

Marriage Under Age According to Indonesian Civil Law

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ABSTRACT

Early marriage is rampant in society. The lack of understanding and knowledge about this is the reason the author wants to raise and provide explanations to the community. Quoting from Indonesian Law Number 1 of 1974 concerning Marriage, which is contained in article 7 paragraph 1, it is stated that marriage is permitted if the prospective groom has reached the age of 19 (nineteen) years and the prospective bride has reached the age of 16 (sixteen) years. Amendments to the Law have been outlined in Law of the Republic of Indonesia Number 16 of 2019. The provision of the ideal age limit for marriage is stated in Article 7, which confirms that marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years. Early marriage is problematic, both from the perspective of the Compilation of Islamic Law and the Marriage Law. Regarding the age limit of marriage, in Marriage Law Number 1 of 1974 which was later revised and became Marriage Law Number 16 of 2019. Based on this, the author will discuss the Sociological Impact for underage people who marry prematurely and the Legal Consequences of Underage Marriage According to Civil Law in Indonesia.

INTRODUCTION

Marriage is a divine directive intended to serve as an act of devotion and a means to strengthen one's connection with the Creator. Universally, marriage is recognized by all religions as a sacred and holy institution. In this regard, the government also establishes specific guidelines and processes for marriage to ensure legal certainty and safeguard the individuals involved.

One of the state-regulated aspects of marriage is the age requirement. According to Article 7(1) of Law Number 16 of 2019, which amends Law Number 1 of 1974 on Marriage, a marriage is permissible only if both the male and female parties have reached the age of 19.

Article 2 of the Marriage Law underscores that a marriage is considered lawful when conducted in compliance with the respective religious and belief systems of the individuals involved. Furthermore, every marriage must be documented in accordance with prevailing laws and regulations. It is important to highlight that the minimum legal age for marriage, as stipulated in Article 7(1) of Law Number 16 of 2019 (an amendment to Law Number 1 of 1974), is 19 years.

Under these legal provisions, early marriage refers to unions formed when either party has not yet reached 19 years of age. From this, it can be inferred that such marriages are fundamentally prohibited by law. Additionally, for individuals under the age of 21, parental consent is mandatory to proceed with marriage.

Prof. Subekti describes marriage as a legally recognized union between a man and a woman intended to last indefinitely. This legal connection denotes a bond between two individuals of opposite genders who have met the stipulated requirements, ensuring their union does not contravene established laws. According to Law No. 1 of 1974, a marriage is deemed valid only if conducted in alignment with the religious and belief systems of the individuals involved. The phrase "marriage is valid if conducted according to their respective religions" suggests that marriage, regardless of faith, is inherently a religious ceremony performed to fulfill spiritual obligations.

The purposes of marriage include:

1. Getting legitimate offspring to continue the next generation.
2. Get a happy family full of peace of life and love.

Marriage holds a significant position in human life worldwide. Given its importance, it is unsurprising that religions, cultural traditions, and government institutions all have regulations addressing marriage within their respective communities.

Globally, marriage regulations vary considerably. This diversity is not limited to differences between religions but also exists within a single faith, as differing interpretations and adherence to distinct traditions or schools of thought result in varied marriage practices.

In Indonesia, the prevailing Marriage Law establishes maturity as a key criterion for determining readiness to marry. This notion of maturity, which emphasizes the capacity to assume responsibilities inherent in marriage, has sparked debates, particularly on whether a specific minimum marriage age

should be legally mandated. The key provisions of Law Number 1 of 1974 concerning marriage age include:

1. Parental consent is required for individuals under 21 years old who intend to marry (Article 6, paragraph 2).
2. The minimum permissible age for marriage is 19 years for men and 16 years for women (Article 7, paragraph 1).
3. Individuals under 18 years old or who have never been married remain under parental authority (Article 47, paragraph 1).
4. For minors under 18 years old who are not under parental care, a guardian assumes authority (Article 50, paragraph 1).

Many people equate adulthood with reaching a specific age, often associating 17 years as the threshold for maturity, marked by the issuance of a resident identity card.

Law Number 1 of 1974 underwent revisions in 2019, specifically in Article 7, raising the minimum marriage age to 19 for both men and women. The amendment aimed to uphold children's rights and foster healthier, more stable marriages. Yohana Yambise, the Minister of Women's Empowerment and Child Protection at the time, emphasized these goals during the revision.

The purpose of establishing marriage age limits aligns with creating families characterized by *sakinah*, *mawaddah*, and *warahmah*—families that are peaceful, loving, and blessed both in this world and the hereafter. This intention is reflected in Indonesia's Marriage Law No. 1 of 1974, which defines marriage as a physical and emotional union between a man and a woman, formalized as husband and wife, aiming to form a happy and eternal family under the guidance of God Almighty.

Additionally, the Compilation of Islamic Law (KHI) in Article 3 elaborates on this objective, emphasizing the creation of a harmonious, loving household (*sakinah*, *mawaddah*, *warahmah*). It highlights the importance of both prospective spouses being physically and mentally prepared to shoulder the responsibilities of a unified family.

Early marriage, however, presents challenges from the perspectives of both the Compilation of Islamic Law and the Marriage Law. The legal age limit for marriage, as established in Article 7, paragraph 1 of Law Number 1 of 1974, was updated through Marriage Law Number 16 of 2019 to address these issues more effectively.

Furthermore, medical expert and Family Planning and Reproductive Health Consultant, Julianto Witjaksono said that early pregnancy is prone to diseases and abnormalities because biologically women under the age of 20 are not ready so there is a high risk for the mother and baby. Meanwhile, Saparinah, Professor of the Faculty of Psychology, UI, argued that men and women who marry at too young an age do not have emotional maturity so that quarrels, divorce, and domestic violence are prone to occur. Domestic violence can cause trauma and even death for victims. So on that basis, the government then tried to revise the age provisions in the Marriage Law.

LITERATURE REVIEW

Early marriage has been widely discussed in legal and societal contexts due to its significant implications. According to the Marriage Law in Indonesia, the minimum age for marriage is 19 years for both prospective brides and grooms. Marriages below this age are not officially recognized by the state unless a marriage dispensation is granted by the Religious Court. While such marriages may hold religious validity, they fail to meet the legal requirements and are therefore unregistered. Studies have highlighted the adverse consequences of early marriage, including increased maternal and infant mortality rates, a higher risk of domestic violence, and unpreparedness to fulfill marital responsibilities. These challenges often result in elevated divorce rates and can negatively affect the socioeconomic well-being of both families involved. Furthermore, early marriage limits educational and career opportunities, perpetuating cycles of poverty and gender inequality. Legal provisions, such as those outlined in the Marriage Law and the Child Protection Act, emphasize the role of parents and the state in safeguarding children from early marriages, ensuring their physical and mental readiness before entering into such commitments. However, despite these regulations, the practice persists, necessitating a broader understanding of its cultural, legal, and societal dimensions.

METHODOLOGY

The author employs a Normative Legal Research methodology. This approach focuses on analyzing library resources or secondary data and is often referred to as doctrinal legal research. It involves identifying legal norms, principles, and doctrines to address specific legal questions. In this framework, the law is typically viewed as either the content of formal statutes and regulations or as norms and rules serving as standards for appropriate human behavior.

For data collection in this study, the researchers utilized three categories of legal materials:

1. Primary data: This refers to data gathered firsthand from the community. Such data comes directly from the original sources, often obtained through surveys, interviews, or other direct interactions with individuals relevant to the study's subject matter. Primary data collection can include methods such as interviews and observations. Observation entails closely examining and comprehensively analyzing the research object.
2. Secondary data: This comprises data derived from literature. It is essentially primary data that has been processed or reinterpreted by primary collectors or other parties. Secondary data serves various purposes, including providing preliminary information, establishing theoretical frameworks or legal foundations, and defining terms and concepts.

The study adopts a normative juridical approach with a descriptive analytical research specification. The data collection process includes both secondary data review and primary data as supplementary material.

Subsequently, the collected secondary and primary data are subjected to qualitative analysis.

Based on the background of the problem and the problem restrictions above, the problems that can be formulated are as follows:

1. What is the Sociological Impact on underage people who marry prematurely?
2. What are the Legal Consequences of Marriage Under Age According to Civil Law in Indonesia?

RESULT AND DISCUSSION

Sociological Impact of Early Marriage

Early marriage that occurs in this society has many impacts, this early marriage has harmed the interests of children and will greatly endanger the health of children. The impact of early marriage can be assessed from various perspectives.

First, the legal implications of early marriage indicate a disregard for several established laws, including:

- a) Marriage Law No. 1 of 1974, which stipulates that marriage is permissible only if the man is at least 19 years old and the woman is 16 years old (Article 7, Paragraph 1). Additionally, individuals under 21 years old must secure consent from both parents to marry (Article 6, Paragraph 2).
- b) Law No. 23 of 2002 on Child Protection, specifically Article 26, Paragraph 1, which holds parents accountable for their children's care, education, protection, and overall well-being.
- c) Law No. 21 of 2007 on the Eradication of Human Trafficking, designed to safeguard children's rights to life, growth, and protection from violence, exploitation, and discrimination.

Secondly, early marriage poses biological and psychological risks. From a biological standpoint, a child's reproductive system at puberty is still maturing, making it unprepared for sexual activity, pregnancy, or childbirth. Forced situations can result in trauma, severe tearing, infections, and other reproductive health complications that may even threaten the child's life. It raises concerns about whether such relationships are consensual or constitute sexual violence and coercion. Psychologically, children are unprepared for sexual matters, potentially leading to prolonged trauma that is difficult to overcome. Additionally, young brides face a heightened risk of cervical cancer because immature cervical cells are more vulnerable to human papillomavirus (HPV) exposure, which can lead to cancer.

From a broader health perspective, early marriages are associated with high maternal and infant mortality rates and reduced maternal and child health outcomes. Health experts suggest that the safest age for childbirth is between 20 and 35 years. Women giving birth before 20 are more prone to complications such as prematurity, congenital disabilities, and physical or mental impairments in their infants. According to E.B. Subakti, young marriages also carry significant risks due to the lack of mental readiness for familial

responsibilities. Adolescents are typically unprepared to handle the profound changes that come with marriage. Although some attempt to take responsibility, early marriages frequently result in divorce.

Thirdly, the social and sexual behavior consequences of early marriage often relate to societal norms that perpetuate patriarchal values. Women are frequently relegated to a subordinate role, reinforcing systemic inequalities and increasing the likelihood of domestic violence. Pedophilia, involving adults engaging in sexual relations with children, is a concerning manifestation of these social behaviors. Under ****Law No. 23 of 2002 on Child Protection****, Article 81 prescribes severe penalties for such offenses, including imprisonment ranging from 3 to 15 years and fines between 60 million and 300 million rupiah. Without strict legal enforcement, perpetrators are unlikely to be deterred, potentially encouraging others to commit similar acts.

Fourthly, the economic impact on households formed by young couples is substantial. Such individuals often lack the physical or professional skills necessary to secure reliable income, making it difficult to provide for their families. Economic stability is critical for achieving household happiness and welfare. Men, in particular, should avoid dependence on their parents and strive for self-sufficiency, ensuring a stable foundation for their families rather than relying on uncertain prospects for the future.

A research journal highlights numerous repercussions of early marriage, such as childbirth at a young age, contributing to elevated maternal and child mortality rates. It also leads to disrupted education, limited peer interaction, reduced career opportunities, low birth weight in infants, which increases the risk of neonatal death, childbirth-related injuries, and complications for mothers during delivery.

Marriage, as defined, is intrinsically linked to the establishment of a family between a man and a woman (Law of the Republic of Indonesia 1974). The legal framework in Indonesia has addressed marriage through Law No. 1 of 1974, supported by Government Regulation No. 9 of 1975 concerning its implementation, signed by President Soeharto on April 1, 1975, in Jakarta. Additionally, the compilation of Islamic law touches upon age prerequisites for prospective spouses. While early marriage itself is not explicitly detailed, Article 29 of the Civil Code (KUHPer) sets the minimum marriageable age at 18 for men and 15 for women, while Article 330 establishes 21 years as the age of majority for individuals who have not yet married.

The purpose of marriage, tied to the union of a man and a woman, is reiterated in Marriage Law Number 1 of 1974. Indonesia's legal system, under Law Number 1 of 1974, alongside Government Regulation Number 9 of 1975, outlines its implementation and requirements. These include the age limits for prospective spouses, as referenced in Islamic law. While the specifics of early marriage are not directly addressed, the Civil Code (KUHPer) stipulates the minimum age for marriage as 18 for men and 15 for women, with Article 330 defining adulthood as 21 for unmarried individuals.

Law No. 1 of 1974, under Article 66, invalidates any Civil Code provisions related to marriage inconsistent with this law, including age limits. Article 7,

paragraph 1, specifies that the minimum age for marriage is 19 for men and 16 for women. Additionally, parental consent is mandatory for marriage under these regulations (Law of the Republic of Indonesia 1974). Article 2 states that exceptions to these rules may be sought through court approval, as determined by the parents of the intended spouses.

Government regulations provide leniency for couples seeking marriage where one partner is underage (UU RI 1/1974). Article 26 of Law No. 23 of 2002 on Child Protection emphasizes the pivotal role of parents in safeguarding children from early marriage, ensuring their preparedness in terms of age and mental maturity before committing to such a union.

Revisions to Indonesian marriage law raised the minimum marriageable age to 19 for both men and women, from the previous limits of 19 for men and 16 for women, as stipulated by Law No. 1 of 1974. This adjustment reflects a consideration of the responsibilities and familial benefits associated with marriage at an appropriate age, as outlined in Article 7.

The implications of neglecting these regulations include violations of child protection laws (Article 26, paragraph 1) and Law No. 21 of 2007, aimed at combating human trafficking. Legal protections ensure that children are safeguarded against violence, exploitation, and discrimination, enabling their growth and development in a secure environment as mandated by the law.

CONCLUSIONS AND RECOMMENDATIONS

From a legal perspective, early marriages are deemed invalid as they violate the Marriage Law. This law mandates that both the prospective bride and groom must be at least 19 years old to marry. Marriages conducted below this age threshold may hold religious validity but are not officially recorded by the state due to their noncompliance with established laws and regulations. If either party has not reached the required age, their guardian must submit a request for marriage dispensation to the Religious Court. Should the dispensation be approved, the marriage is acknowledged by both religious authorities and the state.

Early marriage often leads to numerous negative consequences for the couple involved and broader societal issues. These include a higher likelihood of divorce, increased cases of domestic violence, and a lack of preparedness in fulfilling marital duties and responsibilities. Consequently, these factors can adversely impact the overall welfare of the families of both individuals.

It is advised to young people not to be hasty in making decisions for their future, especially in terms of marriage. If you are going to get married, follow what the law stipulates, with a minimum age limit of 19 years. It is hoped that students can better understand the legal consequences of marriage at a young age which have been explained previously.

ADVANCED RESEARCH

For further research, it is essential to explore the intersection of legal, cultural, and social dimensions in addressing early marriages. While the Marriage Law provides clear age requirements and the procedural mechanism of marriage dispensation, future studies could examine the effectiveness of

these legal frameworks in preventing early marriages and their enforcement across diverse regions in Indonesia. Additionally, research should delve into the societal and cultural factors that contribute to the persistence of early marriages despite legal prohibitions. Investigating the role of education, parental influence, and community awareness in mitigating early marriage practices could offer valuable insights for targeted interventions. Furthermore, longitudinal studies assessing the long-term socioeconomic and psychological impacts of early marriage on individuals and families would provide a more comprehensive understanding of its consequences. Such research can inform policy development and advocacy efforts, aiming to harmonize legal standards with cultural practices and improve the overall welfare of affected communities.

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