

## **ANALYSIS OF INCREASING CHILD MARRIAGE IN TEMPE DISTRICT WAJO REGENCY WITH MAQASID SYAR'IAH PERSPECTIVE**

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**Abstract:** *The main problem in this study is how to analyze the increase in child marriage in Tempe District, Wajo Regency, from the Maqasid Syar'iah Perspective? The main problem is then broken down into several sub-problems or research questions, namely: 1) What are the Causes of the Increase in Child Marriage in Tempe District, Wajo Regency? 2) What are the solutions to reduce the increase in child marriage in Tempe District, Wajo Regency? 3) How is Maqasid Syar'iah Perspective on Increasing Child Marriage in Tempe District, Wajo Regency? This type of research is classified as qualitative with the research approach used is a juridical approach, a syar'i approach, and a sociological approach. The data sources of this research are Furthermore, the data collection methods used are observation, interviews, documentation, and reference tracing. Then, data processing techniques and data analysis were carried out through several stages, namely: data collection, data reduction, data presentation, and drawing conclusions. The results of this study indicate that 1) The factors that cause an increase in child marriage in Tempe sub-district, Wajo Regency, are: a) educational factors; b) economic factors; c) cultural factors; d) community mindset factors; e) factors of pregnancy out of wedlock. 2) Solutions in suppressing the increase in child marriage in Tempe District are: a). Provide services in the field of administration including registration of marriage, divorce and reconciliation as well as other records related to the duties and roles of KUA; b) Providing Counseling and Socialization of the Marriage Law; c) Providing services in the field of marriage and sakinah families. 3) Maqasid Sharia perspective on child marriage Whether or not child marriage can be seen from one maqashid point of view, such as hifz al-nasl to avoid adultery. However, it is also necessary to look at other maqashid values so that the sharia maqashid analysis does not overlap. The implications of this research are: 1) For the people of Tempe District, Wajo Regency, to always follow and obey all government regulations, especially regarding Law no. 16 of 2019 concerning marriage. 2) Youths/Teenagers who are members of the Children's Genre Forum Organization or similar communities are expected to be able to support the movement of smart, healthy and conspicuous teenagers marrying at the age of children in collaboration with schools*

*or inter-school and extracurricular organizations to educate all levels of society in particular to students at school about the dangers of getting married at a child age as well as educating government regulations regarding marriage laws, and mutually supporting each other in preventing cases of child marriage. penghulu to socialize and emphasize the importance of marriage according to the age limit that has been determined by law. Both through marriage advice and when invited to religious activities.*

**Keywords: Marriage, Child Marriage, Maqasid Syar'iah**

## INTRODUCTION

Marriage is a very strong contract or *mitsaqan ghalidzan* to obey Allah's commands and carrying it out is worship. Marriage is an agreement whose purpose is to realize the happiness of husband and wife, according to the Civil Code (KUHPerdata), marriage is seen as a civil relationship.<sup>1</sup>

Provisions regarding marriage are regulated in the Civil Code (KUHPerdata) in article 26 that 'the law views marriage only in civil relations'. This implies that a marriage can only be said to be valid if it has met the requirements set out in the Civil Code (KUHPerdata).

Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning marriage in article 7 paragraph (1) 'Marriage is only permitted if a man and woman have reached the age of 19 (nineteen) years.

Determining the age limit for marriage is very important, namely to create family benefits and harmony in the household. The limitation of the age of marriage by the legislators is intended so that the formed household can achieve the purpose of marriage, namely achieving happiness, in fact it is not just happiness for both parents and other families.<sup>2</sup>

Children as the younger generation, are the potential and successor to the ideals of the nation's struggle, children are development capital that will maintain, maintain, and develop existing development results. Therefore, children need protection in order to ensure physical, mental and social growth and development. whole, harmonious and balanced. The position of children in law as legal subjects is determined by the form and system of children as a community group and classified as underprivileged or underage (Law No.23 of 2002 concerning Child Protection).<sup>3</sup>

Indonesia is a country with a high percentage of child marriage in the world, ranking 7 (seven), the highest 2 (two) in ASEAN for child marriage cases after Cambodia for child marriage cases, based on data from Bappenas (2021), child marriage. Based on report data from the Central Statistics Agency (BPS) it is estimated that around 1,220,900 (one million two hundred twenty thousand nine hundred) children in Indonesia experience child marriage.

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<sup>1</sup> Khabib Musthofa and Subiono, "Mitsaqan Ghalidza's Spirit in Marriage as Family Strengthening in Central Kalimantan", *Legitima* 2, No. 2 (June 2020): p. 159.

<sup>2</sup> Syahrul Mustafa, *Law on Prevention of Early Marriage*, (Jakarta: Guepedia, 2019), p. 68.

<sup>3</sup> Sudarmo, *Marriage Law* (Jakarta: Rineka Cipta, Cet: 3, 2005), p.7.

Wajo Regency is the highest area with 1 (one) rating in South Sulawesi for cases of child marriage. Based on data on child marriage registration data in 2020, with a total of 562 village children who did child marriages, this figure was dominated by women with a total of 492 people, and men as many as 52 people.

Tempe District is the highest area of child marriage cases in Wajo Regency, there are 9 (nine) boys and 36 underage girls getting married in 2021.

In this case, child marriage was requested by the MUI (Indonesian Ulema Council) to increase socialization of Law Number 16 of 2019 concerning Marriage to prevent an increase in child marriage which results in not achieving the goals and wisdom of marriage, namely the benefit of married life, community and security guarantees for pregnancy, as well as the formation of a sakinah family and procreation.<sup>4</sup>

So with this problem, the authors are interested in analyzing the causes of high child marriages in Wajo Regency, which places Wajo as the district with the highest child marriage rate in South Sulawesi.

## **RESEARCH METHODOLOGY**

The type of research used is descriptive qualitative field research located in Tempe District, Wajo Regency. The research approach used is a legal sociology approach with primary and secondary data sources. Primary data comes from the results of interviews conducted in Tempe Sub-district, Wajo Regency, especially at the Tempe District Office of Religious Affairs relating to increasing child marriage, while secondary data sources are supporting data from primary data in the form of Law Number 16 of 2019 concerning Marriage, Law No. Child Protection Act, scientific writing in the form of research results.

The data collection used in the research, namely, field research, which is one way to obtain data by going directly to the field that is the target of research, using the observation method by coming to the research location as data collectors on increasing child marriage. in the District of Tempe. Interviews with informants interviewed were KUA employees such as Penghulu, Extension, Tempe District Community, and perpetrators of child marriage in Tempe District.

The data analysis in this article is in the form of data reduction after the research and obtaining the data, the feasibility must first be reviewed by selecting the data that is really needed in the study. Then the presentation of the data is carried out in a descriptive way based on the aspects studied. This stage is the stage of unification between the existing theory and the results obtained in the field. And drawing conclusions or verification is an attempt to interpret the data displayed by involving the understanding of the researcher.

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<sup>4</sup> MUI Fatwa on Early Marriage Ma'ruf Amin, et.al, Fatwa Association Indonesian Ulema Council Since 1975, editor Hijrah Saputra, et.al, (Surabaya: Erlangga, 2010)

## **RESEARCH RESULTS**

### **Overview Of Cases Of Increasing Child Marriage In Tempe District, Wajo Regency Child Marriage In Tempe District Is As Follows:**

#### **1. Factor Educational**

Education is very important for every human being. Therefore, the government has issued a draft of the nine-year compulsory education program. However, due to economic limitations, education is often neglected, so people think that education is not that important. This can be seen from the number of children who only attend elementary school or junior high school, thus triggering child marriage.

#### **2. Factor Economic**

The role of the economy indeed completes all fields, but a household cannot be separated from the role of the economy. Family economy is very important because it is related to the prosperity or not of a family. Every family must have a decent economy to meet their daily needs. If someone says that the economy in the family is not important, the only thing that matters is love and affection, then that statement is not true because if the household's economy is very lacking, spending is greater than income, then we can say that the family is less prosperous .

#### **3. People's Mindset**

Life in the Tempe District, Wajo Regency, is the view of the most populous Wajo Regency, so that it is common to have mutually decisive influences from neighbors. According to Soerjono Soekanto, orientation to the pattern of life of neighbors is very large and is often used as a benchmark. Because the average family situation is large, there is certainly love for children as a whole, so that sometimes special handling is needed by certain children, regardless of the center of attention.

#### **4. Marrried By Accident (MBA)**

The phenomenon of pregnancy out of wedlock is currently widely encountered in the community, which is caused by one of them through social media that displays sex images and videos, such as rape, sexual harassment and so on, the rapid development of technology is a concern for parents in Tempe District. supervise their children using cellphones or other social media due to busy parents who work from morning to evening.

#### **5. Factor Cultural**

At this time, it is undeniable that the practice of matchmaking still occurs. This is inseparable from the culture that develops in the community, that women should not be late for marriage. Therefore, many teenage children have been married off by their parents. There is even a culture of matchmaking since girls are still minors. The same thing happened with MF (15) and NSS (16), as stated by the woman's family, Muh Aris Ali one of the reasons they got married was because apart from they had been in a relationship for a long time, they had also been betrothed for a long time parent.

## **Maqasid Syariah Perspective on Increasing Child Marriage in Tempe District Wajo Regency**

Child marriage is a problem that is not explained in the Qur'an. Therefore, the Ulama do not necessarily justify the law of child marriage as something that is prohibited or allowed. It depends on the extent of the *maslahah* and *mafsadat* values contained in the marriage. Al-Syatibi argues that the main purpose of Islamic law is for the benefit of humans both in this world and in the hereafter. This benefit will be realized by maintaining the needs that are *dharuriyah hajiyat*, and realizing the *tahsaniyat* needs for humans themselves.

### 1. Dharuriyat

Dharuriyat needs are all things that become the foundation of the existence of human life that must exist for the benefit of humans both in the world and in the hereafter. This is explained in five main points, namely: soul, reason, lineage, and wealth. Among the five joints above related to child marriage are as follows:

#### a. *Hifz al-nasl*

*Hifz al-nasl* is the obligation to protect and maintain offspring. In terms of maintaining offspring, it is highly recommended to carry out marriages by a man and a woman who are still underage so that they can achieve a noble goal in accordance with what Allah has described in the Qur'an, namely to avoid adultery. So that *hifz al-nasl* is well preserved. As happened in the case of MF (15) and NSS (16) they were already in a romantic relationship so that the family agreed to marry them off even though they were still underage in order to avoid negative things or commit adultery. In this case the actions they do are certainly in accordance with the Qur'an in maintaining offspring.

#### b. *Hifz al-nafs*

*Hifz al-nafs* is an obligation to protect and maintain the soul. In this case, when married at the age of a child, problems often arise when women undergo pregnancy until the process of giving birth and educating children. Pregnancy at a child's age is very at risk of suffering from uterine cancer, even having an impact on the death of the child and mother, as for other risks, the possibility of the baby to be born experiencing defects because the mother's hip space is still not large, making it difficult for the baby to move when rotating out so that it can lead to death to the baby. baby to be born. In this context, child marriage is considered a *mafsadat* act because it threatens the realization of *hifz al-nafs*.

#### c. *Hifz al'aql*

*Hifz al-aql* is an obligation to maintain reason. In the case of marriage, if the child marries underage, there will be a threat of dropping out of school, causing the child not to get an education. Therefore, child marriage can seize the opportunity for children to develop their intellectual potential and knowledge. Like the case experienced by FD and NS when they were in second grade of junior high school, they dropped out of school after getting married. In this context, it will certainly threaten the realization of *hifz al-aql*.

d. *Hifz al-mal*

Hifz al-mal is the obligation to protect and maintain property. In marriage, of course, a man is required to provide for his wife in this case carrying a large burden of responsibility. A child who has married at the age of a child, in terms of earning a living, has difficulty because of the lack of skills and work experience, of course this threatens Hifz al-mal. Due to the low access to work it will have an impact on the low economy of the family. the family economy is reduced, so that Hifz al-mal is well maintained.

e. *Hifz al-din*

Hifz al-din is the obligation to maintain and maintain the upholding of religion. In this case, child marriage, the low level of parental education has an impact on children's knowledge in the field of religion. Parents in this case play an important role in educating children in the field of religion such as introducing children to the concept of divinity, commands and prohibitions in religion, to the way of life in society. In this case, it certainly threatens the hifz al-din, but when viewed from the purpose of marriage in general, such as practicing the teachings of the Prophet, increasing the generation of Muslims and wanting to get comfortable, of course marriage is highly recommended by religion, so that hifz al-din is well preserved.

2. Hajiyat

Hajiyat literally means secondary needs. If these needs are not met, it will not threaten safety, but will cause difficulties. Islam recognizes rukhshah (lightening) as a step that can be taken to eliminate these difficulties. Rukhshah is a law that is needed to lighten the burden, so that the law can be implemented without feeling pressured and restrained.

Maslahah hajiyay is a maslahah that is needed by mankind to obtain convenience and avoid difficulties. If this problem can be met, it will cause difficulties. Among the forms of maslahah hajiyat, namely the granting of power to the guardian to marry off his young child. This is not to the extent that it is very urgent, but it is needed in order to gain benefit, to seek equality (kafa'ah) so that it can be controlled. Although it does not damage life, its existence is needed to provide convenience in life.

The needs of hajiyat related to child marriage in Tempe District, Wajo Regency are in accordance with the explanation above about the impact of child marriage, namely quickly having a life partner. Because a small part of the people of Tempe Sub-district marry their teenage children in the hope of getting a life partner quickly and avoiding gossip from neighbors who say that if their child is late to marry, he will become a spinster.

3. Tahsaniyat

In tahsiniyat language means things that are perfect. When this need is not met, it does not threaten and does not cause difficulties for humans. This level of need is a complementary need. Syatibi defines tahsiniyat with things that are in accordance with applicable customary norms, avoiding things that are not good

to look at and decorated with beauty in accordance with the teachings of norms and morals. In the case of child marriage in Tempe District which is included in the need for tahsaniyat is matchmaking because if there is no matchmaking it will not cause fatal consequences (dharuriyat), or make life difficult (hajiyat). However, meeting this need is an added value in Tempe District. Child marriage cannot be judged through one maqashid value alone, such as the goal to avoid adultery. However, it is also necessary to consider other maqashid values such as hifz al-nafs, hifs al-mal, hifz al-nafs, hifs al-aql, and hifz al-din. This means that child marriage cannot be carried out if it only considers the achievement of a single goal while the protection of other maqashid is neglected.

### **Solutions for Overcoming the Increase in Child Marriage in Tempe District Wajo Regency**

Talking about solutions and roles, can be interpreted as the main effort or action that must be carried out by someone. The Office of Religious Affairs as the leading work unit at the Ministry of Religion, has duties and functions that are directly related to the provision of services/community development in the field of Islamic religious affairs as described by the previous author:

- a. Provide services in the field of administration including marriage registration, divorce and reconciliation as well as other records related to the duties and roles of KUA. In this case the Tempe District KUA made an operational policy regarding marriage registration procedures and its administration that did not conflict with the rules in order to reduce the number of child marriages in Tempe District.

As stated by Mr. Drs. Abdul Rasyid as the Head of the Tempe District KUA: "If there are underage people who want to register for marriage, we from the KUA refuse (N7). However, if the bride and groom apply for a dispensation at the Religious Court and the application is granted, the KUA accepts the registration of the underage bride and groom because of the dispensation from the Religious Court."<sup>5</sup>

- b. Providing Counseling and Dissemination of Marriage Law

In this case the KUA socializes Law no. 16 of 2019 concerning marriage to the public through various media, in particular Article 7 paragraph 1 regarding the age limit for a person to be married if the age of a man or woman is 19 years and over. In addition, the KUA provides counseling to the public regarding the negative impact of child marriage from legal, psychological, biological and other aspects. As stated by Mrs. Dra. Hj. Rosdiana (Functional Extension):

"Providing counseling to the public about the marriage law and the negative impact of child marriage so that people realize the importance of getting

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<sup>5</sup> Abdul Rasyid, (54 years old), Head of the Tempe District Office of Religious Affairs, Interview, 21 July 2022.

married according to the age determined by the law".<sup>6</sup>

- c. Providing services in the field of marriage and sakinah family  
In this case the KUA can optimize the role of BP4 and other KUA tools in providing marriage advice and the importance of building a sakinah, mawaddah wa rahmah family. This is related to the importance of getting married at the age that has been determined by law as an important factor in creating a healthy family. In this case, KUA also provides guidance to the sakinah family to the community and tightens procedures and marriage administration so that age manipulation does not occur in order to reduce the number of child marriages in Tempe District.

## **CONCLUSION**

Based on the research results that have been presented so that it can be concluded as follows:

1. The factors behind the increase in child marriage in Tempe District, Wajo Regency are caused by low education factors, cultural factors of matchmaking, pregnancy out of wedlock and the economy.
2. Solutions to reduce the rate of increase in child marriage in Tempe District, Wajo Regency include: Providing counseling or socialization to the public about the Marriage Law and the negative impact of child marriage, Providing services in the field of marriage and sakinah families, and Providing services in the field of administration including registration of marriage, divorce and reconciliation as well as other records related to the duties and roles of KUA.
3. Maqasid Sharia perspective on child marriage  
Whether or not child marriage is allowed cannot be seen from one maqashid point of view, such as hifz al-nasl in order to avoid adultery. However, it is also necessary to look at other maqashid values so that the sharia maqashid analysis does not overlap. Everything depends on the value of the benefits and harms in it. The existence of elements of benefit, such as avoiding adultery and mafsadat, such as resulting in a high divorce rate in child marriage, needs to be considered carefully.

## **RESEARCH IMPLICATION**

1. For the people of Tempe District, Wajo Regency, to always follow and obey all government regulations, especially regarding Law no. 16 of 2019 concerning marriage.
2. To the Youth/Teenagers who are members of the Children's Genre Forum Organization or similar communities to support and provide socialization of the movement of smart, healthy and conspicuous youths to marry at a child's age in collaboration with the school or inter-school and extracurricular

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<sup>6</sup> Rosdiana, (43 years old), Functional Counselor of the Office of Religious Affairs, Tempe District, Interview, 21 July 2022.



organizations.

3. KUA employees, in this case the penghulu field, can optimize the penghulu to socialize and emphasize the importance of getting married according to the age limit that has been determined by law. Both through marriage advice and when invited to religious activities.

**Acknowledgments To:**

1. Rector of UIN Alauddin Makassar and all his staff;
2. The Director and Deputy Director and their staff at the Postgraduate Program of UIN Alauddin Makassar;
3. The Co-promoter and Promoter, as well as the Two Examiners in the completion of the thesis.
4. Chair and Secretary of the Dirasah Islamiyah Study Program (S2) UIN Alauddin Makassar.

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