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EARLY MARRIAGE: SOCIAL SETTING, IMPLICATIONS AND ALTERNATIVE SOLUTION

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Abstract

This field research (filed research) which takes place in the Central Lombok district with the title 'Early Marriage, Social Background, Implications and Alternative Solutions' focuses on the social background of the phenomenon of the practice of early marriage as a result of the dominance of the granting of marriage dispensation applications at the Praya Religious Court as one of the large contributors in the Mataram Religious High Court area, in addition to seeing the implications and finding alternative solutions to prevent it. Through a socio-empirical approach, data from observations, documentation, interviews and questionnaires (applicants and children of marriage dispensation, leaders and judges as respondents) were analysed using qualitative methods. The results of the analysis show that PA. Praya in the last 3 years granted more than 90% of Marriage Dispensation applications, the aspect of avoiding adultery (90%) is the main reason for submission, personal desire (40%) as the dominant factor of parents marrying minors and the occurrence of household disharmony (34%) is the dominant impact. The alternative research strategies are Optimising Children's Capacity, Creating a Conducive Environment for Child Marriage Prevention, Accessibility and Strengthening Services, Strengthening Regulations and Institutions and Strengthening Stakeholder Coordination. The role and support of families, communities, educational institutions and the government through strengthening and ensuring regulations is the most appropriate strategy to prevent underage marriage as the best conclusion and suggestion in this study.

Keywords: *Early Marriage, Social Background, Implications, Solutions and Marriage Dispensation*

Abstrak

Penelitian lapangan (filed research) yang mengambil setting lokasi di kabupaten Lombok Tengah dengan judul "Pernikahan Dini, Latar Sosial, Implikasi dan Alternatif Solusi" ini fokus permasalahannya menyorot latar sosial fenomena praktek pernikahan usia dini sebagai imbas dominasi dikabulkannya permohonan dispensasi kawin di Pengadilan Agama Praya sebagai salah satu penyumbang porsi besar di wilayah Pengadilan Tinggi Agama Mataram, selain untuk melihat implikasi dan mencari solusi alternatif pencegahannya. Melalui pendekatan sosio-empiris, data-data observasi, dokumentasi, interview dan kuisioner (Pemohon dan Anak Dispensasi Kawin, Pimpinan dan Hakim sebagai responden) dilakukan analisa dengan menggunakan metode kualitatif. Hasil analisis menunjukkan PA. Praya pada 3 tahun terakhir mengabulkan permohonan Dispensasi Kawin lebih dari 90%, aspek menghindari zina (90%) adalah alasan utama pengajuan, keinginan pribadi (40%) sebagai faktor dominan orangtua menikahkan anak di bawah umur dan terjadinya kondisi ketidakharmonisan rumah tangga (34%) adalah dampak dominannya. Tawaran alternatif strategi penelitian adalah Optimalisasi Kapasitas Anak, Penciptaan Lingkungan Kondusi Pencegahan Perkawinan Anak, Aksesabilitas dan Penguatan Layanan, Penguatan Regulasi dan Kelembagaan serta Penguatan Koordinasi Pemangku Kepentingan. Peran dan dukungan, keluarga, masyarakat, lembaga Pendidikan dan pemerintah melalui penguatan dan kepastian regulasi adalah strategi yang paling tepat guna melakukan pencegahan terhadap pernikahan di bawah umur ini sebagai simpulan dan saran terbaik dalam penelitian ini.

Kata Kunci: *Pernikahan Dini, Latar Sosial, Implikasi, Solusi dan Dispensasi Kawin*

Introduction

Marriage in the concept of Islamic law is a very strong contract (mitsaqan ghalizan) as a form of worship to Allah Swt., which aims to form a household that is happy and blessed (sakinah, mawaddah and rahmah). This concept is not simple because it contains essential meaning for human life in the form of a relationship of worship, more

than just a civil relationship that creates legal causality in the form of rights and obligations in the context of family law.[1]

The age of marriage is the minimum age limit for marriage for citizens legalised by the state in legislation. Limiting the minimum age of marriage is very important because it has indirect implications for the quality of household life. The condition of a quality family will provide a balance of life both biologically, psychologically and socially. Biologically, through marriage, the sexual needs of couples are fulfilled. Psychologically, mental maturity and emotional stability contribute to the happiness of married life. Sociologically, society will view marriage partners as legitimate life partners and have legal legality.[2]

Of course, this kind of balance in the family has the potential to give birth to a better generation and avoid various bad potentials that can befall the integrity of a household. However, in reality in society there are many marriages carried out by couples at an early age, namely marriages carried out by couples under the age of 19 years violating the rules as stipulated in Article 7 paragraph (1) of Law N. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage.[3] This phenomenon occurs as an excess of underhand marriage (sirri) or as a result of the granting of an application for a Marriage Dispensation case filed by a couple who are less than the age stipulated in the Court. The phenomenon of early marriage,[4] which is also known as child marriage (*zawaj al-qashirat*)[5] this is still widely practised by the

[1] Wahyono Darmabrata and Surini Ahlan Sjarif, *Hukum Perkawinan dan Keluarga di Indonesia*, ed. 1,cet. 1 (Jakarta: Penerbit Rizkita, 2002), p. 1.

[2] The age of marriage that is too young can result in an increase in divorce cases due to a lack of awareness to be responsible in married life due to physical and mental conditions that are not ready to face various problems in married life. Vide Rahmat Hakim, *Hukum Perkawinan*, (Bandung: Pustaka Setia, 2005), hlm. 85.

[3] Article 7 paragraph (1) emphasizes "Marriage is only allowed when a man and a woman have reached the age of 19 (nineteen) years." Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.

[4] Early marriage is a minor marriage whose preparation target (physical and mental) has not been maximized. Vide Dlori, M. Muhammad, *Jeratan Nikah Dini wabah Pergulan*, (Bontang, BinarPress, 2005), p. 5.

[5] The age of maturity to enter the world of marriage is biological, psychological, and economic maturity. Biological maturity in the context of fiqh is understood by the scholars by measuring the age of taklif, namely having ejaculated / wet dream for men and having had menstruation / haidh for women. Vide Muhammad Ali Al-Sayis, *Tafsir*

community under the name of 'adat' (socio-cultural) as the main reason and legitimises women as the second-rate communities within and under male hegemony,[6] in addition, the tap channel of the law also opens up opportunities for child marriage itself through the marriage dispensation forum. Parental conflict in the household, the excesses of promiscuity or the family economy are some of the other factors that cause early marriage in Indonesia.[7]

It was noted that in 2022 there were 55 thousand applications for marriage dispensation in the courts,[8] of which the Religious Courts in 2022 based on data from the Badilag Work Unit Performance Application (Kinsatker) had handled 52395 applications with the status decided 'Kabul' as many as 50747 cases (96.5%). The Jurisdiction of the Mataram Religious High Court in 2022 included a work unit that had a high number of Marriage Dispensation cases with a total of 829 cases with the status decided 'Kabul' as many as 799 cases (96.38%).[9] And the Central Lombok district is one of the areas in NTB province that contributes a large portion of this marriage dispensation case, where the Praya Religious Court in 2021 received 307 cases with a status of 282 cases granted (92%), in 2022 there were 47 cases with a status of 46 cases granted (98%), and in the middle of 2023 there were 31 cases with a status of 30 cases (97%) were granted.[10]

Looking at the figures from the data above, of course the phenomenon of early marriage, especially in Central Lombok district, which is the jurisdiction of the Praya Religious Court, shows a condition

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Ayat Al Ahkam Al Qur'an, terj. Muhammad Ali Sabiq, (Bandung: As-Syifa, 1963), p. 75.

6 Luthfi Assyaukanie, *Politik, HAM, dan Isu-Isu Teknologi dalam Fikih Kontemporer,* Cet. ke. I, (Bandung: Pustaka Hidayah, 1998), p. 113.

7 Masna Yunita, et. all, *Faktor Penyebab Pernikahan Dini*, Jurnal Hukum Keluarga, Vol. 6 No. 1 (UIN IB Padang: Sakena, 2012), p. 22.

8 Kementrian Pemberdayaan Perempuan dan Perlindungan Anaka Republik Indonesia, *Perkawinan Anak di Indoensia Sudah Mnegkhawatirkan*, Siaran Pers Nomor: B-031/SETMEN/HM.02.04/01/2023. vide https://www.kemenpppa.go.id/index.php/page/read/29/4357/kemen-pppa-perkawinan-anak-di-indonesia-sudah-mengkhawatirkan. accessed 9 September 2023.

9 http://kinsatker.badilag.net/JenisPerkara/perkara_persatker/362/2022. accessed 9 September 2023.

10 http://kinsatker.badilag.net/JenisPerkara/perkara_persatker_detail/362/61/2023, accessed 9 September 2023.

that is quite alarming. Although, the existing data shows a 'downward trend' from the aspect of the quantity of acceptance, but from the aspect of the status of the case shows an 'upward trend' which is indicated by the large number of granted marriage dispensation cases which have a definite relationship with the increase in early marriage rates.[11]

The problem of early marriage is a national issue that requires serious handling because it is closely correlated with the socio-cultural and religious values that live in society. The traditional view of marriage as a social obligation seems to have a significant contribution to the rampant phenomenon of young marriage that occurs in Indonesia. The factor of poor economic conditions certainly takes its own portion as a trigger for early marriage, where young marriage is a mechanism (container) to ease the economic burden on the family. Low levels of education and parents' concerns about their children's negative associations are another part of the cause of early marriage.[12] However, it must be realised that the negative impacts of early marriage are very complex, including interrupted education, household conflict, reproductive health or the high potential for maternal and child mortality as quoted by Erica Field (Harvard University):[13]

> "Early marriage is associated with a number of poor social and physical outcomes for young women and their offspring. They attain lower schooling, lower social status in their husbands' families, have less reproductive control, and suffer higher rates of maternal mortality and domestic violence. They are often forced out of school without an education, their health is affected because their bodies are too immature to give birth."

The selection of the title 'Early Marriage, Social Background, Implications and Alternative Solutions' is certainly very appropriate and responds to the description of the urgency background of this research. Observing the conditions that occur is a separate anxiety for researchers

11 It is recorded that in 2023, 2% of children in Indonesia will marry at the age of 15 and 16% will marry at the age of 18. https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/indonesia/, accessed 9 September 2023.

12 Yafiq Hasyim, *Menakar Harga Perempuan*, (Bandung, Mizan, 1999), p. 143-144.

13 Sigit Priohutomo, (Plt. Kepala BKKBN), *Mencegah Pernikahan Anak Melalui Program KKBPK*, delivered at the National Population Seminar, Banjarmasin 2018, p. 17.

to try to comprehensively explore the social background that triggers the high rate of underage marriage which until now still haunts the people of Central Lombok district. A critical examination of the implications of early marriage and what preventive policies should be taken to anticipate its occurrence and impact is part of the problem that will be analysed in depth. At least, the preventive measures set by the government through the Ministry of PAN/Bapenas in the National Strategy for Child Marriage Prevention in 2020, namely 1) Optimisation of Children's Capacity, 2) Enabling Environment for Child Marriage Prevention, 3) Accessibility and Strengthening Services, 4) Strengthening Regulations and Institutions, 5) Strengthening Stakeholder Coordination,[14] can be taken into consideration, as an alternative solution which can then be formulated as a more comprehensive solution.

Some comparative studies as references for this research include 'Analysis of Early Marriage Problems in Adolescents in Limboto District, Gorontalo Regency' by Hariati Biahimo, et al.,[15] research from Umi Sumbulah and Faridatul Jannah entitled 'Early Marriage and Its Implications for Family Life in Madurese Society (Legal and Gender Perspectives)',[16] and Siti Khaeriyah, et al., with her research entitled 'The Impact of Early Marriage (Case Study on Three People Who Experienced Early Marriage in Cikande District)[17] are all field studies that review early marriage and its impact in 3 different locations. The indulgence of the research from previous studies will be seen in the comprehensiveness of the study that highlights the social setting, implications and preventive strategies.

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[14] Kementrian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional (BAPENAS), *Strategi Nasional Pencegahan Perkawinan Anak 2020,* (Jakarta: Kemntrian PPN/Bapenas, 2020), p. 36.

[15] Hariati Biahimo, dkk., *Analisis Masalah Pernikahan Dini Pada Remaja Di Kecamatan Limboto Kabupaten Gorontalo,* Detector: Jurnal Inovasi Riset Ilmu Kesehatan Vol.1, No.1 Februari 2023.

[16] Umi Sumbulah and Faridatul Jannah, *Pernikahan Dini Dan Implikasinya Terhadap Kehidupan Keluarga Pada Masyarakat Madura (Perspektif Hukum Dan Gender)*, Egalita Jurnal Kesetaraan dan Keadilan Gender, Volume VII No. 1 Januari 2012.

[17] Siti Khaeriyah, et. al., *Dampak Pernikahan Dini (Studi Kasus Pada Tiga Orang Yang Mengalami Pernikahan Dini Di Kecamatan Cikande),* Insight: Jurnal Bimbingan dan Konseling 11 (1) Juni 2022.

As a field research that uses a qualitative approach, of course this research is different from previous studies when viewed from the aspect of location setting and object of study material. Researchers in collecting data conducted direct observation, documentation related to data on marriage dispensation applications and related decisions, in addition to conducting structured interviews and distributing questionnaires to find out the reasons, impacts or solutions to prevent early marriage. The data obtained was then processed descriptively by reducing (categorising) and verifying it to provide a true picture (socio-empirical). Respondents used in this study consisted of the parties (Petitioners) of the marriage dispensation case with a total of 10 respondents from 10 cases (30% of the number of cases in 2023) plus 5 respondents from married couples, in addition to respondents from the leadership (Chairman) and judges at the Praya Religious Court as many as 5 out of 10 judges.

Handling of Marriage Dispensation Cases in PA. Praya

One of the absolute competences of the Religious Courts in the field of marriage is the handling of marriage dispensation cases. The following is data on the acceptance of marriage dispensation cases at the Praya Religious Court in 2021-September 2023:

Table 1:
Receipt of Marriage Dispensation Cases in PA. Praya (2021-September 2023)

No	Year	Total	Decision Status	
			Granted	Rekoved
1	2021	307	282	25
2	2022	47	46	1
3	2023 (Sd Sep)	31	30	1
	Total	**383**	**358**	**27**

Source: Praya Religious Court Report 2023

Based on the data above, it can be seen that the number of requests for dispensation of marriage from 2021 to 2022 experienced a very high downward trend of around 6 times the 2022 figure, while from 2022 to 2023 there was only a difference of 16 cases. This decline in numbers occurred as a result of the completion of the glorious Covid-19

pandemic in mid-2022 as explained by the Chairman of the Praya Religious Court as follows:[18]

The number of marriage dispensation cases received at the Praya Religious Court in 2022 and 2023 has decreased significantly. This downward trend, if observed, is the result of the end of the Covid-19 pandemic, which was still high in 2021. Most of the cases handled in 2021 were triggered by the desire of people who wanted to marry off their children immediately due to the uncertainty of national and global conditions. The average parent wants to immediately fulfil their obligations to their children because of the threat of death due to corona that continues to haunt. Meanwhile, in 2022 and 23, the number of dispensation cases received was normal, and sometimes experienced an increase when the tobacco harvest season arrived.

A Few Reasons for Filing a Marriage Fispensation Case in PA. Praya

Recapitulation of reasons for filing a marriage dispensation case at the Praya Religious Court in 2023 based on data from the Case Tracking Information System:

Table 2
Reasons for Applying for Marriage Dispensation in PA. Praya (September 2023)

No	Case Number	District	Reason For Sumbission
1	936/Pdt.P/2023/PA.Pra	Pringgarata	Avoiding Zina
2	929/Pdt.P/2023/PA.Pra	Praya Barat	Avoiding Zina
3	936/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
4	925/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
5	919/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
6	900/Pdt.P/2023/PA.Pra	Praya Tengah	Avoiding Zina
7	857/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
8	850/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
9	824/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
10	823/Pdt.P/2023/PA.Pra	Pringgarata	Avoiding Zina
11	818/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
12	764/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina

[18] Interview with Dra. H. Noor Aini, President of the Praya Religious Court at 11.00 a.m., 11 September 2023.

13	758/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
14	757/Pdt.P/2023/PA.Pra	Kopang	Avoiding Zina
15	748/Pdt.P/2023/PA.Pra	Batukliang	Avoiding Zina
16	744/Pdt.P/2023/PA.Pra	Batukliang	Avoiding Zina
17	740/Pdt.P/2023/PA.Pra	Kopang	Avoiding Zina
18	736/Pdt.P/2023/PA.Pra	Praya Tengah	Avoiding Zina
19	681/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
20	680/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
21	672/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
22	669/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
23	533/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
24	532/Pdt.P/2023/PA.Pra	Kopang	Cultural Customs
25	516/Pdt.P/2023/PA.Pra	Kopang	Cultural Customs
26	374/Pdt.P/2023/PA.Pra	Praya	Avoiding Zina
27	370/Pdt.P/2023/PA.Pra	Pujut	Cultural Customs
28	240/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
29	157/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina
30	152/Pdt.P/2023/PA.Pra	Praya Tengah	Avoiding Zina
31	134/Pdt.P/2023/PA.Pra	Jonggat	Avoiding Zina

Source: Praya Religious Court Report 2023

Based on the data above, it can be seen that Jonggat sub-district is the area that files the most marriage dispensation cases, while the most dominant reason is to avoid adultery in addition to cultural customs that require people to apply for marriage dispensation for their children who are not old enough. However, these two reasons were not the main factors in the application for dispensation of marriage at the Praya Religious Court. Based on the testimonies of the 5 examining judges and the 10 applicants for Marriage Dispensation cases, several other reasons for young couples who are not yet of age to get married can be revealed, which are grouped into internal and external factors as follows:

Table 3
Factors of Marriage Dispensation Applicants Marrying Off Underage Couples in 2023

No	Reason/Factor			
	Internal	**Total**	**Eksternal**	**Total**
1	Personal Desire	6	Parental Coercion	3
2			Low Education	1
3			Weak Economy	1
4			Social Environment	4
	Total	**6**	**Total**	**9**

Source: Processed from various sources

Based on the data above, it can be seen that internal factors in the form of a desire originating from underage marriage partners are the dominant cause of marriage dispensation applications followed by external factors of environmental influence, parental coercion, low education and weak family economic levels. This internal factor was triggered by, among other reasons, the fear of not having a life partner, feeling ready to get married and feeling compatible with the partner and to avoid negative associations as also revealed in the following statements:

Firstly, most of the reasons we grant this marriage dispensation application are because this early age couple is ready to get married and aims for their welfare from the influence of the negative environment which is currently difficult to control in the era of increasingly sophisticated information technology. The social environment is also a determining factor in this early age couple's desire to settle down, because many of their friends of the same age in an area (village) are married and have children, even with modest income. Low family economic factors because the average family comes from a farming family that has a modest and even erratic income.[19]

Secondly, we as parents want the best for our children, especially the girls. However, we are only small farmers who do not have our own land and only help to cultivate other people's rice fields, so inevitably we are forced to marry off our children so that they will also be in a better condition when they have a partner (husband) who has a steady income, and thank God it can help us parents who do not have enough income.[20]

Thirdly, most of the children of our child's age in Dsun Bun Gol, Bunkate Village, Jonggat Sub-district are married and have children on average. We as parents only direct our children so that their association is not affected by the bad environment out there, especially now that mobile phones with YouTube or TikTok have a lot of bad influences. And we act this our child's association is damaged, we better get married

[19] Interview with Layla Khoiriyah, Judge of the Religious Court of Praya at 16.30 Wita, 11 September 2023.

[20] Interview with Nurman bin Nuramat, Applicant of Marriage Dispensation Case Number 936/Pdt.P/2023/PA.Pra, 09.50 a.m., 12 September 2023.

immediately even though they are still underage because we also used to get married at a young age.[21]

Implications of Early Marriage

Marriage under this age at first glance does provide a solution to a certain condition for the community, but on the other hand, the existence of underage marriage has negative impacts or implications in household life as the following data:

Table 4
Implications of Early Marriage in 2023

No	Impact			
	Positive	**Total**	**Negative**	**Total**
1	Change of Mindset	1	School Dropout	1
2	More Independent	1	Limited Social Interaction	1
3			Disruption of Mother-Child Health	1
4			Household Economic Hardship	2
5			Household Disharmony	3
	Total	**2**	**Total**	**8**

Source: Processed from various sources

The positive implications of early marriage from the data above in the form of a change in mindset and being more independent from the couple, only 2 respondents were able to conclude the best condition of early marriage because this is something that is very natural because after marriage each partner must adapt to new communal members which triggers the responsibility of each to carry out their rights and obligations. However, it turns out that there are 5 negative impacts arising from this early marriage, of which 3 respondents confirmed that the negative impact in the form of potential family disharmony is the dominant potential due to the immature physical and mental conditions of the couple in addition to the couple having to deal with the family's unestablished economic conditions and so on. This condition is in line with the statements made by several early married couples and their parents as follows:

[21] Interview with Rusdi bin Amaq Hariman, Applicant of Marriage Dispensation Case Number 919/Pdt.P/2023/PA.Pra, 09.50 a.m., 12 September 2023.

Firstly, after we got married, we are slowly trying to adjust to our spouse and we have to be more independent although not necessarily directly to be able to not involve our parents in providing assistance to fulfil our daily needs while we have a permanent job. However, we also can't deny that in our young household there are often disagreements due to trivial matters such as my husband still playing out with his friends more often while I have to take care of the children while cleaning and cooking in the kitchen which sometimes my husband doesn't understand.[22]

Secondly, it turns out that it's complicated to get married at such a young age, especially since my husband doesn't have a definite job yet. He plays more with his mobile phone than helping me as his wife, even though we don't have children yet. At least I was given the opportunity to go back to school when I didn't have children, but if this is the case, I'm already lazy to continue school, especially since many people say why do you want to go back to school when you're married, better use the money to buy rice to feed your family.[23]

Thirdly, we as parents did not want our children to face difficulties after getting married at a young age. But as it turns out, what we experienced back then is different from what they are facing now. Kids now want instant gratification, want to work and earn a lot of money, while their needs are difficult to control, especially when they hang out with their friends. Sometimes we as parents feel sorry for them and regret that we forced them to get married so early.[24]

Alternative Solutions to Prevent Early Marriage

The implications of early marriage for the family as mentioned earlier are generally related to biological, psychological, social, and

[22] Interview with Dinda Hidayat Pratiwi bint Ali Pratama, Bride-to-be, Marriage Dispensation Case Number 824/Pdt.P/2023/PA.Pra, 09.50 a.m., 13 September 2023.

[23] Interview with Rabiatul Adawiyah bint H. M. Hasan Abdurrahman, Bride-to-be, Marriage Dispensation Case Number 672/Pdt.P/2023/PA.Pra, 09.50 Wita, 13 September 2023.

[24] Interview with Hadijah binti Usuf, Parent of the Bride, Marriage Dispensation Case Number 900/Pdt.P/2023/PA.Pra, 09.50 a.m., 13 September 2023.

deviant sexual behaviour.[25] Mufidah suggests several implications of early marriage, among others:[26]

Firstly, biologically, children's reproductive organs are still in the process of maturing so they are not ready to have sex with the opposite sex, especially if they become pregnant and then give birth. The unpreparedness of a woman's reproductive organs will have harmful effects on the mother and baby. *Secondly*, psychologically, children who have not yet reached the age of maturity, actually also do not have adequate readiness and understanding of sex, so that it can cause prolonged psychological trauma in the child's soul which is difficult to heal. *Thirdly*, sociologically, the phenomenon of early marriage is related to socio-cultural factors in a gender-biased patriarchal society, which places women in a low position and is only considered a complement to male sex. *Fourth*, sexually, early marriage can also have implications for deviant sexual behaviour, namely behaviour that likes to have sex with children, known as pedophilia.

The practice of underage marriage by the community is a homework that is a shared responsibility between the community and the government. Efforts to prevent early marriage must be carried out in a comprehensive manner involving all components starting from the smallest environment, namely the family, community participation, educational institutions and the role of the state's presence in totality through political power and law enforcement. The series of negative implications of early marriage on a family that is so complex in essence brings more madharat than kemashlahlahlah. Parents who marry off their children at an early age should understand the laws and regulations to protect children (especially girls) from the suffering caused by early marriage.[27]

Some of the factors that trigger early marriage as shown in the data above are keywords to map the root of the problem and then determine the right alternative solution as a prevention strategy. And the

[25] Umi Sumbulah dan Faridatul Jannah, *Pernikahan Dini Dan Implikasinya Terhadap Kehidupan Keluarga Pada Masyarakat Madura (Perspektif Hukum Dan Gender),* Egalita Jurnal Kesetaraan dan Keadilan Gender, Volume VII No. 1 Januari 2012, p. 89.

[26] Mufidah, *Psikologi Keluarga Islam Berwawasan Gender, (*Malang: UIN Malang Press, 2008), p. 110.

[27] Andi Mappiare, *Psikologi Remaja*, (Surabaya: Usaha Nasional, 1982), p. 36-40.

government has set several prevention strategies for early marriage that will be achieved through the following real steps:[28]

- Optimising Children's Capacity

One of the factors triggering early marriage, as shown in the data above, is the personal desire of the child to marry. And to prevent this potential, the strategy to optimise children's capacity can be pursued through increasing children's awareness and attitudes related to comprehensive sexual and reproductive health rights and involving children directly in the prevention of child marriage. Real steps that can be pursued include:

First, Implementation life skills education for children and adolescents such as communication skills, problem solving, critical thinking, assertiveness, negotiation skills and so on. *Second*, ensuring that children who will be involved in the policy-making process are equipped with knowledge about the issue of child marriage. *Third*, strengthening the role and capacity of peers in preventing child marriage.

- Enabling Environment for Child Marriage Prevention

Weak family economics, lack of education, coercion from parents and the influence of the neighbourhood are other factors that trigger child marriage related to the child's environment. Some of these factors can be anticipated by creating a supportive environment to prevent the practice of child marriage. Therefore, efforts to change values, norms and perspectives on child marriage and strengthen the role of parents in child protection must be implemented. Some real steps that can support children's environment to prevent early marriage include:

First, strengthening the understanding and role of parents, families, social/community organisations, schools, and pesantren in preventing child marriage. *Second*, transformation of counselling and mentoring services for parents in a professional manner. *Third*, improving quality parenting skills, especially for adolescents (10-18 years old). *Fourth*, family economic empowerment (entrepreneurship, PKH assistance) to ensure that poor and vulnerable children receive social assistance. *Fifth*, strengthening child-friendly school systems and environments by adding Sexual and Reproductive Health and Rights (SRHR) materials.

[28] Kementrian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional (BAPENAS), *Strategi*…, p. 38.

Sixth, strengthening community institutions at various levels up to the village level with various trainings and skills for assisting children.

- Accessibility and Strengthening of Services

This strategy relates to the availability of access and services before and after child marriage occurs. The main steps that must be pursued include: *first*, the provision of comprehensive and youth-friendly reproductive health information services (including prevention of dating violence, pornographic content, the impact of child marriage). *Second*, accelerating the implementation of the 12-year compulsory education, especially outreach to children who are vulnerable to child marriage. *Third*, the development of a comprehensive service referral system for children who experience unwanted pregnancies. *Fourth*, assistance for victims of child marriage to obtain all children's rights (education, health, legal services, etc.). *Fifth*, strengthening regulations and institutions.

This regulatory and institutional strengthening must involve various elements of institutions in this country, including the legislature, executive and judiciary. The focus of this strategy must be implemented through the improvement of existing regulations that are strengthened by a definite commitment to law enforcement. This can be achieved, among others, by: *first*, optimising marriage registration. *Secondly*, harmonising, synchronising and filling the gaps in regulations such as derivatives of the Marriage Law. *Thirdly*, strengthening the judicial process for marriage dispensation, including that children must be present at the hearing with adequate assistance.

- Strengthening Stakeholder Coordination

This strategy will be realised through increased cooperation across sectors, fields and regions by strengthening data and information systems and implementing supervision, monitoring and evaluation measures. The implementation of each strategy must be carried out at all levels, overseen by relevant ministries/agencies, sectors, and stakeholders.

Some of the strategies set by the government are in line with community opinions to prevent early marriage, as stated below: Actually, we as parents never wanted our children to get married at a young age (children). But what power, the environment is very influential in this condition, especially religious leaders and community

leaders also do not emphasise not to carry it out and seem to allow it. Moreover, the existing regulations open up opportunities for us to marry off children who are still underage. If there were clear rules, especially with legal sanctions, then we would think twice about marrying off our children. Moreover, if our children had sufficient education and our economic situation was sufficient, we would not have married off our children as minors. We still want to see our children get a better education and have a better future like other people's children.[29]

Of the strategies above, the strategy of strengthening regulations and institutions has a major role in anticipating the occurrence of early marriage. Regulations that regulate the minimum age of marriage on the one hand have a deterrent to prevent child marriage from occurring (Article 7 paragraph 1 of Law No. 1 Year 1974 concerning Marriage). However, on the other hand, this regulation also opens a faucet to provide opportunities for marriage even though it is still underage through a dispensation forum (Article 7 paragraph 2 of Law No. 1 of 1974 concerning Marriage). Moreover, according to Andi Syamsu Alam (Chief Justice of the Civil Court of the Supreme Court of Indonesia), the combination of Article 7 paragraph (1) and Article 6 paragraph (2) gives the impression of a loss of legal firmness against underage marriage that has been determined by the Law with the dispensation clause referred to in Article 7 paragraph (2).[30]

This condition is ambiguous and creates an 'all-or-nothing' situation for the implementers of the regulation, despite the phrase 'with very urgent reasons accompanied by sufficient supporting evidence' for a marriage dispensation application to be granted. The addition of this phrase actually has the good intention of limiting dispensation applications to only certain reasons that are considered urgent and demands the provision of supporting evidence.

Indeed, this phrase still causes multiple interpretations because there is no clear explanation of what the urgent reason means, so the subjectivity of the judge in deciding whether or not the dispensation is granted is difficult due to the absence of clear regulations. In addition,

[29] Interview with Dinda Hidayat Pratiwi bint Ali Pratama, Bride-to-be, Marriage Dispensation Case Number 824/Pdt.P/2023/PA.Pra, 09.50 a.m., 13 September 2023.

[30] Siskawati Thaib, *Perkawinan Dibawah Umur (Ditinjau Dari Hukum Islam Dan Undang-Undang Nomor 1 Tahun 1974*, Jurnal Lex Privatum 5, 2017, p. 54.

the vagueness of this phrase allows the parties who will apply for marriage dispensation to provide information for various reasons.[31]

The impact of this marriage dispensation seems to form the perception that children can also marry legally through a legalised marriage dispensation forum through the judiciary as a result of legal uncertainty and multiple interpretations of the explanation of the phrase 'very urgent reasons accompanied by sufficient supporting evidence'. With this, it can be concluded that the government appears inconsistent in preventing underage marriage, especially in the absence of criminal sanctions governing it, so this is a legal loophole that can be violated juridically.[32] At least, the efforts that have been initiated by the Ministry of Religious Affairs of the Republic of Indonesia by drafting the Marriage Bill which has the spirit to stem early marriage clearly and firmly can be rolled out again, so the fine sanctions in the Bill of Rp. 6,000,000.00 for the perpetrators of underage marriages and a 3-month imprisonment sanction coupled with a fine of Rp. 12,000,000.00 for the headman who marries,[33] of course, are expected to be effective 'shock therapy'. The implication is that the opportunity for marriage dispensation without clear rules is counterproductive to efforts to raise the age limit for marriage, the main purpose of which is to reduce the number of child marriages.

Conclusion

The institution of marriage in Islam is part of a religious commandment that bridges human nature to develop in society. Early marriage is an important issue in the study of Islamic family law which is still a polemic and controversy because it is still assumed to be a form

[31] Mughniatul Ilma, *Regulasi Dispensasi Dalam Penguatan Aturan Batas Usia Kawin Bagi Anak Pasca Lahirnya UU No. 16 Tahun 2019*, Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam, Volume 2/Nomor 2 /Juli -Desember 2020, p. 149-150.

[32] Tirmidzi, *Kajian Analisis Undang-Undang No. 16 Tahun 2019 Sebagai Perubahan Atas Undang-Undang No. 1 Tahun 1974*, Jurnal Hukum Keluarga Islam: Usrah, Volume 1/Nomor 1/Tahun 2020, p. 41.

[33] Ginting I Ketut and Titania Elisa Westra, *Perkawinan Anak Di Bawah Umur Di Lihat Dari Perspektif Hukum Pidana*, Kertha Wicara: Journal Ilmu Hukum 7, 2018, p. 11.

of religious doctrine recommendation. Although, there is no standard provision on the limitation of the legal age of marriage.

Early marriage has a greater negative impact than its positive excesses, which certainly directly affects the children who carry out early marriage and destroys their future. Therefore, the role of the government must be more focused on preventing underage marriage in order to create a bright future for children who are the next generation of the nation's hope through appropriate and clear strategies, especially in regulating regulations with legal certainty.

References

Al-Sayis, Muhammad Ali, *Tafsir Ayat Al Ahkam Al Qur'an*, terj. Muhammad Ali Sabiq, Bandung, As-Syifa, 1963.

Dlori, M. Muhammad, *Jeratan Nikah Dini wabah Pergulan*, Bondang, BinarPress, 2005.

Hariati Biahimo, dkk., *Analisis Masalah Pernikahan Dini Pada Remaja di Kecamatan Limboto Kabupaten Gorontalo,* Detector: Jurnal Inovasi Riset Ilmu Kesehatan Vol.1, No.1 Februari 2023.

Kementrian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional (BAPENAS), *Strategi Nasional Pencegahan Perkawinan Anak 2020,* Jakarta: Kementrian PPN/Bapenas, 2020.

Ketut, Ginting I dan Titania Elisa Westra, *Perkawinan Anak Di Bawah Umur Di Lihat Dari Perspektif Hukum Pidana*, Kertha Wicara: Journal Ilmu Hukum 7, 2018

Luthfi Assyaukanie, *Politik, HAM, dan Isu-Isu Teknologi dalam Fikih Kontemporer*, Cet. ke. I, Bandung, Pustaka Hidayah, 1998.

Mappiare, Andi, *Psikologi Remaja*, Surabaya, Usaha Nasional, 1982.

Masna Yunita, dkk, *Faktor Penyebab Pernikahan Dini*, Jurnal Hukum Keluarga, Vol. 6 No. 1 UIN IB Padang, Sakena, 2012.

Mufidah, *Psikologi Keluarga Islam Berwawasan Gender*, Malang, UIN Malang Press, 2008.

Mughniatul Ilma, *Regulasi Dispensasi Dalam Penguatan Aturan Batas Usia Kawin Bagi Anak Pasca Lahirnya UU No. 16 Tahun 2019*, Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam, Volume 2/Nomor 2 /Juli -Desember 2020.

Rahmat Hakim, *Hukum Perkawinan*, Bandung, Pustaka Setia, 2005.

Sigit Priohutomo, MPH (Plt. Kepala BKKBN), *Mencegah Pernikahan Anak Melalui Program KKBPK*, disampaikan pada Seminar Nasional Kependudukan, Banjarmasin 2018.

Siti Khaeriyah, dkk., *Dampak Pernikahan Dini (Studi Kasus Pada Tiga Orang Yang Mengalami Pernikahan Dini Di Kecamatan Cikande),* Insight: Jurnal Bimbingan dan Konseling 11 (1) Juni 2022.

Thaib, Siskawati, *Perkawinan Dibawah Umur (Ditinjau Dari Hukum Islam Dan Undang-Undang Nomor 1 Tahun 1974*, Jurnal Lex Privatum 5, 2017.

Tirmidzi, *Kajian Analisis Undang-Undang No. 16 Tahun 2019 Sebagai Perubahan Atas Undang-Undang No. 1 Tahun 1974*, Jurnal Hukum Keluarga Islam: Usrah, Volume 1/Nomor 1/Tahun 2020.

Umi Sumbulah dan Faridatul Jannah, *Pernikahan Dini Dan Implikasinya Terhadap Kehidupan Keluarga Pada Masyarakat Madura (Perspektif Hukum Dan Gender)*, Egalita Jurnal Kesetaraan dan Keadilan Gender, Volume VII No. 1 Januari 2012.

Undang-undang Nomor 1 Tahun 1974 Tentang Perkawinan.

Undang-undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-undang Nomor 1 Tahun 1974 Tentang Perkawinan.

Wahyono Darmabrata dan Surini Ahlan Sjarif, *Hukum Perkawinan dan Keluarga di Indonesia*, ed. 1,cet. 1, Jakarta, Penerbit Rizkita, 2002.

Yafiq Hasyim, *Menakar Harga Perempuan*, Bandung, Mizan, 1999.

http://kinsatker.badilag.net/

https://www.girlsnotbrides.org.

https://www.kemenpppa.go.id/.