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Understanding of the Hadith, Marriage Age and the Islamic Law: Study of Regent’s Regulations in Bojonegoro, East Java

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Abstract: The prevalence of early marriage in Bojonegoro has led to the implementation of Regent’s Regulation Number 19 of 2023, which aims to provide incentives for prospective brides. Bojonegoro Regency is positioned as the 9th highest in terms of marriage dispensation cases in East Java Province. Hence, this study seeks to determine the efficacy of implementing the regent's laws in relation to the principles of legal effectiveness and the field of *ma'anil hadith*. This study employs empirical legal research methodology to assess the restrictions set by the regent, utilizing the theory of legal efficacy. Additionally, it utilizes the theory of *ma'anail hadith* science to provide a comprehensive knowledge of the *hadith*. The findings of this study establish that the restrictions implemented by the regent are deemed effective in terms of legal compliance, law enforcement, provision of facilities, societal impacts, and cultural aspects. The comprehension of the *hadith* concerning the Prophet PBUH marriage to *Sayyidah 'Aisyah ra* does not contradict the laws and regulations set by the Bojonegoro regent in establishing the age restriction for marriage that qualifies for incentives for both the bride and groom. Other hadiths elucidate the prerequisites for marriage, namely pertaining to religious, physical, financial, and social development. This research highlights the importance for other regional governments to implement policies similar to those implemented by the Regent of Bojonegoro. These policies have been demonstrated to be beneficial and in accordance with Islamic law in reducing the prevalence of early weddings, which have detrimental effects on the couples involved.

Keywords: Understanding of the hadith, age of marriage, restrictions of the regent, Islamic law, legal sociology

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Abstrak: *Tingginya angka pernikahan dini di Bojonegoro melahirkan kebijakan Peraturan Bupati No. 19 Tahun 2023 tentang Pemberian Insentif Calon Pengantin. Kabupaten Bojonegoro berada pada peringkat 9 angka perkara dispensasi kawin tertinggi di Provinsi Jawa Timur. Oleh karena itu penelitian ini bertujuan untuk mengetahui bagaimana efektifitas pemberlakuan peraturan bupati tersebut ditinjau dari segi teori efektifitas hukum dan ilmu ma'anil hadis. Penelitian merupakan kajian hukum empiris dengan menggunakan teori efektifitas hukum untuk menganalisis peraturan bupati dan teori ilmu ma'anil hadis untuk mengelaborasi pemahaman hadisnya. Hasil penelitian ini menyimpulkan bahwa peraturan bupati tersebut dinyatakan efektif secara hukum, penegak hukum, sarana, masyarakat dan kebudayaan. Pemahaman terhadap hadis tentang pernikahan Nabi SAW dengan Sayyidah 'Aisyah RA tidak bertentangan dengan aturan perundang-undangan dan peraturan bupati Bojonegoro dalam penentuan batas usia menikah yang layak mendapatkan insentif bagi kedua calon pengantin. Karena dalam hadis-hadis yang lain dijelaskan tentang kriteria layak nikah yaitu kematangan beragama, fisik, finansial, dan sosial. Penelitian ini memberi pesan bahwa pemerintah daerah lain perlu membuat kebijakan-kebijakan sebagaimana yang telah dilakukan oleh bupati Bojonegoro yang sudah terbukti efektif dan sejalan dengan hukum islam untuk menekan angka pernikahan dini yang banyak membawa kemadharatan bagi pasangan pengantin.*

Kata Kunci: *Pemahaman Hadis, usia perkawinan, peraturan Bupati, Hukum Islam, sosiologi hukum*

Introduction

Child marriage is prevalent not only in Indonesia but also in other developing regions such as Middle East, Africa, Asia and Southeast Asia.¹ The issue of child marriage in Indonesia should not be disregarded, since it consistently experiences an annual growth. In the year 2022, there will be a total of 55,000 applications specifically seeking marriage dispensation.² According to

¹ Loretta Adowaa Asare and John Boulard Forkuor, "The Social Consequences of Climate Change: A Qualitative Analysis of Early Girl Child Marriage as An Informal Adaptation Strategy Among Rural Communities in Northern Ghana," *Cogent Social Science* 10, No. 1 (2024). Nasaiz Aziz, et.al., "Child Marriage in Kabang, South Yala, Thailand: Islamic Family Law Perspective," *El-USrah: Jurnal Hukum Keluarga* 6, No. 2 (2023). Arifah Millati Agustina, "Between Culture and The Sacredness of Fiqh: The Role of Lebe in Child Marriage Practices in Brebes, Indonesia," *Journal of Islamic Law* 3, No. 1 (2022).

² Inna Fauzi and Any Ismayawati, "Child Marriage in Indonesia: Sexual Violence or Not?" *De Jure: Jurnal Hukum dan Syariah* 14, No. 2 (2022). Biro Hukum Dan Humas Kementerian Pemberdayaan Perempuan Dan Perlindungan Anak, "Kemen PPPA: Perkawinan Anak Di Indonesia Sudah Mengkhawatirkan," Siaran Pers, *Kemenpppa.Go.Id*, January 27, 2023.

Article 7 of Law Number 16 of 2019, which amends Law Number 1 of 1974 on Marriage, child marriage is defined as the act of marrying individuals who are below the age of 19, regardless of their gender. During the child's formative years, which is considered their golden era, it is crucial to maximize their learning potential by enrolling them in the government's mandatory 12-year education program.³ At that stage of development, youngsters lack the necessary physical, mental, and financial preparedness to engage in a marital union. Indeed, this situation heightens the likelihood of divorce among couples who were married as children, particularly in households that are deemed unprepared and of low quality. The broader consequence could potentially result in hindered growth and development in their offspring.

The issue of child marriage in Bojonegoro Regency persists and has gained widespread attention. According to the data from the Bojonegoro Religious Court, there will be a total of 532 marriage dispensation applications in 2022. The number of marriage dispensation cases in Bojonegoro Regency is significant, ranking it 9th among all regencies in East Java Province.⁴ The primary contributors to this phenomenon are the insufficient level of public education, with the majority of prospective spouses having completed just junior high school or elementary school, and economic factors manifested as poverty.⁵ This is undoubtedly a matter of great concern for all members of the Bojonegoro Regency community and the Bojonegoro Regency Government, in order to ensure that this phenomena is not neglected.

The issue of child marriage has been addressed by various initiatives and measures, carried out by both the central government and local authorities, including the Bojonegoro Regency Government. To reduce the occurrence of child marriages and tackle related problems in households, the Bojonegoro Regency Government has enforced Bojonegoro Regent Regulation Number 19 of

<https://www.kemennppa.go.id/index.php/page/read/29/4357/kemen-pppa-perkawinan-anak-di-indonesia-sudah-mengkhawatirkan>.

³ Bashori Bashori and Septi Gia Aprima, "Analisis Kebijakan Program Wajib Belajar 12 Tahun Di Provinsi Lampung," *Produ: Prokurasi Edukasi-Jurnal Manajemen Pendidikan Islam* 1, No. 1 (2019), p. 20.

⁴ Rudi Mayandra, "Regulation of Marriage Dispensation Against Marriage of Children Under the Age of Post Decision of The Constitutional Court Number 22 / PUU-XV / 2017," *Syariah: Jurnal Hukum dan Pemikiran* 20, No. 2 (2020). Sketsa Bengawan, "532 Anak Di Bojonegoro Ajukan Dispensasi Nikah, 4% Hamil Sebelum Nikah," *Berita, Jtv Bojonegoro*, January 23, 2023, <https://www.jtvbojonegoro.com/2023/01/532-anak-di-bojonegoro-ajukan.html>.

⁵ Imam Nurcahyo, "Pendidikan Dan Kemiskinan Faktor Utama Penyebab Terjadinya Perkawinan Anak Di Bojonegoro," *Artikel, PA Bojonegoro*, July 11, 2022, <https://www.pa-bojonegoro.go.id/pendidikan-dan-kemiskinan-faktor-utama-penyebab-terjadinya-perkawinan-anak-di-bojonegoro>.

2023. This ordinance is specifically aimed at offering incentives to potential brides residing in Bojonegoro Regency. The implementation of Regent's regulation no. 19 of 2023, which offers incentives for potential brides in Bojonegoro Regency, prompts the inquiry as to whether this legislation can successfully tackle the inadequate advancement in diminishing rates of child marriage.⁶

Moreover, the government has formally enforced rule no. 16 of 2019, which modifies Law Number 1 of 1974 concerning Marriage. The minimum age for women to marry has been increased from 16 to 19 years old. The purpose of this modification was to synchronize the age requirement for women with that of men, based on the belief that by this age, both sexes have attained the physical and emotional development essential for a prosperous marriage and the generation of robust and superior progeny.⁷

However, the Qur'an and hadith do not specifically state the minimum age requirement for marriage. The Muslim community generally acknowledges that age is not the sole determinant of marriage in Islam, as supported by the argument of the Prophet Muhammad. The prophet married Aisyah RA. at the age of 6 and established a domestic partnership as the husband and the wife at the age of 9.

تَزَوَّجَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَنَا ابْنَةُ سِتِّ سِنِينَ بِمَكَّةَ، مُتَوَفَّى حَدِيحَةَ، وَدَخَلَ بِي وَأَنَا ابْنَةُ تِسْعِ سِنِينَ بِالْمَدِينَةِ.⁸

Meaning: The hadith states that as narrated by Aisyah “The Prophet Muhammad, PBUH, married me when I was six years old in Makkah, after the death of Khadijah. He consummated the marriage when I was the daughter of nine years in Madinah” (Narrated by Bukhari).

The Hadith regarding the marriage of Aisyah ra is frequently cited as a point of contention in discussions concerning the permissibility of child marriage, as well as a justification for opposing government rules that establish minimum age limitations for marriage. The purpose of this hadith is to examine the Islamic legal perspective on Bojonegoro Regent Regulation Number 19 of 2023, which offers incentives for delaying the age of marriage, with a minimum age requirement of 21 years.

Perina Village has served as the location for numerous research studies on this issue, as documented by Siti, et.al. These investigations have discovered that

⁶ Peraturan Bupati Bojonegoro Nomor 19 Tahun 2023 Tentang Pemberian Insentif Calon Pengantin Di Kabupaten Bojonegoro.

⁷ Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

⁸ Muhammad bin Isma'il Al-Bukhari, *Sahih Al-Bukhari* (Beirut: Dar Tuq Al-Najat, 1422), p. 56.

early marriage persists in the village, and the majority of the people is receptive to it.⁹ Furcony unequivocally asserted that early marriage is still prevalent in Indonesia, with individuals under the age of 18 being affected. This practice contradicts the rights of children to get education, experience enjoyment, maintain good health, and express themselves freely.¹⁰

Sufa'at studied the marriage dispensation decisions at the Purwokerto Religious Court in 2018, totaling 108 decisions. There are two main factors that make judges allow children to marry through a marriage dispensation. The first factor that was taken into consideration by the panel of judges was the close relationship between the prospective bridegroom and the prospective bride, which caused the parents of each prospective bride and groom to worry that their child would fall into harmful things. The second reason assessed by the panel of judges was that the bride and groom were pregnant.¹¹

Child marriage continues to be widespread in Indonesia, with the negative consequences of early marriage being more noticeable than the good ones. The main purpose of Law no. 16 of 2019, which establishes a minimum age for marriage, is to safeguard the rights of children and guarantee their physical and emotional welfare, thereby reducing the adverse effects.¹² Based on our reviews of literature, no previous studies have been identified that investigate Bojonegoro regulation Number 19 of 2023.

Abd Ghofar's research highlights that the *hadith* regarding the Prophet PBUH and Sayyidah 'Aisyah's early marriage align with the idea of *maqashid* and were suitable for that era.¹³ This research remains within the realm of normative analysis and has not yet delved into empirical investigation. Fauziatu Shufiyya presented findings from her research indicating that early marriage has adverse effects on societal order and is detrimental to the individuals involved, as supported by a *hadith* and psychological analysis.¹⁴ Siswanto, et. al. argue that a comprehensive understanding of early marriage should take into account its socio-historical background, in order to align the hadith on early marriage with

⁹ Siti Sanisah, et. al., "Menekan Angka Pernikahan Dini Melalui Awiq-Awiq Dise," *JCES (Journal of Character Education Society)* 5, No. 1 (2022).

¹⁰ Furcony Putri Syakura, "Pernikahan Dini Dan Upaya Perlindungan Anak Sesuai Hukum Positif Yang Berlaku," *Jurnal Pro Hukum: Jurnal Penelitian Bidang Hukum Universitas Gresik* 12, No. 3 (2023).

¹¹ Syufa'at Syufa'at, "Marriage Dispensation in Underage Marriage: A Case Study at the Purwokerto Religious Court," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, No. 1 (2022).

¹² Furcony Putri Syakura, "Pernikahan Dini Dan Upaya Perlindungan Anak."

¹³ Abdul Gaffar, et.al., "Kedewasaan Usia Perkawinan Perspektif Hadis Nabi Muhammad Dengan Pendekatan Interkoneksi Masalah," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, No. 1 (2021), p. 83–98

¹⁴ Fauziatu Shufiyyah, "Pernikahan Dini Menurut Hadis Dan Dampaknya," *Jurnal Living Hadis* 3, No. 1 (2018), p. 47.

contemporary circumstances and relevant rules.¹⁵ Some of this study exclusively concentrates on the normative domain and has not addressed the empirical aspect. This study investigates the legal effectiveness theory and *ma'anil hadith* theory in relation to the regent's restrictions on offering incentives to those who choose to delay their marriage age. The analysis is based on field data.

This is empirical legal research that utilizes the Islamic law theory and the theory of *hadith* interpretation.¹⁶ The primary data sources were acquired through interviews and literature reviews. The researcher conducted comprehensive interviews with the Bojonegoro Regency Government and the local people, particularly potential brides and grooms, regarding the execution of this law. In addition, the material examined consists of *hadith* that specifically focus on early marriage, particularly *hadith* concerning the marriage of the Prophet PBUH with *Sayyidah 'Aisyah ra*, along with relevant journal articles on this topic. Having collected all relevant data, the researcher refers to Soerjono Soekanto's theory on legal effectiveness to assess the effectiveness of the regulation,¹⁷ In addition, the researcher also refers to the *ma'anil hadith* theory, employing three interpretation techniques: textual, intertextual, and contextual. This approach aimed to examine the relationship between the regent's regulations and the teaching of the *hadith* on early marriage of *Sayyidah 'Aisyah RA*. This allows researchers to provide comprehensive analysis of the issue being discussed

The Negative Impacts of Child Marriage from the Perspective of the Islamic Law and Legal Systems

The Indonesian government is now implementing a strategy to achieve the Golden Indonesia program by 2045. President Joko Widodo emphasized the significance of enhancing human resources. In addition, by 2030, Indonesia will experience a demographic bonus. Achieving a Golden Indonesia 2045 is possible if the government possesses highly qualified human resources and effectively aligns its plan with the diverse economic resources available locally in Indonesia.¹⁸ In her work, Diah Noval Lestari suggests that achieving a prosperous

¹⁵ Siswanto, et.al., "Kajian Hadist Tentang Urgensi Kemampuan Dalam Menikah (Analisis Permasalahan Pernikahan Usia Dini Di Indonesia)," *Dirayah : Jurnal Ilmu Hadis* 3, No. 1 (2022).

¹⁶ Zainuddin Ali, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, 2014. M. Syuhudi Ismail, *Hadis Nabi yang Tekstual dan Kontekstual: Telaah Ma'ani al-Hadis tentang Ajarah Islam yang Universal, Temporal dan Lokal*, Jakarta: Bulan Bintang, 1994.

¹⁷ Soerjono Soekanto, *Efektivitas Hukum dan Peranan Sanksi*, Bandung: Remaja Rosda, 1985. Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Jakarta: Rajagrafindo Persada, 2007.

¹⁸ Anak Agung Gede Oka Wisnumurti, et.al., "Government Policy of Indonesia To Managing Demographic Bonus and Creating Indonesia Gold In 2045," *Journal of Humanities And Social Science* 23, No. 1 (2018), p. 23–34.

Indonesia by 2045 can be accomplished through a comprehensive and equitable approach to human development that takes into account gender equality. and the advancement of Indonesian youngsters whose rights are ensured.¹⁹ Given the present circumstances, Indonesia's human development efforts should prioritize the well-being and education of early children and toddlers. This is crucial because the future of the Indonesian nation in the next decades will be shaped by the actions and abilities of the teenagers who will eventually assume leadership roles.

According to the latest UNICEF data from the end of 2022, Indonesia is presently positioned as the 8th country globally with the highest incidence of child marriage. Within the ASEAN regions, Indonesia holds the second position, with about 1.5 million reported cases.²⁰ Professor Emil Salim, a member of the steering committee for the National Innovation Research Agency (*Badan Riset Nasional/BRIN*), stated that attaining a Golden Indonesia by 2045 will be challenging if individuals get married at a young age.²¹ Child marriage refers to the act of marrying someone who is still a minor.²² The definition of a child, as stated in UU no. 23 of 2002 in connection with Law no. 35 of 2014 concerning Child Protection, include those who have not yet reached the age of 18, including unborn children”.²³ Child marriage refers to the act of being married before reaching the legally or socially accepted age. According to Article 7 of Law Number 16 of 2019, which amends Law Number 1 of 1974 on marriage, individuals can only get married if they are at least 19 years old.

An increasing number of parties have become cognizant of the perils associated with child marriage, as evidenced by the proliferation of commendable practices and initiatives undertaken by many stakeholders to combat this issue. The Indonesian government demonstrates its dedication to diminishing the prevalence of underage weddings by implementing amendments to Law Number

¹⁹Diah Noval Lestari and Nunik Retno Herawat, “Peran Pemerintah Daerah Kabupaten Lamongan Dalam Upaya Mengurangi Angka Pernikahan Dini Tahun 2021,” *Journal of Politic and Government Studies* 12, No. 1 (2022), p. 392–416.

²⁰Masruroh, “Unicef: Indonesia Peringkat 8 Dunia Banyaknya Kasus Pernikahan Dini,” *Kumparan.Com*, 2023, <https://kumparan.com/beritaanak-surabaya/unicef-indonesia-peringkat-8-dunia-banyaknya-kasus-pernikahan-dini-20emlxg2fyl/full>.

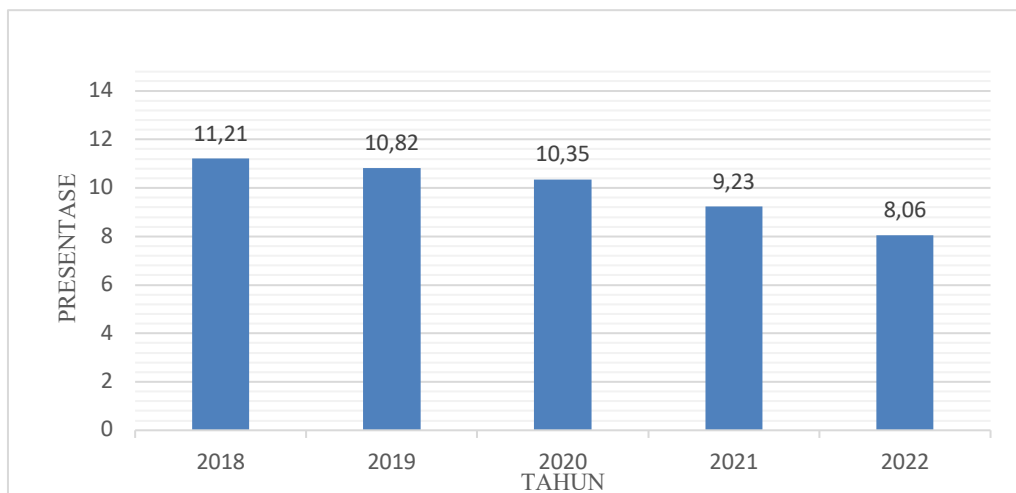
²¹Kemenpppa.Go.Id, “KEMENPPPA : Perkawinan Anak Di Indonesia Sudah Mengkhawatirkan,” *Kemenpppa.Go.Id*, 2023, <https://www.kemenpppa.go.id/index.php/page/read/29/4357/kemen-pppa-perkawinan-anak-di-indonesia-sudah-mengkhawatirkan>.

²²Rudyanti Dorotea Tobing, “Prevention of Child Marriage Age in The Perspective of Human Rights,” *Sriwijaya Law Review* 2, No. 1 (2018), p. 1–17.

²³Hasyim Sofyan Lahilote, et.al., “Judge's Dilemma in Marriage Dispensation in the Religious Court,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 22, No. 1 (2022). Irma Suryanti and Dewa Gde Rudy, “Disfungsi Dispensasi Kawin Dalam Upaya Pencegahan Perkawinan Anak,” *Jurnal Magister Hukum Udayana* 10, No. 4 (2021), p. 782–794.

16 of 2019, which pertains to Law Number 1 of 1974 regulating Marriage. This endeavour has had a beneficial effect on diminishing the prevalence of child marriages in Indonesia. Statistics indicate a decline in the prevalence of child marriages for the period of 2018-2022.

Picture 1: Percentage of females aged 20-24 in Indonesia who are married or cohabiting before reaching the age of 18



Source: *Central Bureau of Statistics*.

The image depicted above exemplifies the government's earnestness in addressing the matter of child marriage. According to Subandi Sardjoko's foreword in the article "Prevention of Child Marriage Acceleration Cannot Be Delayed," the government aims to reduce the child marriage rate from 11.2 percent in 2018 to 8.74 percent by 2024, as outlined in the 2020-2024 National Medium Term Development Plan (*Rencana Pembangunan Jangka Menengah Nasional/RPJMN*).²⁴ This has surpassed 0.68 percent of the government's projected accomplishments for 2024.

Nevertheless, the decline in child marriage rates has not yet occurred in Bojonegoro Regency, in which Bojonegoro Regency ranks 9th out of 38 regencies/cities in East Java in terms of the number of marriage dispensation applications, with a total of 532 applications. In addition to that, the occurrence of child marriage in Bojonegoro Regency during the past three years has shown

²⁴Badan Pusat Statistik, "Pencegahan Perkawinan Anak," *Percepatan Yang Tidak Bisa Ditunda. X-Xii*, 2020.

fluctuations.²⁵ The subsequent information is sourced from the Ministry of Religious Affairs as reported by Jawapos.com:

Table 1: The rates of child marriage in Bojonegoro Regency

Year	Early Marriage Cases
2020	549 cases
2021	583 cases
2022	557 cases

Source: *Ministry of Religious Affairs in Jawapos.com*

Table 1 shows the incidence of child marriages has decreased in the previous years, although a significant reduction has not yet been observed. The prevalence of child marriage remains significantly high in Bojonegoro Regency, leading to several consequential issues such as a rise in divorce rates, an increase in young widows, and a high incidence of stunting among children in the region. According to the Indonesian Commission for the Protection of Children and Women, child marriage in Indonesia is a significant problem that can be considered a "National Disaster." This is not an overstatement because child marriage carries numerous risks, including higher rates of maternal and infant mortality, negative impacts on mental health, stunted growth, malnutrition, increased risk of cervical cancer, osteoporosis, disability, and a higher likelihood of experiencing domestic violence leading to legal termination of a marriage.²⁶

The issue of child marriage in Indonesia, particularly in Bojonegoro Regency, presents both advantages and disadvantages in terms of its legal execution. The Islamic law allows for child marriage based on four justifications. Firstly, there are theological justifications for early marriage, such as the hadith regarding the marriage of *Sayyidah 'Aisyah RA* and the interpretation of Surah Al-Thalaq verse 4 in the Al-Qur'an. These sources suggest that there is a waiting period (*iddah*) for women who have not yet menstruated, implying that this

²⁵Kinsatker.Badilag.Net, "Rekap Data Jenis Perkara Dispensasi Kawin Tahun 2022 Wilayah Hukum Pta Surabaya," Kinsatker.Badilag.Net, N.D., [Http://Kinsatker.Badilag.Net/Jenisperkara/Perkara_Persatker_Detail/362/51/2022](http://Kinsatker.Badilag.Net/Jenisperkara/Perkara_Persatker_Detail/362/51/2022).

²⁶Liana Liana, "Dispensasi Nikah, Maju Kena Mundur Kena, Islam Wujudkan Generasi Emas," Media Daring, *Sinar Pagi News*, March 13, 2023, [Https://Sinarpaginews.Com/Ragam/61598/-Dispensasi-Nikah-Maju-Kena-Mundur-Kena-Islam-Wujudkan-Generasi-Emas-.Html](https://Sinarpaginews.Com/Ragam/61598/-Dispensasi-Nikah-Maju-Kena-Mundur-Kena-Islam-Wujudkan-Generasi-Emas-.Html).

waiting period also applies to child marriages. Secondly, there are moral, societal, and cultural justifications for this action, specifically as a means to promote chastity and deter inappropriate behavior during a child's formative years. Furthermore, there are health benefits associated with early childbirth, namely in terms of mitigating the likelihood of developing breast cancer and uterine cancer. Furthermore, child marriage can expedite the desired growth of the Muslim population, as envisioned by the Prophet.²⁷

While these arguments cannot be entirely faulted, they also cannot be considered universally relevant in the present-day environment. Child marriage was a prevalent practice in the past, and it was also endorsed by Prophet Muhammad, accompanied by his wife *Sayyidah* Aisyah RA. Undoubtedly, the context is suitable for that time period. Nevertheless, if it is introduced into the present time, it will undoubtedly acquire a distinct framework and necessitate modifications. The implementation of a minimum marriage age of 19 years, as stated in Article 7 of Law Number 16 of 2019, which amends Law Number 1 of 1974 regarding Marriage, aims to provide advantages for children in the current era by allowing them to fully utilize and complete the mandatory 12-year education period, and thus the contemporary communities, particularly in Indonesia, cannot directly replicate the marriage customs of Prophet Muhammad PBUH.²⁸

Bojonegoro Regent's Regulation on Prospective Bride Incentives

This regulation is a recent enactment that was approved on May 26, 2023, by the Regional Secretary of Bojonegoro Regency. The primary purpose of this legislation is to provide assistance for the program aimed at reducing the prevalence of child weddings. It also serves to assist with financial expenses and to show recognition and appreciation for potential brides and grooms who adhere to the minimum legal age for marriage. This regulation encompasses 20 legal foundations, commencing from Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia to Bojonegoro Regent Regulation Number 77 of 2021, which pertains to the Position and Work Procedures of the Women's Empowerment Service, Child Protection, and Family Planning in Bojonegoro Regency.

This regulation consists of 6 chapters and 6 articles. Chapter I, titled "General Provisions," consists of one item that has 15 definitions of terminology utilized in this rule. In Chapter II, titled "Aims and Objectives," Article 2,

²⁷ Fadli Andi Natsif, "Problematika Perkawinan Anak (Perspektif Hukum Islam Dan Hukum Positif)," *Jurnal Al-Qadaw: Peradilan Dan Hukum Keluarga Islam* 5, No. 2 (2018), p. 182.

²⁸ M. Mufid Syakhlani, "Dilema Perkawinan Usia Dini: Antara Tradisi Dan Regulasi," *Muharrrik: Jurnal Dakwah Dan Sosial* 2, No. 2 (2019), p. 143–144.

paragraph (1) outlines the aim of the regulations, while paragraph (2) provides a full discussion of the objectives of this regulation. Chapter III, titled "Targets and Criteria for Incentive Recipients," consists of one article. Chapter IV, titled "Amount of Incentives," consists of one article and two paragraphs. Chapter V, titled "Implementation Procedures," consists of one item that is divided into four paragraphs. Chapter VI, titled "Closing Remarks," is the final chapter of the book and consists of only one chapter. Moreover, this Regent's Regulation is not merely a regulation lacking implementation.²⁹

The Bojonegoro Regency Government has demonstrated the successful implementation of rapid execution through its support to the Women's Empowerment, Child Protection, and Family Planning Services. This support is provided through the issuance of Technical Instructions for Providing Incentives for Prospective Brides in Bojonegoro Regency. The Bojonegoro Government hopes that the Technical Instructions (Juknis), consisting of 5 chapters, would effectively address the concerns of the community, namely potential brides and grooms who fulfill the eligibility criteria to obtain this incentive.

Regent Regulation no. 19 of 2023, titled "Providing Incentives for Prospective Brides in Bojonegoro Regency," is the inaugural regulation in Indonesia. It is a novel initiative introduced by the Regent of Bojonegoro with the objective of, among others, mitigating the prevalence of early marriage and fostering the development of healthy children who are not affected by stunting. The regulation sets specific criteria for determining the appropriate age for marriage, marriages process, and discouragement of premature divorce. The rationale behind Regent Regulation No. 19 of 2023 stems from the fact that numerous marriages occurred below the age stipulated by government regulation No. 16 of 2019. Consequently, divorce rates have surged as individuals feel mentally unprepared for such commitments.

Regent Regulation No. 19 of 2023 was established on May 26, 2023 and came into effect on July 1, 2023. The implementation of this regulation is currently being managed by the Bojonegoro Regency team, which means that the distribution of cash to the intended recipients requires a formal procedure. Consequently, only individuals who got married on or after July 1, 2023, are eligible to receive the Bride and Groom Incentive. Those who were previously married are not eligible for this incentive.

To request temporary information, individuals should visit the Family Planning Hall and provide the following documents: Family Card, Resident Identity Card, Marriage Certificate for married individuals, and Marriage Application Letter for those who are not yet married.

²⁹ Peraturan Bupati Bojonegoro Nomor 19 Tahun 2023 Tentang Pemberian Insentif Calon Pengantin Di Kabupaten Bojonegoro.

After verification by the district, the submission is forwarded to the Regency. The distribution of funds is determined by the Regency, which consists of five teams. The funds are distributed through a Bank Jatim account. The KUA is the party responsible for the registration process. DP3AKB Bojonegoro and KOMINFO Bojonegoro partnered to develop a marriage eligibility application that is integrated with the Village Information System (SID). This application was recently tested on July 20, 2023, and is currently awaiting a functional application system. In addition, the distribution of money is also pending until a legitimate application system is in place. The purpose of this application is to facilitate public access and enable easy monitoring of the progress of the Bride and Groom Incentive application process. This program is downloadable on individual cell phones and is restricted to a single user account.

Responsibilities of Sugihwaras District Family Planning Counselors is to provide verification incentives. Thus far, no community has obtained the incentive aid due to the recent implementation of this rule, which is now in the application process. The distribution of funding is managed by a specialized team from the Regency. The implementation process also includes Department of Population and Civil Registry (*Kependudukan dan Catatan sipil/DUKCAPIL*) and Communication and Information (*Komunikasi dan Informasi/KOMINFO*), while the sub-district is responsible for verifying the data. Child marriage is not promoted by any particular culture or norms in the society. The regent said that this regulation receives varied responses. Some expressed satisfaction, but a minority remained dissatisfied due to the restriction on marriage for those under the age of 19.³⁰

This initiative is a unique product of Bojonegoro aimed at mitigating the under-age marriage rate, as part of the broader endeavor to curb the prevalence of under-age marriages. In Indonesia, the absence of prior legislation on this matter means there is no existing framework to rely on. Consequently, the team must meticulously and thoroughly develop this regulation to ensure its proper execution and prevent any potential issues. The prevalence of early marriage in Bojonegoro is relatively high. While there has been a slight decrease in the past two years, it has not been significant. This program aims to further accelerate the drop-in early marriage rates.

This regulation is an innovative policy initiated by the Regent and subsequently formalized as the Bojonegoro Regency government policy. It is primarily driven by the need to address the persistently high rate of child marriage and the alarming prevalence of stunting, both of which require urgent attention. Furthermore, the Bojonegoro Regency Government has expressed its positive

³⁰ Interview with Supriyadi, a Family Planning Counselor at Sugihwaras Subdistrict. July 21, 2023.

intention to recognize and support individuals in Bojonegoro who choose to marry at the appropriate age as determined by the government. In recognition of their compliance with this criterion, the government offers financial assistance to the residents of Bojonegoro Regency. In order to prevent child marriages, it is crucial to allocate the rewards towards essential household needs. By doing so, individuals who are not of marriageable age will not be able to request these rewards. The ultimate goal is to prevent stunting, and one of the strategies to achieve this is by promoting marriage at the appropriate age. This approach is supported by the presence of well-organized administration and accurate population data.

According to the 2021 and 2022 Diska (Marriage Dispensation) data published by PA, the incidence of child marriage in Bojonegoro has decreased in the past two years. In 2021, there were 608 cases, while in 2022, there were 532 cases, indicating a reduction of approximately 13%. This positive outcome can be attributed to the implementation of various activities and programs. The Bojonegoro Regency government, specifically the DP3AKB Service, is working to reduce child marriage rates. However, DP3AKB cannot tackle this issue alone and requires the involvement of various components, groups, organizations, government agencies, and the private sector. The objective is to reduce child marriage. One of the initiatives already implemented is the establishment of a Women's Empowerment and Child Protection (*Pemberdayaan Perempuan dan Anak/PPA*) Task Force. Furthermore, there is the Marriage Age Maturation Activity Program, which involves a partnership with schools and the PIKR group in the hamlet.³¹

According to one academic, the regulations made and ratified by the regent were very good and did not violate the rules of Islamic law. Before making regulatory policies, the government has certainly studied and researched the good and bad impacts. The stipulation of regulations for providing incentives to prospective brides and grooms is an effort to prevent early marriage which has negative impacts. Many studies state that marriage at an early age causes many problems in the household. Therefore, the regent's policies and regulations are very good and must be respected. When the government sets a policy on the lowest age for marriage for women over 19 years and for men over 21 years, then this policy must be obeyed, and in religion we must also obey the decisions of the legitimate government. Moreover, these regulations contain *maslahah* and prevent *madharat*.³²

³¹ Interview with Hadi, DP3AKB (one of team members for Preparing Regulations for the Incentive Program for Prospective Brides in Bojonegoro Regency), July 21, 2023.

³² Interview with Dwi Fidayanti, an academic, Malang, May 2024.

The Efficacy of Law Enforcement in Enforcing the Bojonegoro Regent's Regulations

This research employs Soerjono Soekanto's theory of law enforcement effectiveness to assess the legal efficacy of the regent's regulations. The theory identifies five key factors: legal factors, law enforcement factors, facilities factors, community factors, and cultural factors. These five characteristics serve as implicit benchmarks for evaluating the efficiency of current law enforcement.³³ The initial determinant is the legal aspect. The law refers to legislation that is tangible and can be characterized as overarching regulations established by the central or regional government, which are legally binding and have enduring legal authority.³⁴ The legal aspect encompasses Bojonegoro Regent Regulation Number 19 of 2023, which pertains to the provision of incentives for bride candidates in Bojonegoro Regency. This regulation is an official product of the Regional Government of Bojonegoro Regency.

The efficiency of legal criteria in Bojonegoro Regent Regulation Number 19 of 2023 concerning Providing Incentives for Prospective Brides in Bojonegoro Regency is determined based on six concepts, which are as follows:

1. The law does not have retroactive application. The regulations imposed by the regent in Bojonegoro only pertain to prospective brides and grooms in Bojonegoro marry after the regulation comes into effect. Upon careful examination, the day of the implementation will fall subsequently to May 26, 2023.
2. Legislation enacted by a superior governing body holds a superior status. Within this framework, the regent's regulations, which are part of the regional regulations at the district/city level, have the lowest position in the hierarchy, as stipulated by Article 7 paragraph (1) of Law Number 12 of 2011 about Legislation. If there are regulations that contradict higher-level regulations, the regional regulation becomes invalid.
3. Specific legislation supersedes general legislation enacted by the same policymakers. This regulation on incentives is specific and disregards the general regulations, specifically Bojonegoro Regent's Regulation Number 16 of 2021, which provides guidelines for grants and social assistance funded by the regional budget. This regulation has been amended by Bojonegoro Regent's Regulation Number 38 of 2022, which modifies the guidelines mentioned in Bojonegoro Regent's Regulation Number 16 of 2021. In addition, there are broader regulations, including Bojonegoro Regent Regulation Number 77 of 2021, which pertains to the roles and

³³ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi*, p. 9.

³⁴ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi*, p. 11.

procedures of the Women's Empowerment Service, Child Protection, and Family Planning in Bojonegoro Regency.

4. The subsequent legislation nullifies the preceding legislation. This regulation by the regent introduces incentives for potential brides and grooms. It is a novel and unique policy, as there are currently no other statutory regulations in place.
5. Legal statutes are not subject to challenge. The goal of this concept is to establish the validity and permanent legal force of the regent's regulations regulating the supply of incentives for potential brides and grooms in Bojonegoro, ensuring that their contents and implementation cannot be disputed. However, if a contradiction arises between the aforementioned laws and regulations, it can be brought to the Supreme Court for examination.
6. Laws serve as guidelines for promoting both spiritual and material well-being within the society and for people, specifically by upholding and rejuvenating them. The Bojonegoro regent's policies, which provide incentives to prospective brides and grooms, provide as tangible evidence of genuine reform and innovation in addressing the issues of underage marriage and the financial challenges faced by newlywed families.

The second factor pertains to law enforcement personnel. The law enforcers referred to are the individuals or groups responsible for creating and enforcing the law. The law enforcer responsible for the creation of Bojonegoro Regent Regulation Number 19 of 2023, which provides incentives for bride candidates in Bojonegoro Regency, is the Bojonegoro Regency Government under the leadership of the Regent of Bojonegoro, Mrs. Dr. Hj. Anna Mu'awanah, M.H., is the party responsible for implementing this regulation. The Bojonegoro Women's Empowerment, Child Protection and Family Welfare Service (DP3AKB) is the organization in charge of carrying out this task. Both parties were analyzed, namely their ideal role and normative role, and then the role that was truly performed (genuine role).

Below is a detailed description of the analysis of both:

1. Law enforcement personnel from the Bojonegoro Regency authorities

The primary responsibility of a Bojonegoro Regent and their staff is to fulfill an ideal role, which is based on theoretical legislation. In accordance with Article 12 paragraph (2) letters a and h of Law Number 23 of 2014 concerning Regional Government, the Regent of Bojonegoro has fulfilled his responsibilities pertaining to two obligatory regional autonomy issues that are unrelated to basic services. These matters specifically involve women's empowerment, child protection, and family planning. This fact has been unequivocally demonstrated

by the publication of a regent's decree concerning incentives for potential brides and grooms in Bojonegoro.

The Regent of Bojonegoro has actively implemented the regent's regulations in a practical manner or (actual role). This is demonstrated by the widespread and appealing dissemination of regulations to the public through the distribution of visually engaging information about these regulations. Subsequently, the regent delegated the responsibility of implementing this regulation to his subordinates from the Bojonegoro Women's Empowerment, Child Protection and Family Welfare Service (DP3AKB). He displayed his role through effective leadership by convening various stakeholders, including Mrs. Asda III, Asda I, Kominfo, inspectorate, BPKAD, Legal Section, DP3AKB Team, Kominfo Team, and Head of the Communications and Information Service, to discuss the implementation of marriage capability application facilities for this program.

2. The law enforcement agency responsible for women's empowerment, child protection, and family protection in Bojonegoro

The second law enforcer is the entity responsible for carrying out the law is the Department of Women's Empowerment, Child and Family Protection. The Bojonegoro DP3AKB Institution fulfills its responsibilities in accordance with Bojonegoro Regent Regulation Number 77 of 2021, which outlines the positions, organizational structure, job descriptions, functions, and work procedures of the Bojonegoro Regency Women's Empowerment, Child Protection, and Family Planning Service.

The practical purpose of DP3AKB Bojonegoro, as evidenced by our interview, is to fulfill the Regent's mandate by diligently creating guidelines in the form of Technical Instructions (*Juknis*) and Implementation Instructions (*Juklak*) for the application of incentive funds. Nevertheless, due to the recent implementation of this law, the community has not yet received any support. However, they have already initiated the registration and verification procedures in each sub-district.

The third aspect pertains to the quality and availability of the physical infrastructure and amenities. Soerjono Soekanto defines this component as encompassing not just tangible goods, but also the human resources that provide support and are actively involved. Regarding the physical resources available, there are various infrastructure facilities such as posters, leaflets, stationery, and the *Cakap Nikah* Application. The Ministry of Information (*Kominfo*) in Bojonegoro Regency has also developed this application, which is integrated with the Village Information System (*Sistem Informasi Desa/SID*). Subsequently, the resources and methods are provided by the law enforcement agencies themselves. The Regent, DP3AKB, and all affiliated parties are collaborating to implement

the regulations on incentives for brides and grooms in a methodical and complete manner.

The fourth factor pertains to the communal aspect. This idea posits that sociocultural variables are manifested through the societal perception of the law. In the framework of this research, the people of Bojonegoro hold various perspectives on Bojonegoro Regent Regulation Number 19 of 2023, which pertains to the provision of incentives for prospective brides in Bojonegoro Regency. Initially, an individual acknowledged that they were unable to get rewards due to their spouse being under the legal age of 18. This aligns well with the historical context that led to the creation of this regent's decree. By implementing an age restriction for application, it is expected that the inhabitants of Bojonegoro will be encouraged to delay their marriages until they reach a suitable age, in order to be eligible for rewards.

The cultural component is the fifth factor. This component is intricately linked to the societal ideals that are in effect.³⁵ Child marriage in Bojonegoro is not the most concerning cultural practice. In terms of ranking, the number of marriage dispensation applications in Bojonegoro is lower compared to other districts, such as Malang Regency in East Java. Nevertheless, in line with the proverb "Prevention is better than cure," the Bojonegoro government has been vigilant in monitoring the escalating prevalence of child marriage in Bojonegoro. Consequently, they have implemented proactive measures by enacting Bojonegoro Regent Regulation Number 19 of 2023, which aims to provide incentives for prospective brides in Bojonegoro Regency.

The Bojonegoro government's concern on the prevalence of child marriage is not merely speculative, but rather grounded in reality. In regions with limited human capital, there are other alternatives to pursuing education, such as arranging child marriages. This phenomenon has developed into a cultural norm due to the pervasive presence of poverty within the society. Poverty is often cited as a justification for child marriage, as it is believed that marrying off children will alleviate the economic burden by enabling them to earn their own sustenance with a partner. It is worth noting that many potential partners in these circumstances face similar conditions, indicating that the overall conditions are not significantly different. If this practice persists, it could lead to a perpetuating cycle of hardship and disadvantage. Child marriage was initially intended to alleviate the economic burden on families. However, it has actually led to the emergence of new poverty and health issues, such as malnutrition and stunting. Furthermore, the economic situation did not improve due to the high level of skills required, which made it challenging to develop human resources. Participate in the realm of employment.

³⁵ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi*, p. 59.

Examining the Criteria for Determining the Appropriate Age for Marriage from a Hadith Perspective

Scholars in the field of classical *fiqh* literature, particularly those belonging to the four major schools of thought, hold varying viewpoints regarding the appropriate age for marriage. The Shafi'i school of thought advocates for a marriage age of 15 years, the Abu Hanifah school of thought recommends 19 years for women and 17 years for men, and the *Maliki* school of thought suggests 18 years.³⁶ Nevertheless, there is no explicit prohibition against marrying girls who are below the legal age, as indicated by the following hadith: The Prophet Muhammad PBUH married me when I was six years old in Makkah. At that time, Khadijah had passed away. He consummated the marriage when I was nine years old in Madinah (Narrated by Bukhari).

Within certain literary works, the announcement of the Prophet's marriage to 'Aisyah RA was received by the people of Mecca as an ordinary and unremarkable occurrence. It did not stir up any controversy within the society, and even the Prophet's adversaries saw no grounds for debate. In fact, it did not even enter anyone's thoughts. Some of the Prophet Muhammad's adversaries exploit his marriage to 'Aisyah RA as a means to defame the Islamic faith, using false allegations and mockery. However, they fail to seize the chance to defame the religion, even if it means simply resorting to lies and fabrications.³⁷

Therefore, it can be concluded that the social and cultural circumstances of the Arab society during that period indicated that early child marriage was not considered taboo and did not cause any issues within social circles at that time. Nevertheless, in light of the present circumstances characterized by diverse habits among individuals, it is evident that numerous domestic issues stem from the youthful age of marriage. In fact, the government has implemented a minimum age requirement for marriage to address this concern. Consequently, it is inappropriate to cite this hadith in support of such practices.

In addition, 'Aisyah RA also recounted the hadith in which she stated that she was wedded by Rasulullah PBUH due to divine instructions from Allah SWT, sent to her through the angel Gabriel in a dream. According to a hadith found in Sahih Bukhari:

³⁶ Nur Ihdatul Musyarrafa, "Batas Usia Pernikahan Dalam Islam; Analisis Ulama Mazhab Terhadap Batas Usia Nikah," *Shautuna*, 3, 1 (2020).

³⁷ Bintu Syathi', *Isteri-Isteri Rasulullah Saw, Translation by Mhm. Al-Hamid Al Husaini*. (Jakarta: Bulan Bintang, 1974), p. 63.

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ لَهَا: أُرَيْتُكَ فِي الْمَنَامِ مَرَّتَيْنِ، أَرَى أَنَّكَ فِي سَرَاقَةٍ مِنْ حَرِيرٍ، وَيَقُولُ: هَذِهِ أَمْرُكَ، فَكَتَيْفَ عَنْهَا، فَإِذَا هِيَ أَنْتِ، فَأَقُولُ: إِنَّ يَكُ هَذَا مِنْ عِنْدِ اللَّهِ يُمُضِيهِ³⁸

Based on the provided information, it is evident that the marriage between the Prophet Muhammad PBUH and Siti 'Aisyah was a unique privilege bestowed upon the Prophet PBUH by Allah SWT. Therefore, this hadith cannot serve as evidence for the permissibility of early-age marriage for all of his followers, as the exceptional privilege granted to the Prophet PBUH cannot be replicated by other men. The age mentioned in the hadith above does not include any legal implications or obligations. It merely serves as historical information or events that occurred to the Prophet and 'Aisyah.

The Hadith on marriage does not explicitly state a specific minimum age requirement. However, it clearly emphasizes the purpose and responsibilities of marriage, highlighting that it is a significant agreement (*mitsaq ghalizh*) between men and women, aimed at establishing a harmonious family and drawing closer to Allah SWT. To attain this objective, thorough preparation, particularly in terms of mental and spiritual readiness, is essential. Ibn Mas'ud's hadith underscores the significance of an individual's capability to handle the challenges of marriage.

يَا مَعْشَرَ الشَّبَابِ، مَنْ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ؛ فَإِنَّهُ لَهُ وَجَاءٌ³⁹.

Meaning: Oh, young people, whoever among you is able to afford marriage, let them get married. And whoever is unable, then let them fast, for it is a means of self-control. (Narrated by Bukhari).

In the mentioned hadith, Rasulullah PBUH uses the term "*syabab*," which is commonly understood to refer to the stage of youth. *Syabab* refers to an individual who has attained sexual maturity and is below the age of thirty. Puberty is a universal phenomenon that typically occurs between the ages of 14 and 17. A significant number of individuals from contemporary generations exhibit physical (sexual) maturity without corresponding mental maturity.⁴⁰

The stages of human growth from infancy to youth are as follows: (1). *Ash-Shobiy* is a young child between the ages of 1 and 2 who is now in the breastfeeding stage; (2). *Ath-Thifl*, resembling a child of kindergarten age; (3). *Al-Mumayyiz*, a child of primary school age, is developing the ability to discern

³⁸ Muhammad Bin Isma'il Al-Bukhari, *Sahih Al-Bukhari*.

³⁹ Muhammad Bin Isma'il Al-Bukhari, *Sahih Al-Bukhari*.

⁴⁰ Muhammad Fauzil Adhim, *Indahnya Pernikahan Dini*, (Jakarta: Gema Insani., 2002), p. 46–47.

between positive and negative aspects; (4). *Al-Murahiqa* refers to individuals who are in the age range of middle school to high school, including children, teenagers, and those now experiencing puberty. As young individuals, *Asy Syabb* and *Al-Fat* can be classified as being in the college-age demographic. According to this hadith, the individuals who were advised by the Prophet to get married were young adults or university students, specifically those who were 18 years old or older. Prior to that period, the Prophet PBUH did not endorse it as he had never summoned individuals from the *Ash-Shabiy* to *Al-Murahiqa* factions.⁴¹

For proponents of child marriage, the term "being able" (*al-ba'ah*) in this hadith refers to the ability to engage in sexual intercourse or to financially support one's future bride or cover the expenses of the marriage. This viewpoint is regarded as an oversimplification of the concept of marriage. The ulama assert that "capable" refers to possessing the highest level of proficiency in all areas relevant to marriage and domestic life, encompassing physical, mental, educational preparedness, as well as the ability to advocate for one's rights and sustain a livelihood. The teachings of this hadith are universally applicable to both genders, encompassing men and women.⁴²

In line with that, Noer Yasin, as a religious figure and academic, explained that the regent's regulations were justified and good for reducing the number of early marriages, but the Islamic rules in the hadith of the Prophet SAW which did not specify a marriage age limit were also correct. Regulations regarding marriage age limits and intensive care for prospective brides who marry according to government regulations, namely women over 19 and men over 21, to provide incentives for prospective grooms aged 21 to 30 years while women aged over 19 to 30 years, regulations is in accordance with conditions in the local environment. So, according to Islamic law, still does not question and limit the age limit for early marriage, even though these rules are good, they still cannot change the rules in Islam. Because the regent's regulations may only be appropriate and valid in certain places under certain conditions.⁴³

The Arabic word "*istatha'a*" carries a more profound connotation compared to "*qadara*". The term "*qadara*" refers to the ability to accomplish a task, even if the outcome is not ideal. On the other hand, "*istatha'a*" encompasses a deeper meaning, involving both energy and capability towards a specific goal. It entails exerting maximum effort, despite the presence of burdens and duties,

⁴¹Siswanto, et.al., "Kajian Hadist Tentang Urgensi Kemampuan Dalam Menikah (Analisis Permasalahan Pernikahan Usia Dini Di Indonesia)," *Dirayah: Jurnal Ilmu Hadis* 3, No. 1 (2020).

⁴² Tim Penulis Rumah Kitab, *Mendobrak Kawin Anak, Membangun Kesadaran Kritis Pencegahan Kawin Anak*, (Jakarta: Yayasan Rumah Kita Bersama, 2018), p. 94.

⁴³ Interview with Noer Yasin, a religious figure and academic, Malang, May 2024.

and facing them with patience.⁴⁴ The fundamental importance of competence is crucial for both men and women when it comes to managing family affairs. The aforementioned hadith further underscores that if they lack the ability, they should exercise self-control over their desires and opinions by observing fasting.

Abdur Rozak explained that the Bojonegoro regent's regulations regarding providing incentives to prospective brides and grooms who meet the requirements are very good because they can reduce marriages at an early age. Marriage at an early age has many negative impacts such as divorce. In his views and observations, many marriages at an early age end in divorce, due to a lack of maturity, both mental and physical. In Islam, this government policy is very good. Hadith and the Qur'an need to be understood with a *maqāṣid al-sharī'ah* approach or the purpose of implementing laws and regulations. If viewed from a *maqāṣid* perspective, the texts in the Qur'an and hadith do not conflict with government regulations. In the Qur'an it is clearly stated that people who marry will be enriched by Allah SWT, so providing this incentive is in accordance with Allah SWT's promise in the Qur'an.⁴⁵

In line with this view, Ali Fakhrudin explained that the regent's regulations were in accordance with religious regulations and were very good, because they could reduce stunting due to early marriage. Early marriage brings and results in many evils. Therefore, this regulation does not conflict with the hadith of the Prophet PBUH. In another hadith, the Prophet PBUH stated that government regulations must be followed and obeyed. In this context, underage marriages that have been determined by the government are invalid. In determining regulations, the government has of course taken into account the good and bad intentions of society.⁴⁶

Therefore, it can be emphasized that according to Islamic law, marriage is only permitted after a person reaches the age of puberty. Puberty essentially develops through many stages of physical development, such as discharge at night during menstruation and menstruation in women. It also includes cognitive maturity, when the individual acquires the ability to differentiate between right and wrong (*'aqil*), and culminates in full maturity (*rusyd*). Recognizing that the Qur'an explicitly states that marriage is a robust union, it follows that the conditions for establishing a strong marital tie can only be met when an individual has reached the age of physical, mental, emotional, and attitudinal maturity, or complete maturity. Within this particular context, the government has established a minimum age requirement of 19 as the threshold at which an individual is considered sufficiently prepared and suitable to engage in home pursuits. The

⁴⁴ Muhammad As-Syarif, *Sabil Al-falah Ila Sunan An-Nikāh*, (Kairo: Maktabah Al-Iman., 2009), p. 10–11.

⁴⁵ Interview with Abdur Rozak, a religious figure and academic, Malang, May 2024.

⁴⁶ Interview with Ali Fakhrudin, a religious figure, Malang, May 2024.

Bojonegoro government requires prospective brides and grooms to be at least 21 years old in order to receive intensive treatment. This age restriction is based on statistics and facts indicating that individuals at this age are stable and fully prepared to engage into a marital union.

Conclusion

Regulation 19 of 2023, issued by the Bojonegoro Regent, aims to provide incentives for prospective brides in Bojonegoro Regency. This regulation is a recent innovation by the Bojonegoro Government, aimed at combating child marriage in the region. This policy is legally effective and has an impact on law enforcement, facilities, society, and culture. The scriptural interpretation of the marriage between the Prophet Muhammad and *Sayyidah 'Aisyah RA* is insufficient to fully comprehend it. In various other *hadiths*, the Messenger of Allah stressed the significance of being adequately prepared to enter into the institution of marriage, which includes attaining mental, financial, and physical maturity, as well as considering the prevailing societal circumstances. Therefore, the laws set by the Bojonegoro regent are in accordance with the teachings of the Prophet Muhammad PBUH and they adhere to the appropriate norms of the hadith message. This research recommends that other regional governments need to make policies like those implemented by the regent of Bojonegoro which have been proven to be effective and in line with Islamic law to reduce the number of early marriages which bring much harm to bridal couples.

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Laws and Rules

- Peraturan Bupati Bojonegoro Nomor 19 Tahun 2023 tentang Pemberian Insentif Calon Pengantin di Kabupaten Bojonegoro.
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Interviews

- Interview with Abdur Rozak, a religious figure and academic, Malang, May 2024.
- Interview with Ali Fakhrudin, a religious figure, Malang, May 2024.
- Interview with Dwi Fidayanti, an academic, Malang, May 2024.
- Interview with Hadi, DP3AKB (one of team members for Preparing Regulations for the Incentive Program for Prospective Brides in Bojonegoro Regency) July 21, 2023.
- Interview with Noer Yasin, a religious figure and academic, Malang, May 2024.
- Interview with Supriyadi, a Family Planning Counselor at Sugihwaras Subdistrict, July 21, 2023.