

Youthful Choices, Legal Consequences: A Study of Underage Marriages in Kota Pari, Serdang Bedagai Regency, North Sumatera, Indonesia

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Abstract

Marriage, as a sacred bond, signifies the union between two individuals. It is governed by Law No. 16 of 2019, which amended Law No. 1 of 1974. According to Article 7, paragraph (1), both men and women are eligible for marriage once they reach the age of 19. However, if they have not attained this age, the parents can seek dispensation through the court, as stated in paragraph (2). Despite the legal provisions, the persistence of underage marriages is evident throughout history.

To address this issue, the amended law, aimed at reducing the alarming prevalence of child marriages, divorce rates, and domestic violence among young couples, has imposed stricter age restrictions. Nonetheless, it is important to acknowledge that in certain circumstances where underage marriages are necessitated, the law provides for dispensations. Notably, Law No. 16 of 2019, amending Law No. 1 of 1974 on marriage, does not explicitly outline the specific criteria or factors considered for granting marriage dispensations to minors. As a consequence, the Religious Court or the designated panel of judges evaluates each case individually, accounting for the unique circumstances presented. This approach reflects a governmental policy response to exceptional situations. To gain a comprehensive understanding of the underlying factors contributing to underage marriages, an in-depth research study has been undertaken, focusing specifically on the village of Kota Pari, Serdang Bedagai Regency. This study aims to provide valuable insights into the complex dynamics surrounding underage marriages.

Keywords: *Legal Consequences, Occurrence of Marriage, Underage.*

Introduction

Human beings, as perfect creatures created by God, have a natural inclination to seek companionship in order to fulfill their purpose of perpetuating their species. Marriage, recognized as a legal institution by both religion and the state, provides a structured framework for individuals to form a harmonious family and household, guided by their belief in a higher power. The essence of marriage lies in its lifelong commitment, where individuals come together to share their lives in an inseparable union.

In the broader context of human existence, marriage plays a pivotal role in achieving a well-rounded state of well-being, encompassing psychological, social, and biological aspects. By uniting individuals of different genders, marriage serves as a means to bridge their differences and establish a profound synergy of unwavering dedication,

with the ultimate goal of building a joyful and everlasting family unit. Indeed, the sacred bond formed through the marriage of a man and a woman represents the fundamental building block of society, known as the family.

This innate desire for marriage is not limited to any particular group or culture, as it resonates universally among all beings. It is an intrinsic part of God's divine creation, ensuring the continuity and flourishing of life across generations in this world. As a nation governed by the principles of the rule of law, Indonesia has enacted legislation to regulate the institution of marriage. Specifically, Law No. 1 of 1974 pertaining to marriage outlines the legal framework in which marriage operates.

Within this legal framework, there exist specific provisions regarding the minimum age requirements for marriage, as enshrined in Article 7, paragraph (1) of Law No. 16 of 2019, which serves as an amendment to Law No. 1 of 1974. According to these provisions, both men and women must have reached the age of 19 in order to solemnize a marriage. However, it is important to note that under certain circumstances, if individuals seek to marry at a younger age, Article 7, paragraph (2) allows their parents to petition the court for a dispensation, provided they present valid and compelling justifications.

Through the interplay of legal regulations and societal dynamics, the institution of marriage continues to evolve, aiming to strike a delicate balance between individual aspirations and the broader welfare of society. It is a testament to the multifaceted nature of human relationships and the complexities inherent in harmonizing personal desires with the collective well-being of the community.

The application for a marriage dispensation can be influenced by various factors, including economic circumstances, cultural considerations, and low levels of education. One significant economic factor that affects the application for a marriage dispensation is poverty. Parents facing financial difficulties may perceive marriage as a means to alleviate the economic burden on their family, particularly in the case of girls, where marriage is often seen as a transfer of responsibility from parents to the husband, relieving the family of financial obligations.

The age requirement for marriage holds great importance in the context of marriage as it signifies the psychological maturity of individuals. According to Article 7, paragraph (1) of Law No. 16 of 2019, amending Law No. 1 of 1974, individuals must be 19 years old to enter into marriage. Despite these legal provisions, underage marriages have persisted throughout history, leading to amendments in the law to impose stricter age restrictions. The aim is to address the increasing trend of child marriages, reduce divorce rates among young couples, and mitigate instances of domestic violence within marriages.

However, it is noteworthy that judges often grant dispensations for underage individuals to marry, highlighting the complexities surrounding this issue. Despite efforts to tighten age limits through legal amendments, the practice of underage marriages continues to prevail. Indonesia, as a nation, faces significant challenges in combating early marriages, ranking 37th globally in terms of the prevalence of such marriages and second highest in the ASEAN region after Cambodia.

Through careful analysis, it has been found that child marriages are closely intertwined with rural areas, inadequate housing conditions, and households with limited financial resources. These factors are interconnected with the overarching issue of poverty, which exacerbates the prevalence of early marriages. Addressing this multifaceted problem requires comprehensive strategies that not only focus on legal regulations but also aim to improve living conditions, enhance educational opportunities, and empower communities to combat the underlying causes of underage marriages.

Child marriages occur at a higher rate in rural areas compared to urban areas, with a 1.5 times greater likelihood (27.1% in rural areas and 17.1% in urban areas). This significant disparity in prevalence underscores the impact of location on the occurrence of underage marriages.

The amendment of Law No. 1 of 1974 to Law No. 16 of 2019, which primarily focuses on the age limit for marriage, is a response to the persistently high rates of child marriages and divorces among young couples. This legal amendment aims to address these concerning trends and safeguard the well-being of individuals involved in early marriages.

A specific case in the Pasangkayu District, West Sulawesi Province, sheds light on the complexities surrounding underage marriages. In case number 50/Pdt.P/2020/Pa.Pky, the parents of a 14-year-old girl sought a dispensation from the Pasangkayu Religious Court to allow her to marry a 19-year-old man. Despite both individuals being below the age of 20, the male partner was eligible for marriage under Article 7, paragraph (1) of Law No. 16 of 2019, which sets the minimum marriage age at 19 for both genders.

Furthermore, Article 7, paragraph (2) stipulates that if there is a deviation from the age requirement, the parents of both the male and female parties must present compelling justifications and sufficient evidence when requesting dispensation from the court. In this case, the court granted the marriage dispensation, considering factors such as the long-standing relationship, mutual love, and the couple's expressed commitment to continue their relationship through marriage, despite the female partner not meeting the age requirement specified in the Marriage Law.

This principle is related to the purpose of marriage, which is to establish a happy and prosperous family. Happiness refers to harmony, while prosperity means having sufficient clothing, food, and adequate housing for a relatively small number of family members. However, in the consideration of the panel of judges granting marriage dispensation in case number 50/Pdt.P/2020/PA.Pky mentioned above, it contradicts Law No. 35 of 2014 on Child Protection. According to Article 1, paragraph (1) of Law No. 35 of 2014 on Child Protection, a child is defined as someone who has not yet reached 18 years of age, including unborn children. Therefore, the reasoning of the judge in this case is flawed if it only looks at Islamic law, whereas both the Marriage Law and the Law on Child Protection establish the concept of childhood to protect individuals from underage marriage and safeguard their rights and obligations. Moreover, with the revision of the Marriage Law regarding the age at which someone can marry, which was 16 for women and 19 for men in Law No. 1 of 1974, changed to 19 for both genders in Law No. 16 of 2019, it shows that the government is aware of the importance of age as a determining factor in marriage. The increasing rate of divorce among young couples and the prevalence of underage marriages necessitate the firmness of judges in rejecting dispensations. This issue is not only a social or economic matter but also a health concern for the underage individuals, especially in cases of pregnancy, which poses potential risks to their reproductive health. The age limit for individuals intending to marry is always associated with maturity, as it is believed that maturity is necessary for a lifelong and divorce-free marriage. The imposition of age restrictions in marriage aims to allow Indonesian children to have a longer period of education to enhance the quality of Indonesia's human resources. Prior to the enactment of the Marriage Law in Indonesia, there was a legal pluralism that governed the concept of maturity. This can be seen in the existence of religious and customary laws that regulated the age of maturity.

The issue of age limits for marriage in the Marriage Law has undergone several changes over time. Ratno Lukito suggests that these changes are influenced by various factors, including the ongoing theoretical discussions regarding the age of adulthood within Islamic communities and the state. Additionally, societal practices based on fiqh or local customs and the persistence of traditional gender relations play a role in shaping the understanding of marriage age limits.

Within the legal framework, the definition of a child varies across different laws. For instance, Law No. 4 of 1979 on Child Welfare sets the age limit for a child at 21 years and stipulates that they should not have been married before. This contrasts with the Law on Child Protection, which considers individuals as children if they are 18 years old, including those who are still in the womb.

While the principle of *lex specialis derogat legi generali* acknowledges that specific regulations prevail over general ones, it is important to note that the Child Welfare Law emphasizes the well-being of individuals. By setting the age limit at 21, the law takes into account social maturity, personal maturity, and mental maturity as indicators of adulthood.

However, it is crucial to recognize that the consent of both prospective spouses does not exempt them from meeting the legal requirements and obligations defined by the Marriage Law. Even if both parties agree to marry, the need for parental consent and a marriage guardian is still mandated by the law, ensuring the protection of individuals involved in the marriage process.

In the context of marriage, the age limit holds significant importance within the legal framework as it serves as a determining factor for an individual's physical and mental maturity. A person who enters into marriage is considered an adult, capable of shouldering the responsibilities that come with married life, including the provision

of both material and emotional support. This notion of maturity in the realm of marriage is intricately connected to an individual's legal competence, as their actions within the legal domain have legal consequences.

Conversely, a person who has not attained the legal age is viewed as lacking the capacity to act autonomously in legal matters, necessitating the representation of their parents or legal guardians. This recognition aligns with Republic of Indonesia Law Number 35 of 2014, which amends Republic of Indonesia Law Number 23 of 2002 on Child Protection. According to Article 1, paragraph (1) of the 2014 Law, an individual is classified as a child if they are below the age of 18, underscoring the legal definition of childhood within the framework of child protection.

Methodology

The research was conducted using a qualitative descriptive method with a jurisprudential model, following the approach outlined by Soerjono Soekanto and Sri Mamudji (2006). This method involved gathering and elaborating on both primary and secondary data to obtain a comprehensive understanding of the situation and conditions within the research area.

Furthermore, this research can be classified as quantitative descriptive research, as described by Johnny Ibrahim (2006). This type of research focuses on studying independent variables without making comparisons or establishing connections with other variables. The objective of descriptive research is to systematically, factually, and accurately describe and portray various phenomena under investigation.

The specific aim of this study is to examine and provide empirical evidence regarding the analysis of mixed marriages and their consequences. By employing a quantitative descriptive approach, the research aims to offer a comprehensive understanding of the implications and outcomes associated with the execution of such marriages.

By integrating both qualitative and quantitative aspects, this research provides a holistic and multifaceted perspective, enriching the overall findings and contributing to a more comprehensive understanding of the topic under investigation.

Aligned with the research design that utilizes a qualitative descriptive model, the employed data collection techniques in this study are interrelated, forming a cohesive approach to gather comprehensive information.

The first technique, the interview method, involved conducting open-ended interviews with informants in Desa Kota Pari Serdang Bedagai. These interviews focused on the existing regulations and standard operating procedures (SOP) related to underage marriages, enabling the collection of authentic and contextualized data. In addition to interviews, direct observation played a vital role in this study. Both formal and informal observations were conducted within the coastal environment of Desa Kota Pari Serdang Bedagai, providing firsthand insights into various activities and events. To ensure a well-rounded perspective, data collection also involved gathering information from relevant institutions, including Civil Society Organizations (CSOs) and government agencies. These sources served as informants and research contributors, augmenting the comprehensive understanding of the research subject. The collected data will undergo qualitative descriptive analysis, where a meticulous examination of the data will be conducted. This analysis aims to interpret the meaning of the data, considering multiple aspects of the research context and providing a comprehensive understanding of the actual conditions.

Discussion

This research was conducted in Desa Kota Pari Serdang Bedagai from December 2022 to February 2023. Interviews were conducted with Mr. Hambali, the Secretary of Desa Kota Pari Serdang Bedagai, to gather information regarding underage marriages. The interview took place between October 2022 and February 2023. The findings of the interview revealed that according to Article 1, paragraph (1) of Law No. 35 of 2014, which amends Law No. 23 of 2002 on child protection, a person is considered a child if they are below 18 years old, including unborn children.

Upon careful examination, it is evident that Islam does not provide specific maximum or minimum age limits for marriage, nor does it explicitly define the criteria for determining a person's maturity. However, it is recognized that different regions and historical periods influence the rate at which individuals reach maturity. The determination of maturity for marriage falls within the domain of *ijtihad*, which involves scholarly interpretation. Underage marriage refers to marriages where both the prospective husband and wife are below the age limit specified by the law and below the ideal age for marriage. As previously discussed, the age requirement for marriage is outlined in Article 6, paragraph 2, and Article 7, paragraph 1, which address age as a prerequisite for marriage.

Upon further examination of underage marriages or marriages that do not comply with the prevailing laws in

Indonesia, it is evident that there is minimal documentation available from the Directorate of Islamic Judiciary Development in Jakarta. However, according to Andi Syamsu Alam, divorce cases within marriages are predominantly influenced by a lack of responsibility. This phenomenon occurs because the motivation for marriage in society is predominantly driven by sexual motivations, resulting in many marriages being entered into with wrong intentions and a misguided mentality.

This situation arises due to a lack of mental preparation to face potential economic difficulties, distorted religious understanding of marriage, and the immaturity of the marrying couple, both in terms of physical and psychological maturity. In the author's opinion, this highlights the importance of pre-marital courses or programs conducted at the Office of Religious Affairs, commonly known as Pre-Marital Counseling. Based on data from the Central Bureau of Statistics, the cumulative number of marriages and divorces in Indonesia has been on the rise. It is estimated that for every five marriages, one divorce occurs.

The impacts of underage marriage can be examined from different perspectives, revealing significant consequences in various domains.

Legally, underage marriage violates several laws in Indonesia. Firstly, Law No. 16 of 2019 amended the minimum age limit for marriage, establishing 19 as the minimum age for both males and females. This revision was made in accordance with Law No. 1 of 1974 on Marriage, which previously allowed marriage at younger ages. Additionally, Law No. 23 of 2002 on Child Protection emphasizes the obligation of parents to prevent child marriages, highlighting the legal protection afforded to children.

Biologically, early marriage poses risks to the physical well-being of young girls. Their bodies may not be fully prepared for reproduction, leading to potential complications during sexual intercourse, childbirth, and postpartum. Trauma, tearing, and various health risks can endanger their overall health and well-being.

Psychologically, early marriage can have profound effects on the emotional and psychological development of young girls. Lack of readiness and understanding about spousal relationships can result in feelings of unpreparedness, contributing to trauma, depression, and regret.

From a social perspective, underage marriage perpetuates patriarchal norms and reinforces gender inequalities within society. It strengthens the perception that women are inferior and primarily serve as sexual companions to men. This can further contribute to the prevalence of violence against women.

Moreover, early marriages can contribute to deviant sexual behavior, such as pedophilia, as they normalize relationships involving adults and children. However, the Indonesian government has criminalized such acts, with severe penalties outlined in Article 81 of Law No. 23 of 2002 on Child Protection. These "untimely" marriages disrupt the children's world, impeding their educational and recreational opportunities.

In conclusion, the description clearly highlights the negative consequences of early marriage and emphasizes the importance of opposing and rejecting such practices. It is crucial to raise awareness among parents about the dangers of marrying off their children at a young age and educate children about their rights under child protection laws. Concerned members of society can take action, such as filing class-action lawsuits or reporting perpetrators to the Indonesian Child Protection Commission, to address this issue effectively.

Law No. 16 of 2019, which amended Law No. 1 of 1974 on Marriage, does not explicitly state the factors or reasons for granting marriage dispensation to underage children. As a result, the Religious Court or appointed Panel of Judges will consider each case individually. Marriage dispensation is a government policy designed to address special circumstances where restrictions imposed by the law can be waived for important reasons. These reasons may include physical and psychological readiness, as well as reaching the age of maturity. According to Islamic law, one requirement for marriage is that both the prospective bride and groom must have attained physical and mental maturity. The concept of readiness allows for individuals under the age of 19, as stipulated in the Marriage Law. If both underage prospective spouses express their desire to marry, the judge may grant their request based on their physical and mental readiness.

In today's dating scene, parents often worry about their children's behavior, fearing they may engage in

adultery or cross certain boundaries. As a means of protecting their children from potential harm, parents tend to view early marriage as a solution.

From a legal perspective, marriage becomes an obligation when there is a genuine concern that an individual may be inclined to commit despicable acts or adultery. The purpose of marriage then becomes preserving and safeguarding the soul, steering it away from sinful deeds. In this context, marriage serves as a preventive measure, transforming its legal status into an obligation.

Financial independence and parental approval are significant factors in determining early marriage. There are cases where children already have successful economic ventures and sufficient income. Their ability to support themselves and even assist their parents financially becomes a driving force behind their decision to marry, as they have found their life partner.

Another factor that may lead to early marriage is when the prospective bride is already pregnant. This circumstance is deeply rooted in Indonesian cultural traditions, which still stigmatize unmarried pregnancies. Families may go to extreme measures, such as disowning their unmarried pregnant daughters. Consequently, decision-makers face a unique challenge when considering a marriage dispensation request involving a pregnant bride-to-be. Granting the request becomes the only viable option to prevent potentially more severe consequences. Article 56, paragraph (1) of the Compilation of Islamic Law permits the marriage of a woman who is pregnant out of wedlock to the man responsible for the pregnancy.

Furthermore, parental support, both morally and materially, can be another influential factor. The parents' financial stability, which surpasses adequacy, and the respected social standing of their family often prompt them to facilitate their child's immediate marriage. The parents' unwavering desire to marry off their child is driven by their commitment to ensure the fulfillment of all their child's needs. In certain regions, parents take pride in their daughter receiving a marriage proposal and promptly getting married. They willingly provide all necessary resources for their child, provided the child acquiesces to their wishes.

It is important to note that Article 3 of Law No. 35 of 2014, amending Law No. 23 of 2002 on Child Protection, clarifies that the purpose of child protection is to foster the development of qualified, morally upright, and prosperous Indonesian children. Consequently, the enactment of the Child Protection Law is intended to guarantee an ideal life for children and not to legitimize the unreasonable desires of children, such as early marriage.

Conclusion and Suggestions

The factors that contribute to underage marriage are adat (customs) and budaya (culture), economic factors, religious factors, educational factors, being arranged by parents, and lastly, the individual's own will. The impacts of underage marriage can be both positive and negative for both parties, affecting aspects such as the household's well-being, education, and economy. Additionally, efforts to prevent underage marriage should be made. In order to achieve the purpose of marriage, it should be accompanied by mental and spiritual preparation with pure intentions. In this regard, the goal is to create a family that is *sakinah* (peaceful), *mawaddah* (loving), and *warahmah* (full of mercy). It is important for the wider community to be aware of the factors that can influence underage marriage, and further analysis should be conducted based on a conceptual framework, while also adhering to the norms and legal principles outlined in Law No. 1 of 1974 and Government Regulation No. 9 of 1975 regarding the Compilation of Islamic Law.

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