

# Implementation of Law Number 16 of 2019 Concerning Marriage Dispensation at the Kua of Mejayan District, Madiun Regency, Islamic Law Perspective

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## ABSTRACT

Marriage dispensation at the Mejayan Religious Affairs Office increased from 10 to 185 people in one year, indicating an urgent need for guidance and support for married couples, both newlyweds and those who have been married for a long time. Through this study, the author can provide valuable insights for the Mejayan Religious Affairs Office and related agencies to improve the quality of existing guidance. This is not only beneficial for married couples, but also for society as a whole, in creating more harmonious and happy families. In this study, the author has a problem with the Implementation of Law Number 16 of 2019 concerning Marriage Dispensation at the Mejayan Religious Affairs Office, Madiun Regency from an Islamic law perspective. The research approach in this thesis is a descriptive research method, namely a model in examining a group of people, an object, a state of mind or a class of events in the present. The KUA's efforts in socializing and implementing this law are key to realizing the expected changes. Islamic law seeks to balance the principles of sharia and social realities, ensuring that marriages are entered into with careful consideration and under conditions that best support the well-being of the individuals involved.

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## 1. INTRODUCTION

Marriage is one of the important institutions in society that is regulated by law, both state law and religious law. In Indonesia, marriage is not only regulated by the Marriage Law, but also by the religious rules adhered to by its residents. One important aspect of marriage law is regarding marriage dispensation, which allows marriage below the minimum age set by law.

Law Number 16 of 2019, which is an amendment to Law Number 1 of 1974 concerning Marriage, specifically regulates the minimum age limit for marriage and marriage dispensation procedures. In

this law, the minimum age for marriage is set at 19 years for both men and women. However, under certain circumstances, marriage dispensation can be granted by the court, allowing marriage to be carried out below that age.

This study will discuss the implementation of Law Number 16 of 2019 concerning marriage dispensation at the Religious Affairs Office (KUA) of Mejayan District, Madiun Regency, from an Islamic law perspective. The focus of this study is to examine how the marriage dispensation procedure is implemented at the KUA level and how Islamic law views the granting of marriage dispensation. Given the important role of the KUA in the implementation of marriage in Indonesia, this study is expected to provide insight into how this law is implemented in practice and whether its implementation is in line with the principles of Islamic law adopted by the majority of people in the region..

## 2. METHOD

This study uses a qualitative approach with a descriptive analytical research type. This approach was chosen to deeply understand the implementation process of Law Number 16 of 2019 concerning marriage dispensation at the Religious Affairs Office (KUA) of Mejayan District, Madiun Regency, and how the implementation of the law is reviewed from the perspective of Islamic law. This research was conducted at the KUA of Mejayan District, Madiun Regency. This study uses primary data and secondary data, namely data obtained directly from the results of in-depth interviews with sources directly related to the implementation of marriage dispensation, namely KUA employees, religious court judges, and couples who apply for marriage dispensation. And using Secondary Data, namely Supporting data obtained from related documentation such as marriage records, official documents issued by the KUA, Islamic law literature, and relevant scientific books and journals. Data Collection Techniques using Interviews, namely In-depth interview techniques are used to obtain direct information from sources about the procedures and implementation of marriage dispensation at the KUA of Mejayan District. This interview also aims to determine the views of the sources on the suitability of the implementation of the law with Islamic law. Documentation: Documentation techniques are used to collect secondary data in the form of official documents and related literature that support the analysis. And Observation: Observation is carried out to directly observe the process of granting marriage dispensation at the KUA, which includes the application process to the issuance of a marriage license. The collected data is analyzed using a descriptive analysis method with a qualitative approach. The analysis process is carried out through several stages, namely data collection, data reduction, data presentation, and drawing conclusions. The data that has been collected is then reduced by sorting information that is relevant to the focus of the research. Data presentation is carried out in narrative form that describes the main findings of the research. Conclusions are drawn based on the results of the analysis and are linked to relevant theories, including Islamic law studies.

## 3. RESULTS AND DISCUSSION

Marriage dispensation as a legal relief given to prospective brides and grooms who do not meet the requirements for marriage according to positive law. This dispensation is a solution when there are certain circumstances that cause someone to be unable to meet the minimum age requirements for marriage, as stipulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. In the applicable law, the minimum age for marriage is 19 years for both men and women.

Quoting from Article 7 paragraph (2) of Law Number 16 of 2019, which is an amendment to Law Number 1 of 1974 concerning Marriage. This article regulates the possibility of underage marriage through the marriage dispensation mechanism. Several important points from Article 7 paragraph (2), namely, Age Deviation, This paragraph provides an exception to the minimum age provisions, which are usually needed to protect prospective brides and grooms from the negative impacts of early marriage. However, in certain very urgent situations, this exception can be made. Parents/Guardians

As Applicants, Applications for dispensation must be submitted by the parents or guardians of the prospective bride and groom who do not meet the minimum age requirements. This shows that the approval of the family is an important requirement in this process. Very Urgent Reasons, The court will only consider dispensation if there are very urgent reasons. In Islamic law, the age limit for marriage is determined after puberty, which is when a person has reached physical and psychological maturity. For women, this can occur around the age of 14-16 years, and for men around the age of 15-19 years. Marriage after puberty is considered valid as long as it meets other requirements in Islam, such as the approval of the guardian and prospective bride and groom, and the presence of a dowry. Before Law No. 16 of 2019, the age limit for marriage in Indonesia was 16 years for women and 19 years for men. After the enactment of the latest law, the age limit was raised to 19 years for both sexes, to provide more protection for children and prevent early marriage. Before this law was enacted, applications for marriage dispensation at the Mejayan District Religious Affairs Office, Madiun Regency were already quite high and tended to increase every year.

That the application for marriage dispensation is a form of application that results in a court ruling, not a lawsuit or claim for rights involving a dispute between the parties. An application for marriage dispensation is a legal procedure that involves a civil process without dispute, where the court decides the application through a ruling, not a verdict. This process is regulated by civil procedural law, which regulates the implementation of relevant material civil law, including rules regarding the age of marriage and dispensation requirements. in an effort to prevent underage marriage. Education about the negative impacts of early marriage on the health, education, and welfare of children must be increased to change the views and practices that exist in society. A holistic and sustainable approach is needed to address this problem effectively.

Economic and social factors are indeed the main causes of the phenomenon of underage marriage in the Mejayan District community. With the renewal of the Marriage Law, it is hoped that this phenomenon can be reduced significantly when the law is implemented properly. According to Mr. Drs. H. Ubaidillah Santoso, M.Sc., as the Head of the Mejayan KUA, the implementation of Law No. 16 of 2019 in Mejayan District involves several strategic steps as follows:

The implementation of Law No. 16 of 2019 in Mejayan District initially faced various challenges. One of the main challenges is the culture of society that still considers early marriage as something normal and part of tradition. Therefore, adjustments and a wise approach are needed in the realm of its implementation so that this law can be implemented effectively. Mrs. Binti Mariyatul Janah, S.Ag., as the Staff of the Mejayan District KUA, revealed several steps taken by the KUA in implementing this law:

Efforts made by the KUA in implementing Law No. 16 of 2019 in Mejayan District are indeed very important to overcome the problem of early marriage. The following is a summary of the efforts and results of their implementation:

#### 1. Socialization Program

##### a. Introduction of New Legal Norms

The KUA conducted a socialization program to introduce new legal norms regarding the age limit for marriage, which is regulated in Law No. 16 of 2019. This socialization aims to ensure that the public understands the changes in provisions and their implications.

##### b. Purpose of Change

The KUA explained the purpose of changing the age limit for marriage, namely to protect the rights of children and adolescents and to ensure that marriages are carried out at a more mature and responsible age.

##### c. Advice to the Community

In addition to providing information on the age limit, the KUA also provides advice to the public to obey the law and not to use marriage dispensation as the main route except in very urgent circumstances.

## 2. Implementation Evaluation:

At the beginning of the enactment of Law No. 16 of 2019, implementation faces challenges because the number of early marriages is still high, which shows that the law has not been implemented optimally. Based on data from 2023-2024, there has been a significant change with a decrease in the number of early marriages through marriage dispensation. The graph shows a downward trend indicating that this law is starting to be implemented better. The decrease in the number of early marriages is supported by several factors, including increased public awareness of the negative impacts of early marriage, the active role of the KUA in socialization, and the consistent implementation of new norms.

## 3. Sustainable Efforts:

### a. Annual Agenda

The KUA continues its socialization efforts as part of the annual agenda, focusing on counseling regarding the problems of early marriage and the implementation of the new marriage age provisions.

### b. Emphasis on Dispensation

The KUA emphasizes to the public not to make marriage dispensation the main route except in truly urgent situations. This aims to ensure that the law is implemented strictly and in accordance with the spirit of the reforms being carried out.

### c. Marriage Dispensation from an Islamic Law Perspective

The debate on the age of marriage in the context of Islamic law and its modern implementation reflects the complexity in the interpretation of religious teachings and the application of legal norms. The following is a summary of various perspectives on the age limit for marriage in Islamic teachings and the views of the fuqaha:

The Qur'an and Sunnah do not provide a strict age limit for marriage. Both emphasize the importance of maturity and readiness in managing a household, but do not specify a specific age. Islamic law suggests that a person must be an adult and able to carry out household responsibilities. This implies that emotional and physical readiness is more important than a specific age.

Meanwhile, according to the scholars of the school of thought:

#### a. Imam Maliki, Hanafi, Shafi'i, and Hanbali

These four schools of thought permit the marriage of girls who have not reached puberty if there is approval from the guardian (father or grandmother) and if social and cultural conditions support it. They do not set a specific age limit in the context of marriage law.

#### b. Ibn Hazm and Shubrumah

These two fuqaha are of the opinion that girls who have not reached adulthood (baligh) may not be married without their permission and direct consent. This shows an emphasis on individual rights and personal readiness.

The marriage of the Prophet Muhammad SAW to 9-year-old 'Aisha is often cited as a historical example. At that time, the age of 9 years may have been considered adulthood in the social and cultural context of Medina. The status of the age of 9 years in the past cannot be directly compared with current social and legal norms, where standards of adulthood and readiness for marriage have changed significantly.

Based on the views of the fuqaha and the historical context, the minimum age that is often referred to is around 15 years. However, this is not an absolute age limit and can vary depending on the interpretation and cultural context and the applicable law. In modern implementation of the law, a higher minimum age limit is often applied to protect the rights of children and adolescents, and to ensure adequate physical and emotional readiness to enter into marriage.

It is important to understand that views and practices regarding the age of marriage can differ between different historical and social contexts. In many countries, including Indonesia, the renewal of laws on the age of marriage is often driven by the need to protect children and adolescents from the risks associated with early marriage, taking into account the changing social and cultural norms that exist today.

The opinions of the jurists on the age of baligh show variations in the interpretation of the criteria of maturity that affect a person's eligibility for marriage. Here is a summary of the views of each school of thought, Shafi'iyah Jurisprudence, Male Age 15 Years is considered the age limit of puberty and Female Age of women is 15 years. Hanbali Jurisprudence, Male and Female Age 15 Years. Maliki Jurisprudence, Male age 18 years and Female age 18 years. Hanafi Jurisprudence, Male, Age 12 Years and Female Minimum Age 9 years.

#### 4. CONCLUSION

From the results of the author's discussion on the Implementation of Law Number 16 of 2019 Concerning Marriage Dispensation from an Islamic Law Perspective at the Mejayan Religious Affairs Office, Madiun Regency, as follows:

The first, efforts made by the Religious Affairs Office in implementing Law Number 16 of 2019 in Mejayan District are indeed very important to overcome the problem of early marriage. The following is a summary of the efforts and results of its implementation, namely, Socialization Program, Implementation Evaluation, Ongoing Efforts. Overall, the implementation of Law Number 16 of 2019 in Mejayan District shows positive progress, although ongoing efforts are still needed to achieve the ultimate goal of reducing or eliminating the practice of early marriage. The Religious Affairs Office's efforts in socializing and implementing this law are key to realizing the expected changes.

The second, based on the views of the fuqaha and historical context, the minimum age limit that is often referred to is around 15 years. However, this is not an absolute age limit and can vary depending on the interpretation and context of the culture and applicable law. In modern legal implementations, higher minimum age limits are often applied to protect the rights of children and adolescents, as well as to ensure adequate physical and emotional readiness to enter into marriage. While some classical views permit underage marriage under conditions of benefit, contemporary views place more emphasis on the need for age limits that are appropriate to social and cultural conditions. Yusuf Qordhawi, for example, encourages adaptation to local customs and geographical situations, emphasizing that the age of marriage should be adjusted to the readiness of the individual and social needs. Islamic law seeks to balance the principles of the Shari'a with social realities, ensuring that marriages are entered into with careful consideration and under conditions that best support the well-being of the individuals involved.

#### REFERENCES

- Achmad, Asrori. *Batas Usia Perkawinan Menurut Fukaha Dan Penerapannya Dalam Undang-Undang Abdurrahman, Kompilasi Hukum Islam Di Indonesia*. Cet. II. Jakarta: Akademika Pressindo, 1995.
- Ahmad, Rofiq. *Hukum Islam di Indonesia*. Jakarta: PT Raja Grafindo Persada, 2003.
- Ahmad, Saebani. *Beni Fiqh Munakahat 1*. Bandung: Pustaka Setia, 2009.
- Arikunto, Suharmi. *Prosedur Penelitian Suatu Pendekatan Praktik*. Ed.rev., Cet. Ke-14. Jakarta: Rineka Cipta, 2010.
- Basri, Hasan. *Keluarga Sakinah: Tinjauan Psikologi dan Agama*. Yogyakarta: Pustaka Pelajar, 2004.
- BP-4. *Modul Kursus Calon Pengantin Suscatin*. Madiun, 2006. (Dalam Sambutan Kepala Depag Madiun).
- Hadi, Soetresno. *Metodologi Riset*. Yogyakarta: Andi Offset, 1997.
- Hasballah, Fachruddin. *Psikologi Keluarga dalam Islam*. Banda Aceh: Yayasan PENA, 2007.
- Irfan Tamwifi. *Metodologi Penelitian*. Surabaya: UIN SA Press, 2014.
- Iskandar. *Metodologi Penelitian Kualitatif*. Jakarta: GP Press, 2009.
- Nazir, Moh. *Metode Penelitian*. Cet. Ke-6. Jakarta: Ghalia Indonesia, 2005.
- Romli, Dewani. *Fiqh Munakahat*. Lampung: Fakultas Syariah IAIN Raden Intan, 2009.
- Sugiyono. *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. Bandung: Alfabeta, 2013.
- Suratman dan Philips Dillah. *Metode Penelitian Hukum*. Bandung: Alfabeta, 2002.
- Soekanto, Soerjono. *Faktor-Faktor yang Mempengaruhi Penegakkan Hukum*. Jakarta: Rajawali, 2019.
- Tabrani. *Dasar-Dasar Metodologi Penelitian Kualitatif*. Banda Aceh: Darussalam Publishing, 2014.

Tihami dan Sohari Sahrani. *Fikih Munakahat (Kajian Fiqih Nikah Lengkap)*. Jakarta: PT. Raja Grafindo Persada, 2014.

Warsito, Hermawan. *Pengantar Metodologi Penelitian: Buku Paduan Mahasiswa*. Cet I. Jakarta: PT. Gramedia Utama, 1997.