

Between Culture and The Sacredness of *Fiqh*: The Role of *Lebe* in Child Marriage Practices in Brebes, Indonesia

Antara Budaya dan Sakralitas Fikih: Peran *Lebe* dalam Praktik Perkawinan Anak di Brebes, Indonesia

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Abstract: This article analyses the role of *lebe* (*penghulu* or local marriage officiant) in the practice of child marriage in Brebes, Indonesia. Ranked second after Indramayu, Brebes is a district that still has a Sundanese cultural heritage with its deep-rooted practice of child marriage. The fundamental question in this article is, what is the role of *lebe* in the practice of child marriage in Brebes? Is child marriage in Brebes a generic culture from its predecessors, or is this culture a form of cultural appropriation (perpetuating a culture that is not its own because of cultural domination)? Using a socio-legal research framework, the author argues that *lebe* plays a vital role in rooting the practice of child marriage in Brebes. His understanding of classical *fiqh* (Islamic jurisprudence) as a dogma legitimizes the practice of child marriage in Brebes. He prioritizes aspects of the readiness of the bride and groom rather than the minimum age limit for marriage regulated by the state. Besides the role of *lebe*, the understanding of the community who views that the age of marriage is relative, women must be protected, the culture of child marriage as a stepping stone to a better life, and the cultural war between populists (community) and elitists (village government officials), distrust of education is another factor that perpetuates the practice of child marriage in Brebes.

Keywords: Brebes, Generic Culture, Child Marriage, Age of Marriage, *Lebe*.

Abstrak: Artikel ini menganalisis peran *lebe* (*penghulu*) dalam praktik perkawinan anak di Brebes, Indonesia. Menduduki peringkat kedua setelah Indramayu, Brebes adalah kabupaten yang masih menyisakan warisan budaya Sunda dengan praktik kawin anak yang mengakar kuat. Pertanyaan mendasar dalam artikel ini adalah bagaimana peran *lebe* dalam praktik perkawinan anak di Brebes? Apakah perkawinan anak di Brebes merupakan budaya generik (asli) dari para pendahulunya atau budaya tersebut merupakan bentuk dari apropriasi budaya (pelanggaran budaya yang bukan budanya sendiri akibat dominasi kultural). Dengan menggunakan kerangka kerja penelitian sosial-legal, penulis berargumentasi bahwa *lebe* berperan penting dalam mengakarnya praktik perkawinan anak di Brebes. Pemahamannya terhadap fikih klasik sebagai dogma digunakannya untuk melegitimasi praktik

perkawinan anak di Brebes. Ia lebih mengutamakan aspek kesiapan para calon pengantin dari pada batas usia minimum perkawinan yang telah diatur oleh negara. Selain peran *lebe*, pemahaman masyarakat yang memandang bahwa usia perkawinan adalah relatif, perempuan harus dilindungi, budaya kawin anak sebagai batu loncatan untuk kehidupan yang lebih baik, perang budaya antara populis (masyarakat) dengan elitis (pejabat pemerintah desa), ketidakpercayaan terhadap pendidikan merupakan faktor-faktor lain yang melanggengkan praktik perkawinan anak di Brebes.

Kata Kunci: Brebes, Budaya Generik, Perkawinan Anak, Usia Perkawinan, *Lebe*.

A. Introduction

The study of the practice of child marriage not only involves legal aspects but also intersects with the cultural realm. The reasonings vary; among others are self-improvement, normal pressure, or compulsion due to the entanglement of conditions. From the legal perspective, child marriage is described in the Convention on the Rights of the Child as marriage between humans younger than eighteen.¹ In their study in the 2014 annual report, the United Nations Children's Fund (UNICEF) reported that 85 million children married in Indonesia. One in six women were married before 18 years old.²

One regency with the most child marriages in Indonesia is Brebes. According to the Central Java Newspaper coverage, child marriages in Brebes reached 3,876 in 2016. This report is corroborated by the information from The Indonesian National Population and Family Planning Board (BKKBN) that put Brebes Regency in the first place regarding child marriage, followed by Grobogan, Demak, and Magelang Regencies.³ Meanwhile, according to data from the Agency for Women's Empowerment, Child Protection and Family Planning (BP3AKB) of Central Java

¹ International law categorizes child marriage as a form of violence and at the same time a violation of human rights. Article 16 (2) of the International Declaration of Human Rights affirms that marriage must be based on the personal will of the bride and groom without any element of coercion. Sustainable Development Goals (SDGs) also clarify the goals and directions for the protection of children so that their rights are fulfilled and they grow equally. Researcher Team, *Laporan Penelitian Program Studi Kajian Gender Sekolah Kajian Strategik dan Global Universitas Indonesia Bekerjasama dengan Kementerian Pemberdayaan Perempuan dan Perlindungan Anak* (Jakarta, 2016): 1.

² *Ibid.*, 2.

³ Taufiq Budi, "Kabupaten Brebes Peringkat Pertama Kasus Perkawinan Anak," *lifestyle.okezone.com*, November 21, 2017.

Province,⁴ there are seven sub-districts in Brebes Regency that percentage-wise show a high rate of child marriage: Kersana, Ketanggungan, Larangan, Losari, Salem, Bantarkawung, and Banjarharjo sub-districts. Among those seven sub-districts, Banjarharjo Sub-district ranked first with 55.67 percent.⁵

The rampant child marriage in the northern part of Brebes Regency is supported by various factors such as education, the low economy of parents, and community culture, which is the most dominant factor.⁶ These factors have contributed to deep-rooted beliefs, low parental education, and the strengthening of the tradition of marrying children at an early age. The lack of education also results in the lack of information related to marriage rules in Indonesia. The low percentage of people who understand the law, the prevalence of the title 'spinster' attached to highly educated women, the promiscuity of minors, and poor reproductive health education are also factors that are often found in the practice of child marriage.⁷

In addition to the above factors, the public's enthusiasm for religion and the understanding of religious leaders in classical *fiqh* (Islamic jurisprudence) are also the main factors in the widespread practice of child marriage in Brebes. *Lebe*, a local marriage officiant, is referred to as a spiritual teacher by the community. The sacredness of religion is apparent in the *lebe's* explanation, which prefers classical *fiqh* provisions as a basis over provisions in positive law. Local religious leaders use the argument of benefit to legalize the practice of child marriage because it is considered a solution.⁸ The exoteric dimension of religion (Islamic law), sacred by

⁴ The Report from the Agency for Women's Empowerment, Child Protection and Family Planning (BP3AKB) of Central Java Province of 2018: 14.

⁵ Distribution of child marriage throughout Brebes Regency: 48.02% in Kersana, 42.09% in Ketanggungan, 45.72% in Larangan, 52.50% in Losari, 48.50% in Salem, 54.9% in Bantar Kawung, and 55.67% in Bantarkawung. The data confirms that Brebes ranks first in Central Java as the district with the most child marriage perpetrators, where the main causes include the high number of underdeveloped villages and the large percentage of child marriage offenders living in mountainous areas which are characterized by poor carrying capacity, quality of human resources, labour productivity, minimalistic infrastructures, substandard access to health and education services, and high poverty rate. The Report from the Agency for Women's Empowerment, Child Protection and Family Planning (BP3AKB) of Central java Province of 2018, 17.

⁶ Agustian Aditya Pratama, "Brebes, Rendahnya Kesadaran Akan Pendidikan, Tingginya Kemiskinan dan Tren Pernikahan Dini," *Kompasiana*, September 28, 2020.

⁷ Mubasyaroh, "Analisis Faktor Penyebab Pernikahan Dini dan Dampaknya bagi Pelakunya," *YUDISIA: Jurnal Pemikiran dan Penelitian Sosial Keagamaan* 7, no. 2 (2016), 12.

⁸ In *fiqh*, a child may be married on the condition that he has reached puberty (until the age of a person is burdened with *syara'* law) or called *taklif*, where a person is considered legally capable to carry out the obligations stipulated in religion as a sign of the end of childhood. In *lebe's*

the community and religious leaders, is the main factor contributing to the practice of child marriage in Brebes. Therefore, the author perceived the importance of studying the role of *lebe* in perpetuating the practice of child marriage.

Indeed, studies on child marriage and the role of the *lebe* are not precisely an emergent agenda. Several scholars have reviewed the discourse. Muhammad Latif Fauzi, in his dissertation, discussed how local officials such as officiants (street-level bureaucrats) deal with the tensions between Muslim marriage regulation and often discordant social practices. Latif argued that there is a complicated relationship between religion and state norms in the practice of marriage in Pasuruan, East Java. He also explained the role played by intermediaries in the practice of unregistered marriage in East Java.

Furthermore, Supardi and Siti Suriyati discussed the role of judges in dealing with the high number of applications for marriage dispensation during the Covid-19 pandemic. Supardi found that this high number of requests for dispensation was triggered by the minimum age for marriage and the Kudus community's understanding of the virtue of capacity, not the maturity of age, in determining maturity.⁹ Ani Ismawayati and Inna Fauziatal Ngazizah complemented the two previous studies. They discussed child marriage using the practice of *tuku umur* (buy age) as an effort to force child marriages in Central Java. Although this action has criminal implications, the practice of *tuku umur* is still widespread, mediated by village officials and some of their apparatus, where they add the age of the prospective bride and groom whose actual age does not meet the minimum age for marriage.¹⁰

Unlike previous studies, the author focused on the role of *lebe* by linking the influence of culture and the sacredness of *fiqh*, which causes child marriage in the Brebes Regency. The author highlighted the role of *lebe* and their considerations in

perspective, one of the supporting reasons why they are allowing underage couples is the views of classical *fiqh* scholars who formulate the age of puberty as 15-years-old and wet dreams for men (*ihtilām*) and menstruation for women. Lebe Desa Salem, Interview, April 2018.

⁹ Supriyadi and Siti Suriyati, "Judges' Legal Culture in Dealing with High Number of Applications for Child Marriage Dispensation during Covid-19 Pandemic at the Kudus Religious Court," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (June 30, 2022): 273–98.

¹⁰ Any Ismawayati and Inna Fauziatal Ngazizah, "Criminal Acts in Completing Early Marriage Requirements: Tuku Umur Practices in Islamic Communities in Central Java, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 1 (June 27, 2022): 449–67.

dealing with the community's high demand for child marriage. Therefore, this article used qualitative methods with a socio-legal approach. The author used an anthropological approach to look at Sundanese cultural practices and child marriage practices in Brebes; gender analysis to portray the inequality of relations between men and women involved in child marriage, and legal doctrine jurisprudence to understand the sacredness of *fiqh* spreading among people.

B. Penetration of Law in Indonesia: Between *Fiqh* and Positive Law

Islamic law has become part of the national law in Indonesia. It is evidenced by the enactment of Law No. 1 of 1974 concerning Marriage (Marriage Law). For Muslims, the law of marriage cannot be separated from *fiqh*, which is the chief source material in its construction. This submission to *fiqh* is evident in the definition of marriage. Article 2, paragraph (1) of the Marriage Law defines marriage as valid if it is carried out according to the rules in their respective religions; thus, Muslims will refer to the legal products compiled by the *fiqh* scholars as the foundation of marriage law in the Islamic world.

The debate about child marriage cannot be separated from the discussion of *fiqh* and legislation in Indonesia. The age of marriage in the context of *fiqh* is very diverse, and the debate stems from the provisions on the age limit for marriage. *Fiqh* scholars maintain a strong argument on marriage age. Syafī'iyah scholars allow the marriage of little girls as long as it is devoid of any potential danger.¹¹ In interpretation, the scholars also provide various definitions of *baligh* (the age of understanding). Al-Marāghi, for example, explores the meaning of '*rusyd*' by looking at the expertise in managing wealth. For readiness to marry, biological signs are sufficient to be a condition for *bulūgh-al-nikāḥ*. It does not stop there; one has to be an adult because minor children cannot be burdened with the law (*taklīf*). Al-Marāghi was inspired by the use of the meaning of *bulūgh-al-nikāḥ* from Surah al-Nisā' verse 6. In an almost similar tone to Al-Marāghi, Rasyīd Ridhā makes physical signs a condition for a person to carry out reproductive activities ranging from

¹¹ In Wahbah al-Zuhaili's explanation, child marriage is allowed on the condition that it brings benefits and is away from harm. Wahbah Az-Zuhaili, *Al-Fiqh al-Islamī wa Adillatuh*, (Beirut: Dar al-Fikr: t.tp.) IX: 174.

marriage, pregnancy, and childbirth to breastfeeding. Therefore, a person who has had nocturnal emission or is menstruated has assumed legal consequences for practicing Islamic law. Therefore, the word “*rusydun*” is in sync with *ma'rūf* (good), which means appropriateness. That is, it is appropriate to carry out legal actions. Slightly different from Al-Marāghi, Imām Nawāwī prioritizes *rusydun* as a principle to determine one's maturity.¹²

Rumah Kitab, founded by Lies Marcoes, also interpreted Surah Al-Thalāq verse 4 as the basis for allowing child marriage.¹³ The causes of revelation (*asbāb al-nuzūl*) for this verse were motivated by Khallad ibn Amr ibn Jamuh who asked the Prophet a question about the waiting period (*'iddah*) for women who have never menstruated. Then this verse came down, which describes the period of *'iddah* for women who have never experienced menstruation, which is the same as the period of *'iddah* for women who no longer menstruate (menopause). In practice, this verse is often used as the basis for the legality of the practice of child marriage.¹⁴ In reality, if understood in depth, this verse does not discuss child marriage at all. The verse explains the limits of maturity that not take into account biological factors but also psychological factors. This verse is in line with the explanation of Surah Al-Nisā' verse 6, which is the basis for the limit of maturity for women who can be given responsibility for maintaining their property.

Meanwhile, as an argument to control the practice of child marriage, the purpose of marriage is explained in Surah Ar-Rūm, verse 21.¹⁵ Based on this verse, marriage has the primary purpose, namely maintaining peace, love, and affection. With this affirmation, the purpose of marriage will not be achieved if the bride and

¹² Muhammad Nawawi, *Al-Tafsīr al-Munīr*, (Mesir: Maktabah Isa al-Halabi, 1314 H), 1: 140.

¹³ Jamaluddin Mohammad et al, *Panduan Upaya Memenuhi Kebutuhan Argumentasi Keagamaan dalam Perlindungan Hak Anak Perempuan dari Perkawinan Usia Anak-Anak* (Jakarta: Rumah Kitab dan FourFoundation, 2016): 37.

¹⁴ The verse which means “women who do not menstruate” is interpreted as women who have not menstruated. Mohammad., 21.

¹⁵ In interpreting this verse, it should be noted that it is important to look at the grammatical structure of the language. The form of the sentence in this verse is a news sentence and is not in any way a command sentence. Therefore, it can be concluded that this verse is simply a reporting of an event that had occurred in the past. The news contained in it is the limit of the *'iddah* period for someone who has not menstruated and has gone through menopause. It can be concluded that the text of this Qur'anic verse is taken solely on the basis of *ijtihad* itself and does not come from a literal text. Because, it can be ascertained that in this verse does not contain any news or orders regarding child marriage. *Ibid.*, 22.

groom are still in their childhood. This verse contradicts the hadīth argument (as the second basis), which states that Aisyah married the Prophet at six and only had intercourse when she was nine years old.¹⁶ This hadīth is difficult to refute because it is generally believed by Muslims, without reading the text in depth with unilateral conclusions.¹⁷

This difference of opinion shows that the hadīth on which this reference is based is still not agreed upon. Other hadīth narrations can refute the marriage of the Prophet with Aisyah. For instance, the marriage of the Prophet is compared to his behavior of rejecting the proposal of two caliphs before Ali bin Abi Talib, Umar bin Khattab, and Uthman bin Affan. At the time, the Prophet said, “*Later, she is still a kid.*”¹⁸ Choosing between these two hadīths can be considered from the most reasonable basis. At the time of marriage, Aisyah already has social, spiritual, and mental intelligence at nine years old.

Hadīths about the marriage of Aisyah with the Prophet in the debate among ulama carry *ikhtilāf* (differences of opinion), including narration and content of hadīth to the context of marriage history. The first hadīth regarding the explanation of the age of marriage is narrated by Al-Bukhārī, which states that Ayesha married the Prophet when she was six years old, then lived together when she was nine years old. The second hadīth narrated by Imām Muslim shows that the marriage between Aisyah and the Prophet happened when she was seven years old. They lived together when she was nine years old. Hadīth, from another narration, mentions that when the Prophet proposed to Aisyah, He considered Aisyah’s readiness, and Aisyah was considered capable of continuing Khadijah’s plight to accompany the

¹⁶ Mohammad, *Panduan Upaya Memenuhi Kebutuhan Argumentasi Keagamaan dalam Perlindungan Hak Anak Perempuan dari Perkawinan Usia Anak-Anak*, 26.

¹⁷ The debate about Aisyah’s marriage to the Prophet gave rise to many opinions. Some say that the age of nine-years-old is the limit of adulthood and has the right to bear the predicate of *mukallaf* at that age. Ibn Hazm clarifies this argument by mentioning that menstruation is one of the signs that a person can get married, because at that time women are considered *baligh* and for men it was permissible to marry at the age of 25, emulating what the Prophet did. Not stopping at the debate, Ibn Syubrumah in responding to the issue of the age of marriage is very progressive, because it states that child marriage triggers complex *madharat* so that it is judged unlawful, while the Prophet’s marriage is a special case and privilege. *Ibid.*, 27.

¹⁸ *Ibid.*, 28.

Prophet in reviving Islamic values. In addition, Aisyah had also become a source of reference for opinions on religious issues, so she was no longer classified as a child.¹⁹

The discussion about the age of marriage in Islamic law does not stop there. In fact, many contemporary scholars reject the narration of the hadīth that mentions Ayesha's marriage to the Prophet at nine. Shaykh Mahmud 'Asyūr, an Al-Azhar cleric, emphasized that in Islam, there is no term for *zawāj al-qaṣīrāt* (child marriage). According to him, it is difficult to make the marriage equivalent to the Prophet's practice today. According to him, Aisyah was married to Rasulullah when she was 19 years old, through an intertext approach with a historical analysis approach. 'Asyūr explained that in Egypt, there was already a rule for the minimum age for marriage, which is 18 years old. In fact, according to him, child marriage is equal to reviving the Jahiliyah civilization.²⁰

The third argument related to child marriage is based on the *fiqh* and fatwas of scholars. The *fiqh* argument results from the ulama's thinking based on the reading of the Qur'an and hadīth using specific methods, one of which is *ijmā'*. In historical records, there is an agreement regarding the permissibility of the practice of child marriage. The scholars who are members of the *ijmā'* include Imām Ahmad ibn Hambal, Muhammad Ibn Nashr al-Marwazi, Ibn al-Mundzir, Ibn Abdil Barr, al-Baji, Ibn Al-Arabī, Al-Nawāwī, and Ibn Hajar. Meanwhile, there are also scholars with different opinions, namely Shaykh Syariif Hatim al-Auni. He argued that the *ijmā'* (consensus) was refuted by *ikhtilāf* at that time. In fact, some scholars then released a fatwa that forbids the practice of child marriage. Among others are Imām Abdullah ibn Syubramah and Imām Utsmān ibn Muslim al-Batti.²¹ Ibn Shubramah expressed that a father should not marry off his little daughter until she is an adult and has his permission. According to him, Aisyah is an exception for the Prophet. A similar exception also applies to the number of wives of the Prophet, which exceeds four.

¹⁹ Jabir Abdel Hadi Salim al-Syafi', *Taqnīn al-Fiqh al-Islamī bayna al-Mu'tamirāt wa al-Tasyrī'at* (Beirut: Dar al-Fikr, 2000): 32.

²⁰ Mukti Ali et al, *Fikih Kawin Anak, Membaca Ulang Teks Keagamaan Perkawinan Usia Anak-Anak* (Jakarta: Rumah Kitab, 2016): 24.

²¹ Mohammad, *Panduan Upaya Memenuhi Kebutuhan Argumentasi Keagamaan dalam Perlindungan Hak Anak Perempuan dari Perkawinan Usia Anak-Anak*, 37.

Ibn Shubrumah added that *ijmā'* should not be attached to something *ikhtilāf* in his time.

Regarding the contra opinion about child marriage, Sheikh Ali Jum'ah, an Egyptian National Mufti, in one fatwa, emphasized that marrying an underage girl is a crime. He asserted that marrying underage girls is a form of sexual exploitation of children everywhere, and anyone involved must be severely punished. A similar opinion was issued by Muhammad Farid, one member of the Al-Azhar Fatwa Lajnah. He stated about the prohibition of women being married at a young age even though they have reached the age of puberty (15 years old) or experience signs as criteria for puberty, which are generally women because, at that age, women are still under the care of their parents because they are not yet quite adults.²²

Meanwhile, Article 45 of the Criminal Code on the criminal prosecution of minors mentions that the minimum age for a person to be considered an adult is 16 years old. Law No. 16 of 2019, as an amendment to Article 7 paragraph (1) of the Marriage Law, states that marriage is only allowed for men and women at least 19 years old. Article 330, paragraph 1 of the Civil Code explicitly states that the adult age is at least 21 years old. In line with the Marriage Law, the Compilation of Islamic Law (KHI) states that the minimum age for marriage is 19 years old.²³

C. Child Marriage Practices in Brebes: Failure to Maintain Generic Culture

Geographically, Brebes is located in the province of Central Java, Indonesia, and part of the range of the northern coast. The people of Central Java are thick with the traditions of the palace and the coast. Their polite vernacular reflects the tradition of the Kraton Solo. The people of Brebes have a distinctive tradition of the Javanese *Ngapak* language, as do people in the Districts of Kebumen, Banyumas, Cilacap, and Banjar Negara.²⁴ Despite this Javanese *Ngapak* tradition, the people of Salem and Banjarharjo, two sub-districts in Brebes, culturally use the Sundanese Tradition in their daily life, both in speech and culture.

²² *Ibid.*, 38.

²³ "Marriage Law Number 16 of 2019". "Presidential Instruction Number 1 of 1991 on the Compilation of Islamic Law", 27.

²⁴ Lisa Dwi Wulandari, *Tipologi Laskap Pesisir Nusantara* (Malang: UB Press, 2017): 10.

According to one of the religious figures in Salem Village, the Sundanese cultural infiltration of Java was because most local religious leaders studied in West Java. They studied with several *ustadz* (teachers) in Islamic boarding schools in West Java and spread da'wah in their area using the Sundanese language. The fanaticism of the predecessors in the Salem and Banjarharjo regions towards the Sundanese tradition can also be proven by their frequent invitations to preachers from West Java because of the proximity of the region, which only takes three hours from Salem to West Java, and fanatical attitude towards the traditions upheld by the Sundanese, such as *sawer*, belief in the count of auspicious days and dates.²⁵

Child marriage becomes a very complex issue when law and social values collide. In the legal realm, child marriage is forbidden because, practically, it will result in a systemic negative impact associated with many dangerous problems, such as reproductive system disorders, mental health disorders, and the most detrimental to the stability of the nation, the lack of human resources because of child marriage perpetrators dropping out of school. Meanwhile, morally, child marriage creates gender inequality due to the devaluation of the position of women after marriage, they find it difficult to resist the will of their parents who force them to marry older men, and underage women who marry will always live in the power of their husbands, even the husband's family.²⁶

Child marriage, by several scholars, is also considered a solution to reduce the family's economic burden.²⁷ This economic factor is generally caused by matchmaking between families or the absence of funds, causing a person to drop out of school.²⁸ On the one hand, child marriage also occurs because of cultural pressure.²⁹ The perpetrators of child marriage are morally glorified because they

²⁵ The tradition of believing in auspicious days is deeply rooted and thrives in Salem. According to the *lebe's* explanation, people always question the number of days in every social ritual, such as building a house, starting farming, and getting married. Lebe Desa Salem, Interview. Activist from Desa Salem, Interview, July 15, 2018.

²⁶ Rina Hardianti & Nunung Nurwati, "Faktor Penyebab Terjadinya Pernikahan Dini pada Perempuan," *Focus: Jurnal Pekerjaan Sosial* 3, no. 2 (2020): 111–20.

²⁷ Lies Marcoes & Fadilla Dwianti Putri, *Yatim Piatu Sosial di Negeri Seribu Masjid* (Jakarta: Rumah Kitab, 2016).

²⁸ Djamilah & Reni Kartikawati, "Dampak Perkawinan Anak di Indonesia," *Jurnal Studi Pemuda* 3, no. 1 (2014): 11.

²⁹ Syamsul Arifin, *Merambah Jalan Baru dalam Beragama Rekonstruksi Kearifan Perennial Agama dalam Masyarakat Madani dan Pluralitas Bangsa* (Jogjakarta: Ittaqa Press, 2001): 45.

are devoted to their parents, but on the other hand, this practice of child marriage is also a means to perpetuate the patriarchal system;³⁰ thus, this problem involving the debate between law and morality has led to the perpetuation of the practice of child marriage, harm or danger are disguised with the postulate of the text as if it is a benefit.³¹

The effect of the collision between law³² and morality in cases of child marriage also spread to the world of education. Parents and children with low levels of education cause the practice of marriage to continue because they cannot understand the harmful effects of child marriage, including the prohibition of child marriage in the law.³³ This educational factor is not only poor at the formal school level but also lacks children's and parents' understanding of the risks of reproductive organs in sexual behavior at an early age. In fact, reproductive health knowledge helps a person avoid risky sexual behavior.³⁴ Culture in social life becomes crucial to develop regional resources. Culture is a significant capital to use.³⁵ Classification of generic and differential cultures³⁶ is one effort of anthropologists to determine the purity of culture in an area.³⁷

³⁰ La Ode Muharam & Rudin Abas Nurwia, "Faktor-Faktor Penyebab Terjadinya Pernikahan Usia Dini Siswa," *Jurnal Bening* 4, no. 1 (2020): 1–8.

³¹ The debate between law and morality is also facilitated by several things. First, there is the desire of parents for immediate additional family members. Second, there is no understanding of the bad consequences of early marriage, both for the bride and groom themselves and their descendants. Third, consistent predisposition that refuses to deviate from the provisions. Rihardi Satrio Ageng, "Perlindungan Hukum terhadap Hak-Hak Anak Perempuan sebagai Korban Eksploitasi Seksual," *Jurnal Literasi Hukum* 2, no. 1 (2018): 61–72.

³² The government has ratified The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) since 1984 with a Presidential Decree in 2000 which explicitly condemns gender discrimination. This effort is also included in the government's program to minimize child marriage, although Indonesia still managed to rank 103 out of 152 countries in the gender development category. Badan Pusat Statistik, *Kemajuan yang Tertunda: Analisis Data Perkawinan Usia Anak di Indonesia* (Jakarta: BPS, 2016): 17.

³³ Beteq Sardi, "Faktor-Faktor Pendorong Pernikahan Dini dan Dampaknya di Desa Mahak Baru Kecamatan Sungai Boh Kabupaten Malinau," *E-Journal Sosiatri-Sosiologi* 4, no. 3 (2016): 198.

³⁴ Djamilah & Reni Kartikawati, "Dampak Perkawinan Anak di Indonesia.", 9.

³⁵ Azhar Basyir, *Keluarga Sakinah Keluarga Surgawi* (Yogyakarta: Titian Ilahi Press, 1999): 47.

³⁶ F Von Beckmen Benda, *Dari Hukum Manusia Primitif sampai ke Penelaahan Sosio-Hukum Masyarakat-Masyarakat Kompleks, in TO Ihromi (Ed.), Antropologi Hukum, Sebuah Bunga Rampai* (Yogyakarta: Yayasan Obor Indonesia, 2001): 52.

³⁷ Peter L. Berger, *Langit Suci Agama sebagai Realitas Sosial, Hartono (Terj.)* (Jakarta: LP3ES, 1994): 20.

D. The Role of *Lebe* in Perpetuating Child Marriage

Lebe is a term in Malay used as an honorary predicate for someone with a broad understanding of religion.³⁸ *Lebe* in Javanese is known as *modin* or *na'ib*.³⁹ In this paper, the *lebe* in question is the marriage *lebe*, who also acts as a Kyai or Ulama. *Lebe* is also a title given to someone with religious knowledge and considered sacred by society.⁴⁰ Territorially, Brebes is part of Central Java Province. However, in some areas in the northern plains of Brebes, practices of Sundanese culture are known as Sunda-Brebes. The local community's language, customs, and mannerisms are dissimilar to the people of Central Java. They speak Javanese, including the local culture of their community.⁴¹

Lebe plays a significant role in a marriage. Apart from being trusted by the state to legalize marriages in the administration of marriage contracts, they act as trusted religious figures and, at the same time, become references in rural areas.⁴² As an official responsible for marriage, *lebe* should carry out the mandate of the law to socialize the age of marriage at a predetermined number, provide education and provide a support system to the community in the form of religious insight or the impact of underage marriage. *Lebe*, as a governing elite, also controls all village lines because of their duty to direct the community to the applicable rules. Weak leadership is prone to invading other cultures that arise from the community due to the weak power of the government, which opens up great opportunities for foreign cultural battles.

Although the regulation regarding the age limit for marriage and adult age has been explained in the law, parties still have not supported the regulation in it.

³⁸ Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 2001): 12.

³⁹ *Lebe* comes from the Malay language, namely *lebai*, a term for religious scholars or intellectuals (ulama). In the sultanate tradition, *lebe* has an institution called "*kelebean*" and joined in the Council or Syara' Law Council or an assembly dealing with religious matters and led by a *ruma kali* or *qadhi*. In addition to being a central figure in sharia affairs, *lebe* also has an important role in strengthening the Islamic faith. Amin, *Islam dan Kebudayaan Jawa* (Yogyakarta: Gama Media, 2002): 45.

⁴⁰ The people of Brebes speak in a distinctive accent, but in some parts of the sub-district there are groups of people who use Sundanese language and culture at the same time, including: Salem, Banjarharjo, Bantarkawung, Losari, Kersana, Larangan, Ketanggungan. Badan Pusat Statistik Kabupaten Brebes, *Kabupaten Brebes dalam Angka 2021* (Brebes: Badan Pusat Statistik, 2021): 15.

⁴¹ *Ibid.*, 16.

⁴² Amin, *Islam dan Kebudayaan Jawa*, 13.

The *lebe* of Banjarharjo Brebes mentioned the lack of courage to prevent child marriage in their village. This lack of courage is based on the belief that the age of marriage is relative and marriage is about readiness, and the readiness of each individual is different. The *lebe* informed that after the landslide disaster occurred in the *liu'* Brebes hill, many people were traumatized that they did not think about the educational needs of their children and instead took the initiative to marry off their children because of an urgent situation immediately; parents need material help for their daily life.⁴³ The perpetrators of child marriage had informed that *lebe* never strictly forbidden, coupled with the incompetence of village staff in directing community attitudes, causing child marriage to be viewed as following the norm. *Lebe's* traditional attitude also strengthens the implementation of child marriage with a form of sacredness to the teachings of Islamic law.⁴⁴

In Terry Eagleton's term, this culture war is said to result from a history in which the government distinguished the treatment of elite and grassroots groups⁴⁵ between the white and black groups. Intercultural culture wars occur to take influence.⁴⁶ In the case of child marriage in Brebes, the researcher gives an analogy according to Eagleton's theory of cultural battles between populist groups in Brebes, represented by the community, and elitist groups represented by religious leaders

⁴³ The *lebe's* concern was confirmed by one of the employees at the Banjarharjo Religious Affairs Office (KUA). He explained that in general the community had considered all the consequences of having child marriages, so that village officials were powerless to talk people who had bent on marrying off their children out of it. Employees at the Office of Religious Affairs Banjarharjo, Interview, July 16, 2018.

⁴⁴ According to the explanation of the perpetrators of child marriage in Salem and Banjarharjo, the implementation of marriage is very easy. The only requirement is to ensure that they are in good health and that there is no fetus in the womb. The government does not dare to make changes frontally. Regarding the hereditary culture in Brebes, the great influence of Sundanese culture is also a big problem by its own. In West Java, the largest population of child marriage actors is the Indramayu area, even reaching 60% from the data of the BPK3 of Indramayu Regency. However, in several places where there are indications of many perpetrators of child marriage, coastal Sunda, there is a tug-of-war between Sundanese and Javanese culture that affects the people of West Brebes. The village head of Parareja emphasized that there is a cultural war between Sundanese and Javanese in the Brebes community. Some traditions in Brebes adopt Sundanese, but some traditions are oriented to Javanese traditions, so that cases of child marriage cannot be claimed as purely Sundanese customs. Head of Parareja Village, Interview, April 2018.

⁴⁵ Terry Eagleton, *The Idea of Culture (Manipulasi-Manipulasi Budaya)*, Ali Noer Zaman (Terj.) (Yogyakarta: Nusantara Press, 2016): 12.

⁴⁶ Irwan Abdullah, *Konstruksi dan Reproduksi Kebudayaan* (Yogyakarta: Pustaka Pelajar, 2009): 30.

and the village or sub-district government.⁴⁷ According to one of the Salem Religious Affairs Office employees, the rampant child marriage in Brebes is not only the demand of the community but also facilitated by the inability of village officials in technology. *Lebe* H, for example, was unable to operate the technology, unknowingly letting marriage data manipulation occur under his nose.⁴⁸

In addition to culture wars, the community positioning women, especially daughters, as a party that must be protected/object is also deeply rooted. They are called objects because at the social level. They are considered a party in a position always to be protected, not protected, especially at a young age. Girls need more attention and support materially and in terms of attitude and personality.⁴⁹ Based on statements from several sources in the field, men prefer underage girls/children over older women because girls are easy to direct, need more protection, and cannot put up a frontal fight.⁵⁰

Here, the *lebe* explained that low education levels and lack of knowledge influence how the community views marriage age. Personally, the *lebe* believes that education in life plays an important role not only to enrich insight but also as an element of maturity in deciding, different from what is commonly believed by some people in Salem and Banjarharjo who consider higher education for women not so

⁴⁷ In seeing this fact, gender, as a socio-economic and political variable, is suitable to be used as a role analysis instrument. Both men and women, in relation to domestic life, are entitled to protection and attention. Women, like men, in domestic life are also full subjects who have an equal role to jointly realize a happy family. The division of gender in the system of life on the one hand can lead to a dichotomy of work areas for men and women, so that it has an impact on discrimination in one of them. Women are protected and men provide protection, and in this area, men have a wider reach than women, because women are constructed in domestic work, are very limited and are only seen as needing protection, not the protector. Nur Rofiah, *Nalar Kritis Muslimah (Refleksi atas Keperempuanan, Kemanusiaan, dan Keislaman)* (Yogyakarta: Afkaruna, 2020): 35. See also: Lumban Arofah et al, *Laporan Penelitian Wacana Kesetaraan Gender di Kalangan Mahasiswa Fakultas Keguruan dan Ilmu Pendidikan Universitas Lambung Mangkurat* (Banjarharjo: Banjar Press, 2013): 6.

⁴⁸ Employees at the Office of Religious Affairs Banjarharjo, Interview.

⁴⁹ P, Interview with a 14-year-old girl married to W, a 34-year-old widower, July 13, 2018. A, Interview with a 12-year-old girl who is married to a 25-year-old man., July 13, 2018.

⁵⁰ In his previous marriage, W admitted that he had divorced his wife (a 25-year-old woman) because his wife had previously been quite resistant and was too dominant in managing the household. Thus, W decided to marry P who at the time was 14-years-old and was still in the 3rd grade of junior high school. W, Interview with a widower who married a 12-year-old daughter, July 13, 2018.

relevant, because it actually may lead to the efforts of resistance by women against men.⁵¹

The jargon also supports child marriage in Brebes that getting married early is an achievement. Early marriage is believed to be an effort that can invite a better future. The term *enteng jodoh* (mate easily) in marriage shows that the local community interprets early marriage as a solution. Marriage, which is normatively understood as an effort to build strong bonds in the context of the Salem community, is interpreted differently. Marriage is carried out by children who are not well-equipped emotionally to establish and even strengthen relationships. Based on information from the *lebe* in Salem Village, many people are forced to get married at an early age because, with early marriage, the material can be obtained as early as possible. In fact, parents have reduced responsibility. After marriage, numerous men choose to migrate outside Java to support their families, no matter the risk. On that basis, *lebe* H acknowledged the difficulty of refusing residents' requests for early marriage.⁵²

The term 'marrying late' in social theories was introduced by Bogue, who classified marriage age into four. First, the marriage of children aged 18 years old and under. Second, marrying young, namely at 18 to 19 years old. Third, marriage at the age of adults, namely at 20 to 21 years old. Fourth, marrying late, namely at 22 years old and over.⁵³ The influence of this belief has practically resulted in a narrowing of the public's perspective so that many people are not confident if their children are married at over 22 years old. Women's independence from this perspective is seriously threatened. Ironically, marrying children off at an early age is considered not only an achievement for parents or children but also a positive value for *lebe* or village officials because they are considered to help prevent

⁵¹ To respond to the ideal value in the family, Ifan Nye elaborated his theory with the term negotiated role, where the most dominant role in the family is negotiation. Husband and wife can agree on the main tasks that must be undertaken to support negotiations. Knowledge is needed to be wise in making every decision in the household. Therefore, education is a tool to support communication in relationships and realizing a *sakinah* family. Hasan Bustomi, "Pernikahan Dini dan Dampaknya (Tinjauan Batas Umur Perkawinan Menurut Hukum Islam dan Hukum Perkawinan Indonesia," *Jurnal Yudisia* 7, no. 2 (2016): 51.

⁵² Lebe Desa Salem, Interview.

⁵³ Donald J Bogue, *Principles of Demography, in Wirosuhardjo, Dasa-Dasar Demography* (Jakarta: Lembaga Demografi FEUI, 2004): 34.

children from promiscuity. In fact, *lebe*'s willingness to officiate their children's early marriage is considered by some people as worship because the *lebe* concerned is considered to have saved their religion (*hifd al-dīn*).

E. Conclusion

The deeply rooted practice of child marriage in Brebes is inseparable from the role of the *lebe*. As a bureaucrat at the village level, *lebe* is powerless to prohibit child marriage because such culture has been deeply rooted in Brebes. They do not provide knowledge regarding the negative impact of child marriage. Interestingly, *lebe* provides solutions to the perpetrators of child marriage, both in administrative matters and in the procession of marriage. In contrast to the *lebe* duties in general, *lebe* in Salem and Banjarharjo refer to classical *fiqh* and regard it as a righteous practice to follow.

The author finds four factors contributing to the rampant child marriage in Brebes, supported by the culture and the role of local *lebe*. First, people view marriage age as relative. The pinnacle of the sacredness of marriage lies not in the age of marriage but the bride's readiness and groom, regardless of age and level of education. Second, the assumption is that women need protection, are powerless in the household, and need male assistance. Therefore, an understanding grows in the community that the sooner a person gets married, the sooner they obtain physical and economic protection. Third, the failure of the Brebes people to form a generic culture is evidenced by the strengthening of Sundanese culture than Javanese culture. Child marriage is seen as a stepping stone to a better life. There is an assumption that early marriage is a social achievement based on the jargon "*enteng jodoh* (easy marriage), *enteng rezeki* (easy sustenance)." Fourth, the cultural war between populists and elitists and distrust in higher education is another factor that perpetuates the practice of child marriage in Brebes.

BIBLIOGRAPHY

- A. Interview with a 12-year-old girl who is married to a 25-year-old man, July 13, 2018.
- An activist from Desa Salem. Interview, July 15, 2018.
- Agustian Aditya Pratama. "Brebes, Rendahnya Kesadaran Akan Pendidikan, Tingginya Kemiskinan dan Tren Pernikahan Dini." *Kompasiana*, 28 September, 2020.
- Amin. *Islam dan Kebudayaan Jawa*. Yogyakarta: Gama Media, 2002.
- Azhar Basyir. *Keluarga Sakinah Keluarga Surgawi*. Yogyakarta: Titian Ilahi Press, 1999.
- Badan Pusat Statistik. *Kemajuan yang Tertunda: Analisis Data Perkawinan Usia Anak di Indonesia*. Jakarta: BPS, 2016.
- Badan Pusat Statistik Kabupaten Brebes. *Kabupaten Brebes dalam Angka 2021*. Brebes: Badan Pusat Statistik, 2021.
- Beckmen Benda, F Von. *Dari Hukum Manusia Primitif sampai ke Penelaahan Sosio-Hukum Masyarakat-Masyarakat Kompleks*, in *TO Ihromi (Ed.), Antropologi Hukum, Sebuah Bunga Rampai*. Yogyakarta: Yayasan Obor Indonesia, 2001.
- Beteq Sardi. "Faktor-Faktor Pendorong Pernikahan Dini dan Dampaknya di Desa Mahak Baru Kecamatan Sungai Boh Kabupaten Malinau." *E-Journal Sosiatri-Sosiologi* 4, no. 3 (2016): 198.
- Departemen Pendidikan Nasional. *Kamus Besar Bahasa Indonesia*. Jakarta: Balai Pustaka, 2001.
- Djamilah & Reni Kartikawati. "Dampak Perkawinan Anak di Indonesia." *Jurnal Studi Pemuda* 3, no. 1 (2014): 11.
- Donald J Bogue. *Principles of Demography*, in *Wirosuhardjo, Dasa-Dasar Demography*. Jakarta: Lembaga Demografi FEUI, 2004.
- Eddy Fadlyana. "Pernikahan Usia Dini dan Permasalahannya." *Jurnal Sari Pediatri* 11, no. 2 (2009): 138.

- Employees at the Office of Religious Affairs Banjarharjo. Interview, July 16, 2018.
- Fauzi, Muhammad Latif. "Aligning Religious Law and State Law: Street-Level Bureaucrats and Muslim Marriage Practices in Pasuruan Indonesia." Dissertation, Leiden University, 2021. <https://www.universiteitleiden.nl/en/research/research-output/humanities/aligning-religious-law-and-state-law>.
- Hasan Bustomi. "Pernikahan Dini dan Dampaknya (Tinjauan Batas Umur Perkawinan Menurut Hukum Islam dan Hukum Perkawinan Indonesia)." *Jurnal Yudisia* 7, no. 2 (2016): 51.
- Head of Parareja Village. Interview, April 2018.
- Irma Fatmawati. *Antropologi Budaya: Pendekatan Habonaron DO Bona sebagai Falsafah Hidup Masyarakat Simalungun*. Yogyakarta: Deepublish, 2020.
- Irwan Abdullah. *Konstruksi dan Reproduksi Kebudayaan*. Yogyakarta: Pustaka Pelajar, 2009.
- Ismawayati, Any, and Inna Fauziatal Ngazizah. "Criminal Acts in Completing Early Marriage Requirements: Tuku Umur Practices in Islamic Communities in Central Java, Indonesia." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 1 (June 27, 2022): 449–67. <https://doi.org/10.22373/sjkh.v6i1.13001>.
- Jabir Abdel Hadi Salim al-Syafi'. *Taqnīn al-Fiqh al-Islamī Bayna al-Mu'tamirat wa al-Tasyri'at*. Beirut: Dar al-Fikr, 2000.
- Jamaluddin Mohammad et al. *Panduan Upaya Memenuhi Kebutuhan Argumentasi Keagamaan dalam Perlindungan Hak Anak Perempuan dari Perkawinan Usia Anak-Anak*. Jakarta: Rumah Kitab dan FourFoundation, 2016.
- Lebe Desa Salem. Interview, April 2018.
- Lies Marcoes & Fadilla Dwianti Putri. *Yatim Piatu Sosial di Negeri Seribu Masjid*. Jakarta: Rumah Kitab, 2016.
- Lisa Dwi Wulandari. *Tipologi Laskap Pesisir Nusantara*. Malang: UB Press, 2017.

Lumban Arofah et al. *Laporan Penelitian Wacana Kesetaraan Gender di Kalangan Mahasiswa Fakultas Keguruan dan Ilmu Pendidikan Universitas Lambung Mangkurat*. Banjarmasin, 2013.

Marriage Law Number 16 of 2019.

Mubasyaroh. "Analisis Faktor Penyebab Pernikahan Dini dan Dampaknya bagi Pelakunya." *YUDISIA: Jurnal Pemikiran dan Penelitian Sosial Keagamaan* 7, no. 2 (2016).

Mukti Ali, dkk. *Fikih Kawin Anak, Membaca Ulang Teks Keagamaan Perkawinan Usia Anak-Anak*. Jakarta: Rumah Kitab, 2016.

Nur Rofiah. *Nalar Kritis Muslimah (Refleksi atas Keperempuanan, Kemanusiaan, dan Keislaman)*. Yogyakarta: Afkaruna, 2020.

Nurwia, La Ode Muharam & Rudin Abas. "Faktor-Faktor Penyebab Terjadinya Pernikahan Usia Dini Siswa." *Jurnal Bening* 4, no. 1 (2020): 1–8.

P. Interview with a 14-year-old girl married to W, a 34-year-old widower., July 13, 2018.

Peter L. Berger. *Langit Suci Agama Sebagai Realitas Sosial*. Trans. Hartono. Jakarta: LP3ES, 1994.

Presidential Instruction No. 1 of 1991 on the Compilation of Islamic Law.

Rihardi Satrio Ageng. "Perlindungan Hukum terhadap Hak-Hak Anak Perempuan Sebagai Korban Eksploitasi Seksual." *Jurnal Literasi Hukum* 2, no. 1 (2018): 61–72.

Rina Hardianti & Nunung Nurwati. "Faktor Penyebab Terjadinya Pernikahan Dini pada Perempuan." *Focus: Jurnal Pekerjaan Sosial* 3, no. 2 (2020): 111–20.

Supriyadi, and Siti Suriyati. "Judges' Legal Culture in Dealing with High Number of Applications for Child Marriage Dispensation during Covid-19 Pandemic at the Kudus Religious Court." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (June 30, 2022): 273–98. <https://doi.org/10.19105/al-lhkam.v17i1.6060>.

Syamsul Arifin. *Merambah Jalan Baru dalam Beragama Rekonstruksi Kearifan Perennial Agama dalam Masyarakat Madani dan Pluralitas Bangsa*. Jogjakarta: Ittaqa Press, 2001.

Taufiq Budi. "Kabupaten Brebes Peringkat Pertama Kasus Perkawinan Anak." *Lifestyle.Okezone.Com*, 21 November, 2017.

Terry Eagleton. *The Idea of Culture (Manipulasi-Manipulasi Budaya, Blackwell Publisher LTd Oxford, Inggris, Terjemah Ali Noer Zaman*. Yogyakarta: Nusantara Press, 2016.

Tim Peneliti. *Laporan Penelitian Program Studi Kajian Gender Sekolah Kajian Strategik dan Global Universitas Indonesia Bekerjasama dengan Kementerian Pemberdayaan Perempuan dan Perlindungan Anak*. Jakarta, 2016.

W. Interview with a widower who married a 12-year-old daughter., July 13, 2018.