

THE LEGAL EDUCATION ON PREVENTING EARLY MARRIAGE AS AN EFFORT TO INCREASE COMMUNITY LEGAL AWARENESS

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ABSTRACT

The state guarantees the right of everyone to form a family and continue their offspring through legal marriage, and the state also guarantees the right of children to survive, grow and develop as well as the right to protection from violence and discrimination. The Marriage Law requires the age of marriage to be 19 years. However, the marriage law does not explicitly prohibit the practice of early marriage, because the marriage law also provides dispensation facilities if the prospective bride or groom is still a minor. This causes many people to carry out underage marriages or early marriages, including in Bulusari Village, Bulakamba District, Brebes Regency. The reasons are due to pregnancy out of wedlock, economic factors, and cultural factors. The solutions offered are providing understanding to the public about marriage, increasing public legal awareness about the risks of early marriage, both social and health risks, and providing assistance to children and parents who undergo early marriage.

A. INTRODUCTION

The Indonesian state guarantees the right of everyone to form a family and continue their offspring through legal marriage, and the state also guarantees the rights of children to survive, grow and develop and are entitled to protection from violence and discrimination, as mandated in Article 28B of the State Constitution of 1945 Republic of Indonesia¹.

Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead. Act No. 1 of 1974 concerning Marriage as amended by Act No. 16 of 2019 concerning Amendments to Act No. 1 of 1974 concerning Marriage requires the validity of marriage, namely if it is carried out according to the law of each religion and belief, and each Every marriage performed is recorded according to the applicable laws and regulations.

¹ Chuasanga A., Ong Argo Victoria, Legal Principles Under Criminal Law in Indonesia and Thailand, *Jurnal Daulat Hukum*, Vol.2 No.1, 2019

In addition to regulating the validity of marriages, the Marriage Law also provides an age limit for marriage permits in Article 7 paragraph (1), namely marriage is only permitted if the male/male and female/female have reached the age of 19 (nineteen) years. . However, although the law already regulates the age limit for marriage, in reality in society there are still many marriages carried out below the age limit required by law. Underage marriages or early marriages are common in almost all provinces in Indonesia.

The phenomenon of early marriage has become a culture or culture for some Indonesian people. There are many factors that cause early marriage, including poverty (economic factors), pregnancy out of wedlock, low access to education, factors in the views of people who marry off their children at an early age to avoid adultery, traditional or socio-cultural factors, for example if you have children. There are already women who apply, they must be accepted, because if they are not accepted, they will not sell well, there is a negative stigma on the status of spinsters, then she will be gossiped and considered unsold, and so on. When the covid-19 pandemic hit the world including Indonesia, the poverty rate increased, many children dropped out of school for economic reasons (their parents had reduced income, even had to lose their jobs),

In addition to these various factors, in fact the Marriage Law does not explicitly prohibit the practice of early marriage, because the Marriage Law also provides dispensation facilities if the prospective bride or groom is still a minor. This can be seen in the provisions of Article 7 paragraph (2) of the Marriage Law which reads "In the case of deviations from paragraph (1) of this article, you can request a dispensation from the Court or other Officials appointed by both the parents of the male and female parties". Based on these provisions, the Court through the Office of Religious Affairs (KUA) still often gives dispensation for children who will marry but do not meet the specified age requirements.

Some people do not realize that there are risks to early marriage, for example education is interrupted, reproductive health problems, divorce at a young age is likely to occur, domestic violence, the risk of pregnancy for women who are too young which can result in death, and so on.

Therefore, the regulation of the limitation of the age of marriage in the law is not enough. There is a need for direct education or education to people with underage marriage traditions to socialize the dangers of marriage at an early age.

Changing culture in the hereditary structure of society such as the tradition of early marriage is not an easy matter. However, this must be done in the interests of the children, the interests of the community, and more broadly for the interests of the nation and state. Based on the description above, it can be seen that early marriage, which still occurs in many communities with various background factors, is very risky for children who do it.

The community service team at the Faculty of Law, Sultan Agung Islamic University, Semarang received information about an early marriage during the COVID-19 pandemic that occurred in Brebes Regency. To confirm

this information, the community service team conducted an interview with Rizky Dindah Saputri, a Unissula student who is a resident of Bulusari Village, Bulakamba District, Brebes Regency. Based on the results of interviews, cases of early marriage that were carried out were caused by economic factors or poverty, and parents did not pay attention to the importance of education for their children. For example, in one RT in Bulusari Village, there were two cases, young girls (14 years and 16 years old), still in school, pregnant out of wedlock with men of the same age. If this is allowed, then in a certain period of time will result in many failures experienced by children, families, and more broadly will have an impact on the country, making our country a backward country. Therefore, the public, especially teenagers and parents, need to be given an understanding of the risks of early marriage, both from a social and health perspective, and how to prevent it.

B. RESEARCH METHODS

The methods used in the implementation of this community service activity are lectures, questions and answers, and discussions. Presentation of material is done by lecture. Participants who attended had previously been distributed photocopies of the material to make it easier for participants to participate in lecture activities. Then an opportunity was opened for questions and answers for participants, so that there was interaction between the lecturer and the participants, and then discussed to find solutions or solutions to the problems faced.

C. RESULTS AND DISCUSSION

1. The Age Limit for Marriage in the Marriage Law

Act No. 1 of 1974 concerning Marriage as amended by Act No. 16 of 2019 in Article 1 states that marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household based on God Almighty. As for the conditions for the validity of a marriage, Article 2 paragraph (1) states that a marriage is valid if it is carried out according to the laws of each religion and belief. A man and a woman who are married according to the laws of each religion must be registered. Article 2 paragraph (2) states that every marriage is recorded according to the applicable laws and regulations.

The Marriage Law also regulates the conditions for the validity of a marriage. Article 6 of Act No. 1 of 1974 stipulates the conditions for marriage as follows:

- a. Marriage is based on the agreement of the two prospective brides.
- b. To carry out a marriage, a person who has not reached the age of 21 (twenty one) years must obtain the permission of both parents.
- c. In the event that one of both parents dies or is unable to express his will, then the permission referred to in paragraph (2) of this article is sufficient to obtain from parents who are still alive or from parents who are able to express their will.

- d. In the event that both parents have died or are in a state of inability to express their will, then permission is obtained from the guardian of the person who maintains it or a family who is related by blood in a straight line of descent as long as they are alive and in a state of expressing their will.
- e. In the event that there is a difference between the people referred to in paragraphs (2), (3) and (4) of this article, or one or more of them do not express their opinion, the Court in the area where the person who is going to get married will live at the request that person can give permission after first hearing the people mentioned in paragraphs (2), (3) and (4) in this article.
- f. The provisions in paragraphs (1) to (5) of this article apply as long as the law of each religion and belief does not determine otherwise.

Based on these provisions, it is clear that there is no compulsion in marriage. Marriage will take place if the man and woman express their agreement. With regard to the age of marriage, the requirement for a marriage permit from parents for men and women who are not yet twenty-one years old actually indicates that ideally a man and a woman are considered physically and spiritually ready when they marry at the age of twenty-one. Although the ideal age for marriage is twenty-one years, the Marriage Law requires that the marriage age is not twenty-one years, but nineteen years.

Article 7 of Act No. 1 of 1974 (before the amendment) requires different ages of marriage between men and women. In the provisions of Article 7 paragraph (1) it is stated that marriage is only permitted if the man reaches the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years. If the age requirements are deviated, meaning that a man and a woman who are going to marry do not meet the age requirements determined by law, the parents of the prospective bride and groom can request a dispensation from the Court or other officials.

The age limit for marriage between different men and women is considered discriminatory and has the potential to violate the constitutional rights of girls. The difference in the age of marriage is also considered as a tangible and concrete manifestation of the non-achievement of equal status in law between men and women.

Act No. 1 of 1974 Article 7 paragraph (1) which determines the age difference between a man and a woman is then requested for a judicial review to the Constitutional Court. In its decision Number 22/PUU-XV/2017, the Constitutional Court granted the request for judicial review. The rationale for granting the petition for judicial review, among others, is that child marriage with early pregnancy (pregnancy under the age of eighteen years) is very high risk for the mother because the mother is also in a period of growth that still requires nutrition, while the fetus she is carrying is also in dire need of nutrition, so that there will be

competition for nutrition and nutrition between the mother and the baby she is carrying.²

The decision of the Constitutional Court Number 22/PUU-XV/2017 was then followed up by the DPR and the President by making changes to Act No. 1 of 1974 concerning Marriage. In addition to following up on the decision of the Constitutional Court, other considerations for making changes are: that marriage at the age of a child has a negative impact on children's growth and development, and will lead to the non-fulfillment of children's basic rights, such as the right to protection from violence and discrimination, children's civil rights, health rights, education rights, and children's social rights. These changes were then stated in Act No. 16 of 2019 concerning Amendments to Act No. 1 of 1974 concerning Marriage.

The provisions of Article 7 of Act No. 16 of 2019 state that:

- a. Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.
- b. In the event that there is a deviation from the age provisions as referred to in paragraph (1), the parents of the male and/or female parents may request a dispensation from the Court for reasons of great urgency accompanied by sufficient supporting evidence.
- c. The provision of dispensation by the Court as referred to in paragraph (2) must listen to the opinions of the two prospective brides who will carry out the marriage.
- d. The provisions regarding the condition of one or both parents of the prospective bride and groom as referred to in Article 6 paragraph (3) and paragraph (4) shall also apply to the provisions regarding the request for dispensation as referred to in paragraph (2) without prejudice to the provisions as referred to in Article 6 paragraph (6).

Setting the age limit for marriage is very important because to form a family must be prepared carefully. Couples who will form a family must be mature, both biologically and pedagogically or responsibly. For a man, he must be ready to assume responsibility as the head of the family, so that he is obliged to provide a living for family members. For a woman, she must be ready to become a housewife who is in charge of controlling the household, giving birth, educating, and raising children.³

In Islamic law there is no specific mention or discussion of the age limit for marriage, up in the hadith and the Qur'an. One of the hadiths of the Prophet relating to marriage is:

From Abdullah bin Mas'ud, he said, The Prophet *sallallahu 'alaihi wa sallam* (pbuh.) said to us, "*O young people, who is able to support household expenses, he should marry. Because it lowers his gaze and*

2 Constitutional Court Decision Number 22/PUU-XV/2917, page. 20-21

3 Mubasyaroh, *Analisis Faktor Penyebab Pernikahan Dini dan Dampaknya bagi Pelakunya*, YUDISIA, *Jurnal Pemikiran dan Penelitian Sosial Keagamaan*, Vol.7 No.2, December 2016, page. 359

guard his privates. Whoever is not able, he should fast, because fasting can relieve his lust."

In the above hadith, the Prophet advised young people to immediately get married so that they lower their eyes and guard their genitals which in general the Prophet did not prohibit marriage at a young age. Based on the hadith, being able is one of the things that are considered to be able to carry out a marriage.⁴

In its development there are various opinions regarding the age limit for marriage in Islam. According to Ibn Kathir, the arrival of the time of marriage is "*old enough or intelligent*". As for baligh is "*dreams in his sleep that cause gushing sperm to come out, with the water a child occurs*". According to Rasyid Rida *Bulugh Al-Nikah* means "*a person arrives at the age for marriage, that is, until he dreams*". Imam Maliki, Shafi'i, Hambali and Hanafi, they "*do not require mumayyiz or maturity for the prospective bride, for them, akil and baligh are sufficient*". This policy is not without reason, however, despite the fact that there is no verse in the Qur'an that clearly regulates the age limit for marriage. Classical *fiqh* scholars are of the opinion that people who are going to get married have matured from their physical appearance, Men have had wet dreams and women have had their periods. Hamka argues "*buluh al-nikah is interpreted as an adult*". Maturity does not depend on age, but depends on intelligence or maturity of mind. According to Buya Yahya, regarding the age of marriage there is no limit, when someone wants a marriage, for example from the woman's side is still at an early age, the man must be someone who is older in order to guide the woman.⁵

2. Risks of Early Marriage

Early marriage can occur because of the condition of the community who do not understand the impact of early marriage on women who are not physically and mentally ready when carrying out early marriages. The risk is quite high for women who marry at an early age, such as: maternal death after giving birth because their reproductive organs are not ready, the loss of opportunities as individuals to be able to develop themselves at a productive age, loss of identity due to marriage at an early age is not ready to perform multiple roles, psychological pressure when seeing differences in activities with peers such as peers who have more playing time, are vulnerable to domestic violence treatment, causing conflicts within themselves, and many other risks. The impact of early marriage is not only on health which can cause death, but also psychological pressure in carrying out roles that are not ready. At an early age, teenagers are not able to think long about the actions they take.

4 Nur Hikmah, H. Ach. Faisol, Dzulfikar Rodafi, Batas Usia Perkawinan dalam Perspektif Hukum Islam dan Hukum Positif, *Hikmatina: Jurnal Ilmiah Hukum Keluarga Islam*, Vol.2 No.3, 2020, page. 7

5 Ibid., page. 8-9

The Constitutional Court in its decision relating to the review of Article 7 paragraph (1) of Act No. 1 of 1974, one of the basic considerations is that early marriage is risky, among others:⁶

- a. potential for premature birth
- b. baby born with defects
- c. babies born with low birth weight
- d. mother at risk of anemia (lack of blood)
- e. Mother easily bleeds during childbirth
- f. mother prone to eclampsia (seizures in pregnant women)
- g. The increasing incidence of depression in mothers is due to unstable psychological development
- h. increase maternal mortality
- i. Epidemiological studies of cervical cancer show the risk increases more than 10 times if the number of sex partners is 6 or more or if you have first sex under the age of 15 years.
- j. The younger a woman has her first child, the more susceptible she is to cervical cancer
- k. risk of getting sexually transmitted diseases
- l. reproductive organs are not fully developed.

According to UNICEF data, women who give birth at the age of 15-19 years are at risk of dying twice as much as women who give birth at the age of 20 years.

Early marriage will also affect the quality of offspring. Early marriage is easily in danger, the child dies, weakens or dies and not infrequently the young mother becomes the victim. A young woman full of aspirations for the future, has not yet been burdened with heavy obligations, released from parental care, entrusted with taking care of the household, even more difficult, with all the limbs that are still young, with womb organs that have not yet been born mature enough, he must nurture a new human in his body. Early marriage has an impact on the education of children who still need guidance from their parents. In addition, the inadequate economy of parents can interfere with children's education at school. Lack of family harmony can interfere with children's mental,⁷

Early marriage will also have an impact on the quality of the child. Babies born have a lower weight and are malnourished, making them susceptible to diseases that can lead to death. Early marriage also affects the quality of the household. Girls who marry early experience Domestic Violence (KDRT), economic limitations because they do not have decent jobs, so many early marriages end in divorce. Children who did early marriage will also experience dropouts, and can not get a higher education.

6 Constitutional Court Decision Number 22/PUU-XV/2017, page. 20-21

7 Muhammad Ikhsanudin and Siti Nurjanah, Dampak Pernikahan Dini terhadap Pendidikan Anak dalam Keluarga, *Al I'tibar: Jurnal Pendidikan Islam*, Vol.5 No.1, February, 2018, page. 42

Ideally, marriages that refer to reproductive health are carried out at the age of 18 to 20 years. In fact, early marriage contains many obvious problems, both physically and economically, they are not ready to build their household and this kind of household will not last long. Because there is no mental maturity as husband and wife in building a household. Therefore, early marriage is certainly very fragile, there are often disputes that cannot be resolved by both parties ending in divorce.⁸

3. Activity Implementation Results

Covid-19 pandemic not only has an impact on health, but also has an impact on social, economic, cultural, and educational life. The socio-cultural life of the community changes with the restrictions on activities. Likewise with the education pattern, which is usually educational activities carried out in schools, with the covid-19 pandemic, education is carried out remotely. School children do not come to school to study, but learn from home. The learning model due to the COVID-19 pandemic has also had an impact on the increasing number of teenagers who marry early. This happens because it turns out that learning activities at home result in teenagers having the flexibility to get along in the surrounding environment, including to hang out with the opposite sex. The family is afraid that if the children's association crosses the line, they choose to get married immediately. In families with weak parental supervision of children, it has an impact on the occurrence of promiscuity which results in pregnancy out of wedlock. Pregnancy out of wedlock forced parents to apply for a marriage dispensation to the Religious Court.⁹ Because the child is pregnant, the Religious Court will of course grant the dispensation request. Likewise, what happened in Bulusari Village, Bulakamba District, Brebes Regency, there were children who were forced to marry at an early age because they were pregnant out of wedlock.

Apart from being pregnant out of wedlock, early marriage also occurs due to economic factors. The COVID-19 pandemic not only has an impact on health, it also has an impact on the community's economy. Many people have reduced income, some even have to lose their jobs. To reduce the burden on the family, some of them choose to marry off their children, even though they are not old enough.

The risk of having an early marriage in the hope that the community will have legal awareness to comply with the laws and regulations governing marriage. The participants in the legal counseling were very enthusiastic about participating in the activity. This can be seen from the enthusiasm of the participants in submitting questions and providing responses to the presenters. The implementing team and

8 Surmiati Ali, *Perkawinan Usia Muda di Indonesia dalam Perspektif Negara dan Agama serta Permasalahannya*, (The Teen Marriage In Indonesia On The Country Perspective And Religion As Well As The Problem), page. 10-12,

9 Elga Andina, *Meningkatnya Angka Perkawinan Anak Saat Pandemi Covid-19*, Info Singkat Vol.3 No.4/II/Puslit/February/202, Kajian Singkat Terhadap Isu Aktual dan Strategis, Pusat Penelitian Badan Keahlian DPR RI, Bidang Kesejahteraan Sosial, page. 15

presenters are very competent Lecturers of the Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang.

The speaker conveyed about how important and sacred a marriage is so that anyone who is going to have a marriage must prepare themselves well. To prevent early marriage, what can be done is to provide good religious education and formal education, provide supervision over relationships, improve communication in the family, provide insight to parents to create a comfortable family environment, including providing education to children related to health and reproduction. There were several participants who did not understand the age limit for marriage, the conditions for a valid marriage, and the risks faced when carrying out early marriage. The obstacle faced by the activity implementation team was that this activity was carried out still in an atmosphere of the covid-19 pandemic,

The results of the implementation of this legal counseling activity are increasing the knowledge and understanding of the participants about marriage, the age limit for being able to carry out a marriage according to the marriage law, the purpose of marriage, the validity of the marriage, the terms of marriage, and the risks of having an early marriage. With this increase in knowledge, it is hoped that the community will have legal awareness not to carry out early marriages considering the risks that will have to be faced later. The legal counseling activity was carried out at the Bulusari Village Hall, Bulakamba District, Brebes Regency which was attended by young women and men, Youth Organizations, PKK women, the general public, the Village Secretary, and Village Apparatus.

D. CONCLUSION

Legal counseling activities were carried out at the Bulusari Village Hall, Bulakamba District, Brebes Regency, on November 7, 2021 which was attended by 45 people from the Village Secretary, village officials, *PKK*, *IPNU*, *IPPNU*, *Karang Taruna*, and other village communities. Legal counseling on prevention of early marriage in an effort to increase legal awareness of the community can be concluded that this legal counseling activity provides material for participants to know and understand the marriage law relating to the meaning of marriage, the legal requirements for marriage, the age limit for marriage, the risks when carrying out a marriage early and how to prevent early marriage. The material presented was well received by the participants. It can be seen from the interaction between the participants and the presenters. Many participants submitted questions and responses, and the presenters explained them well. Legal counseling activities are carried out on time, and can run well and smoothly. The obstacle faced was the Covid-19 pandemic causing the limited number of participants who took part in this activity because they had to implement health protocols. This Community Service Program with legal counseling is very useful for preventing early marriage and providing legal awareness to the community to comply with laws and regulations related to marriage, especially the age for marriage.

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Regulation:

- Act No. 1 of 1974 concerning Marriage
- Act No. 16 of 2019 concerning Amendments to Act No. 1 of 1974 concerning Marriage
- Constitution of 1945 Republic of Indonesia
- Constitutional Court Decision Number 22/PUU-XV/2017