

STOP Early Merriage to Protect Indonesian Women Through a Phenomenological Approach

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Abstract: Children are the source of the generation whose presence is expected for changes in the future. However, currently the phenomenon of early marriage is a never-ending conversation. Early marriage still occurs in society due to religious, economic and social problems. Law Number 16 of 2019 (Amendment to Law Number 1 of 1974 Concerning Marriage) changes the age of marriage to 19 years. This change does not have a significant impact on the decline in early marriage because in reality there are still many who apply for marriage dispensation. Many cases occur as a result of early marriage such as poverty, high maternal and child mortality rates, low school enrollment rates and high unemployment rates.

Keywords: Early Merriage, Women, Sosial Problems.

Introduction

Young marriage is one of the problems that continues to occur in Indonesia to this day, even though the number or rate of young marriages is not high, it continues to increase every year. Thus, readiness for marriage that is still immature, unstable emotional conditions can result in the resilience and quality of the family to be built. Marriage young will certainly affect family resilience, because when they decide to marry young they will definitely stop going to school which in turn causes limited knowledge.

In many cases, girls are married off at a very young age only for second wives and so on. This situation makes women vulnerable to becoming victims of violence because of an unequal relationship, both with husbands and women who are the husband's first wife.

Marriage according to Law Number 1 of 1974 concerning Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal

family (household) based on Belief in the One Supreme God.¹

Underage marriage is marriage between a man and a woman who both have not reached the age of 19 years for men and 16 years for women. For people who are not old enough to get married, it is mandatory to apply for a marriage dispensation at the local Religious Court.

Underage marriages that occur in society are caused by various problems including religious, economic and social problems. Religious issues are related to the practice of one's religion, in religious circles underage marriage is an option to avoid sin, fear of adultery, follow the sunnah of the Prophet, hope for blessings and so on. Economic motivation by getting married is hoping to elevate the degree, improve the family economy, ease the burden on parents and so on. Social problems, for example feelings of pride if a man can marry a young girl, have inner satisfaction and so on.

¹ Direktorat Pembinaan Badan Peradilan Agama dan Direktorat Jenderal Pembinaan Kelembagaan Agama Islam Departemen Agama, *Kompilasi Hukum Islam di Indonesia* (Jakarta, 1991).

The reality on the ground shows that underage marriages do not bring benefits to families and households, underage marriages actually lead to divorce. Many couples who, in the first years of their marriage, begin to falter in navigating household welfare, because the couple is not ready to understand the meaning and wisdom of a marriage, so they are unable to achieve the coveted marriage *mahligai*. Various problems arise, because the couple is psychologically not ready to face a new life in family and social life.

This study uses qualitative research. According to Jane Richie, qualitative research is an attempt to present the social world and its perspective on the world, in terms of concepts, behaviors, perceptions, and issues concerning the human being studied.² Qualitative research is a research method used to research on natural object conditions, (as opposed to experiments) where the writer is the key instrument.

In this study the authors used a phenomenological approach that involved a careful and thorough examination of conscious human experience. The main concept in phenomenology is meaning. Meaning is the essential content that emerges from the experience of human consciousness.

Results and Discussion

Underage marriage is a tradition that has been going on for a long time in Indonesia. In its journey, this tradition could not be maintained. This is because various data and facts prove that marrying off children only prepares an environment that is not conducive for the development of women and children. Children are forced to become parents from an early age, even if they are not ready in any case.

In the book 'Dalil Qadhaya al-Shihhah al-Injabiyah li al-Murahiqa wa al-Syabab min Manzhar Islami it is stated that early marriage from the point of view includes: (1) From the point of view of reproductive health, the age of women who are ready to experience reproduction is not

less than 18 years. And the ideal age to get pregnant is between 20-35 years; (2) Viewed from violence against women, early marriage has the potential to give birth to non-physical violence (*al-'unf alma'nawiy*) and physical violence (*al-'unf al-badaniy*). In addition, this marriage model also resulted in the domestication of women; (3) From the point of view of religious thought, early child marriage, Ibnu Shubramah and Abu Bakar al-A'sham argue that early childhood marriage is haram, both of them stated that the marriage of the Prophet Muhammad SAW. with Aisha is a special character (*khushushiyyah*), while it is not lawful for her people.³ Rasulullah saw, said:

بَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَغْضُ
لِلْبَصْرِ وَأَحْصَنُ لِلْفَرْجِ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ
وَجَاءٌ

*Meaning: "O youths, whoever among you is able (mind and body), then get married. Indeed (marriage) can protect your views and honor. And whoever is unable to do so, let him fast, because (fasting) can be a restraint (lust) for you." (H.R.Muttafaq 'Alaih).*⁴

This hadith explicitly shows that it is permissible to marry only when a person is an adult, because various legal impacts will arise. Imam al-Shafi'i once said that a father may not marry his daughter until she reaches puberty and can convey her permission because marriage will bring various rights and obligations. So it is *makruh* in law for someone who has not been able to fulfill obligations in the family, such as giving a dowry and maintenance and then getting married.

Women who marry at an early age cannot be expected to build a family. A girl who became pregnant at a very young age, was completely unprepared for childbirth and child rearing. These young mothers also have the potential to become

³ Mukti Ali dan dkk, *Fikih Kawin Anak Membaca Ulang Teks Keagamaan Perkawinan Usia Anak-anak* (Jakarta: Rumah Kitab, Ford Foundation dan Norwegian Centre For Human Right, 2015).

⁴ Ahmad Mudjab Mahali dan Ahmad Rodli Hasbullah, *Hadist-hadist Muttafaq 'Alaih* (Jakarta: Kencana, 2004).

² Sugiyono, *Memahami Penelitian Kualitatif* (Bandung: Alfabeta, 2010).

perpetrators of violence against their children. One of the goals of marriage is to create peace. In the Qur'an this goal is explained in verses.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ
بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: "Among His signs is that He created for you wives of your own kind, so that you may be inclined and comfortable with them, and He made them among you with love and affection. Indeed, in that there are signs for people who think." (QS. Al-Rum [30]: 21)

In this verse, the purpose of marriage is expressly stated with the sentence (اونكستل to feel calm), so that the purpose of marriage is to obtain a calm life (*sakinah*). Peace in the family gives birth to a sense of love (*mawaddah*) and affection (*rahmah*) between families. The word "taskunuu" comes from the word sakana, which is silent, calm after experiencing turmoil and busyness before. Therefore, a house in which there is a family is called a sakan because it is a place to find peace after the residents are active outside the home. Thus, marriage gives birth to inner peace and comfort.⁵

Law Number 16 of 2019 (Amendment to Law Number 1 of 1974 Concerning Marriage) changes the age of marriage to 19 years. Before the amendment, the marriage age for women was lower than for men, namely 16 years. Due to the low age of marriage for women, many marriages are categorized as child marriages. Because the Convention on the Rights of the Child and the Law on Child Protection (UU No. 23/2002, amended by Law No. 35/2014. Amended by Law 17/2016) stipulate that a child is someone who is less than 18 years old.

With the increase in the age of marriage for women from 16 years to 19 years, it does not mean that child marriage will not happen again, because the lowest ever recorded application for

dispensation was 11 years. This means that by increasing the age of marriage to 19 years, the possibility of applying for a marriage dispensation is getting bigger.⁶

Theory

A. Early Marriage

1. Definition of Early Marriage

is a bond that is carried out by couples who are still relatively young during puberty. In accordance with Law Number 1 of 1974 article 7 paragraph 1 it states that the age that is permitted to marry is 19 years for men and 16 years for women. So that the implementation of underage marriages includes early marriage.

2. Factors Occurring Marriage at an Early Age.

1) Economic Factors. This usually happens because the family is experiencing economic difficulties, so one way out is to marry off their child at an early age to ease the burden on the family and hope that their child will get a decent life.

2) Low Education Factor. Factors Low education occurs in parents and children. Parents with low education will tend to think resignedly and do not take into account the impact it has on their children. Likewise, children's low education results in them only being able to accept what is ordered by their parents.

3) Cultural factors or traditions. These factors are usually rigid and cannot be changed. Some people think that refusing a proposal is something that is insulting even though they are not even 16 years old.

4) Social Media Factor. This factor occurs because of the ease of accessing information from all forms and types of sources in the current era. It is very easy for children to

⁵ Kurdi, "Pernikahan di Bawah Umur Perspektif Maqashid Al-Qur'an," *Jurnal Hukum Islam* 14, no. 1 (2016).

⁶ Yayasan BaKTI, *Perempuan, Masyarakat Patriarki & Kesetaraan Gender* (Makasar: BaKTI, 2020).

view pornographic sites which are then not equipped with adequate emotions and knowledge, causing many pregnancies outside of marriage which trigger early marriages.

3. The Impact of Early Marriage on Children

In fact, the implementation of marriage at an early age has many negative impacts on children, both physically and mentally. Based on the Child Marriage Study Report in Indonesia, the high rate of early marriage can increase the risk of maternal and child mortality. Some examples of the impact that can arise from early marriage include:

- 1) Risk of bleeding and miscarriage. The physical condition of women who are not mature enough causes their reproductive organs to be vulnerable to several diseases. In addition, pregnancy under the age of 20 will be at risk of causing bleeding, anemia, and miscarriage.
- 2) Risk of Bad Baby Condition. Apart from having an impact on the physical condition of the mother, this also has an impact on the condition of the baby. The process of giving birth to a baby can also be premature, at risk of experiencing respiratory, digestive, vision problems, decreased cognitive abilities, birth defects, weight gain, and even fetal death.
- 3) Spouse Mental Health Risks. Not only has an impact on physical health, getting married at an early age will also interfere with the mental health of partners. Inadequate and stable emotional conditions will allow Domestic Violence (KDRT) to occur. In addition to domestic violence, divorce is also very likely to occur because the problem solving conditions for young couples are not yet mature and stable.

4) Education is hampered. Because they are already married and there are many things to take care of, it is possible for couples who marry at an early age to drop out of school and continue their education. This is because early age couples must carry out their responsibilities as parents and husband and wife.

5) The emergence of underage work and economic hardship. Early marriage will of course lead to underage work because like it or not, early age couples have to make a living for their next life. Because the condition is still underage, of course it will be difficult to find work, this will result in economic difficulties and in the long term neglect of children.

Scientific Studies

Previous research:

- A. Journal article entitled "Perspesi Remaja Menikah Terhadap Pernikahan Usia Dini di Kecamatan Baranti Kabupaten Sidrap (Studi Pada Remaja Menikah)". This Research was written by Iskandar. This study aims to determine the perceptions of married youth towards early marriage in Baranti District, Sidrap Regency. The subjects in this study focused on educational background and parents who made it a tradition in their area of residence that if someone has applied, they must be accepted immediately. In this study, researchers used qualitative research, namely seeking information by collecting data in the form of descriptions of words conducted by researchers through interviews. The results of the study, object perceptions do not agree regarding early marriage because women are not mature psychologically or physically. Meanwhile, in terms of social perception, they reject early marriage

because they see the reality that there are many negative impacts compared to the positive impacts that must end in divorce.⁷

- B. Erik Widodo and Wisnu Sanjaya Published a journal article title, "Sosialisasi Pencegahan Pernikahan Usia Dini Menurut UU NO 16 Tahun 2019 Pada Warga Dusun Psosng, Karangtengah, Wonogiri". The subjects in this study were the people of Posong Hamlet through the RT head, RW head, Linmas and all Posong Hamlet officials. The result of this study is a positive response from the community that supports efforts to prevent early marriage. Efforts to Prevent Early Marriage are Conducted Outreach to the community conducts socialization in the form of counseling regarding the impact of early marriage on the future of children. Gather public and community support, and encourage the birth of regulations to prevent and abolish child marriages under the age of 18. Forming a community movement to stop child marriage, the causes of early marriage include economic factors, family, promiscuity and low levels of education which have an impact on increasing the number of children dropping out of school, especially girls, violence against women, maternal and infant mortality, the community responds positively to prevention efforts carried out by the leaders of young women's organizations. To anticipate the occurrence of underage marriages, the government together with religious leaders and mass organizations need to socialize the Marriage Law to the public. In addition, collaboration with the health office provides health education related to the impact of

underage marriages. Government intervention is very urgent in providing understanding and which can provide a deterrent effect for perpetrators and parties related to underage marriages.⁸

- C. Dwi Rifiani Published a journal article title, "Pernikahan Dini Dalam Perspektif Hukum Islam". The result of this writing is that there are concerns from certain parties that getting married at an early age will hinder studies or be prone to conflicts that lead to divorce, due to the mental unpreparedness of immature partners.⁹

Empirical Study

Result and Discussion

The phenomenological approach is used to understand the symptoms of public awareness of the behavior and actions of early marriage. Child marriage (<18 years) is a tradition that has been going on for a long time in Indonesia. In its journey, this tradition could not be maintained. This is because various data and facts prove that marrying off children only prepares an environment that is not conducive for the development of women and children. Children are forced to become parents from an early age, even if they are not ready in any case.

In 2018, 1 in 9 girls married in Indonesia. It is estimated that there will be around 1,220,900 women aged 20-24 who are married before the age of 18 in 2018 and this figure places Indonesia in the 10 countries with the highest number of child marriages in the world. Analysis of child marriage data observed women aged 20-24 who were married before the ages of 15 and 18 and men who married. Data on boys cannot yet show a trend because the data available is only four years from 2015 to 2018. This is in accordance with the Sustainable Development Goals (SDG) indicator

⁷ Iskandar, *Persepsi Remaja Menikah Terhadap Pernikahan Usia Dini Di Kecamatan Baranti Kabupaten Sidrap* (Parepare: Skripsi, 2019).

⁸ Erik Widodo dan Wisnu Sanjaya, "Sosialisasi Pencegahan Pernikahan Usia Dini Menurut UU NO 16 Tahun 2019 Pada Warga Dusun Psosng, Karangtengah, Wonogiri," *Intelektiva: Jurnal Ekonomi, Sosial & Maniora* 2, no. 10 (2021).

⁹ Dwi Rifiani, "Pernikahan Dini Dalam Perspektif Hukum Islam," *De Jure, Jurnal Hukum dan Syar'iah* 3, no. 2 (2011).

and is different from previous reports which used indicators of married women aged 20-24 years.¹⁰

In the last ten (10) years, there has only been a slight decrease in child marriage in Indonesia, namely by 3.5 percent. In October 2019, the Government of Indonesia passed Law number 16 of 2019 which is an amendment to Law number 1 of 1974 concerning Marriage. In 2018, 11.21 percent of women aged 20-24 were married before they were 18 years old. In 20 provinces the prevalence of child marriage is still above the national average. Provinces with the highest prevalence of child marriage are West Sulawesi, Central Sulawesi and Southeast Sulawesi. There are more than 1 million girls who marry at a young age. Based on the absolute number of child marriages, West Java, East Java and Central Java are the 3 provinces with the highest prevalence. Within 10 years, the prevalence of child marriage in rural areas has decreased by 5.76 percentage points, while the prevalence in urban areas has only decreased by less than 1 percentage point.¹¹

Child marriage is related to various factors which can be structural in nature or stem from the capacity of the community, family or individual. Findings from Susenas and literature studies show that children who are more vulnerable to child marriage are girls, children who live in poor families, in rural areas, and have low education. Female workers aged 18 and under are more likely to work in the informal sector and are therefore more vulnerable when compared to women in the same age group who marry after 18 years and work. This report shows that poverty is not the only factor driving child marriage. If it is associated with the percentage of poor people, child marriage occurs in provinces with high or quite low poverty rates.

Child marriage is identified as one of the social phenomena that causes the country's main problems, including poverty, high maternal mortality (MMR) and child mortality (IMR), low school enrollment rates (APS), high unemployment rates. Girls who marry young face adverse health consequences as a result of early birth, increased

risk of domestic violence, malnutrition, and sexual and reproductive health problems.

Integration-Interconnect Analysis

From the phenomenon above, it can be concluded that women are the most vulnerable to the negative effects of early marriage. The reality of this phenomenon is very far from the goal of marriage where the goal of marriage is something that you want to achieve in marriage. In the Qur'an, the purpose of marriage includes several things. First, continue the descent (regeneration). The family has the goal of regenerating or breeding humans on earth. In connection with these objectives, QS. al-Nisa' [4]: 1 explains that Allah created man from one soul and partnered with him then from both of them multiplied humans, male and female. This verse is confirmed by other verses that Allah created humans in pairs and with these pairs, children and grandchildren were born. said the Lord :

وَأَنزَلْنَا إِلَيْكَ الْكِتَابَ فِيهِ آيَاتٍ وَمَا يَنبَغِي عَلَيْكَ أَرْبَابًا وَلَا مَوْلًى وَلَا ضَلَمًا ۗ لَقَدْ جَاءَكَ ذِكْرُنَا ۗ وَالنِّسَاءَ صَدُقْتِهِنَّ نِحْلَةً ۗ فَإِن طِبَّنَ لَكُمْ عَن شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيًّا

Meaning: "Allah made for you a partner (husband or wife) from your own kind and made for you children and grandchildren of your spouse, and gave you sustenance from good" (QS. Al-Nahl [16]: 72).

Other verses also confirm a similar message, such as QS. Al-Syu'ara' [42]: 11, which generally shows that the function of marriage is to build generations of humans in a sustainable manner for the welfare of life in the world and happiness in the hereafter. Second, create serenity. In the Qur'an this goal is explained in a verse:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً ۗ إِنَّ فِي ذَلِكَ لَآيَاتٍ لِّقَوْمٍ يَتَفَكَّرُونَ

Meaning: "Among His signs is that He created for you wives of your own kind, so that you may be inclined and comfortable with them, and He made them among you with love and affection. Indeed, in that there are signs for people who think." (QS. Al-Rum [30]: 21)

¹⁰ Gaib Hakiki dan dkk, *Pencegahan Perkawinan Anak Percepatan yang Tidak Bisa Ditunda* (Jakarta: Puskapa, 2020).

¹¹ Ibid.

Third, maintain honor. Marriage also aims to maintain the honor of each partner because each can protect themselves from prohibited acts. Al-Qur'an confirms this goal in several verses as confirmed in QS. Al-Mu'minun [23]: 6 and al-Ma'arij [90]: 30. "They guard their genitals except their partner." Everyone, male and female, has a normal tendency to fulfill their biological desires. So with marriage, a person can fulfill this desire with his partner through a legal relationship and in accordance with religious guidelines.

Interpret the verses above where the elaboration of these verses is to explain that the real purpose of marriage is to continue offspring, create peace and maintain honor. If contextualized, Heredity does not only look at family factors but personality, psychology and mentality. Beauty is not only in terms of physical but can be in the form of morals, how to speak, how to get along with other people and so on. Religion is not only diligent in praying, but can be seen from the daily practice of Islamic teachings. serenity is created from the readiness of each bride and groom and maintains the actualized honor of the couple's legitimacy in fulfilling their biological desires.

The impact of early marriage is very far from the purpose of marriage. The government's way of revising the Marriage Law has also been good, it remains only to instill and voice out to parents and children the importance of preparing physically and mentally.

Conclusions

Seeing the many impacts that must be borne by women due to early marriage which is a social phenomenon that causes major problems for the

country, including the problem of poverty, high maternal mortality rates (MMR) and child mortality rates (IMR).), low school enrollment rates. (APS), the high unemployment rate. Girls who marry young face negative consequences for their health from giving birth early to an increased risk of domestic violence, malnutrition, and sexual and reproductive health problems. Therefore, let's stop early marriage through understanding to the public about the many negative impacts compared to the positive effects of early marriage.

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