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Urgency of Legal Protection for Children from Early Marriage in Indonesian

Wahyu Kurniadi^{1*}, Salisah Salsabilla²

¹Universitas Jambi, Jambi, Indonesia, kurniadiwahyu1511@gmail.com

²Universitas Jambi, Jambi, Indonesia, salisah0908@gmail.com

*Corresponding Author: kurniadiwahyu1511@gmail.com¹

Abstract: Early marriage is a serious problem that still occurs in various regions of Indonesia, especially in rural and remote areas. This practice not only violates children's rights but also has a negative impact on their health, education, and future. Although Indonesia has laws and regulations that regulate the minimum age of marriage, such as in Law Number 16 of 2019 which revises the Marriage Law, implementation in the field still faces various challenges, such as lack of legal knowledge, cultural pressures, and weak supervision and law enforcement. This article aims to examine the urgency of legal protection for children from early marriage practices, highlight weaknesses in the implementation of existing laws, and propose strategic steps for more effective protection. This study uses a normative legal approach with secondary data analysis in the form of laws and regulations, documents, and relevant literature. The results of the analysis indicate the need for institutional strengthening, public education, and legal harmonization so that children's rights can be maximally protected from marriage practices that are detrimental to their future.

Keywords: Legal Protection, Children, Early Marriage, Children's Rights, Laws.

INTRODUCTION

Marriage is a social and legal institution that has a very complex dimension, not only involving two individuals, but also involving family structures, society, and the state. In Indonesia, although there have been various changes and legal reforms in the marriage sector, the practice of early marriage is still widespread, and is often considered commonplace in some regions. Early marriage generally refers to marriages carried out by individuals under the age of 18, which in the context of international and national law is included in the category of children. According to data from the Central Statistics Agency (BPS) and UNICEF, Indonesia is among the top ten countries with the highest rates of child marriage in the world. This phenomenon is not only a social and cultural issue, but also a legal and human rights issue, because children who marry early lose the opportunity to develop optimally, both in terms of education, health, and social. Early marriage is often based on various factors, ranging from poverty, low levels of education, patriarchal culture, to social pressures and customs that are still strongly embedded in society. Unfortunately, in many cases, girls are the ones who are

most disadvantaged, because they have to face the risk of early pregnancy, dropping out of school, domestic violence, and limited access to basic rights as children and individuals.

Legal Issues

Legally, Indonesia has made progress with the enactment of Law Number 16 of 2019 which revises Law Number 1 of 1974 concerning Marriage, where the minimum age limit for marriage for women is the same as 19 years, equal to men. However, this provision still provides a loophole with the existence of a marriage dispensation mechanism that can be submitted to a religious court or district court. This mechanism is often used without considering the psychological, health, and readiness aspects of children to enter the world of marriage. In addition, in practice, the implementation of the law has not been able to provide maximum protection for children. Many cases of early marriage are carried out without official registration, or even occur according to custom and are not detected by state institutions. Low supervision and weak legal sanctions for violations of the age limit for marriage worsen this situation. Therefore, it is necessary to further study how the legal protection system can be enforced effectively in order to reduce the number of child marriages in Indonesia.

Children's Rights and International Aspects

Early marriage is contrary to the principles of child protection as stated in the Convention on the Rights of the Child (CRC) which has been ratified by Indonesia through Presidential Decree Number 36 of 1990. This convention emphasizes that every child has the right to protection from all forms of violence, exploitation, and harmful practices, including early marriage. In this context, the state has an obligation to take preventive and repressive measures to ensure that children's rights are fully fulfilled. Legal protection for children from early marriage practices is also an integral part of achieving the Sustainable Development Goals (SDGs), especially goal number 5 which targets the elimination of all forms of discrimination and violence against women and children, as well as eliminating the practice of child marriage, forced marriage, and female genital mutilation. However, the weak coordination between institutions, the lack of legal education in the community, and the inequality in the application of the law in various regions of Indonesia are major challenges that must be overcome immediately. A comprehensive and collaborative approach is needed between the state, society, and international institutions to create a safe and conducive environment for the growth and development of children.

METHOD

This normative legal research includes a study of various relevant laws and regulations, such as Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Law Number 35 of 2014 concerning Child Protection, and Law Number 23 of 2002 concerning Child Protection which has been amended. The study also examines the Convention on the Rights of the Child which has been ratified by Indonesia through Presidential Decree Number 36 of 1990. In addition, the author also uses secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations. Secondary legal materials include legal literature, scientific journals, scientific articles, and opinions of legal experts. While tertiary legal materials consist of legal dictionaries, encyclopedias, and other supporting sources of legal information. Data collection techniques are carried out through library research and documentation, namely by collecting data from books, journals, laws and regulations, legal documents, institutional reports, and other official sources. The collected data are analyzed qualitatively-descriptively, namely by describing and interpreting the contents of the legal materials to then draw conclusions systematically. With this method, it is expected to be able to provide a comprehensive picture of the conditions, challenges, and

legal protection efforts for children from early marriage practices, as well as provide concrete recommendations for improving the applicable legal system.

RESULTS AND DISCUSSION

1. Overview of Early Marriage in Indonesia

Child marriage is still a critical issue facing Indonesia. Based on BPS data in 2023, around 1 in 9 women were married before the age of 18. In several provinces such as West Sulawesi, West Nusa Tenggara, and South Kalimantan, the number of child marriages is very high due to the strong influence of culture and economy. Sociologically, the main factors driving this practice include:

- a. Poverty: Parents from low-income families tend to marry their children off early to ease the economic burden.
- b. Low Education: Children who do not continue their education are vulnerable to early marriage because they do not have productive activities.
- c. Culture and Tradition: In some areas, getting married young is considered part of customs or even as a way to maintain family honor.

The impacts of early marriage are very broad, including:

- a. Increased risk of maternal and infant mortality.
- b. Low levels of education for girls.
- c. Domestic violence (KDRT).
- d. Household instability and early divorce.

2. Legal Regulations related to Marriage Age

Before being revised, Law Number 1 of 1974 set a minimum marriage age limit of 16 years for women and 19 years for men. This inequality has received much criticism because it is considered discriminatory and not in accordance with the principle of gender equality. Through Law Number 16 of 2019, the minimum age limit for women was raised to 19 years, so that it is equal to men. However, even though it has undergone normative changes, Article 7 paragraph (2) still allows for a marriage dispensation application through the courts, if there are urgent reasons and accompanied by sufficient supporting evidence. The problem is, in practice, marriage dispensation applications are often granted for very subjective reasons, such as pregnancy out of wedlock or family pressure. As a result, even though normatively there is a clear age limit, this legal loophole still allows for early marriage to occur legally.

3. Legal Protection for Children in the Perspective of the Child Protection Law

Law Number 35 of 2014 concerning Child Protection states that every child has the right to survival, growth, and development and the right to protection from violence and discrimination. In this context, early marriage can be categorized as a form of structural violence against children because:

- a. Children are forced or persuaded to marry at an immature age.
- b. Children lose their right to education, play, and social protection.
- c. Children are not physically or mentally ready to face family life.

Protection of children from early marriage practices is part of the state's obligation to provide guarantees of protection for children from all forms of violence and exploitation as mandated in Article 59 of the Child Protection Law. However, weak supervision and coordination between institutions, such as the Women's Empowerment and Child Protection Service (DP3A), the Social Service, and educational institutions, are serious obstacles in the implementation of this protection.

4. The Role of the Court in Granting Marriage Dispensation

The Religious Court plays an important role in the process of

granting marriage dispensation. Based on the report of the Religious Courts, there are more than 60,000 applications for marriage dispensation submitted each year, with the majority being granted. This shows that the role of the judge is very strategic in determining whether the child is truly ready to marry. However, in reality, not all judges consider the psychological and developmental aspects of the child in depth in making decisions. In many cases, applications for dispensation are granted due to “social emergency” factors such as pregnancy out of wedlock, not because of the child’s readiness. This creates a legal and moral dilemma: on the one hand, it wants to avoid social disgrace, on the other hand, it actually plunges the child into a situation that is high psychological risk.

4. Evaluation of Marriage Dispensation Practices

Several important findings related to marriage dispensation practices include:

- a. Lack of psychological assistance before and after the dispensation process.
- b. The absence of national standards related to assessing children's readiness to marry.
- c. Lack of data and monitoring of children who marry under age.
- d. Lack of coordination between courts, schools, and child protection agencies.

As a result, many children marry due to pressure from family or society, without understanding the legal, social, and psychological consequences of the decision.

5. The Role of Child Protection Agencies and Local Governments

Institutions such as the Indonesian Child Protection Commission (KPAI), the Women's Empowerment and Child Protection Service (DP3A), and Non-Governmental Organizations (NGOs) have an important role in providing education, assistance, and protection to children at risk of early marriage.

Several programs that have been carried out in the regions include:

- a. Education and socialization about the dangers of early marriage in schools.
- b. Increasing the capacity of village cadres and traditional leaders in preventing the practice of child marriage.
- c. Establishment of the Regional Children's Forum as a forum for children to voice their rights.

However, the role of local governments is still very varied. In some regions, policies and budgets for preventing child marriage are still minimal, and are not even a development priority. In fact, a community-based approach is very important considering the influence of customary and religious values that are still very strong in society.

6. Strategic Efforts to Strengthen Legal Protection

Some strategic efforts that need to be made to strengthen legal protection for children from early marriage include:

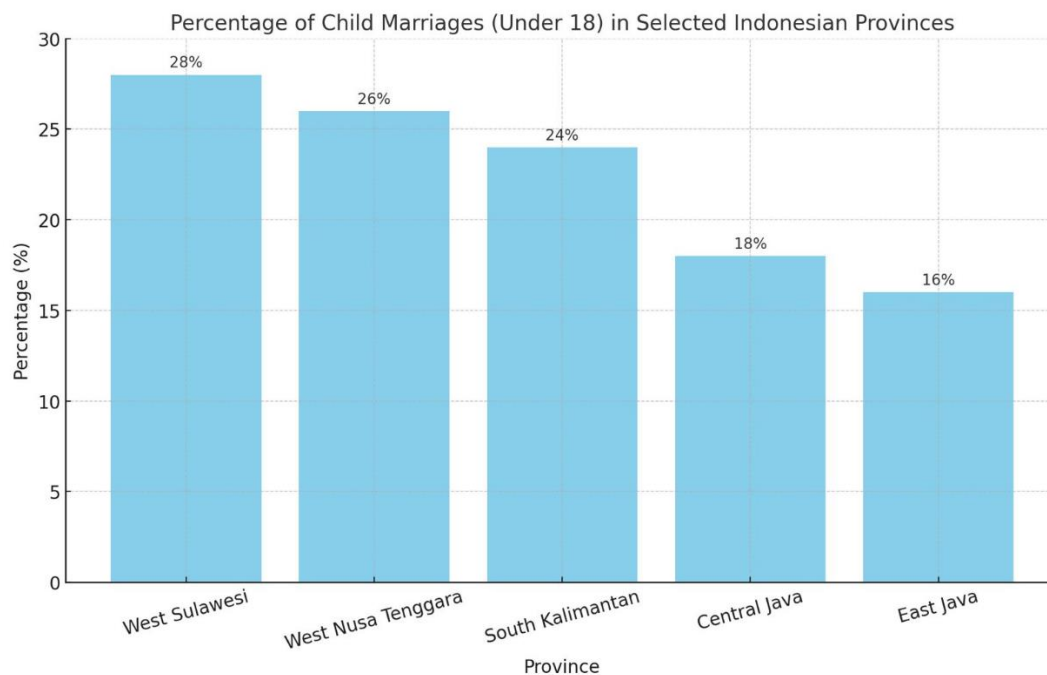
- a. Revising marriage dispensation regulations to be stricter and include psychological assessments.
- b. Increasing the role of legal education in schools and communities about children's rights.
- c. Strengthening synergy between government institutions, the judiciary, and civil society.
- d. Provision of psychosocial and legal services for children who are victims or at risk of early marriage.
- e. Imposing administrative sanctions on parents or parties who facilitate child marriage without a strong legal basis.

In addition, the government must actively encourage the implementation of child protection policies in each region and integrate this issue into the Regional Medium-Term Development Plan (RPJMD).

7. International Law Perspective

In the international arena, the practice of child marriage is contrary to the principles of human rights as stated in the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). As a state party, Indonesia is obliged to adjust its regulations and practices to these international standards. International institutions such as UNICEF, UNFPA, and Plan International have also recommended to Indonesia to:

- Align all national regulations with the definition of a child in the CRC (i.e. <18 years).
- Eliminate all forms of age exceptions through dispensation without in-depth consideration.
- Increase funding for child marriage prevention programs.



CONCLUSION

Child marriage remains a critical and complex issue in Indonesia, deeply rooted in socio-cultural traditions, economic hardships, and inadequate legal enforcement. Although the legal framework, especially with the revision of the Marriage Law through Law No. 16 of 2019, has made progress in setting a minimum age for marriage at 19 years for both men and women, the existence and widespread use of marriage dispensation mechanisms continue to undermine the spirit of child protection. The findings of this study indicate that while laws exist, their implementation is inconsistent and often bypassed by socio-cultural pressures and weak institutional responses. Judicial discretion in granting dispensations, lack of psychological assessments, and minimal community education contribute to the persistence of early marriage practices. To address this, a multi-sectoral and collaborative approach is essential. Strengthening legal norms, limiting dispensation access, increasing public legal awareness, empowering girls through education, and engaging local leaders in advocacy efforts are key to safeguarding children's rights. Protecting children from underage marriage is not merely a legal duty but a moral and developmental imperative to secure Indonesia's future generation.

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