



Religious Heads' Perspectives towards the Abolition of Child Marriage: A Study in Malang, East Java, Indonesia

Tutik Hamidah

Faculty of Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang, Malang 65144, Indonesia

ABSTRACT

The move to abolish child marriages in Indonesia has met with obstacles from religious leaders. This is probably due to the limited research involving religious heads' perspectives towards the abolition of child marriages. This article will explore the perspectives of Religious Affairs (KUA) Heads in Malang City. These officials are in charge of overseeing issues with regards marriage within the Muslim community. The design of this study was a qualitative case study and data sources were obtained from KUA Heads in Malang City. Semi-structured interview instruments were used, and data analysis was done through thematic analysis. The results of the study revealed that all the respondents agreed to the abolishment of child marriages, as well as in agreeing to propose the revision of the marriage law (No.1 of 1974), which would be by raising the age limit of marriage of girls from 16 years to 18 years. However, dispensation for marriage would be provided for those aged less than 18 years in some special conditions. It was also found that for this revision to take place, abolition of child marriage must be entirely supported by parents, teachers, religious and community leaders.

Keywords: Abolition of child marriage, early marriage, Head of KUA, marriage dispensation, revision of marriage law No.1 of 1974

ARTICLE INFO

Article history:

Received: 27 July 2019

Accepted: 02 August 2019

Published: 18 December 2019

E-mail address:

tutikhamidah@uin-malang.ac.id

INTRODUCTION

In recent years reports of child marriage have been on the increase, especially in countries that are experiencing conflict or disaster (Girls not Brides, 2018). The global consensus has been reached and defined in the agenda of Sustainable

Development Goals (SDGs) 2015-2030¹ (United Nations, 2014) where the abolition of female marriages becomes one indicator of the 5th target (Rosa, 2017). Therefore, child marriage is defined as the marriage of the under-aged child (18 years), also commonly regarded as early marriage. According to the UNICEF report in 2018, the prevalence of child marriage in the world has experienced a downward trend in the last decade, especially in South Asia, from 50% to 30%. However, the figure now indicates a constant incline, in which about 12 million girls per year marry under the age of 18. Similarly in Indonesia, although it has dropped significantly in the last three decades, it still occupies the seventh highest rank worldwide and is in first position in the East Asia and Pacific region (UNICEF, 2014). One in six girls in Indonesia get married before the age of 18, or around 340,000 under-aged girls get married every year (Badan Pusat Statistik, 2016). This condition is certainly worrying, because it could threaten the achievement of the SDG target in 2030 (UNICEF, 2018).

Child marriage is a violation of children's rights; the right to education, health, play, potential development, freedom

¹ 2015-2030 Sustainable Development Goals (SDGs) is a global agreement to safeguard humans and planet (Earth); to overcome poverty, inequality and climate change by way of real action. Gender equality and women's empowerment are an integral part of achieving 2015-2030 SDGs; one indicator is the abolition of child marriage. The SDGs were inaugurated on September 25, 2015 at the UN headquarters. Approximately 193 countries participated in ratifying including Indonesia.

from violence and abuse (including sexual violence); protection from exploitation and forced separation from their parents (UNICEF, 2014). In Indonesia, it was reported that 86% of child marriages resulted in dropout (Burn & Evenhuis, 2014), while the low level of education resulted in a low ability to voice opinions, where the children involved were prone to depression and anxiety (Belhorma, 2016).

Among the factors that led to the high prevalence of child marriages as mentioned above, is the provision on the age limit of marriage in Law No. 1 of 1974 concerning Marriage; Article 7 paragraph 1 which explains that the minimum age for marriage is 19 years for men and 16 years for women. To harmonize with the vision of the SDGs, this article needs to be revised. However, efforts to revise the law are never easy (Prameswari & Agustin, 2018), because there is no support from the *ulema* (religious leaders).

The factor of differences in religious interpretations that is interwoven with tradition has hindered efforts to eliminate child marriage. The Indonesian Ulema Council (MUI) has stated the objection to the increase in the age of marriage to 18 years (Aditya, 2014). Likewise, Islamic scholars from the largest religious organizations in Indonesia, such as Nahdlatul Ulama (NU) and Muhammadiyah also state such objection. The argument they put forward states that according to religion, marriage is the right of every person; thus, the state must not interfere when someone decides to marry, especially since this may

keep teenagers from falling into adultery (“PBNU, MUI, Muhammadiyah”, 2014). In Indonesia, the perspectives of the *ulema* are very influential when related to the stipulation of the law. The agenda for the abolition of child marriage will be hampered if there is no unity of understanding with the *ulema*. Therefore, the abolition program for child marriages needs to be well conducted, with the focus not just on revision of the law. It also requires an in-depth study dealing with the religious understanding of the abolition of child marriage from multiple perspectives. For this reason, research on the abolition of child marriage from the perspective of religious leaders, especially in the studied regions, is essential, given the diversity of values between one region and another.

This article aims to explore the religious understanding of Religious Affairs (KUA) Heads in Malang City, East Java towards the abolition of child marriage. Malang City is situated in East Java province where the majority of the population, 93.7% is Muslim (Kementerian Agama, 2014). This city was selected because of the serious problems that have come about from child marriages; more serious when compared to other regions in Indonesia (Nana, 2017). The Religious Affairs (KUA) Head is an official who is tasked with marriage in the community; someone entrusted with the recording and reporting on the marriage of Muslims in the sub-district. Their perspectives are worthy of being used as reference in research concerning the abolition of child marriage. The significance of this study is expectedly

high, since studies involving the perceptions of Head of KUA on the abolition of child marriages are limited.

The formulations of the Research Problems proposed are as follows:

1. What are the perspectives of the KUA heads in Malang City towards the background to the occurrence of child marriage and the strategy to eliminate child marriage?
2. What is their understanding of Islamic beliefs that concern the abolition of child marriage?

The answer to the formulations of the problem is expected to be a reference in developing the case for abolishing child marriages in Malang. In addition, the results of this study are expected to contribute to the establishment of programs at the national level.

Minimum Age for Marriage in Islam and the Background to Marriage Law in Indonesia

Islam strongly advocates marriage; in fact, it strictly prohibits adultery. Among other things, it is shown in the Letter of Al-Rūm [30]: 21 “And among His signs of authority is He created for you wives of your own kind, so that you will tend and feel secure to him, and He will give you love and affection. Verily in that, there are truly signs for those who think” And it is stated in the hadith of the Prophet SAW “Marriage is the *sunnah* of the Prophet SAW, whoever hates my *sunnah* is not included in my path” (Sabiq, 1982). Whereas, the prohibition of adultery also appears among others in the Letter of

Al-Isrā ‘[17]: 32 “do not approach adultery; because actually adultery is a cruel act”. From the verses and *hadith* above, it can be concluded that in Islam sex is only lawful in a legal marriage; therefore, Islam strongly encourages marriage and strictly prohibits adultery.

However, there is no explicit explanation of the minimum or maximum age limit for marriage. The verses utilized by the *ulema* as the basis for determining age are interpretative verses. There are people who think that a child before reaching a state of *baligh* (reaching puberty) is allowed to marry based on the Letter of Al Talāq [65]: 4 and this is applicable also to women who do not menstruate. The phrase “those who do not menstruate” is understood to also indicate under-age menstruating girls who may marry (Zuhaily, 1985). In addition, ‘scholars who allow young girls to marry, take the basis of the *hadith* narrated by Imam Buchori, who related that ‘Aisha the wife of the Prophet SAW said, “I was married at the age of 6 and lived with the Prophet at the age of 9” (Zuhaily, 1985). The history indicates that there is no age limit for marriage. Under-age children who are still six years of age may marry.

However, besides arguing that there is no minimum age limit in marriage, some scholars emphasize that a father must think about the wellbeing of his child. The allowance of a child to be married is not absolute; there are conditions, which is the determination of marriage must be in favor of the benefit of the child (International Islamic Fiqh Academy, 2018). *Ulema* also

assert that it is not permissible to have sex with children who are not ready both physically and psychologically.

Meanwhile, *Fiqh mazhab*², generally interprets the condition of being worthy of being married or deemed to have achieved maturity with a state of *baligh* (*reaching puberty*) The signs of *baligh* within the school of jurisprudence are associated with physical signs. Some of the signs are when males have wet dreams and girls menstruate. *Ulema* unfortunately disagree about the age where a person is considered to have reached *baligh*. The *Syafi’i* and *Hanbali* schools argue that the age of *baligh* is 15 years for both male and female; *Maliki* states 17 years old; *Hanafi* states the age range for *baligh* is between 12 to 18 years for men and between 9-17 for females (Al-Jazīri, 2003). In Indonesia, where the majority of the population is with the *Syafi’i* school of thought, there are certain groups which seem to dominate and make people

² Fiqh mazhab consists of two words, *fiqh* means understanding and compilation of *hukum syara* 'which is related to human actions from its sources, namely the Qur'an and Al-Hadith That understanding uses the methods formulated by the priests forming the school (stream). The difference in methods influences Islamic law. In the Sunni Islamic world there are four schools that still survive until now, namely the *Syafi’i* School adopted by Asian Muslim countries, such as Indonesia, Malaysia and Brunei Darussalam; The *Maliki* School is adopted by West and North African countries such as Libya, Morocco, Tunisia; The *Hanafi* School is adopted by Egypt, India, Pakistan; and the *Hanbali* school is adopted by the country of Saudi Arabia.

believe that there are no problems with child marriages. The influence of the *Syafi'i* school dominates in other Muslim countries, such as Malaysia, Egypt and Turkey, which still permit marriage for those under the age of 18 (Mustofa & Dedi, 2009).

The age limit for marriage according to the Law No.1 / 1974, article 7 paragraph 1 is 19 years for men and 16 years for women. However, in paragraph 2 there is permission for under-age marriage with a marriage dispensation issued by the Religious Court. Thus, girls aged 15 and below can get married if they get marriage dispensation from the Religious Court (Haikal, 2016).

The above-mentioned article had been submitted for judicial review at the Constitutional Court twice, in 2014 and 2017. However, it was never considered for amendment. The judicial review material was intended to amend article 7, regarding the age limit for marriage, (which is 16 years for females), and which was recommended to be amended to 18 years (Mazrieva, 2017). However, the Constitutional Court refused on the grounds that marriage is the right of each person and the main purpose of this was to prevent adultery (Putri, 2015). The Constitutional Court's refusal received support from *ulema* in major Islamic community organizations, such as the Indonesian Ulema Council (MUI), Nahdlatul Ulama (NU) and Muhammadiyah, all of which did not agree to raising the age limit for marriage mainly because they believed this (increasing the legal age for marriage) would encourage adultery ("PBNU, MUI, Muhammadiyah", 2014).

Previous Studies

Some studies with the theme of child marriage in Indonesia have been mainly policy studies that are tailored to the needs of the government. According to UNICEF (2016), research in the field of child marriage is still a new theme in Indonesia due to its unpopularity. However, policy studies have been done, among which are:

1. Central Statistics Bureau in cooperation with UNICEF (2016) *Suspended Progress: Analysis of Data on Child Age Marriage in Indonesia*;
2. BKKBN (2017), *Population Survey, Family Planning, Adolescent Reproductive Health and Family Development among Indonesian Youth*;
3. Kementerian Kesehatan RI (2016), *The Adolescent Reproductive Health Situation*;
4. The University of Indonesia Gender Study Program in collaboration with the Ministry of Women's Empowerment and Child Protection Program (2016): *Child Marriage within Islamic, Catholic, Protestant, Buddhist, Hindu and Hindu Kaharingan Communities - Case Study in Palangkaraya City and Katingan Regency, Central Kalimantan Province*.

Although the studies were not specifically about the abolition of child marriage, it included the problems in controlling child marriage. In general, the results of these studies recommended

approaches to community leaders, including religious leaders about the issue of child marriages. While all the researches stated above indicate the importance of involving religious leaders into the issue of child marriages, and the perspectives of religious leaders, it is still not given due consideration. Therefore, this study will fill the gap within the body of literature on child marriages in relation to the views of religious leaders.

Besides research that has been conducted by the government, there are several studies conducted by academics with similar themes:

(1) Methods of child marital control. Among other things, Rumble et al. (2018) believed control of child marriage in Indonesia should be carried out with more intensive gender education, poverty alleviation and economically effective programs; Grijns and Horii (2018) stated that control of child marriage in Indonesia must be carried out according to religious norms.

(2) Marriage of minors. Among other things, Hamidah (2011) stated that many child marriages in Indonesia were carried out only because religion allows it, and not because there was danger in not allowing it because of the larger sin, which was adultery; There was also research done on factors causing child marriage in Indonesia especially due to unwanted pregnancies (Utomo et al., 2014).

(3) Contraceptive services to adolescents. Researchers such as Santelli et al. (2007) and Sedgh et al.

(2015) stated that among other things control of teen pregnancy could be effective by increasing contraceptive services to adolescents; on the other hand, research findings showed that contraception was not permitted for teenagers in Malaysia (Mustapa et al., 2015).

This research complements all the above studies which recommend new approaches to the problems involving child marriages. This study specifically explores the perspectives of the KUA heads who incidentally are also Muslim religious leaders in each sub-district, and close to the issues that concern marriage within their respective communities.

METHOD

This research was a qualitative case study. Baxter and Jack (2008) explained that this type of qualitative research with approach to case studies aimed to explain complex phenomenon in certain contexts. Merriam (1998) defined case as a single entity. Case selection criteria in this research was based on Stake (2006) namely relevance of case to examined phenomenon. This research used a single case that was the opinion of the Head of KUA towards abolition of child marriage. With reference to Baxter and Jack (2008), this research would be the first step towards exploration of the opinions of the Head of KUA which was related to the intent, which was the abolition of child marriages. Therefore, this research was classified as an exploratory case study. The primary data source consisted 5 Heads of

KUA in Malang City. They had bachelor's degrees in Islamic Education and all of them were men, because the Head of the KUA must be male. Child marriages had been reported in all five KUA. Data collection was based on semi-structured interviews. Cohen and Crabtree (2006) explained that the semi-structured interview had benefits, as the researcher would already have a list of questions prepared beforehand, (thus allowing for greater focus on the part of the interviewer) and at the same time this allowed the respondents more time to express their opinions freely. The analytical framework for this research consisted Islamic Law in the Qur'an, Al-Hadith and Fiqh related to marriage. The Islamic law is significant within the framework analysis because field data was from the Heads of KUA who were Islamic religious leaders. The research procedure began after the researcher succeeded in obtaining the permission letter from the Institute of Research and Community Service, Maulana Malik Ibrahim State Islamic University, Malang. After that, the permit was distributed to the five Heads of KUA to determine time and place of interview. Research was carried out in the rooms of the Heads of KUA during working hours (08.00-16.00 AM) on the agreed day and date. The researcher recorded the interview and the audio files were transcribed. The method of research analysis was thematic analysis. The researcher read all the interview transcripts and listened to the recording to highlight the explicit comments (Braun & Clarke, 2006). Then, the researcher inductively identified

the themes from the respondents' views. These themes were systematically arranged to a set of principal themes and derivatives. The aim was to ensure that these themes were produced from the respondents' views, not from the perception of the researcher (Braun & Clarke, 2006). The respondents' quoted verbatim (in aliases, to maintain their privacy), was translated in English and presented in the results (e.g., Head of KUA KS).

RESULTS

Key themes fleshed from data (through semi-structured interviews) on the background to child marriages, strategies for eliminating child marriages and the proposal that may lead to the elimination of child marriages are as follows:

Revising the Age of Marriage in Article 7 Paragraph 1 of Law No.1 / 74 Concerning Marriage

All the KUA Heads believed that the elimination of child marriage must begin with a revision of the article 7 paragraph 1 of Law No.1 / 74 concerning marriage, which states marriage is permitted, 19 years for males and 16 years for females. Five (5) KUA Heads agreed to the increase of the minimum age for women to 18 years.

Yes, strongly agree. It will be no longer a 16-year-old woman. Men are also not ready at 19 years old, because in general according to what we see and feel, the age of such children for Indonesia is still unstable, the psychological

readiness for marriage is still lacking. (Head of KUA in KK District)

Some even stated that they should not marry at 18 years of age, but it shall be 21 years as stipulated in article 6 paragraph 1 of Law No.1 / 74.

The age of marriage should be 21 years, as stipulated in the law, article 6 paragraph 1. If it is in under the age of 21 according to the studies on health, the girl's womb is not strong. (Head of KUA in LW District)

In addition, all respondents also pointed to the Marriage Report of 2018 in the KUA which indicated that marriage under

the age of 18 was rare and a very small percentage (as in the Marriage Report, KUA, Lowokwaru District). They believed that raising the age for marriage to 21 years would not be controversial as a lot of people were already observing it (not marrying at 18 years of age or below)

However, the Marriage Report may not show the actual numbers; there is still the practice of *siri* (religious marriage) in the community even though it is very small. Also, there is still the practice of falsifying age among certain ethnic groups. As stated by the Head of KUA in KL District,

It is possible for the public to think that if they see a child going out, they want to be together, worrying that they will commit adultery outside the house. If there is adultery, it is

Table 1
Age based marriage report in 2018

NO.	SUB-DISTRICT	AGE of HUSBAND						AGE of WIFE			
		< 19	>19 s/d <25	>25 s/d <=	> 30 s/d <=35	> 35	<16	>17 s/d <=20	> 21 s/d <=25	>26 s/d <=30	> 30
1	Tunggulwulung	1	17	36	9	24	5	37	21	8	16
2	Merjosari	4	32	63	8	20	9	48	44	9	17
3	Tlogomas	1	16	40	9	15	5	21	38	9	8
4	Dinoyo	2	19	36	9	15	6	31	29	5	10
5	Sumbersari	0	8	20	5	13	2	16	13	6	9
6	Ketawanggede	0	3	14	6	7	1	4	15	3	7
7	Jatimulyo	0	29	63	19	16	2	53	48	9	15
8	Tunjungsekar	0	25	52	16	14	3	48	36	7	13
9	Mojolangu	1	25	81	20	32	3	63	50	16	27
10	Tulusrejo	0	22	46	11	19	4	36	38	7	13
11	Lowokwaru	2	30	57	20	23	7	39	50	11	25
12	Tasikmadu	0	18	17	4	11	4	22	14	1	9

unclear who will bear the sin. Thus, they chose siri marriage. Later, if you are old enough, then you can take it to the KUA.

The results of the study showed that the Heads of KUA in Malang City responded positively to the increase to the age of marriage within the marriage law. The Head of KUAs approval of the revision to the minimum age requirement in the marriage law contradicted the opinions of ulama in the MUI, NU and Muhammadiyah. Their belief was based on the condition of unpreparedness of children under the age of 18 to get married. Also, the data in the Marriage Report of KUA revealed a very small percentage of early marriages (Table 1). According to them, the majority of people are ready for the increase of the age of marriage to 18 years, some even suggesting 21 years. The argument put forward by scholars in the MUI, NU and Muhammadiyah that increasing the age of marriage in the law could result in the rise of adultery in early adolescents is irrelevant. Adultery among people occurs at all ages, not only at the early ages. As the head of KUA (LW) said, "that getting pregnant first and then getting married happens at all ages, not only in the early years".

Marriage Dispensation

Although the respondents agreed to the revision of the minimum age of marriage in Law No. 1 of 1974, they still wanted to retain the article on marriage dispensation. The

argument presented is that this would help avoid *mafsadah* (Arabic: damage). Adultery is prohibited and is a big sin in Islam. If there are signs that the child is moving towards this, then the chosen method to avoid the *mafsadah* is to marry off the child. The article on marriage dispensation in the law is therefore important.

With easy access to pornographic videos and social media, while their parents work from morning to evening, children are exposed to promiscuity. Therefore, if there is no dispensation to force marriage, what would it be? (Head of KUA in S District)

Marriage dispensation is given by the Religious Court on the grounds that the prospective bride is already pregnant. This month (when the researcher conducted the interview, March 2019) there were two people whose registered marriage was 13 years, 4 months and 13 years, 7 months respectively; because they were already pregnant. (Head of KUA in KK District)

However, the respondents appealed to the Religious Court to tighten the submission of requests for marriage dispensation. This is due to the fact that in rural areas, children are forced to marry because parents have arranged their marriage. This happens even if the child is a good child and wants to continue studying.

The Background to Marriage at an Early Age. The respondents stated that there were two main reasons why child marriages occurred; the first is because parents wanted to match-make their children as it was considered normal in some communities and; second the children were forced into marriage because of circumstances – they became pregnant out of wedlock.

Matching Tradition. The people of Madura are still very strong in holding to their matchmaking tradition. Children have been betrothed while in elementary school. This community is also suspected of falsifying age, so that children who are not old enough are allowed to marry. Most of these early marriages have been discovered to be forced marriages.

The ones who married underage were in this area (gestures by pointing to several neighborhoods in Bluring Village on the map). However, their age was falsified by the neighborhood chief. So there is no data on underage marriages at the Village Office. (Head of KUA in KK District)

Personal Will/Request. Children from parents who are factory workers or farm laborers generally live in environments that pay less attention to education. In general, children in these environments lack in enthusiasm towards learning; they are more interested in working because it makes money. The main indicator of manhood is

when he can make money; and for women it is when she has menstruation. Thus, they are considered adults and ready to start family even though they are less than 18 years old.

Some children after graduating from elementary school immediately work, following their acquaintances who have done so and who have succeeded (independent and earning). Education is considered insignificant, as they are more interested in working because it can make them money. If you have made money, you are considered to be an adult. Even though the government has provided free schools, they are not interested in going to school. (Head of KUA in KK District)

Worrying About Falling into Adultery. Five respondents stated,

Muslim communities are obliged to keep children from falling into adultery. The solution is to marry off the child. This situation usually occurs if the child is considered to have been dating and the couple is inseparable.

Unwed Pregnancy. Five respondents stated,

Pregnancy out of wedlock must lead to marriage, if they are not immediately married off, they will continue to commit adultery. In addition, pregnancy, where a woman is without a husband at

childbirth brings about shame in society. The children born will be referred to as illegitimate children.

Strategies for Controlling Marriage at an Early Age

Five respondents stated that it was very difficult to control early age marriage. The internal factor that must be improved is the understanding of the religion by parents. Parents who do not understand religion usually allow their children (different sexes) to interact freely with each other. Family becomes the main factor in preventing children from early age marriages. The following is the opinion of the Head of the KUA about preventing early age marriage which is caused by unwed pregnancy.

To control early age marriage, the most important thing is the family itself, because the average child who is pregnant out of wedlock, it turns out that his/her parents were like that, so the role of the parents is very important. Parents must give proper understanding to their children about Islamic rules/values in order to distinguish between good and bad, what is permissible and what isn't. Now elementary school students understand that they are dating and it is fine because it is considered acceptable culture in television, social media (face book, Instagram and others). The internet is easily accessed and seems to promote it as acceptable culture. (Head of KUA in BL District)

It is also important that efforts in controlling early age marriage (due to the arranged marriage tradition) must be confronted by the teacher, health office and community leaders.

I have been socializing and educating through various programs, such as the 'taklim' neighbourhood assembly (prayer gatherings and lectures) and through the courses for future brides and grooms - about the negative impact of early age marriage carried out with age falsification. (Head of KUA in LW District)

As for early marriage, due to the lack of enthusiasm in participating in education, (such as children who have just dropped out from elementary school and who immediately work), then what is needed is to give continuous training in accordance to their skills and interests. (Head of KUA in S District).

Key Themes Emerging from Semi-Structured Interviews with KUA Concerning the Abolition of Child Marriage

Minimum Age Limit According to *Fiqh Syafi'i*. Five respondents stated that the provision of marriage age according to *Fiqh Syafi'i* was not in accordance nor compatible with the current situation.

The age of 15 years is still too small, and the young are in a

hurry to get married. Baligh in fiqh, for men is only based on readiness to have sex, while for women is when they have menstruation, which means they can get pregnant. This isn't sufficient reason to get married in present times. (Head of KUA in KL District)

The reason they put forward was that the determination of the state of *baligh* could be very different during the old days as compared to present times, especially since young males and females attend school. As explicitly stated by the Head of KUA in S district,

That there is a philosophical basis behind age determination, which is the readiness of someone to get married. We need to consider physical, psychological and economic readiness. Consequently, the age provisions are not absolute and are not binding for the following period

The readiness of children to get married, in present times, requires more preparation from various aspects, and that which demands more planning. As stated in the Holy Koran, in the Letter of Al Rum verse 21, family must be *sakinah* (harmonious, peaceful, and filled with love). In addition, as stated by the Head of KUA in LW District, “the Messenger of Allah married Siti Ayesha, when she was 6 years old and they only gathered at home when Ayesha

was 9 years old. This situation cannot be practiced in this era, since the marriage of Ayesha with the Messenger of Allah occurred in the past with the conditions in Arab traditions that are different from our current traditions”. This would not be possible in present times.

DISCUSSION

The Heads of KUA in Malang City gave a positive response to the abolition of child marriage by agreeing to the proposal to increase the age of marriage in the marriage law No.1 of 1974, from 16 years (for females) to 18 years; however, they believed that the marriage dispensation article should remain. These findings corroborate the results of the Rumble et al. (2018) research which stated that it was necessary to examine the views of religious leaders in the regions because it was estimated that there was a diversity of values in the elimination of child marriages. Although scholars in the MUI, NU and Muhammadiyah have expressed their rejection (“PBNU, MUI, Muhammadiyah”, 2014), the results of this study indicated that the rejection did not represent the views of religious leaders in Malang City.

The religious leaders in Malang argued that at 16 years of age young adults were still not ready to get married both physically and psychologically. They also argued that based on the marriage report data from the KUA in 2018, there was no data showing preference for marriage among females under the age of 16. Thus, it can be concluded that

the habits of the people, as with regards marriage complement the plan to increase the minimum age of marriage, which is 18 years and above.

The majority of marriages at the age of 16 years or less was due to children being already pregnant or families worried about them falling into promiscuity which results in adultery. Marriage dispensation is usually given for these two conditions. This finding is relevant with the study conducted by Hamidah (2011) that the marriage of women who were pregnant out of wedlock was also to keep children from being born out of wedlock. These children of unwed parents are usually labelled illegitimate children within the community (Hamidah, 2011). Therefore, the Heads of the KUA believed that the marriage dispensation article was still required. This perspective is based on Islamic teachings that adultery is considered as a big sin. Muslims must guard against adultery in society. In accordance with previous research, pregnancy before marriage always ends with marriage. This is also true from the perspective of promiscuity (Hasanah, 2018). This concept is different from that in secular countries where in controlling teenage pregnancy contraceptive services are provided. In Indonesia, sex education is still not permitted by most scholars, as it actually encourages adolescent curiosity towards sex before marriage (Utomo et al., 2014). This perception is not just common in Indonesia, but also in Muslim countries like Malaysia (Mustapa et al., 2015).

Early marriage in Malang city is not solely due to young females being pregnant out of wedlock and free promiscuity resulting in adultery. Custom matchmaking, not continuing school, preferring work because it is tempting to get money, are among the causes of early marriage. These complex causes cannot be overcome by merely increasing the age of marriage; it also requires an integrative strategy where emphasis must be on education, religious understanding, gender understanding and economic improvement. This finding is in accordance with the study conducted in the UK regarding forced marriage, which concluded that forced marriage is a complex problem intertwined with culture, religion, poverty and government policy (Chantler et al., 2009).

The age of marriage according to *fiqh* conveys a context of time and place. Different situations and conditions can change the laws of *fiqh*. The age of marriage according to the *Syafi'i* school is 15 years for both women and men, but the benefit now is that it does not match that view. Marital readiness or *baligh* conditions recommended by Islam are now more comprehensive, not only in physical terms; but in terms of the psychological, economic, health and social aspects as well. This perspective is in accordance with the rules of Islamic law, *al-hukm yadūru 'illatihi wujūdan wa' adaman* (the law is in circulation with 'illat, both law and absence). This understanding is also in line with the findings of researchers in *Fiqh of Women with Insight into Gender Justice* (Hamidah, 2011).

CONCLUSION

The abolition of the marriage of children under the age of 18, through revision of the marriage law No.1 of 1974 is not difficult, as was indicated by the Heads of KUA in Malang City. By raising the marriage age to 18, the community seems to be ready, as data from the Marriage Report by KUA in Malang City reported only a few instances of marriage at the age of 16 and below. No rejection is to be expected. In general, the lowest age for marriage is 17 years and above. In addition, in their perspective, marriage under the age of 18 is considered hurried; where there is little concern for readiness. Readiness is a prerequisite that is commonly ignored although it is strongly emphasized in Islamic teachings.

However, all the KUA suggest that the article on marriage dispensation must be maintained. According to them, the marriage dispensation article must be utilized as a preventive measure to avoid adultery which is a major sin in Islam. However, marriage dispensation as excuse to break rules must be checked by providing certain conditions. The abolition of child marriage by merely raising the minimum age of marriage in the law is inadequate; thus, it must be addressed by parents, teachers, religious leaders, community leaders, health workers and the general population.

There are four causes of early marriage in general: pregnancy due to promiscuity, parental concerns about child relationships, early drop-out of school and the start of

work by young adults at an early age. Therefore, according to the Five Heads of KUA in Malang City, early age marriage abolition programs must also tackle all these causes of the problem.

The age of marriage according to the *Syafi'I* school, which states 15 years is not binding. The view of the *Syafi'i* school can be ignored in order to fulfil the requirements of the present situation. Children who are 15 years old in present times are still not ready to get married as physical, psychological, health and economic conditions in present times differ vastly from that in the past. Readiness, as explained by the KUA, is an important criterion in marriage.

RECOMMENDATION

This research recommends that further enquiry be conducted in other regions to find out the perspectives of Heads of KUA in other districts. The results of the study are expected to be a reference to establish a synergic program among community institutions to abolish child marriages. This study indicates that religious leaders in Malang differed with MUI, NU and Muhammadiyah scholars regarding this issue.

ACKNOWLEDGEMENT

The authors gratefully acknowledge the support by the Universitas Islam Negeri Maulana Malik Ibrahim Malang in completing this research.

REFERENCE

- Al-Jazīrī, A. A.-R. (2003). *Al Fiqh 'ala Mazahib Al Arba'ah* [Jurisprudence on the doctrines of the four] (Vol. 4). Retrieved July 29, 2019, from https://ia802604.us.archive.org/9/items/waq78101/04_78104.pdf
- Badan Pusat Statistik. (2016). *Kemajuan yang tertunda, analisis data usia perkawinan di Indonesia* [Delayed progress, analysis of marital age data in Indonesia]. Retrieved July 29, 2019, from <http://bp3akb.jabarprov.go.id/wp-content/uploads/delightful-downloads/2016/07/Analisis-Data-Perkawinan-Usia-Anak-di-Indonesia-2008-2012.pdf>
- Baxter, P., & Jack, S. (2008). Qualitative case study methodology: Study design and implementation for novice researchers. *The Qualitative Report*, 13(4), 544-559.
- Belhorma, S. (2016). Two months of marriage were sufficient to turn my life upside down: Early marriage as a form of gender-based violence. *Gender & Development*. Retrieved July 29, 2019, from <https://www.tandfonline.com/doi/abs/10.1080/13552074.2016.1194558>
- BKKBN. (2017). *Survei kependudukan, keluarga berencana, kesehatan reproduksi remaja dan pembangunan keluarga di kalangan remaja Indonesia* [Survey of population, family planning, adolescent reproductive health and family development among Indonesian youth]. Retrieved July 29, 2019, from <https://arrow.org.my/wp-content/uploads/2018/01/INDONESIA-SRHR-Services-Dec2017-final.pdf>
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77-101. <https://doi.org/10.1191/1478088706qp063oa>
- Burn, J. M., & Evenhuis, M. (2014). Just married, just a child: Child marriage in the Indo-Pacific region. *Plan International Australia*. Retrieved July 29, 2019, from <http://hdl.handle.net/10453/36760>
- Chantler, K., Gangoli, G., & Hester, M. (2009). Forced marriage in the UK: Religious, cultural, economic or state violence? *Critical Social Policy*, 29(4), 587-612.
- Cohen, D., & Crabtree, B. (2006). *Qualitative research guidelines project*. Retrieved July 29, 2019, from <http://www.qualres.org/HomeSemi-3629.html>
- Copen, C. E., Daniels, K., Vespa, J., & Mosher, W. D. (2012). First marriages in the United States: Data from the 2006-2010 national survey of family growth. *National Health Statistics Reports*, 49, 1-21.
- Girls not Brides. (2018). *Child marriage in humanitarian settings*. Retrieved July 29, 2019, from <https://www.girlsnotbrides.org/wp-content/uploads/2016/05/Child-marriage-in-humanitarian-settings.pdf>
- Grijns, M., & Horii, H. (2018). Child marriage in a village in West Java (Indonesia): Compromises between legal obligations and religious concerns. *Asian Journal of Law and Society*, 5(2), 453-466.
- Haikal, H. (2016). Analisis yuridis normatif dan hukum Islam terhadap putusan mahkamah konstitusi nomor 30-74/Puu-Xii/2014 tentang batas usia perkawinan anak (perempuan) Abdul Hadi dan Hasanain Haikal [Normative juridical analysis and Islamic law on constitutional court ruling number 30-74 / Puu-Xii / 2014 concerning age limits for child marriages (women) Abdul Hadi and Hasanain Haikal]. *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam*, 7(1), 238-266.
- Hamidah, T. (2011). *Fiqh perempuan berwawasan keadilan gender* [Fiqh women are gender justice]. Malang, Indonesia: UIN-Maliki Press.
- Hasanah, R. (2018). Penetapan dispensasi kawin akibat hamil pra-nikah ditinjau dari aspek

- Maqashid Syari'ah [Determination of marriage dispensation due to premarital pregnancy is reviewed from the aspect of Maqashid Shari'ah]. *Aktualita (Jurnal Hukum)*, 1(1), 295-311.
- International Islamic Fiqh Academy. (2018). *Decision on the marriage of young girls between the right of the guardian and the interest of the girl and the extent of the authority of the guardian to prevent or restrict him from a legitimate perspective*. Retrieved May 29, 2019, from <http://www.iifa-aifi.org/4867.html>
- Kementerian Agama. (2014). *Jumlah penganut agama menurut kab/kota tahun 2014* [The number of religious followers according to district / city in 2014]. Retrieved July 29, 2019, from <http://jatim.kemenag.go.id/file/file/Data2014/caux1413869522.pdf>
- Kementerian Kesehatan RI. (2016). *Situasi kesehatan reproduksi remaja* [The situation of adolescent reproductive health]. Retrieved July 29, 2019, from <http://www.depkes.go.id/resources/download/pusdatin/infodatin/infodatin%20reproduksi%20remaja-ed.pdf>
- Santelli, J. S., Lindberg, L. D., Finer, L. B., & Singh, S. (2007). Explaining recent declines in adolescent pregnancy in the United States: The contribution of abstinence and improved contraceptive use. *American Journal of Public Health*, 97(1), 150-156.
- Nana. (2017, May 23). Peristiwa: Pernikahan dini masih tinggi, kabupaten malang genjot jumlah PIK insan GenRe [Event: Early marriage is still high, Malang district has boosted the number of PIK people, GenRe]. *MALANG TIMES.com*. Retrieved April 25, 2018, from <http://www.malangtimes.com/baca/17685/20170323/150954/pernikahan-dini-masih-tinggi-kabupaten-malang-genjot-jumlah-pik-insan-genre/>
- Merriam, S. B. (1998). *Qualitative research and case study applications in education*. San Francisco, USA: Jossey-Bass Publishers.
- Mustapa, M. C., Ismail, K. H., Mohamad, M. S., & Ibrahim, F. (2015). Knowledge on sexuality and reproductive health of Malaysian adolescents – A short review. *Procedia - Social and Behavioral Sciences*, 211, 221-225. <https://doi.org/10.1016/j.sbspro.2015.11.088>
- Mustofa, & Dedi, S. (2009). *Perbandingan hukum perkawinan di dunia Islam* [Comparison of marriage law in the Islamic world]. Bandung, Indonesia: Pustaka Al Fikriis.
- PBNU, MUI, Muhammadiyah Tolak Perubahan Usia Nikah. (2014, December 3). *NU Online*. Retrieved April 25, 2018, from <http://www.nu.or.id/post/read/56117/pbnu-mui-muhammadiyah-tolak-perubahan-usia-nikah>
- Prameswari, Z. W. A. W., & Agustin, E. (2018). Indonesian marriage law reform: The way to strengthen the protection of children's rights against child marriage. *Journal of South East Asian Human Rights*, 2(1), 286-301.
- Putri, A. (2015, June 19). Alasan MK tolak kenaikan usia minimum pernikahan [The reason MK rejected the increase in the minimum age of marriage]. *Rappler*. Retrieved April 25, 2018, from <http://www.rappler.com/world/regions/asia-pacific/indonesia/96844-alasan-mk-tolak-judicial-review-usia-kawin>
- Rosa, W. (Ed.). (2017). Transforming our world: The 2030 agenda for sustainable development. In *A new era in global health*. <https://doi.org/10.1891/9780826190123.ap02>
- Rumble, L., Peterman, A., Irdiana, N., Triyana, M., & Minnick, E. (2018). An empirical exploration of female child marriage determinants in Indonesia. *BMC Public Health*, 18, 407(2018). <https://doi.org/10.1186/s12889-018-5313-0>

- Sabiq, S. (1982). *Fiqh Al Sunnah* [Fiqh of the Sunnah] (Vol. 2, 5th ed.). Beirut, Lebanon: Dar al-Fikr.
- Sedgh, G., Finer, L. B., Bankole, A., Eilers, M. A., & Singh, S. (2015). Adolescent pregnancy, birth, and abortion rates across countries: Levels and recent trends. *Journal of Adolescent Health, 56*(2), 223-230.
- Stake, R. E. (2006). *Multiple case study analysis*. New York, USA: Guilford.
- Aditya, R. (2014, December 2). MUI berkukuh batas usia kawin 16 tahun. *Tempo.co*. Retrieved August 23, 2018, from <https://nasional.tempo.co/read/625903/mui-berkukuh-batas-usia-kawin-16-tahun>
- UNICEF. (2014). *Ending child marriage: Progress and prospects*. Retrieved February 10, 2019, from <https://data.unicef.org/resources/ending-child-marriage-progress-and-prospects/>
- UNICEF. (2018). Child marriage around the world. Retrieved May 4, 2019, from <https://www.unicef.org/stories/child-marriage-around-world>
- United Nations. (2014). *The road to dignity by 2030: Ending poverty, transforming all lives and protecting the planet general on the post-2015 agenda*. Retrieved July 29, 2019, from https://www.un.org/disabilities/documents/reports/SG_Synthesis_Report_Road_to_Dignity_by_2030.pdf
- Utomo, I. D., McDonald, P., Reimondos, A., Utomo, A., & Hull, T. H. (2014). Do primary students understand how pregnancy can occur? A comparison of students in Jakarta, West Java, West Nusa Tenggara and South Sulawesi, Indonesia. *Sex Education, 14*(1), 95-109.
- Mazrieva, E. (2017, October 7). Atasi perkawinan anak, aktivis tempuh beragam cara [Overcome child marriage, activist faced challenges]. *VOA Indonesia*. Retrieved May 6, 2018, from <https://www.voaindonesia.com/a/atasi-perkawinan-anak-aktivis-tempuh-beragam-cara/3935631.html>
- Zuhaily, W. (1985). *Al fiqh al Islam wa adillatuh* [Islamic evidence] (Vol. 6). Retrieved July 29, 2019, from <http://www.feqhup.com/uploads/13231177901.pdf>

