002)



institutions, particularly courts (being the institutions with the authority to decide religious matters).

This article departs from the argument that the justification of underage marriage through religious references (*dalil*) is rooted in misunderstandings of these references and the practice of *naskh* itself. Even though it poses significant risks to its participants, underage marriage has been sanctioned by Muslims' partial and textual understandings of religious teachings and justified by tradition and culture. As such, while developing a comprehensive and integral solution to underage marriage, it is also necessary to challenge religious leaders' mistaken understandings and views of the practice.

This article is written based on research conducted in Palembang, South Sumatra. This location has been chosen for three reasons. *First*, Palembang has the highest prevalence of underage marriage in Indonesia. *Second*, the people of Palembang are strongly characterized by their Islamic religion, as well as their strict adherence to tradition; the strength of their Islamic faith is evident not only in their everyday practices, but also in their apparel. *Third*, the people of Palembang have deep historical ties with a range of cultures, all of which have influenced their practices.

Analysis was conducted based on primary and secondary data. Primary data were collected through observations and interviews. Observation focused on the practice of underage marriage amongst the Muslims of Palembang, a common part of everyday life that is rooted in the teachings of religious leaders. Interviews, meanwhile, were conducted with informants—religious leaders, customary (*adat*) leaders, government officials, and academics—to obtain information regarding underage marriage practices. Informants were selected based on their specific competencies, and their statements provided the foundation for this study. Supplemental data were also collected through a review of relevant literature, including both academic articles on the subject as well as religious texts (i.e., the Qur'an and the Hadiths).

Data collected were subsequently categorized per their tendencies, thereby producing a map of relevant data that made further management and analysis possible. Analysis was conducted using an interpretative approach, which enabled the researchers to maintain the coherence of the data. For data collected through interviews, analysis was conducted in three stages: restatement, description, and interpretation. Restatement was conducted by approaching informants' statements based on their own perspectives. Description, meanwhile, was used to identify tendencies in informants' views and attitudes regarding underage marriage. Interpretation, finally, involved the close examination of interview results,

thereby producing an understanding that was simultaneously textual and contextual.<sup>7</sup>

## Discourse on Underage Marriage

### *Conceptualization of Underage Marriage*

Underage marriage refers to the marriage of unprepared individuals, usually before the age of eighteen<sup>8</sup> or the age of twenty.<sup>9</sup> Underage marriage remains common, even though its detrimental health effects are significant; underage marriage has been associated with increased infections, excessive bleeding, and fevers, as well as low birth weights, premature births, miscarriages, and unwanted pregnancies.<sup>10</sup> At the same time, underage marriage has also been found to affect the mental, social, and environmental conditions in which individuals (primarily women) live, thereby affecting their quality of life<sup>11</sup> and their ability to realize their life goals.<sup>12</sup> Divorce rates, likewise, are higher among couples who married underage,<sup>13</sup> similarly, Duman et al. find that underage marriage has detrimental

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<sup>7</sup> Henky Fernando, Yuniar Galuh Larasati, and Syarul Akmal Latif, "Diseminasi Simbolik: Makna Korupsi Dalam Media Sosial Instagram," *Bricolage: Jurnal Magister Ilmu Komunikasi* 28 no. 1 (March 27, 2022), p. 79

<sup>8</sup> Naresh Manandhar and Sunil Kumar Joshi, "Health Co-Morbidities and Early Marriage in Women of a Rural Area of Nepal: A Descriptive Cross-Sectional Study," *Journal of the Nepal Medical Association*, 2020, Minale Bezie and Dagne Addisu, "Determinants of Early Marriage among Married Women in Injibara Town, North West Ethiopia: Community-Based Cross-Sectional Study," *BMC Women's Health*, 2019, Lauren Rumble et al., "An Empirical Exploration of Female Child Marriage Determinants in Indonesia," *BMC Public Health* 18, no. 1 (December 23 8), p. 407.

<sup>9</sup> Nurma Fuji Astutik and Ira Nurmala, "Relationship of Individual Factors, and Social Factors with Mother's Intention to Continue Early Marriage Tradition in Indonesia," *Indian Journal of Forensic Medicine and Toxicology*, (2020).

<sup>10</sup> Rosmala Nur et al., "Early-Age Marriage and the Impact of Health Reproduction Women," *Journal of Engineering and Applied Sciences*, (2019).

<sup>11</sup> Nur Laily et al., "Differences in the Influence of Quality of Life to Marital Satisfaction in Women Early Marriage and Not Early Marriage," *Indian Journal of Public Health Research and Development*, 2018, Ahmed F. Hamed and Fouad M.A. Yousef, "Prevalence, Health and Social Hazards, and Attitude toward Early Marriage in Ever-Married Women, Sohag, Upper Egypt," *Journal of the Egyptian Public Health Association*, (2017), Astutik and Nurmala, "Relationship of Individual Factors, and Social Factors with Mother's Intention to Continue Early Marriage Tradition in Indonesia."

<sup>12</sup> Laily et al., "Differences in the Influence of the Quality of Life to Marital Satisfaction in Women Early Marriage and Not Early Marriage."

<sup>13</sup> Adugnaw Zeleke Alem et al., "Spatial Distribution and Determinants of Early Marriage among Married Women in Ethiopia: A Spatial and Multilevel Analysis," *BMC Women's Health*, 2020, Trivanie Erlim Putri and Dewi Handayani, "Child Health Investment on Early Age Marriage Mother in Rural Indonesia," in *Proceedings of the 33rd International Business Information Management Association Conference, IBIMA 2019: Education Excellence and Innovation Management through Vision 2020*, (2019).

effects on the children born with the marriage, as young mothers have limited knowledge of health services and childcare, and thus know little about immunization and breastfeeding.<sup>14</sup> As such, Putri and Handayani identify underage marriage as child abuse,<sup>15</sup> similarly, Masruroh et al. describe underage marriage as a major obstacle to human development.<sup>16</sup> Masruroh & Wijaya argue that any attempt to prevent underage marriage must involve three elements: a) socialization and empowerment, to ensure that teenagers remain focused more on their educations and their futures; b) guidance, to instill in teenagers a desire to participate in the empowerment process; and c) the creation of community groups to guide teenagers and provide them with a place for their activities.<sup>17</sup> At the policy level, meanwhile, the prevalence of underage marriage can be reduced by revising, monitoring, and evaluating the minimum legal age for marriage.<sup>18</sup> Because the legitimacy of underage marriage is buttressed by the public's belief that the practice is natural and even desirable, it is also important to create legal, political, and social awareness of the importance of preventing underage marriage.<sup>19</sup> Often, the decision to initiate an underage marriage is undertaken by the parents of the teenagers involved; for instance, in Sumenep, Madura, women who married underage are more likely to continue the tradition and compel their children to marry early.<sup>20</sup> Consequently, it is also necessary to empower children by enabling them to make their own decisions and safeguarding their autonomy.<sup>21</sup>

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<sup>14</sup> Nagihan Saday Duman, Emel Sari Gökten, and Hasan Nadir Rana, "Awareness and Attitudes of Physicians Towards Early-Age Marriage," *Journal of Clinical Psychiatry*, (2017).

<sup>15</sup> Putri and Handayani, "Child Health Investment on Early Age Marriage Mother in Rural Indonesia."

<sup>16</sup> Masruroh Masruroh et al., "Empowerment of Junior High School Students in Prevention Early-Age Marriage in Gunung Kidul District," *Systematic Reviews in Pharmacy*, (2020).

<sup>17</sup> Masruroh, Masruroh, Soetrisno Soetrisno, Mahendra Wijaya, and Sapja Anantanyu. "Empowerment of Junior High School Students in Prevention Early-Age Marriage in Gunung Kidul District," *Systematic Reviews in Pharmacy*, (2020).

<sup>18</sup> Restu Anandya Palupi, Wahyu Sulistiadi, and Al Asyary, "Public Health Policy Practice for Early-Age Marriage in Gunung Kidul, Indonesia: An Evaluation of Regent Regulation Practice on Child Health," in *E3S Web of Conferences*, (2019),

<sup>19</sup> Saday Duman, Sari Gökten, and Rana, "Awareness and Attitudes of Physicians Towards Early-Age Marriage."

<sup>20</sup> Umi Suprapingsih, "Pro and Cons Contestation on the Increase of Marriage Age in Indonesia," *Samarah*, (2021), <https://doi.org/10.22373/sjhc.v5i1.9136>; Astutik and Nurmala, "Relationship of Individual Factors, and Social Factors with Mother's Intention to Continue Early Marriage Tradition in Indonesia."

<sup>21</sup> Sastro Mustapa Wantu et al., "Early Child Marriage: Customary Law, Support System, and Unwed Pregnancy in Gorontalo," *Samarah*, (2021), Alem et al., "Spatial Distribution and Determinants of Early Marriage among Married Women in Ethiopia: A Spatial and Multilevel Analysis."



### *The Religious Legitimization of Underage Marriage*

Legitimization is understood as the process through which particular behaviors are reinforced and justified, no matter their controversy or detrimental effects.<sup>22</sup> Where problematic behaviors are justified through religious legitimization, it is not the religion that is at fault, but rather its use as the basis of legitimacy.<sup>23</sup> Often, such an approach to legitimization is justified as ensuring the continued survival of specific identities.<sup>24</sup> Religion is not, however, the only source of legitimacy and identity; it is also associated with individuals' material situation, knowledge, and environment, all of which offer their own legitimacies.<sup>25</sup> Identity analysis, thus, can help understand how particular authorities exercise power and legitimize specific activities.<sup>26</sup> Akbar writes that, within the context of religious legitimacy, where something lacks a basis in religious sources or authorities, it will be viewed neutrally by different religions and congregations.<sup>27</sup> These religious identities and understandings can be manipulated by authorities, then ultimately internalized and incorporated into society's values.<sup>28</sup>

Within the context of underage marriage, religious leaders, neighbors, elders, and family all contribute to the practice.<sup>29</sup> Often, underage marriage is rationalized as a better alternative than allowing girls to remain single, leaving them vulnerable to fornication and pregnancy out-of-wedlock.<sup>30</sup> For example, an *asātidh* (religious leader) may legitimize early marriage by ordering female followers to undertake *al-zawāj almubakkir* (early marriage) when 'an appropriate male' asks for their hand in marriage.<sup>31</sup> Such marriage is often justified by

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<sup>22</sup> Eric W. Schoon, Alexandra Pocek Joosse, and H. Brinton Milward, "Networks, Power, and Effects of Legitimacy in Contentious Politics," *Sociological Perspectives*, (2020).

<sup>23</sup> Jared Rubin, *Rulers, Religion, and Riches: Why the West Got Rich and the Middle East Did Not*, *Rulers, Religion, and Riches: Why the West Got Rich and the Middle East Did Not*, (2017).

<sup>24</sup> Christopher Houston, "The Inadequate Islamic Grappling with the Kurdish Issue," in *Routledge Handbook on the Kurds*, (2018)

<sup>25</sup> Andy Yuille, "Performing Legitimacy in Neighbourhood Planning: Conflicting Identities and Hybrid Governance," *Environment and Planning C: Politics and Space*, (2020).

<sup>26</sup> Ianti, "Dampak Yang Ditimbulkan Akibat Perkawinan Usia Dini."

<sup>27</sup> Ali Akbar, "Muslim Reformist Scholars' Arguments for Democracy Independent of Religious Justification," *Critical Research on Religion*, (2020).

<sup>28</sup> Keith Bradley, "Freedom and Slavery," in *The Oxford Handbook of Roman Studies*, (2012).

<sup>29</sup> Nub Raj Bhandari, "Early Marriage in Nepal: Prospects for Schoolgirls," *Journal of International Women's Studies*, (2019).

<sup>30</sup> Jimoh Amzat, "Faith Effect and Voice on Early Marriage in a Nigerian State," *SAGE Open*, (2020)

<sup>31</sup> Eva F. Nisa, "Marriage and Divorce for the Sake of Religion: The Marital Life of Cadari in Indonesia 1," *Asian Journal of Social Science*, (2011).



referencing Muhammad's marriage with Aiysha r.a., which occurred when she was still six years old.<sup>32</sup> As Muslims consider underage marriage natural, they are more likely to practice it than non-Muslims.<sup>33</sup>

### *Underage Marriage in Public Discourse*

Public discourse, as conveyed through television, film, music, games, and social media<sup>34</sup>, significantly shapes belief.<sup>35</sup> Just as public discourse cannot be separated from the ethics of society,<sup>36</sup> it contributes significantly to the legitimization of specific beliefs.<sup>37</sup> At the same time, however, public discourses can be reductive and manipulative,<sup>38</sup> thereby shaping individuals' preferences<sup>39</sup> and informing their prejudices.<sup>40</sup> Where activities are perceived as contrary to society's ethics and individuals' preferences and prejudices, they may be met with opposition or even cause fragmentation.<sup>41</sup> As a result, Grubbs et al. write that public discourse is often caustic and replete with conflict, as evidenced in the morality discourses that permeate social media.<sup>42</sup> Often, such discourses are politicized and ideologized, thereby driving further conflict and even frontal confrontation.<sup>43</sup> During such confrontations, participants frequently attempt to exclude their opponents from dialog (or even public spaces) through activities

<sup>32</sup> al-Bukhari, 53 in Nisa.

<sup>33</sup> Mughal Abdul Ghaffar, "Muslims in Kosovo: A Socio-Economic and Demographic Profile: Is the Muslim Population Exploding?," *Balkan Social Science Review*, (2015).

<sup>34</sup> Janae Teal and Meredith Conover-Williams, "Homophobia without Homophobes: Deconstructing the Public Discourses of 21st Century Queer Sexualities in the United States," *Humboldt Journal of Social Relations*, (2016).

<sup>35</sup> Anna Cegiela, "O Retoryce Pogardy i Wykluczenia w Polskim Dyskursie Publicznym," *Pracownik Językowy*, (2013).

<sup>36</sup> Xiao Hu and Xiaoyu Dong, "Chinese Animation Comes Back to the Public Discourse," *Asian Social Science*, (2014).

<sup>37</sup> Sikke R. Jansma et al., "Technology Legitimation in the Public Discourse: Applying the Pillars of Legitimacy on GM Food," *Technology Analysis and Strategic Management*, (2020).

<sup>38</sup> Mario Radovan, "The Power and Appeal of Manipulation," *International Journal of Technoethics*, (2015).

<sup>39</sup> Elizabeth Korver-Glenn et al., "Media Consumption and Racial Residential Preferences," *Social Science Quarterly*, (2020).

<sup>40</sup> Ymke de Bruijn et al., "Interethnic Prejudice Against Muslims Among White Dutch Children," *Journal of Cross-Cultural Psychology*, (2020), Caglar Koylu et al., "CarSenToGram: Geovisual Text Analytics for Exploring Spatiotemporal Variation in Public Discourse on Twitter," *Cartography and Geographic Information Science*, (2019).

<sup>41</sup> Koylu et al., "CarSenToGram: Geovisual Text Analytics for Exploring Spatiotemporal Variation in Public Discourse on Twitter."

<sup>42</sup> Joshua B. Grubbs et al., "Moral Grandstanding in Public Discourse: Status-Seeking Motives as a Potential Explanatory Mechanism in Predicting Conflict," *PLoS ONE*, (2019).

<sup>43</sup> Cegiela, "O Retoryce Pogardy i Wykluczenia w Polskim Dyskursie Publicznym."

such as categorization, stereotypization, stigmatization, degradation, and marginalization.<sup>44</sup>

At the same time, however, Gülzau emphasizes that public discourses have an influential role in policymaking and legislation.<sup>45</sup> Open and rational public discourse, therefore, is a fundamental part of democracy, which also necessitates freedom of the press/media, freedom of expression, and the right to receive information. Only then can citizens discuss matters freely, shape their opinions, and make their own decisions.<sup>46</sup> According to Mastianica-Stankevič, public discourse also contributes to identity formation, which in turn influences individuals' particular positions and roles in society.<sup>47</sup> Shreck and Vedlitz note that, where policy preferences are debated, public opinions regarding said preferences ultimately inform the final decision.<sup>48</sup> Owing to the power and potential for change, thus, public discourse can create polarization.<sup>49</sup>

### **Manipulative Use of Naskh to Legitimize Underage Marriage**

Underage marriage has commonly been justified by using *naskh* to understand the text of the Qur'an and the Hadiths, thereby providing a religious and legal basis for the practice. QS An-Nur, Verse 32, for instance, is often used to 'support' and legitimize the practice of early marriage. This verse reads:

"And marry the unmarried among you and the righteous among your male slaves and female slaves..." (trans. Sahih International)

This verse does not recommend any specific age for marriage, but rather sets general guidelines. This is a common thread in the Qur'anic verses used to justify early marriage; no age is specified, even though age is closely associated with the physical and psychological necessary to start and maintain a household.

Aside from the Qur'an, *naskh* of the Hadiths has also been used to justify the practice of underage marriage. One commonly referenced Hadith deals with

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<sup>44</sup> A. Cegięła, "About Rhetoric of Contempt and Exclusion in Polish Public Discourse | O Retoryce Pogardy i Wykluczenia w Polskim Dyskursie Publicznym," *Poradnik Językowy*, (2013). 18

<sup>45</sup> Fabian Gülzau, "A Paradigm Shift in German Family Policy: Applying a Topic Model to Map Refo 46 and Public Discourse, 1990–2016," *European Policy Analysis*, (2020).

<sup>46</sup> Andriy Peleschyshyn, Tetiana Klynina, and Sergiy Gnatyuk, "Legal Mechanism of Counteracting Information Aggression in Social Networks: From Theory to Practice," in *CEUR Workshop Proceedings*, (2019).

<sup>47</sup> Olga Mastianica-Stankevič, "Viešojo Diskurso Galia: Lietuvių Inteligentijos Savikūra Per 48 Inėje Spauodoje (XIX a. Pabaiga–XX a. Pradžia)," *LOGOS* 98 (2019).

<sup>48</sup> Brian Shreck and Arnold Vedlitz, "The Public and Its Climate: Exploring the Relationship Between Public Discourse and Opinion on Global Warming," *Society and Natural Resources*, (2016).

<sup>49</sup> Shreck and Vedlitz.

Aiysha r.a., who married the Prophet Muhammad when she was six years old, move into his home at the age of nine, and began carnal relations with him at the same age (HR. Muttafaq'alaihi). In another Hadith, the Prophet Muhammad stated:

"If one of you marries, then Syaitan cries, 'Oh, the disaster! The Children of Adam have protected two-thirds of their religion from me.' Whomsoever marries, they have purified half of their faith, and Allah has ensured *taqwa* among them" (HR Thabrani).

These Hadiths identify marriage, including early marriage, as recommended by religion. Indeed, as seen from the example of Aiysha r.a., many examples of child marriage are attested.

The practice of underage marriage has been perceived by Muslim scholars in South Sumatra as a form of enlightenment. H. AM (68), the chairman of the South Sumatra branch of the Indonesian Council of Ulama, explained that no Qur'anic verses or Hadiths set a specific age for marriage. At the same time, however, no texts specifically prohibit underage marriage. So long as the *baligh* (maturity, often identified with puberty) criterion is met, one may be married. He explained:

"... I've never found a Qur'anic verse or Hadith that explicitly sets an age for marriage. The word 'baligh' is used, and it has been interpreted diversely by exegetes in accordance with their particular contexts." (Interview in Palembang, 2020).

The lack of detailed criteria for marriage was also noted by H. SM (62), the chairman of the Palembang branch of the Indonesian Council of Ulama. As he elucidated:

"Aside from Qur'an and the Hadiths not explicitly providing a good age for marriage, the practices of the Prophet Muhammad and his companions also show that early marriage is allowed. As such, prohibiting it violates religious doctrine" (interview in Palembang, 2020).

Another religious leader focused on the functional aspects of underage marriage. H. RSA (63), one of the leaders of South Sumatra's Muhammadiyah community, explained:

"... The understandings of marriage in the Qur'an and the Hadiths share the same goal. Marriage is a preventative act. It is feared that, if a couple is not married, even when they are young, they will commit fornication." (Interview in Palembang, 2020).



Such statements were supported by village-level administrators and government officials. M. AS (55), the Subdistrict Chief of Sematang Borang, Palembang, recognized that underage marriage was common in his village. He stated that it was difficult to prevent such marriages, explaining:

"The difficulty preventing underage marriage lies in the fact that it is not firmly prohibited by religious law, even though it is clearly legislated by the State. The government, through its Marriage Law, has set a firm minimum age for marriage. In practice, however, many underage marriages are legitimized when the couple receives a dispensation from the Religious Court or enters an unregistered marriage (*pernikahan siri*). As a result, the rules provided by law are often ignored" (interview in Palembang, 2020).

These scriptural references, in conjunction with the statements of informants, shows that underage marriage in Muslim society has a strong foundation, as the practice is not explicitly prohibited. Marriage is recommended by Islamic teachings, and indeed often perceived as compulsory. Underage marriage is understood as justified by religion, even as the specifics are open to debate and interpretations vary. According to Mastianica-Stankevič, this context occurs because of public discourse also contributes to identity formation, which in turn influences individuals' particular positions and roles in society.<sup>50</sup> Owing to the power and potential for change, thus, public discourse can create polarization.<sup>51</sup>

### **Marriage as a Religious Obligation and a Means of Avoiding Sinful Behavior**

Muslims share a similar view regarding (underage) marriage and its functions. Marriage is understood as being recommended and expected by religious teachings, and thus as compulsory for all pious Muslims. Many informants understood Islam as urging Muslims to marry quickly. One of Palembang's religious leaders, Hj. RF (56), openly stated:

"... according to religious teachings, early marriage (so long as those involved have reached *baligh*) is not prohibited, as it aligns with individuals' religious obligations. If one marries, half of their religion is protected." (Interview in Palembang, 2020).

Also taken into consideration is the expectation that children obey their parents. Hj. Marwiyah (49), a preacher, explained:

<sup>50</sup> Mastianica-Stankevič, "Viešojo Diskurso Galia: Lietuvių Inteligentijos Savikūra Periodinėje Spauodoje (XIX a. Pabaiga–XX a. Pradžia)."

<sup>51</sup> Shreck and Vedlitz, "The Public and Its Climate: Exploring the Relationship Between Public Discourse and Opinion on Global Warming."



"... if parents desire for their daughter to marry, because she has been betrothed to a man, they deem good for her, then her marriage, even if done underage, is a form of service to her parents. Going through with the marriage is *wajib* (compulsory) under (Islamic) law. According to one school, a father has the right (*ijbar*) to force compliance" (interview in Palembang, 2020).

At the same time, underage marriage is perceived as a means of preventing children from falling into temptation and behaving sinfully. Regarding this point, an academic named H. RZ (60) stated:

"Early marriage is a solution to the rising prevalence of women becoming pregnant outside of wedlock. Without the careful attention and monitoring of their parents, non-educational media exposure can lead to children being unable to steel themselves and thus falling into temptation and sinful behavior" (interview in Palembang, 2020).

Tradition is another factor used to justify underage marriage. The practice is perceived as natural, as being permitted by the customs and traditions (*adat*) of society. This was asserted by HB (65), a customary leader in Palembang. He explained:

"... another reason why it is difficult to prevent underage marriage is local culture, often passed across generations. Where parents married young, they often feel as though, if their daughters don't marry quickly, they will be unmarriageable and never find a husband" (interview in Palembang, 2020).

Underage marriage is permitted and accepted by Muslims because it is not clearly regulated by religious texts. At the same time, Indonesia has made many efforts to minimize or even prevent the practice, but had little lasting effect. For instance, Law No. 16 of 2019 (amending Law No. 1 of 1974 regarding Marriage) requires Indonesians to be nineteen years old before marriage, and was issued to protect children from practices that were deemed detrimental to their wellbeing. However, this law has not had the desired effect, and judges have offered alternative solutions for couples seeking marriage. For instance, AM (30)—a judge at the Martapura Religious Court—stated:

"... in several cases, judges have rejected requests, asking that couples withdraw their request before any formal hearing is held. When an out-of-wedlock pregnancy occurs, the solution is to have them marry under religious law [in an unregistered marriage] known as *nikah siri*" (interview in Martapura, 2020).

In such cases, marriages are registered and made legal once the couple has reached the requisite age. However, such solutions are also problematic, detrimentally affecting the legal status and situations of children born of the union.

Such unregistered marriages provide space for the continued practice of underage marriage. Furthermore, the legitimization and ultimate legalization of *nikah siri* by religious leaders, societal leaders, academics, and even judges can further increase the prevalence of underage marriage. In other words, Legitimization is understood as the process through which particular behaviors are reinforced and justified, no matter their controversy or detrimental effects.<sup>52</sup> Where problematic behaviors are justified through religious legitimization, it is not the religion that is at fault, but rather its use as the basis of legitimacy.<sup>53</sup>

### Religious Institutions: Legalizing Unregistered Marriages

This study has shown that the prevalence of underage marriage amongst Muslims is closely associated with its justification through religious references. Ultimately, however, this acceptance is rooted in misinterpretations and mistaken understandings of these religious references. At the same time, prominent members of society—religious leaders, societal figures, legal practitioners, and academics—have viewed and accepted the practice as natural. Such attitudes have allowed underage marriage to continue even though Indonesia's Marriage Law has clearly and explicitly set a minimum age for marriage. Spaces for underage marriage continue to be provided, both through the dispensations issued by religious courts and through the unregistered marriages that are conducted per religious law. Such practices, however, are ultimately harmful to the couple involved (particularly the woman) and the children produced through their union.<sup>54</sup>

The prevalence of underage marriage in Palembang reflects the use of religion to legitimize a potentially dangerous practice, even amongst religious and judicial institutions. Such manipulative interpretation, using *naskh*, is perceived as providing a solution to the deviant behaviors in which adolescents could become involved if they are not married quickly. Three elements are found to contribute to the use of religion to legitimize and justify underage marriage. *First*, because legal literacy rates are low, people are prone to discourses and practices that violate the law. In other words, due to the strength of the public discourses supporting underage marriage, the illegality of the practice is not recognized.

<sup>52</sup> Schoon, Joesse, and Milward, "Networks, Power, and the Effects of Legitimacy in Contentious Politics."

<sup>53</sup> Rubin, *Rulers, Religion, and Riches: Why the West Got Rich and the Middle East Did Not*.

<sup>54</sup> Wantu et al., "Early Child Marriage: Customary Law, Support System, and Unwed Pregnancy in Gorontalo."

*Second*, legal dualism is a problem, both in its interpretation and its implementation. While the legal minimum age for marriage may predispose judges against making dispensations for young couples, it also influences their decision to suggest unregistered marriages as solutions. In other words, the marriage law has been unable to eradicate underage marriage, as unregistered marriages remain available and widely perceived as legitimizing underage marriage. Third, the use of religion to legitimize underage marriage may also be attributed to the public's social and intellectual shortcomings, which contribute to their involvement in illegal activities. For many, religion is perceived as the only possible solution to problems faced. As a result, they are particularly vulnerable to the manipulation of religion to resolve (rather than avoid) issues.

This study has reinforced earlier findings regarding underage marriage, its prevalence, and its causes.<sup>55</sup> Previous studies have also shown that underage marriage is associated with domestic violence,<sup>56</sup> and that the practice limits the education and empowerment available to women.<sup>57</sup> Adding to this discussion, this study has shown that the manipulation of religion has broad effects on the legitimization and legalization of underage marriage. This study has also provided a comprehensive exploration of how religion is used to legitimize the practice of underage marriage, creating public support that has increased its prevalence.

This exploration has shown that the practice of underage marriage must be addressed through a multilevel approach, one that accommodates the needs of people of different ages and social positions. For teenagers, an education program that develops their legal literacy while simultaneously providing moral guidance is necessary. Such a program can be realized by working in conjunction with various stakeholders, including local governments, through social service activities. At the legal/institutional level, it is necessary to emphasize the importance of protecting children while simultaneously highlighting the existing regulations regarding underage marriage.<sup>58</sup> Specifically, this study recommends that underage marriage be positioned within a broader framework, one that recognizes not only its legal status in religious law, but also its position within

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<sup>55</sup> Hamed and Yousef, "Prevalence, Health and Social Hazards, and Attitude toward Early Marriage in Ever-Married Women, Sohag, Upper Egypt," 2017; Salenda, "Abuse of Islamic Law and Child Marriage in South-Sulawesi Indonesia"; Nisa, "Muslim Women in Contemporary Indonesia: One Conflicting Narratives behind the Women Ulama Congress."

<sup>56</sup> Dorit Segal-Engelchin, Efrat Huss, and Najlaa Massry, "The Experience of Early Marriage," *Journal of Adolescent Research* 31, no. 6 (November 2016), p. 725–49.

<sup>57</sup> Shamnaz Arifin Mim, "Effects of Child Marriage on Girls' Education and Empowerment," *Journal of Education and Learning (EduLearn)*, 2017.

<sup>58</sup> Umi Supraptiningsih, "Pro and Cons Contestation on The Increase of Marriage Age in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021), p. 232.



Muslim society. Only then can a more harmonious and humanitarian approach be realized and developed.

### **Conclusion**

Underage marriage, a practice common in Muslim societies, is often justified through the use of *naskh* to interpret religious references. The partial and textual understandings produced have led to underage marriage being accepted by religion, even as its dangers are ignored. As the religious references used to justify underage marriage do not specify a minimum marriageable age, religious leaders and members of the public can freely interpret their commands. This has important implications for society's views of underage marriage. Previous studies have shown that underage marriage is viewed as an Islamic practice, as part of *sunnah*. Many studies have shown that underage marriage has a deleterious effect on the health of the couple, the harmony of the family, and the well-being of the children born of their union. However, previous studies have yet to explore the use of *naskh* to justify underage marriage through partial and textual exegeses that fail to recognize the broader social context.

Underage marriage continues to be perceived as a legal and acceptable practice, following *naskh*. Seeing many examples of underage marriages, the public has accepted them, rather than perceive them as unacceptable violations that require sanctions. At the same time, the prevalence of underage marriage cannot be separated from the traditions and mores of society, which accept and even promote the practice while ignoring its potential consequences for the couple's health and future.

This article has provided an important foundation for exploring how *naskh* can be used to manipulate religious beliefs and practices. However, it remains limited to discussing how *naskh* is used to justify a practice that, though accepted by religion, can have significant and detrimental effects. Likewise, interviews have been conducted only with those individuals not directly involved in the practice; as such, future studies should involve underage couples to obtain a bilateral understanding of the practice and its consequences. Finally, this study also recommends using a comparative approach to better understand the practice of underage marriage in areas where it is prevalent.

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