

## JURIDICAL REVIEW OF EARLY MARRIAGE IN TANGERANG DISTRICT BASED ON ISLAMIC FAMILY LAW IN INDONESIA

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### ABSTRACT

**Abstract:** Indonesia sets the age for marriage regulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, in this regulation, there is a change in the age of marriage for women, namely from 16 years to 19 years. Article 15 paragraph (1) of the Compilation of Islamic Law (KHI) also regulates the age of marriage, namely 19 years for men and 16 years for women. The limitation on the age of marriage aims to make the prospective bride and groom more ready to live in the household. In Indonesia, the practice of early marriage is still rife, therefore researchers are interested in studying early marriage in Tangerang District. In this study, there are two main issues, namely: How to regulate early marriage according to Islamic family law in Indonesia and what factors are causing early marriage in Tangerang Regency. This study uses normative legal research methods supported by empirical data, using secondary data which is then analyzed qualitatively. The results of the study describe the regulation of early marriage according to Islamic family law in Indonesia that in matters related to early marriage, it is not permissible to ignore the Compilation of Islamic Law (KHI) and the Marriage Law No. 1 of 1974, even though on the grounds that early marriage in a legal view Islam is not prohibited directly or textually. Because it is the main source in the implementation of marriage law, especially in Islamic family law in Indonesia. And the factors that cause early marriage in Tangerang Regency are parents' will, promiscuity, custom and culture, economics, religion, and education. However, the dominating factors are promiscuity factors and economic factors

**Keywords:** Marriage; Early Childhood; Islamic Family Law

### Introduction

In Indonesia, setting the age for marriage as stipulated in the provisions of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage is regulated in Article 7 paragraph (1), "marriage is only permitted if a man and a woman have reached the age of 19 (nineteen years." Where in the regulation there is a change in the minimum age of marriage for women from 16 years to 19 years. As also regulated in the Compilation of Islamic Law (KHI) Article 15 paragraph (1) determines the age limit for someone who will carry out marriage, namely 19 years for men and 16 years for women. Thus, there has been a change regarding the age of marriage for both women and men, namely 19 years. However, the Marriage Law still regulates permission to marry under the age of 19. With the condition that both parents of the prospective bride and groom request a marriage dispensation to the court. In response to an increase in the age of marriage, the Supreme Court issued Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Judging Applications for Dispensation of Marriage on November 20, 2019. For prospective brides who are Muslim, requests for dispensation of marriage can be submitted to the religious court. As regulated in Article 7 paragraph

(2) and paragraph (3) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage explains: "In the event of a deviation from the age requirement as referred to in paragraph (1), the parents of the man and/or the parents of the woman may request a dispensation from the Court with very urgent reasons accompanied by sufficient supporting evidence. And the granting of dispensation by the Court as referred to in paragraph (2) must listen to the opinions of both the bride and groom who will enter into a marriage (Aryatie et al., 2022).

As a form of effort to prevent early marriage in the wrong one area of Banten Province to be precise in Tangerang Regency, where the Tangerang Regency Regent issued Tangerang Regent Regulation Number 78 of 2017 concerning the Prevention of Child Marriage. Based on the data that the author obtained from the results of the 2020 population census, Tangerang Regency has as much as 12.75% of the population data related to the occurrence of marriage in early childhood, namely the range of 10-14 years (Rahman & Maksum, 2018). With the formation of this regulation, it is hoped that the Tangerang Regency government can reduce the number of early marriages that occur in the Tangerang Regency area.

This is the reason for the author to conduct further research in writing a thesis with the title, "Juridical Review of Early Marriage in Tangerang Regency Based on Islamic Family Law in Indonesia".

### Research Method

#### Object of research

The object of research in this writing is regarding early marriage that occurred in Tangerang Regency in 2018-2020. Based on the current data, there has been an increase in the number of perpetrators of early marriage which can be seen from the data on requests for dispensation from marriage to the Tigaraksa Religious Court, Tangerang Regency.

#### Research Type

Where in this study, the authors used normative legal research methods supported by empirical data. Normative legal research is also called library law research which examines a document using secondary data. Normative legal research or literature includes research on legal principles, systematics law, level of vertical and horizontal synchronization, and comparison of law and legal history.

#### Nature of Research

The nature of this research is analytical and descriptive in nature, namely research that describes or describes the reality of the culture of a society phenomenologically and what it is in the context of an integral unit. This research is descriptive and analytical. According to Soerjono Soekanto, descriptive is intended to provide data that is as precise as possible about humans, conditions or other symptoms. In this study I want to describe age marriage arrangements at an early age according to Islamic family law in Indonesia and factors that cause early marriage in Tangerang Regency.

#### Data and Data Sources

The data used in this study are secondary data obtained from documents, books, research reports, and others. In addition to supporting secondary data, primary data was

used which was obtained through interviews. Secondary data comes from three legal materials, namely:

1. Primary Legal Materials

In this case the primary legal material referred to by the author is binding legal material, such as laws and regulations related to marriage law and rules regarding early marriage such as:

- a. Compilation of Islamic Law (KHI)
- b. Law Number 1 of 1974 concerning Marriage
- c. Law Number 16 of 2019 concerning Amendments to Law No.1 of 1974 concerning Marriage
- d. Law Number 35 of 2024 concerning Amendments to Law Number 23 of 2002 concerning Child Protection
- e. Law Number 4 of 1979 concerning Child Welfare
- f. Tangerang District Regent Regulation Number 78 of 2017 concerning the Prevention of Child Marriage

2. Secondary Legal Materials

Secondary legal materials, namely legal materials that provide explanations regarding primary legal materials such as legal opinions or doctrines, books, scientific journals, and legal journals related to early marriage, as well as news that can be accessed via the internet about cases of early marriage.

3. Tertiary Legal Materials

Tertiary legal materials are legal materials that provide information on primary and secondary legal materials, for example:

- a. Indonesia Dictionary;
- b. Complete English-Indonesian, Indonesian-English General Dictionary;
- c. Law Dictionary.

4. Data collection

The method of data collection is a way for researchers to obtain or collect data obtained through library research (library research). Document study or literature study, namely the collection of legal materials by collecting books, literature, regulations legislation- Invitations related to the problems in this study.

5. Data analysis

Data analysis conducted in this study with a qualitative method, namely data analysis with more emphasis on the quality or content of the data and can also be interpreted, namely a data analysis model carried out using three stages or components in the form of data reduction, data presentation, and drawing conclusions or verification in a cycle process between stages this stage so that the data collected will relate to one another automatically.

6. How to Draw Conclusions

The method of drawing conclusions in this study was carried out using a deductive mindset, namely drawing conclusions from cases that are general in nature to things that are specific. The deductive mindset is used if the researcher seeks to draw specific conclusions from general statements.

## Result And Discussion

### Overview of Tangerang Regency

Along with the expansion of the area with the formation of the Tangerang City government on February 27, 1993 based on Law Number 2 of 1993, the Tangerang

Regency government center was moved to Tigaraksa. Because moving the capital to Tigaraksa is considered strategic, and is considered to have reawakened the aspirations and enthusiasm of the founders to create a social life order that is free from the shackles of colonialism, namely poverty, ignorance and underdevelopment, to lead to a more independent, advanced and prosperous society (Yohanitas et al., 2023).

## Vision and Mission of Tangerang Regency

### Tangerang District Vision

Where the vision of Tangerang Regency is to create a society that is Religious, Healthy, Smart, and Prosperous (Hasyim, 2021).

#### 1. Tangerang District Mission

In realizing the regional development vision, Tangerang Regency can be reached through 6 (six) regional development missions as name among others (Hartati et al., 2022):

- a. Improving the application of religious values in social life to create a religious society.
- b. Improving access to quality and equity in education and health services to create smart and healthy communities.
- c. Developing a competitive and community-based regional economy
- d. Improving the quality of good governance professional, transparent and accountable.
- e. Increasing equity in sustainable infrastructure development and environmental management based on the Regional Spatial Plan.
- f. Develop regional innovation in order to improve the quality of regional, community and other development actors' competitiveness.

## GOVERNMENT IN TANGERANG REGENCY

Based on the Tangerang Regency Regional Regulation Number 11 of 2016 concerning the Formation and Composition of the Tangerang Regency Regional Apparatus, in Tangerang Regency a regional apparatus has been formed with the following composition:

- a. the regional Secretariat
- b. DPRD Secretariat
- c. Inspectorate
- d. Service, which consists of: Health Service, Education Office, Social Service, Agriculture and Food Security Service, Population and Civil Registration Service, Population Control and Family Planning Service, Transportation Service, Communication and Information Service, Investment Service and One-Integrated Services Doors, Environment and Sanitation Service, Industry and Trade Service, Library and Archive Service, Civil Service Police Unit, Highways and Water Resources Service, Spatial Planning and Building Service, Housing, Settlement and Cemetery Service, Manpower Service, Empowerment Service Women and Child Protection, Office of Community Empowerment and Village Administration, Service

of Fisheries, Office of Cooperatives and Micro Enterprises, Office of Youth, Sports, Culture and Tourism.

- e. Agency, consisting of: Regional Financial and Asset Management Agency, Regional Development Planning Agency Regional Revenue Agency, Personnel Agency and Human Resource Development.
- f. District, consisting of: Kec. Tigaraksa, Kec. Panongan, Kec. Cikupa, Kec. Curug, Kec. Kelapa Dua, Kec. Pagedangan, Kec. Cisauk, Kec. Legok, Kec. Cisoka, Kec. Solear, Kec. Jayanti, Kec. Jambe, Kec. Balaraja, Kec. Sukamulya, Kec. Kresek, Kec. Mount Kaler, Kec. Mekar Baru, Kec. Kemiri, Kec. Kronjo, Kec. Mauk, Kec. Pakuhaji, Kec. Kemis Market, Kec. Rajeg, Kec. Sukadiri, Kec. Sepatan, Kec. East Sepatan, Kec. Sindang Jaya, Kec. Dragon Bay, Kec. Kosambi.

### **Population Level in Tangerang Regency**

The population of Tangerang Regency, based on the population projection in 2017, is 3.58 million people, consisting of 1.83 million male residents and 1.75 million female residents. Meanwhile, the sex ratio in 2017 was 104.69 for the male population to the female population. Most of the residents of Tangerang Regency are aged 0-4 years, namely 359.8 thousand people and the second most are residents aged 5-9 years, namely 346.1 thousand people ([Kurnia et al., 2022](#)).

The population density in Tangerang Regency in 2017 reached 3,736 people per square km with an average population per household of 4.08 people. The population density in the 29 sub-districts is quite diverse, with the highest population density being located in Pasar Kemis Sub-district with a density of 13,313 people per square km and the lowest population density being located in Kemiri Sub-district with 1,356 people per square km ([Saifullah et al., 2017](#)).

### **Implementation of Early Marriage in the Legal Area of the Tangerang District Religious Court**

The prevalence of early marriage practices can still be seen during the COVID-19 pandemic like this, even though the government has revised Law Number 1 of 1974 concerning Marriage, namely by Law Number 16 of 2019 which was mandated by the Constitutional Court. The new marriage law has changed the minimum age for men and women to marry. Previously, the legal age for marriage was 19 years for men and 16 years for women, but the new law requires 19 years for both women and men. As it has also been regulated in Article 15 of the Compilation of Islamic Law which reads "For the benefit of the family and household, marriage may only be carried out when the prospective bride and groom have reached the age stipulated in Article 7 paragraph (1) of Law No. 1 of 1974, namely the future husband at least 19 (nineteen) years old and the prospective wife is at least 16 (sixteen) years old ([Tuslian, 2020](#)).

So that during the COVID-19 pandemic it was known that the KUA itself did not accept applications for private marriage, but if the applicant brings a marriage dispensation letter then it can be allowed because it is in accordance with the applicable laws and

regulations. As for the data collected by the author, early-age children who engage in early marriage can be observed through the dispensation application table below:

**Table 1**  
**Number of Marriage Dispensation Applications**  
**At the Tangerang District Religious Court**

No	Subdistrict	2020	2019	2018
1	Balaraja	6	0	0
2	Cikupa	12	6	2
3	Cisauk	1	0	0
4	Cisoka	2	1	0
5	waterfall	7	1	1
6	Gunungkaler	0	0	0
7	Leg	0	0	0
8	Jayanti	2	0	0
9	Coconut Two	1	0	0
10	Candlenut	4	0	0
11	Kosambi	14	0	0
12	Cress	1	0	0
13	Kronjo	0	0	0
14	legok	6	2	0
15	Puree	3	1	0
16	Mekarbaru	0	0	0
17	Pagedangan	3	2	1
18	Pakuhaji	14	2	0
19	Panongan	2	6	4
20	Pasarkemis	4	2	1
21	Rajeg	4	2	0
22	Sepatan	10	1	0
23	East Sepan	9	3	0
24	Sindangjaya	9	1	0
25	Solear	1	1	0
26	self-sufficient	0	0	0
27	Sukamulya	0	0	0
28	Teluknaga	9	3	0
29	Tigaraksa	13	6	2
<b>TOTAL NUMBER</b>		<b>137</b>	<b>40</b>	<b>11</b>

**Source:** Data from the Tigaraksa Religious Court, Tangerang Regency, which the author has obtained.

**Tangerang District Regent Regulation Number 78 of 2017 concerning the Prevention of Child Marriage**

The Tangerang Regency Government in 2017 issued regulations regarding child marriage, through the issuance of Perbup Number 78 of 2017. The Regent Regulation contains X (ten) chapters, with chapter divisions among others as follows (Al Maliki et al., 2021):

- a. Chapter I (one) discusses general provisions
- b. Chapter II (two) discusses the scope
- c. Chapter III (three) discusses efforts to prevent marriage at a young age
- d. Chapter IV (four) discusses institutional strengthening
- e. Chapter V (five) discusses companion and empowerment efforts
- f. Chapter VI (six) discusses complaints
- g. Chapter VII (seven) discusses policies, strategies, and programs
- h. Chapter VIII (eight) discusses monitoring and evaluation
- i. Chapter IX (nine) discusses financing
- j. Chapter X (ten) is closing

The regulation issued by the Regent of Tangerang Regency regarding the prevention of child marriage was formed based on several things. Where The matters referred to in the preamble to the regulation include (Chalim et al., 2022):

- a. Created to guarantee human values, because children are a mandate and gift from God Almighty, in fulfilling the right to life, growth, and development, and protection is the responsibility of parents, government, and society.
- b. The number of early marriages in Tangerang Regency has increased from year to year, to effectively and optimally suppress or prevent early child marriages in Tangerang Regency.
- c. That based on the considerations referred to in letters a and letters, it is necessary to stipulate a Regent's Regulation concerning the Prevention of Child Marriage.

## **Analysis And Discussion**

### **Early Marriage Arrangements According to Islamic Family Law in Indonesia**

Article 15 of the Compilation of Islamic Law explains that "for the benefit of the family and household, marriage may only be carried out when the prospective bride and groom have reached the age stipulated in Article 7 paragraph (1) of Law No. 1 of 1974, namely the future husband at least 19 (nineteen) years old and the prospective wife is at least 16 (sixteen) years old. However, there have been changes regulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage regulated in Article 7 paragraph (1), "marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years (Abubakar, 2019). Therefore, every citizen in matters related to early marriage is not allowed to ignore the Compilation of Islamic Law (KHI) and Marriage Law No. 1 of 1974, even if on the grounds that the practice he is following follows the Prophet. The true practice of the Apostles must first be reduced to become norms while taking into account the context of events. Not necessarily, even though Rasulullah married Aisyah at the age of 6 and invited her to live with him at the age of 9, the socio-historical context is certainly different from what is currently being faced. As citizens and Muslims at the same time, they must comply with the provisions

of Islamic family law, namely the Compilation of Islamic Law (KHI) and the rules contained in the Marriage Law No. 1 of 1974 (Kusmayanti & Mulyanto, 2020).

### Factors Causing Early Marriage in Tangerang District

Marriage to early childhood is something that is legally permissible to do with various considerations and existing rules. Where in the law itself regulates the age limit for marriage as it has been renewed, namely women and men 19 years old, in accordance with the principles stipulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage contained in Article 7 paragraph (1) contains the minimum age limit to be able to marry, for men who have reached the age of 19 years and women who have reached the age of 19 years, and also regulated in the Compilation of Islamic Law (KHI) Article 15 paragraph (1) determines the age limit for someone who will carry out Marriage is 19 years old for boys and 16 years old for boys where is the girl this confirms that the prospective husband and wife must be mentally and physically mature, in order to realize the goal of a happy marriage, avoiding divorce (Margretha & Djaja, 2023).

There are many factors that cause early childhood marriage, namely the will of parents, promiscuity, customary and cultural factors, economic factors, religious factors, and finally educational factors (Chavula et al., 2022). Education is a scalpel that is quite powerful and strong in changing the customary and cultural system that has taken root in society. This is related to the number of early childhood marriages that occur in society. So, there are several factors that cause early marriage, namely (Ihza & Fadhilah, 2022):

- a. The parental factor
- b. promiscuity factor
- c. Indigenous and Cultural Factors
- d. Economic Factors
- e. Religious Factor
- f. Educational Factors

### Conclusion

Early marriage is a marriage carried out by a man and a woman where both are still below the minimum age set by law. And the two prospective brides are not ready both physically and spiritually, and the two prospective brides are not mentally mature and may not be ready materially. The age of marriage in the Compilation of Islamic Law (KHI) article 15 paragraph 1, namely the prospective husband is at least 19 years old and the prospective wife is at least 16 years old. And Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage is regulated in Article 7 paragraph (1), "marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years. In matters related to early marriage, it is not permissible to ignore the Compilation of Islamic Law (KHI) and the Marriage Law No. 1 of 1974, even though on the grounds that early marriage in the view of Islamic law is not directly or textually prohibited. As citizens and Muslims at the same time, they must comply with the provisions of Islamic family law, namely the Compilation of Islamic Law (KHI) and the rules contained in the Marriage Law No. 1 of 1974.

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