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# Religious Leaders' Perceptions Of The Practice Of Nikah Siri To Avoid Marriage Dispensation In Nanggung Sub-District<sup>1</sup>

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#### **Abstract:**

In Indonesia, marriage is regulated by Law No. 1/1974 on Marriage, which regulates all aspects of marriage for all citizens, including Muslims. One of the provisions in the law is the minimum age of marriage, where couples who have not reached it are required to apply for marriage dispensation to the Religious Court. However, in practice, some people choose the siri marriage route as an alternative to avoid the marriage dispensation procedure. The main reason is that the procedure is considered complicated, time-consuming, and potentially socially stigmatizing. This study aims to find out the perceptions of religious leaders in Nanggung Sub-district, Bogor Regency, towards the practice of siri marriage to avoid marriage dispensation, and to identify the factors that encourage people to make this choice. This research used a qualitative approach with a case study method. Data collection techniques included in-depth interviews, observation, and documentation. The research was conducted in Nanggung Sub-district, Bogor Regency. The results showed that religious leaders have diverse views on the practice of nikah siri, ranging from excusing it due to social conditions to criticizing its legal impact. The factors driving people to choose nikah siri include legal and regulatory reasons, socio-cultural conditions, economic pressures, and limited access to formal institutions. Although considered a practical solution, this practice has serious negative impacts, such as the absence of legal proof of marriage, unclear legal status of children, and the absence of legal protection for wives, which in turn reinforces the culture of avoiding official legal channels.

Keywords: Religious Leaders, Siri Marriage, Marriage Dispensation.

#### A. INTRODUCTION

One of the phases in life that a Muslim can undergo after finding a life partner is marriage. Marriage is a sacred act because it involves a relationship that is not only based on external ties but also inner ties (Satria et al., 2023). In Islam, marriage is prescribed as a way to obtain happiness and maintain human honor and dignity, in contrast to other creatures who live following instincts without rules. Therefore, Allah SWT establishes laws that are by human dignity (Musyarrafa & Khalik, 2019).

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More than just a means of building a family, Islam also emphasizes that marriage is a very strong agreement or mitsaqan ghalizan, as stated in Article 2 of the Compilation of Islamic Law: "Marriage according to Islamic law is marriage, which is a firm contract or mitsaqan ghalizan to obey Allah's commands and perform it as an act of worship" (Islami, 2019). This provision emphasizes that marriage in Islam is not just an external bond, but also has a deep spiritual dimension in order to build a family that is sakinah, mawaddah, and rahmah.

In Indonesia, marriage is regulated by Law Number 1 of 1974 concerning Marriage, which regulates all aspects of marriage for all citizens, including Muslims. This law defines marriage as a physical and mental bond between a man and a woman as husband and wife to form a prosperous and harmonious family based on God Almighty (Basri, 2019). One of the aspects regulated is the minimum age of marriage, which was initially stipulated in Article 7, paragraph (1) of Law Number 1 of 1974, with a minimum provision of 19 years for men and 16 years for women. However, this regulation was later updated through Law No. 16/2019, which set the minimum age of marriage for men and women to 19 years (Hakim & Arifin, 2022). If the bride and groom have not reached this age, they must apply for marriage dispensation to the Religious Court (Habibah, 2023).

Marriage dispensation is a license granted by the Religious Court to prospective couples who have not met the minimum age for marriage. The aim is to ensure that the marriage is legally protected and does not harm either party, especially women and children (Syafi'i, n.d.). However, in practice, many people choose to avoid the marriage dispensation procedure because it is considered complicated, time-consuming, and socially stigmatizing. As an alternative, they prefer to marry siri, which is a marriage that is carried out by fulfilling the terms and conditions according to religious teachings, but not before a marriage registrar as a government official, or a marriage that has not been recorded so that they do not have a marriage certificate issued by the government (Satria et al., 2023).

The phenomenon of nikah siri is still rampant in various regions, including in the Nanggung District, Bogor Regency. Based on data from the Bogor District Central Bureau of Statistics (BPS) (2024), 50,421 couples were married in Nanggung Sub-district in 2023, but only 22,921 couples were officially recorded. This condition shows that there is still a high rate of unregistered marriages, especially in the region. Research conducted by Syahroni (Syahroni, 2023) revealed that in a span of 5 to 7 months, an amil can marry off 2 to 3 couples without an official marriage certificate from an authorized official. However, the marriage is still considered valid according to religion.

The rise of this practice is influenced by various factors, such as a lack of understanding of the law, economic conditions, customs, and the assumption that marriage registration is not an obligation. In many cases, a siri marriage is a solution for underage couples who have not met the marriage age requirement. In practice, couples who marry later delay having children until they reach the age required by law, so that they can register their marriage with the KUA without the need to apply to the court for marriage dispensation. Many couples choose this route because they consider the

marriage dispensation procedure to be too complicated, time-consuming, and costly. In addition, social stigma also discourages them from pursuing official legal channels. Although considered a practical solution, many couples do not realize the legal and social repercussions that can arise in the future, such as unclear marital status, difficulty accessing inheritance rights, and lack of legal protection for their wives and children (Turatmiyah et al., n.d.).

In this context, religious leaders play a very important role. They often act as officiants in siri marriages and have a significant influence in shaping the community's view of the practice. Although they marry couples who choose the siri marriage route, most religious leaders still direct that the marriage be officially recorded according to state law and, if necessary, apply for marriage dispensation through the Religious Court. This is to ensure that the marriage is not only religiously valid, but also legally enforceable to protect the rights of the couple, especially women and children born from the marriage.

Although same-sex marriages are legal according to religion, couples who choose this route still live in a legal state with rules that must be adhered to. Without official registration, they may face legal problems in the future, such as difficulties in accessing inheritance rights, recognition of child status, and legal protection in cases of divorce or domestic disputes. In addition, the practice of siri marriages to avoid marriage dispensation can also lead to an increase in underage marriages and marriages without legal protection, which in turn contributes to gender inequality and legal uncertainty in society.

Understanding religious leaders' perceptions of this phenomenon can provide greater insight into the relationship between religious views and the practice of siri marriage to avoid marriage dispensation. Religious leaders have a strategic role in shaping community opinion and providing a more comprehensive understanding of the impact of siri marriage. Therefore, this research is important to understand how religious leaders perceive the practice of siri marriage as an alternative to avoiding marriage dispensation. By exploring their views and attitudes, this research is expected to provide a deeper insight into the relationship between religious understanding and social practice in the community. The results of this study are also expected to provide input for policymakers in evaluating the effectiveness of regulations related to the minimum age of marriage, as well as considering the strategic role of religious leaders in educating the public and reducing the number of marriages that are not legally recorded.

#### B. METHODS

This research uses a descriptive qualitative method with a case study approach. This method was chosen because the research aims to understand and describe in depth the perceptions of religious leaders towards the practice of siri marriage, which is carried out to avoid marriage dispensation in Nanggung District, Bogor Regency. Creswell (2004), in Kusumastuti & Khoiron (2019), states that qualitative research aims to explore and understand the meaning constructed by individuals or groups in responding to a

social or humanitarian problem. In this study, researchers applied three data collection techniques to ensure the accuracy and completeness of the data obtained, namely observation, interviews, and documentation. The researchers spent three months from April to June 2025 conducting this research in the Nanggung District, Bogor Regency.

#### C. RESULT AND DISCUSSIONS

- 1. Perceptions of Religious Leaders on the Permissibility of Siri Marriage to Avoid Nikah Dispensation
  - a. Religious Leaders' Views on the Law of Sira Marriage

Based on the results of interviews delivered by religious leaders in Nanggung District, it can be concluded that the majority of religious leaders state that siri marriage is religiously valid as long as it fulfills the pillars and conditions of marriage. This statement is in line with the opinion of the majority of scholars that the validity of marriage in Islam is determined by the fulfillment of the five pillars of marriage, namely the prospective husband, prospective wife, guardian, two witnesses, and ijab and qabul. Religious figures such as Mr. Idam and Mr. Ajum confirmed this, stating that as long as the marriage fulfills the provisions of Sharia, it is valid in the eyes of Islam. This is in line with the views of fiqh scholars, including Yusuf Qardhawi, who stated that a marriage is valid if witnessed by legitimate witnesses, even if the state does not record it.

However, in the context of positive law in Indonesia, nikah siri has no legal force because it is not officially recorded. This is confirmed in Article 2, paragraph (2) of Law No. 1 of 1974, which states that a marriage is considered valid if it is registered at an authorized agency. Thus, siri marriages do not provide legal protection for women and children, such as inheritance rights, maintenance, and recognition of child status.

Mr. Endi's view that the state should more closely align its regulations with religious sharia also reflects the tension between religious norms and positive law. This indicates a desire for a legal system that is more adaptive to the social and religious realities of the community, especially in rural areas.

Therefore, the perception of religious leaders who see nikah siri as religiously valid but recognize its invalidity under state law illustrates the duality of legal norms living in society: between religious law (sharia) and state law (positive). This is also an important concern in contemporary Islamic legal studies which emphasize the importance of marriage registration to protect the rights of women and children, as also confirmed in MUI fatwa No. 10/2008 and the views of Quraish Shihab who states that although siri marriages are religiously valid, ignoring the orders of the ulil amri to record marriages can be a despicable act.

b. Religious Leaders' Views on the Practice of Siri Marriage

Religious leaders play an important role in the social and religious life of the community, including in matters of marriage. In the case of siri marriages conducted by young couples to avoid the marriage dispensation process, religious leaders expressed a variety of views, which were influenced by their understanding of religious teachings and social conditions in the surrounding environment. In general, they argue that siri marriages are still considered valid according to religion as long as they fulfill the pillars and conditions of marriage, even though the marriage is not officially registered under state law. This is by Islamic law, namely that the validity of a marriage depends on the fulfillment of the pillars and conditions of marriage. However, it is different with Prof. Quraish Shihab that even though it is religiously valid, a second marriage can be a sin because it ignores the government's orders (Ulil Amri) regarding marriage registration (Kharisudin, 2021).

In the Indonesian legal system, a marriage must fulfill two conditions: it must be legal according to religion and recorded in the state administration. This is emphasized in: Law Number 1 of 1974, Article 2, paragraphs (1) and (2), states that "Marriage is only valid if it is carried out according to religion and belief and recorded by applicable registration regulations." This provision is also strengthened in Government Regulation (PP) Number 9 of 1975 Article 2 paragraphs (1) and (2), which stipulates that marriage registration for Muslims must be carried out at the Office of Religious Affairs (KUA), while for people of other religions at the Civil Registry Office (Kharisudin, 2021). In addition, the Compilation of Islamic Law (KHI) Articles 5 and 6 also emphasize that in order to ensure the orderliness of marriage for the Islamic community, every marriage must be recorded by a marriage registration officer (Sobari, 2018).

c. Religious Leaders' Views on the Practice of Siri Marriage to Avoid Nikah Dispensation

In the research findings, religious leaders in Nanggung Sub-district indicate that they understand the practice of siri marriage by early-age couples as a form of shortcut to avoid the marriage dispensation process, which is considered complicated, distant, and costly. However, religious leaders do not necessarily approve of the practice in its entirety, but provide responses that are full of moral and social considerations.

The role of religious leaders in this context is seen as community mentors who can provide practical solutions while maintaining religious values. Religious leaders such as Mr. Idam and Mr. Ajum expressed concern about the social conditions of teenagers and the pressure from parents that encourages early siri marriages. They also emphasized that ideally, marriages should still be officially registered in order to have legal protection. This reflects that religious leaders are not only mediators in religious matters, but also play an active role in voicing moral and ethical values amid social dynamics. As stated by Amalia et al. (2022), religious leaders essentially have a very strategic position and role, especially as a spiritual, moral, and ethical footing in the lives of human beings.

This view is also reinforced by Chikmi (2023), who states that religious leaders are said to have educative, social, and cultural roles. Meanwhile, Yulianti (2021) adds that religious leaders also play a role as facilitators and mediators of value conflicts in society. When they face the reality that the dispensation procedure is considered too heavy by the village community, they carry out their social role by providing an alternative solution that is religiously legal, although not state-sanctioned.

However, not all religious leaders support this practice. As Mr. Endi points out, there is also a critical view of the practice of nikah siri to avoid marriage dispensation, as it poses a significant risk to the stability of the household and the legal status of the wife and children. This view shows a sense of legal awareness and civic responsibility, where religious leaders do not only focus on Sharia aspects, but also consider the long-term legal and social consequences.

These diverse views demonstrate that religious leaders in the field do not approach issues in a rigid or one-sided manner. They fulfill their role by adapting and adjusting religious teachings to complex social realities, while striving to balance between religious values and the demands of state law.

Although the role of religious leaders in marrying off underage couples reflects an effort to maintain public morals and prevent adultery, there are still negative sides that need to be examined. One of these is the potential legitimization of practices that are not permitted by state law. Siri marriage is often considered a quick solution for couples who want to get married, but are not ready or unable to legally bind themselves for various reasons (Gunawan & Jannah, 2024).

However, these unregistered marriages do not provide legal protection for the rights of women and children. It also risks perpetuating a culture of shortcuts in the community, which can undermine the importance of legal procedures such as marriage dispensation. In this position, religious leaders face a dilemma between compliance with state law and socio-religious responsibility. It is therefore important for religious leaders to continue to promote approaches that are not only socially and religiously contextual but also in line with the principles of the law and the protection of society as a whole.

d. Religious Leaders' Experiences in Siri Marriages of Underage Couples and Their Considerations

Based on field findings, religious figures such as Mr. Idam, Ajum, and Endi admitted to having been asked to assist in the siri marriages of young couples, including those who had not reached the legal age of marriage according to state law. These requests generally come from the family or community, on the grounds of avoiding promiscuity, pregnancy outside marriage, or because of administrative obstacles in the marriage dispensation process.

The actions of these religious leaders are not merely personal initiatives but rather a response to pressing social conditions. As spiritual leaders and community mediators, they play their roles realistically and contextually. In practice, they do not immediately accept every request to marry a couple, but assess the readiness and suitability of the couple first.

In interviews, religious leaders said that they were only willing to assist or accompany a siri marriage if the couple was considered physically, mentally, and responsibly mature. On average, the women who were married at the age of 18 were at the age when they were considered to understand the consequences of marriage. Meanwhile, the men are generally more mature, both in terms of age and financial readiness. This is an important consideration for religious leaders before deciding to marry the couple.

Nevertheless, some religious leaders, such as Mr. Idam, still recommend that couples first take legal action by applying to the court for marriage dispensation. This shows that there is a sense of legal awareness and ethical responsibility on the part of religious leaders, as they seek to balance religious values with legal protection for couples.

However, on the other hand, the experience of religious leaders in marrying young couples also reveals problems that are not simple. In some cases, this practice has the potential to normalize early marriages outside legal channels, undermining public awareness of the importance of marriage registration and legal procedures such as marriage dispensation. When the practice of siri marriage is perceived as a quick and easy solution, people tend to ignore the long-term impacts, especially for women and children.

In addition, although the initial intention of religious leaders was to prevent immorality such as adultery, child marriage at a young age still has risks to children's growth and development, both in terms of education, health, and psychosocial aspects. Sari and Wahyuni (2018) emphasize that child marriage has the risk of causing reproductive problems, stalled education, and unpreparedness in living a household life.

This situation reflects that the good intentions of religious leaders as moral saviors are not necessarily fully able to prevent the community from long-term negative impacts. Therefore, a stronger synergy between religious leaders, legal institutions, and social institutions is needed to find solutions that are not only reactive to urgent conditions but also preventive and oriented towards the protection of children and families as a whole.

# 2. Factors that Encourage People in Nanggung Sub-district to Marry Siri to Avoid Nikah Dispensation

The practice of siri marriage in Nanggung Sub-district is not only an issue of administrative violations, but also reflects a complex social reality. Based on field findings, the factors that encourage people to choose Siri marriage can be classified into four main categories: legal and regulatory factors, social and cultural factors, economic factors, and accessibility factors.

#### a. Legal and Regulatory Factors

Communities face difficulties in following the formal legal procedures stipulated in Law No. 16/2019, which raised the minimum age of marriage to 19 years for women. This provision, although intended to protect minors, was not accompanied by adequate socialization and assistance in rural areas.

#### 1) Insufficient Age

Many couples do not meet the minimum age limit for marriage and choose to marry Siri while waiting for their age to be sufficient. In the view of Islamic law, as explained by the majority of scholars, the term marriage dispensation is not known, because the valid requirement for marriage is if a person is baligh and of sound mind. Meanwhile, Law No.

1/1974 on Marriage, as amended by Law No. 16/2019, as well as the Compilation of Islamic Law, stipulates that a person who wishes to marry under the age of 19 must apply to the Religious Court for marriage dispensation to obtain permission.

Some people feel that the provisions of state law are not in line with their religious understanding. Therefore, many of them believe that marriage can be performed first religiously (nikah siri) and will be officially registered after the age meets the provisions of state law. (Kamarusdiana & Sofia, 2020). This shows a perception gap between state regulations and local community beliefs.

# 2) Complicated Dispensation Procedure

The marriage dispensation application is perceived as a tiring and complicated procedure. This is in line with the opinion of one of the judges and employees of the Padangsidimpuan City Religious Court that the process of adjudicating cases of applications for dispensation of early marriage is currently more complicated because it must present witnesses and also the parents of both parties who want to apply for marriage dispensation if they cannot fulfill these requirements then the case will be N.O (not accepted) (Amina, 2022).

## 3) Lack of Legal Literacy

The lack of legal literacy among the community is a factor that encourages them to marry Siri and avoid marriage dispensation. Many individuals fail to grasp the urgency and long-term consequences of not registering a marriage under state law, including limited inheritance rights, the legal status of children, and the legal protection afforded to the wife. The low level of public legal awareness also indicates a weak understanding of the function of the law itself as a protector and regulator of social life. According to Febriyanti and Aulawi (2021), legal awareness is highly dependent on individual understanding of the applicable rules, and this is an important factor in determining the extent to which the law is recognized and obeyed in society.

# b. Social and Cultural Factors

Social pressure and local cultural norms strongly influence people's mindsets. In the context of the Nanggung Sub-district community, family honor, environmental pressure, and social judgment of women are strong motivators to get married immediately, even though it is not legally possible.

#### 1) Fear of Zina

One of the concerns underlying parents' decision to marry off their children is the fear of promiscuity. Local religious leaders also emphasize that a siri marriage is chosen so that children do not fall into adultery. This factor is closely related to the moral and religious values held by the Nanggung community.

Islam strictly prohibits adultery and everything that can approach it. One of the main objectives of sharia (maqashid shariah) is to protect

offspring (hifdzul an-nasl). Therefore, Islam strongly encourages young men and women to get married as an effort to avoid adultery (Amina, 2022).

# 2) Social Stigma

Unmarried women at a young age are often the subject of social ridicule. This shows that there is strong social control over women. Child marriage is a social and economic problem, complicated by the traditions and culture of the community. The social stigma of marriage after puberty, which is considered a disgrace in certain circles, also increases the incidence of child marriage (Tampubolon, 2021).

## 3) Parental Encouragement

Parents are often the main party that encourages early marriage. The main reason they encourage children to marry at a young age is to keep children away from early dating and promiscuity (Jayadi, Suarjana, & Muzawir, 2021).

#### 4) Local Culture

Customary norms and local values tend to be more powerful in influencing people's actions than state regulations. The local culture that accepts nikah siri as religiously valid makes people more comfortable choosing this route.

#### c. Economic Factors

Economic limitations are a reason that cannot be ignored in the choice to marry Siri. The cost of arranging an official marriage, including applying for marriage dispensation, is considered burdensome.

# 1) The Cost of Legal Marriage

Many families perceive that the process of legalizing marriage through official channels is costly. This is especially true for young couples who have to apply for marriage dispensation because they have not reached the minimum age prescribed by law. The administrative costs of applying for dispensation, transportation costs to the court, and other needs, such as document processing, are considered burdensome, especially for families with limited income. This condition encourages them to choose nikah siri, which is considered more economical because it does not require high formal costs. In addition, ignorance about the dispensation mechanism and fee waivers also exacerbates the perception that legal marriage is very expensive, making a siri marriage a more financially affordable alternative.

#### 2) Reducing Economic Burden

Parents marry off their daughters in the hope that their economic responsibility will shift to their husbands. Many parents from poor families think that marrying off their children, even if they are underage, will reduce the family's economic burden and may be able to help the family's economic burden without thinking about the positive or negative

impacts of marrying off their underage children (Jayadi, Suarjana, & Muzawir, 2021).

#### d. Accessibility Factors

Limited physical and informational access to the judiciary contributes to the preference for nikah siri.

# 1) Distance and Cost of Transportation to Court

The geographical location of Nanggung Sub-district, which is quite remote from the city center, is an obstacle for the community. The Religious Courts that handle marriage dispensation cases are located quite far away, requiring significant transportation costs. For people who do not have a private vehicle or regular income, this is a difficult burden. Moreover, if the legal process requires more than one visit to the court, the cost of travel further burdens the family.

## 2) Ease of Accessing Religious Leaders

In contrast to state institutions, religious leaders in villages are more accessible and do not make things difficult for the community. They are willing to marry couples religiously without complicated conditions and large fees. This condition makes religious figures a quick solution for people who want to get married without going through formal legal channels.

The practice of nikah siri, which is done to avoid marriage dispensation, not only raises legal issues, but also brings a variety of ongoing negative impacts. Although considered religiously valid, unregistered marriages have serious legal, social, and protection consequences for women and children. As the impact that the perpetrators of nikah siri have felt to avoid marriage dispensation:

# a. No legal evidence

Marriages that are not registered at the KUA do not produce a legally recognized marriage certificate. Every prospective bride and groom is required to register their marriage in order to obtain a marriage certificate in the population administration system (Hijriani, 2015). The absence of a marriage certificate can lead to difficulties in accessing various state administrative services, including family card processing, BPJS, school enrollment, and other important documents that require a marriage certificate for preparation.

#### b. Children are not legally registered

Children born from siri marriages often experience difficulties in obtaining birth certificates due to the absence of official documents proving the parents' marriage. A siri marriage hurts the legal status of the child born, where the child is considered an unmarried child. As a result, the child only has a civil relationship with the mother and the mother's family (Utami & Yahya, 2022). This provision is in line with Article 186 of the Compilation of

Islamic Law (KHI), which states that children born from unregistered marriages (nikah siri) are categorized as extramarital children. In the view of Islamic Law, this status has an impact on the limitations of civil legal relations, which are only recognized between the child and his or her mother and the family of the mother, including in matters of inheritance rights.

#### c. The wife has no legal protection

If the husband violates the wife's rights, the wife cannot legally claim these rights (Islami, 2019). In the event of a divorce, the wife does not have the blessing of receiving gono gini property. Article 97 of the Compilation of Islamic Law states that "widows or widowers due to divorce are entitled to half of the joint property, unless otherwise specified in the marriage agreement." However, because siri marriages are not officially recorded and not legally recognized, the issue of division of joint property in this condition becomes difficult to resolve through legal channels. (Gunawan, Jannah & Shofiatul, 2024).

#### D. CONCLUSION

Religious leaders in Nanggung Sub-district generally view siri marriage as religiously valid as long as it fulfills the pillars and conditions of marriage, according to the view of the jumhur ulama. However, they also realize that siri marriages do not have the force of state law because they are not officially registered. In the case of early marriages, some religious leaders understand that siri marriages are often chosen as a shortcut to avoid marriage dispensation procedures that are considered complicated and costly. However, they still recommend that marriages be officially recorded to provide legal protection for the couple. This view reflects the dilemma between religious teachings and state law.

The decision of the people of Nanggung Sub-district to conduct nikah siri to avoid marriage dispensation is driven by several main factors: legal and regulatory constraints such as insufficient age and the perceived complexity of dispensation procedures; social and cultural factors such as concerns about promiscuity, environmental pressures and the influence of local customs; economic factors related to the high cost of legal marriage; and accessibility factors including the difficulty of reaching judicial institutions and the ease of accessing religious leaders. Although considered a practical solution, this practice has serious negative impacts, such as the absence of legal proof of marriage, unclear legal status of children, and the absence of legal protection for wives, which in turn reinforces the culture of avoiding official legal channels.

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