



Impacts of Early Childhood Marriage in Indonesia Viewed from Child Protection Laws Perspectives

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Abstract

This article seeks to elucidate the ramifications of early marriage or child marriage about the Child Protection Law and explicate endeavors to thwart child marriage as a means of safeguarding children. The research method employed is normative juridical, which involves analyzing and evaluating relevant laws and regulations as the major source for problem-solving. The research findings indicate that child marriage violates the Child Protection Law. Moreover, child marriage might impede the realization of children's rights, hence compromising their overall growth and development. Child marriage exerts a significant influence on economic, social, health, educational, and psychological issues. Efforts aimed at preventing child marriage serve as a means of safeguarding children. It is necessary to enhance and unify rules pertaining to the prevention of child marriage. This should involve collaboration across many levels of government, from national to local, and engage all segments of society, particularly young individuals, to effectively execute measures against child marriage. It is advisable to enhance and align the age restrictions for children across rules to ensure they are consistent, mutually reinforcing, and efficiently implemented in practice. There is a requirement for additional regulations concerning marriage dispensation by the District Court or Religious Court. It is also important for Judges to be consistent and firm in their decisions regarding marriage dispensation cases, in line to prevent or reject child marriage as stated in PERMA Number 5 of 2019.

Keywords: Child Marriage, Child Protection, Islamic Family Law

Abstrak

Artikel ini bertujuan untuk menjelaskan implikasi perkawinan usia dini atau perkawinan anak ditinjau dari Undang-Undang Perlindungan Anak serta menjelaskan upaya pencegahan perkawinan usia anak sebagai upaya perlindungan anak. Metode penelitian yang digunakan adalah yuridis normatif, yaitu suatu pendekatan masalah dengan jalan menelaah dan mengkaji suatu peraturan perundang-undangan yang berlaku sebagai dasar pemecahan masalah sebagai bahan primer. Hasil penelitian bahwa perkawinan usia anak bertentangan dengan Undang-Undang Perlindungan Anak, perkawinan usia anak dapat menghambat terpenuhinya hak-hak anak sehingga tumbuh kembang anak tidak optimal. Perkawinan usia anak berdampak pada masalah ekonomi, sosial, kesehatan, pendidikan dan psikologis. Adapaun upaya pencegahan perkawinan usia anak merupakan bentuk perlindungan terhadap anak. Diperlukan penguatan serta harmonisasi mengenai aturan pencegahan perkawinan usia anak, dan juga kerja sama seluruh lapisan mulai dari pemerintah pusat, daerah sampai ke desa dan melibatkan seluruh lapisan masyarakat termasuk anak muda untuk mengimplementasikan pencegahan perkawinan usia anak. Disarankan adanya penguatan dan harmonisasi ketentuan batas usia anak antar regulasi agar selaras, saling mendukung dan efektif dalam pelaksanaannya dilapangan. Perlunya penambahan syarat mengenai dispensasi kawin oleh Pengadilan Negeri atau Pengadilan Agama serta perlunya konsistensi dan ketegasan Hakim dalam memutuskan perkara dispensasi kawin sesuai semangat mencegah atau menolak perkawinan usia anak sebagaimana diatur dalam PERMA Nomor 5 Tahun 2019.

Kata Kunci: *Perkawinan anak, perlindungan anak, hukum keluarga Islam*

Introduction

The Indonesian society is well-acquainted with diverse marital customs that contribute to a significant prevalence of underage marriages. Child marriage refers to the act of children entering into a marriage before they have attained the legally defined minimum age.¹ The Convention on the Rights of the Child, signed by the United Nations in 1988, ensures the protection of children's rights across various domains including civil, political, economic, social, health, and cultural aspects.

In Indonesia, the government has officially approved and implemented this agreement as Law Number 35 of 2014, which is an addendum to Law Number 23 of 2002 on Child Protection, since 1990. According to Article 4 of the Child Protection Law, every child is entitled to the following rights: the right to survive, the right to

¹ Lisa Cameron, et. al., "Child marriage: using the Indonesian Family Life Survey to Examine the Lives of Women and Men Who Married at an Early Age," *Review of Economics of the Household* 21, no. 1 (2022). Supriyadi and Siti Suriyati, "Judges' Legal Culture in Dealing with High Number of Applications for Child Marriage Dispensation during Covid-19 Pandemic at the Kudus Religious Court," *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 17, No. 1 (2022).

grow, the right to develop, and the right to engage in a manner that is suitable and respectful of their human dignity. Additionally, children have the right to be protected from violence and discrimination.² Child marriage flagrantly violates child protection legislation and constitutes a breach of children's rights, particularly their entitlement to life, optimal growth, and development. Additionally, child marriage impedes a child's ability to pursue education. Furthermore, it exposes young girls to a higher risk of maternal mortality compared to women who conceive at a later stage, and those who reach the sufficient age for marriage.

Child marriage also leads to the emergence of psychological issues, even though child marriage persists. Child marriage can significantly detriment children, particularly in terms of their education, health, and the economy. This can consequently contribute to the development of new poverty or structural poverty. Additionally, child marriage can have various other consequences, including domestic violence, human trafficking, and improper parenting practices that infringe upon children's rights.

The practice of child marriage serves as the underlying reason for the modifications made to the regulations of the minimum age for marriage as stated in Law Number 1 of 1974, which were further amended by Law Number 16 of 2019 pertaining to Marriage. This legislation modifies the statutory threshold for child marriage, raising the minimum age for both boys and girls to 19 years. Previously, the minimum age for girls was 16 years. The purpose of this modification was to eradicate prejudice in the context of establishing a family and diminish the prevalence of child marriage.

The amendments made to Law Number 16 of 2019 on the minimum age requirement for marriage also enhance the child protection law by raising the minimum age for children to enter into marriage by one year. According to Article 1, Section 1 of the Child Protection Law, a child is defined as an individual who is under the age of 18, which includes unborn children. According to Article 330 of the Civil Code, a kid is defined as an individual who is either a fetus in the womb or someone who is 21 years old or has been married before. Consequently, if a child has not attained the specified age, they lack the legal competence to engage in activities such as marriage.

The practice of child marriage is influenced by various factors, including economic circumstances, educational opportunities, adherence to cultural norms, and instances of unwed pregnancy. In addition, there are discrepancies between Article 7, paragraph (1) and paragraph (2) of Law Number 16 of 2019 regarding Marriage. Paragraph (2) permits exceptions to marriage, creating a loophole that allows a child

² Tri Hendra, "Seksualitas dan Negara: Permasalahan dispensasi perkawinan anak di Indonesia," *Jurnal Masalah-Masalah Sosial* 13, No. 2 (2022), p. 206.

to marry below the minimum age as long as they continue to fulfil the specified requirements.³

Conducting this study is crucial due to the significant prevalence of child marriage in Indonesia and the Muslim world. The research method employed is normative juridical, which involves analyzing and evaluating relevant laws and regulations as the major source for problem-solving.⁴ In addition, the Analysis of the legal statutes and regulations in Indonesia as they constitute a component of the prevailing legal framework, encompassing national law, alongside the Islamic legal system and the customary law.

Early Childhood Marriage

The prevalence of child marriage in Muslim society is attributed to the selective interpretation of religious teachings addressing the minimum age for marriage, which subsequently becomes widely accepted in the society.⁵ According to Law Number 16 of 2019 in Indonesia, modifications to Law Number 1 of 1974 provide that individuals can get married after they have attained the age of 19, regardless of their gender. The age requirement for marriage, as stipulated in the Marriage Law, is one year above the age restriction specified in the Child Protection Law for children. This implies that the Marriage Law implicitly reinforces and ensures the utmost protection of children's rights. However, the occurrence of marriages below the age of 19, and even below the age of 18, persists in reality. Various factors contribute to this issue, one of which being the leniency granted by Article 7 paragraph (2) that allows underage children to obtain marriage permission.

According to Article 6 Paragraph (1) of Law Number 1 of 1974 regarding Marriage, individuals under the age of 21 must get agreement from both parents in order to get married. Initially, Article 7 of the aforementioned legislation specified that the minimum age for males to enter into marriage was 19 years. Concurrently, the lower age threshold for women is 16 years. Nevertheless, these provisions underwent modifications in Law Number 16 of 2019.⁶

Child marriage refers to the act of children, often those who have not yet attained the appropriate age for marriage, entering into a marital union. Child

³ Kadek Devi Regina Melati and A.A Gede Oka Parwata, "Perlindungan Hukum Atas Perkawinan Anak Dibawah Umur dalam perspektif Undang-Undang Hak Asasi Manusia," *Jurnal Kertha Semaya* 10, No. 9 (2022), p. 197.

⁴ Munir Fuady, *Metode Riset Hukum: Pendekatan dan Teori*, Jakarta: RajaGrafindo Persada, 2018.

⁵ Qodariah Barkah, et.al., "The Manipulation of Religion and The Legalization of Underage Marriages in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7 No 1 (2023), hlm. 15.

⁶ Ridwan Nurdin and Sufrizal, "Formal Acceptance of the Marriage Age Exception in the KUA Kluet Timur," *Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial* 25, No. 1 (2023), p. 107.

marriage refers to the act of marrying an individual who is below the age of 18, as stipulated by Law Number 35 of 2014 on Child Protection.⁷

The World Health Organization (WHO) defines child marriage as a union in which one or both partners are classified as children or adolescents, under the age of 19. The Convention on the Rights of the Child (CRC) stipulates that child marriage refers to the act of marrying an individual who has not yet attained the age of 18.⁸ Child marriage, as defined by the United Nations Children's Fund (UNICEF), refers to the formal or informal union of individuals under the age of 18.⁹ The practice of child marriage, also known as underage marriage, persists in several cultures, geographies, religions, and ethnicities, including Malaysia and other Muslim nations. Prior to the global emergence of the Covid issue, the United Nations Children's Fund (UNICEF) in 2021 reported an estimated 100 million girls who were married before reaching the age of 18.¹⁰

Child marriage is a multifaceted problem. Poverty, location, limited access to school, gender inequality, social strife and catastrophes, insufficient access to reproductive health services and information, as well as social and cultural factors are believed to be the causes of child marriage.¹¹ Child marriage is a multifaceted problem. Poverty, location, limited access to school, gender inequality, social strife and catastrophes, insufficient access to reproductive health services and information, as well as social and cultural factors are believed to be the causes of child marriage.¹²

⁷ Muhammad Hamzah, "Studi Komparatif Batasan Usia Penikahan Dini Perspektif Undang-Undang Nomor 16 Tahun 2019 Tentang Perkawinan Dan Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak", *Ahkam: Jurnal Hukum Islam dan Humaniora* Vol. 2 No. 2, (2023), p. 415.

⁸ Titing Sugiarti and Kunthi Tridewiyanti, "Implikasi dan Implementasi Pencegahan Perkawinan Anak." *Jurnal Legal Reasoning* 4 No.1 (2021), p. 84.

⁹ Mujiburahman, "Pentingnya Pendidikan Bagi Remaja Sebagai Upaya Pencegahan Pernikahan Dini," *Jurnal Pengabdian Kepada Masyarakat* 1, No. 1, (2021), p. 37.

¹⁰ Muhammad Al-Ghazalli Abdol Malek, et.al., "Child Marriage in Malaysia: Reforming Law through the Siyasa al Shar'iyya Framework," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, No. 1 (2023), p. 60.

¹¹ The Child Marriage Situation in Indonesia: an Overview. 2015. Rumah Kita Bersama dan UNFPA. Jakarta: Indonesia

¹² Indeks Penerimaan Perkawinan Anak (UNICEF). Indeks dikembangkan oleh Plan International dan diuji di Pakistan, Indonesia, dan Bangladesh.

In addition to that, the societal variables contributing to child marriage include education,¹³ finance,¹⁴ parents,¹⁵ culture,¹⁶ pre-marriage pregnancy, and tradition.¹⁷

Child Protection

Child protection is a concerted endeavor to safeguard the fundamental rights, freedoms, and wellbeing of children.¹⁸ Maidin Gultom defines child protection as the collective actions taken to create an environment in which children can exercise their rights and fulfill their responsibilities, hence facilitating their natural, physical, mental, and social growth and development. In addition to this, child protection serves as a means of achieving justice within society, necessitating the implementation of measures to safeguard children in numerous domains of both governmental and societal spheres.¹⁹ According to Wiyono, child protection is a service that law enforcement personnel or security forces must provide to ensure both physical and mental security.²⁰ As per Article 1 paragraph (2) of Law Number 35 of 2014 on Child Protection, child protection refers to all actions taken to ensure the well-being and rights of children, allowing them to thrive, progress, and actively participate while upholding their dignity and safeguarding them from violence and discrimination.

Child protection is a comprehensive endeavor aimed at ensuring the rights of children are upheld in all areas of their lives.²¹ Child protection is an embodiment of social justice, necessitating efforts to safeguard children in several aspects of life.²² Child protection is an embodiment of social justice, necessitating efforts to safeguard children in several aspects of life. The implementation of child protection is

¹³ Ana Latifatul Muntamah, et.al., “Pernikahan Dini Di Indonesia: Faktor dan Peran Pemerintah (Perspektif Penegakan Dan Perlindungan Hukum Bagi Anak), *Widya Yuridika Jurnal Hukum*, Vol. 2 No. 1 (2019), p. 17

¹⁴ Elis Riyani Syalis, “Dampak Pernikahan Dini Terhadap Psikologis Remaja,” *Jurnal Pekerjaan Sosial* 3, No.1, (2020), p. 31.

¹⁵ Harsoyo and Rahmad Purwanto, “Faktor Pertimbangan Pernikahan Dini dan Strategi Pencegahan”, *Jurnal Soshumdik*, Vol 1 No.3, (2022), p. 91

¹⁶ Meitria Syahadatina Noor (et.al), *Klinik Dana Sebagai Upaya Pencegahan Perkawinan Dini*, Yogyakarta: Mine, 2018, p. 4. Rima Hardianti and Nunung Nurwanti, “Faktor Penyebab Terjadinya Pernikahan Dini Pada Perempuan”, *Jurnal Pekerjaan Sosial* 3 No. 2 (2020), p. 116.

¹⁷ Brigita D. S. Simanjorang (et.al), “Kajian Hukum Perkawinan Anak Dibawah Umur Menurut Undang-Undang Nomor 16 Tahun 2019 Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan,” *Jurnal Hukum Lex Privatum* 10 No. 1, (2022), p. 49. Harsoyo and Rahmad Purwanto, “Faktor Pertimbangan Pernikahan Dini dan Strategi Pencegahan”, *Jurnal Soshumdik* 1, No.3, (2022), p. 98.

¹⁸ Waluyadi, *Hukum Perlindungan Anak*, Bandung: Mandar Maju, 2009, p.1.

¹⁹ Indira Retno Aryatie, *Hukum Perkawinan Telaah Perkawinan Anak Di Indonesia*, Surabaya: Jakad Media Publishing, 2019, p. 54.

²⁰ Wiyono, *Pengadilan Hak Asasi Manusia Di Indonesia*, Jakarta: Kencana Prenanda Media Group, 2006, p. 98.

²¹ Ratri Novita Erdianti, *Hukum Perlindungan Anak Di Indonesia*, Malang: Universitas Muhammadiyah Malang, 2020, p. 16.

²² Maidin Gultom, *Perlindungan Hukum Terhadap Anak dalam Sistem Peradilan Pidana Anak di Indonesia*, Bandung: Refika Aditama, 2014, p. 40.

intricately linked to the involvement of various entities such as the State, government, parents, family, and society. This involvement can take the form of child protection institutions, religious institutions, non-governmental organizations, community organizations, social organizations, the business world, mass media, and even judicial institutions.²³ Each of these layers is required to ensure the optimal realization of children's rights or their protection.

The fundamental tenets pertaining to the safeguarding of children align with the stipulations outlined in Article 2 of Law Number 35 of 2014, which pertains to Child Protection. These laws are founded on the 1945 Constitution and the Convention on the Rights of the Child (KHA). The fundamental tenets of the Convention on the Rights of the Child (CRC), which are incorporated as fundamental principles in Law Number 35 of 2014 regarding Child Protection, can be delineated as follows: non-discrimination, the paramountcy of children's best interests, the entitlement to life, survival, and development, and reverence for children.²⁴

Implications of Child Marriage Given the Child Protection Law

Marriages carried out by children under the age of 18 violate the Child Protection Law. In Article 26 of Law Number 35 of 2014 concerning Child Protection, it is stated that parents are obliged and responsible for caring for, nurturing, educating and protecting children, supporting the child's growth and development according to the child's abilities, talents and interests, and preventing marriage at the child's age. Setting a minimum age limit for marriage is important, both prospective partners must be biologically and psychologically ready. Mental and physical maturity determines the realization of a good and healthy marriage.

If it is related to the principles of child protection, then marriage at a child's age is categorized as an act that violates the principles of life growth and development as well as the principles that are best for the child.²⁵ Implementing child marriage, it will hinder the optimal fulfillment of children's rights, there are many risks of violating children's rights and have an impact on education and health, which means children cannot grow and develop according to the State constitution. Some of the risks or impacts of child marriage are as follows:

1. Economic Impacts

Child marriage is vulnerable to giving birth to poor families due to low levels of education resulting in low access to jobs. Financial unpreparedness tends to create new families with low economic conditions, especially if the married couple immediately has children. needs are increasingly numerous and urgent. Unstable economic conditions will cause many problems in the household. Economic

²³ Mardi Candra, *Aspek Perlindungan Anak Indonesia Analisis tentang Perkawinan Bawah Umur*, Jakarta: Prenamedia Group, 2017, p. 2.

²⁴ Suhasril, *Perlindungan Hukum terhadap Anak dan Perempuan*, Depok: Raja Grafindo Persada, 2016, p. 39

²⁵ Fadli Andi Natsif, "Problematika Perkawinan Anak (Perspektif Hukum Islam dan Hukum Positif)", *Jurnal Al-Qadaw Peradilan dan Hukum Keluarga Islam* 5, No. 2 (2018), p. 184

problems can result in stress due to not being economically ready, while on the one hand, the urge for consumption and needs continues to increase following the times. Insufficient income certainly does not provide welfare for children as regulated in Law Number 35 of 2014 concerning Child Protection which guarantees all children's rights.

2. Social Impacts

Underage children tend to have unstable emotions, so it is easy for arguments to occur when dealing with even small problems. Quarrels also often lead to domestic violence (*Kekerasan Dalam Rumah Tangga/KDRT*) sexual violence, especially experienced by wives due to unbalanced relationships. The legal dynamics of such a family institution will inevitably have an impact on the structure and conditions of social life in society, for example, the potential for infidelity will create conflict relations in the structure of social life.²⁶ Social impact is a change that occurs in society due to something that influences and has an impact, including the occurrence of child marriage within the community, so there needs to be an increase in understanding from both families and society that child marriage is not only detrimental to the child itself but also the occurrence of child marriage resulting in Children's loss of their rights also results in other losses such as child labor where they are very vulnerable to violence, and are required to fulfill their daily needs, so they work even though they have no skills.

3. Impacts on Health

Child marriage leads to adverse reproductive health outcomes. Reproductive health encompasses the overall physical, mental, and social well-being about the reproductive systems and functions, including the reproductive process. It goes beyond the absence of disease and disability. Married couples who are under the age of 18 and have not yet fully developed physically are at risk of experiencing health complications for both the mother and the baby, which could potentially result in death. In addition to the mortality risk, women who give birth before the age of 20 are at a higher likelihood of developing depression, anxiety, and somatic symptoms. Child marriage heightens the likelihood of experiencing cervical cancer. Conducting a marriage during childhood also entails a lack of consideration for one's health before childbirth, neglecting to administer vaccinations to their offspring, and disregarding the nutritional needs of children. Hence, the practice of child marriage escalates the incidence of both maternal and child death. Maternal and child death rates decrease as the age of marriage increases.²⁷ The increase in the age at which individuals get married also leads to heightened attention on the well-being and

²⁶ Sippah Chotban, "Studi Kritis Pernikahan Bawah Umur Perspektif UUP No. 16 Tahun 2019 dan Gender Analisis", *Jurnal Ilmu Syariah dan Hukum* 19 No. 2 (2019), p. 218.

²⁷ Md. Akhtarul Islam dan Abdur Rahman, "Age at First Marriage and Fertility in Developing Countries: A Meta Analytical View of 15 Demographic and Health Surveys," *Elsevier Journal* 8, No. 3 (2020) p. 775-779.

welfare of children.²⁸ Child marriage can lead to stunted growth in infants, as the mother's nutritional requirements are not adequately fulfilled during pregnancy and suboptimal parenting practices result from the mother's lack of knowledge.

4. Impacts on Education

Child marriage deprives children of their rights to education, play, and the opportunity to reach their full potential. This is because it might interrupt or prematurely terminate their crucial childhood years, during which their rights are acknowledged and protected under the Convention on the Rights of the Child.²⁹ Minors who join into matrimony, regardless of their gender, are compelled to assume the duties and obligations of adulthood, maybe without being adequately prepared. Child marriage exacerbates the burden on boys to fulfill familial obligations, impeding their educational and occupational prospects.³⁰ In addition to forfeiting the chance to acquire further education, being married at a young age implies that youngsters lack the necessary information and abilities to ensure their own survival, as well as the possibility to uplift themselves and their families from poverty.³¹

5. Emotional Consequences

From a psychological standpoint, when individuals marry at a young age, they may not possess the necessary maturity to fulfill the role of a parent, which entails the responsibility of educating their children. Children typically retain a desire to engage in play with their classmates and continue to require cognitive growth. Psychologically, minors are deemed to lack emotional stability and mature cognitive abilities, as stated by Sonny Dewi Judiasih. Immature emotions and thought patterns give rise to difficulties that might break harmony in the household and induce stress in girls.³²

Child marriage, defined as the marriage of individuals under the age of 18, is in direct violation of Law Number 16 of 2019. According to Article 7, paragraph (1) of this law, marriage is only permissible if both parties have attained the age of 19 years. Nevertheless, Article 7 paragraph (2) grants an exception for marriage dispensation for those desiring to marry below the specified age. The author observes that the dispensation provisions in the Marriage Law permit marriages to take place

²⁸ Md. Akhtarul Islam dan Abdur Rahman, "Age at First Marriage and Fertility in Developing Countries"..., p. 775-779.

²⁹ Konvensi Hak Anak, Pasal 28 and 31 in BPS-UNICEF 2016, "Kemajuan yang Tertunda: Analisis Data Perkawinan Usia Anak di Indonesia", Jakarta, (2016), p. 9.

³⁰ Gaston Collen Murray (et.al), "Child Marriage Among Boys: A Global Overview of Available Data," *Vulnerable children and youth Studies* 14, No. 3 (2019), p. 222.

³¹ Brigita D. S. Simanjorang (et.al), "Kajian Hukum Perkawinan Anak Dibawah Umur Menurut Undang-Undang Nomor 16 Tahun 2019 Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan," *Jurnal Hukum Lex Privatum* 10 No. 1 (2022), p. 51.

³² Arief Maulana, "Hari Perempuan Internasional, Fakta Tingginya Pernikahan Dini dan Dorongan untuk Terus Berkarya" Universitas Padjajaran, edisi 8 Maret 2023, <https://www.unpad.ac.id/2023/03/hari-perempuan-internasional-fakta-tingginya-pernikahan-dini-dan-dorongan-untuk-terus-berkarya/>, diakses pada 18 Juli 2023.

below the optimal age, classifying those involved as children for reasons that are highly inefficient. This clause is the root cause of non-compliance with the law, resulting in legal and other consequences as previously described.

Child Marriage Prevention as a Measure to Safeguard Children

Preventing child marriage safeguards the rights of children to thrive and progress. The duty for implementing measures to avoid child marriage lies with all spheres of society. The government must demonstrate a strong dedication to upholding the relevant laws pertaining to the marriage of minors, in order to discourage individuals who want to marry minors from proceeding with their plans. In addition, it is imperative for the government to enhance its efforts in raising awareness about child marriage and enforcing strict penalties for any infractions. Furthermore, the government should educate society about the severe consequences that might arise from child marriage. These activities aim to raise public awareness about the detrimental nature of early marriage and discourage its practice. Efforts to maximize the prevention of child marriage are believed to be most effective when community members actively participate in preventing child marriage in their surroundings. The optimal approach to avoid child marriage at present is to foster synergy between the government and society. It is anticipated that in the future, the occurrence of child marriage will cease, ensuring that youngsters can approach their future with greater optimism.

The Indonesian government has taken measures to combat child marriage, as outlined in Article 26 paragraph 1 of Law Number 35 on Child Protection, which amends Law Number 23 of 2002. This article emphasizes the responsibility of parents to avoid child marriage. Law Number 1 of 1974 regarding Marriage saw modifications to Article 7 paragraph (1) following the approval of the Indonesian House of Representatives (*Dewan Perwakilan Rakyat/DPR*) to raise the minimum age for women to marry from 16 years to 19 years. This is a further action taken in response to the ruling made by the Constitutional Court in December 2018, which declared that setting a minimum age gap for marriage between girls and boys is a type of discriminatory practice.³³

The modification of Marriage Law Article 7 paragraph (1) is expected to foster the development of a novel culture and standards for an exemplary marriage. Law Number 16 of 2019, which stipulates an increase in the minimum age for both women and men to marry, does not inherently ensure the prevention of child marriage. According to Article 7, paragraph (2), individuals can apply for a marriage dispensation if they do not fulfill the minimum age criteria for marriage. Furthermore, some talks pertaining to child marriage indicate that if the minimum age requirements for marriage are not fulfilled, there is a chance that the marriage

³³ Gaib Hakiki (et.al), *Pencegahan Perkawinan Anak: Percepatan yang Tidak Bisa Ditunda*, Jakarta: Badan Pusat Statistik, 2020, p. 48

will not be officially recorded.³⁴ In order to tackle this matter, the Supreme Court enacted Supreme Court Regulations (*Peraturan Mahkamah Agung/PERMA*) and issued Supreme Court Circular Letters (*Surat Edaran Mahkamah Agung/SEMA*). PERMA and SEMA aim to facilitate judges in adjudicating child marriage dispensations by taking into account the rights of child protection.³⁵ How can we guarantee the reduction and prevention of child marriage?³⁶

1. Enhancing Legislation and Safeguarding the Well-Being of Minors

Amending the minimum age requirement stated in the Marriage Law is a measure aimed at safeguarding all girls from the practice of child marriage, with the active participation of all relevant parties. Given the recent nature of this modification, it is necessary to socialize the modified regulations and assure the proper implementation of this age adjustment. In addition, effective implementation is required for Law Number 35 of 2014 about Child Protection, which mandates that parents have a duty to avoid child marriage. Marriage dispensations should be more stringent to ensure that the enforcement of the raised minimum age for marriage effectively hinders and diminishes the occurrence of child weddings.

2. Ensure the Provision of Child-Oriented Services

a. Enhancing the 12-Year Mandatory Education Program for Female Students

Enhancing the minimum 12-year educational curriculum provides youngsters with enhanced prospects to cultivate their abilities and acquire the necessary skills for securing respectable employment. This can aid in reducing the likelihood of child marriage. In addition, it is imperative to enhance the 12-year educational curriculum and provide an inclusive education system that does not marginalize married or pregnant students, allowing them to pursue their studies. It is important to engage in socialization efforts to prevent bullying in children who pursue education after getting married or becoming pregnant. The education acquired should be of high quality, fostering continuous learning and facilitating sound decision-making.³⁷

b. Offering education and services pertaining to health and reproductive rights starting at a young age

Comprehensive HKSr education encompasses a wide range of knowledge, including reproductive health, life skills (such as assertiveness and social attitudes towards friends, family, and the environment), and gender awareness. Its purpose is to equip teenagers and young people with the necessary knowledge, skills, and values to make informed decisions regarding their social and sexual lives, thereby reducing

³⁴ Bappenas, Strategi Nasional Pencegahan Perkawinan Anak, dalam Dokumen Strategi Nasional Pencegahan Perkawinan Anak (STRANAS PPA), p. 27.

³⁵ Bappenas, Strategi Nasional Pencegahan Perkawinan Anak, dalam Dokumen Strategi Nasional Pencegahan Perkawinan Anak (STRANAS PPA), p. 27.

³⁶ Badan Pusat Statistik, "Pencegahan Perkawinan Anak, Percepatan yang Tidak Bisa Ditunda", Publikasi Laporan Badan Pusat statistik, p 35, diakses pada 14 Juli 2022, p. 35 <https://www.unicef.org/indonesia/media/2851/file/Child-Marriage-Report-2020.pdf>

³⁷ Badan Pusat Statistik, "Pencegahan Perkawinan Anak, Percepatan yang Tidak Bisa Ditunda", Publikasi Laporan Badan Pusat statistik, p. 52.

the likelihood of engaging in risky behavior. The incorporation of HKSR education into school learning materials and its early exposure to children can be implemented.

Education provided by HKSR can effectively mitigate the occurrence of child pregnancies by imparting knowledge about healthy sexual relationships. In addition to education, pregnant girls require unrestricted access to sexual and reproductive health services in order to obtain the necessary information.

c. Health Service and Inclusive Education

The Child Protection Law prioritizes the mitigation of risks and vulnerabilities faced by children, which hinder their access to fundamental rights, including the right to protection, growth, and development. Given the individual differences among children, it is imperative to adopt a tailored strategy to guarantee that health and education services are inclusive for all children. Children's susceptibility to child marriage is influenced by factors such as geographical location, socioeconomic deprivation, and limited educational opportunities.

3. Child Welfare and Social Protection

Child marriage is frequently perceived as a remedy for financially challenged households. Child marriage is viewed as a strategy to alleviate the economic burden imposed by children in impoverished families. Indirectly, the relief of poverty will promote the prevention and reduction of child marriage rates. The state of being poor amplifies the susceptibility of children to engage in child marriage. Additionally, the absence of opportunities to obtain education, healthcare, protection, and nurturing can also detrimentally affect the well-being of children. Hence, only addressing poverty is insufficient; it is imperative to enhance the child protection system and promote child welfare through the implementation of social assistance and protection programs, together with child care services.³⁸

4. Outlook Shifting Regarding Child Protection

a. Enculturation to alter perspectives on sexual and reproductive health rights (HKSR)

Child marriage is driven, in part, by the societal taboo around discussions of sexual matters, which extends to the exclusion of children from such conversations, let alone providing them with sexual education. Indeed, providing sex education at a young age will have a significant impact on adolescents as they transition into adolescence. Furthermore, children are being evaluated rigorously in terms of both their cognitive abilities and their conduct. Lack of early education on Sexual and Reproductive Health Rights (SRHR) can result in early marriage.³⁹

³⁸ Gaib Hakiki (et.al), *Pencegahan Perkawinan Anak: Percepatan yang Tidak Bisa Ditunda*, Jakarta: Badan Pusat Statistik, 2020, p. 54.

³⁹ Helmi HI Yusuf, "Pentingnya Pendidikan Seks Bagi Anak", *Jurnal Al-Wardah Kajian Perempuan, Gender dan Agama*, Vol.13 No.1, Universitas Terbuka Maluku Utara Indonesia, 2019, p. 1

Conservative individuals perceive debates on Sexual and Reproductive Health Rights (SRHR) as a breach of societal norms. It is imperative to socialize individuals in order to alter this thinking, hence enabling children to access education and services pertaining to Sexual and Reproductive Health Rights (SRHR). Due to the taboo nature of talks surrounding Sexual and Reproductive Health Rights (SRHR), children are deprived of accurate information pertaining to sexual interactions and reproductive health. Undoubtedly, this significantly augments the likelihood of child marriage taking place.

b. Promoting youth engagement in the prevention and management of child marriage.

As per I Gusti Bintang Darmawati, it is essential to safeguard children and ensure the fulfillment of their rights in order for them to develop into individuals of high caliber. Hence, it is imperative for society, including the youth, to actively engage in eradicating the practice of child marriage.⁴⁰ The involvement of young individuals in the prevention and management of child marriage has numerous effects on their contemporaries. Typically, young individuals engage in a consultation process with their peers to customize their advocacy message according to their specific requirements.⁴¹

Adolescents have the ability to make valuable contributions in domains often dominated by adults, such as Village Child Protection Groups (KPAD) or Community-Based Integrated Child Protection (PATBM). KPAD and PATBM are established in accordance with the provisions of Law No. 35 of 2014, which specifically addresses the protection of children.⁴² Particularly under Article 72, the significance of community involvement in executing child protection measures is highlighted. This can be accomplished through the following methods: 1) Disseminating information through outreach and education about children's rights and legislation pertaining to children; 2) Contributing to the development of policies related to safeguarding children; 3) Reporting instances of children's rights violations to the appropriate authorities; 4) Actively participating in the rehabilitation process and promoting social integration for children; 5) Monitoring, supervising, and assuming accountability for the implementation of child protection measures; 6) Providing necessary facilities, infrastructure, and fostering a supportive environment for children's growth and development; 7) Taking an active role in eliminating the stigmatization of child victims, as outlined in Article 59.

⁴⁰ Sekar Gandhawangi, "Libatkan Kaum Muda untuk Cegah Perkawinan Anak", edisi 10 Maret 2022, <https://www.kompas.id/baca/dikbud/2022/03/10/libatkan-masyarakat-dan-kaum-muda-untuk-cegah-perkawinan-anak>, diakses pada 22 Juli 2023

⁴¹ Siti Atika Rahmi (et.al), "Upaya Menurunkan Pernikahan Anak Melalui Sosialisasi Peraturan Daerah Nusa Tenggara Barat Nomor Tahun 2021", *Jurnal Abdi Masyarakat Ilmu Pemerintah* 1 No. 2, (2022), p. 81

⁴² Sispariyadi (et.al), "*Petunjuk Pengelolaan Perlindungan Anak Terpadu Berbasis Masyarakat Bagi Organisasi Pemerintah Daerah Kabupaten/Kota dan Provinsi*", Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, 2017, p. 8.

5. Promote and Fund Research that Specifically Targets Children

In addition to that, the government can take the following measures to prevent child marriage:⁴³

- a) Personal Approach. The initial step the government can adopt to address the issue of child marriage is to employ a personalized approach by providing guidance and assistance. The execution of this stage can be performed by the personnel of the Marriage Registrar when an individual registers a marriage.
- b) Stage of Data Collection. The village authority can conduct this data collection stage. The government discovered numerous instances of early marriages.
- c) Socialization Stage. Socialization is a process that aims to enlighten and educate many individuals about the consequences of child marriage. Socialization was conducted both meeting and seminar but also through the use of social media platforms.⁴⁴
- d) Assured Marriage Certificate. The issue of intricate marriage certificates is expected to deter individuals contemplating minor marriages.
- e) Enforce stricter regulations on marriage. Individuals desiring to marry at a young age may experience fear due to the recent implementation of stricter regulations by the regional government, village administration, and the Office of Religious Affairs (KUA) concerning marriage. This is done to mitigate the occurrence of child marriage.

To prevent child marriage, it is necessary to strengthen the rules created to prevent child marriage. Implementation of efforts to prevent child marriage must involve the central and regional governments to strengthen, accelerate and consolidate. Strengthening, meaning building contextual narratives and cross-stakeholder frameworks to reject child marriage from a community perspective. Acceleration means activating the role of stakeholders and optimizing policies that are owned by each regional level to prevent child marriage. Consolidation to create effective policies to prevent child marriage.

The central government's role in preventing child marriage is leading the mass campaign process at the national and regional levels, ensuring the availability of harmonious regulations for preventing child marriage, formulating strategic directions for preventing child marriage, ensuring that there is synergy regarding efforts to prevent child marriage, integrating good practices and innovation. at the regional level in formulating policies, ensuring budget availability to support child marriage prevention, and monitoring progress and implementation of child marriage prevention.

Apart from that, it must be ensured that there is a commitment in the form of a policy to prevent child marriage, ensure budget allocation for activities to prevent

⁴³ Ana Latifatul Muntamah (et.al), *Pernikahan Dini Di Indonesia: Faktor dan Peran Pemerintah (Perspektif Penegakan Dan Perlindungan Hukum Bagi Anak)*, *Widya Yuridika Jurnal Hukum*, Vol. 2 No. 1, (2019), p. 8.

⁴⁴ Kadek Devi Regina Melati dan A.A Gede Oka Parwata, "Perlindungan Hukum atas Perkawinan Anak dibawah Umur, p. 200.

child marriage, ensure that good practices at the implementation level are documented and become a reference for formulating policies and ensure that there is synergy and coordination in the implementation of child marriage prevention policies at the provincial level.

Community involvement in implementing child marriage prevention includes strengthening the involvement of children and teenagers in the form of socialization, life skills education and child marriage prevention campaigns, encouraging the formation of community awareness to carry out supervision in the surrounding environment. Apart from the role of the State, government and community involvement, parents are the ones most responsible for preventing marriage at a child's age. Involvement of all levels of government, society and the role of parents in protecting children's rights and preventing marriages at this age as regulated in Law Number 35 of 2014 concerning Child Protection, especially Articles 21, 23, 25 and 26.

Protecting children's rights and developing human resources for the nation's future generations is also a fundamental aspect of 3 national policies related to preventing child marriage, namely:⁴⁵

- a. Presidential Regulation No. 18 of 2020, titled "National Medium Term Development Plan (RPJMN) 2020-2024". Efforts to reduce child-related issues are implemented by enhancing collaboration and synergy among multiple parties. The primary metric is the reduction of the percentage of women between the ages of 20 and 24 who enter into marriage before reaching the age of 18.
- b. The Sustainable Development Goals (SDGs). Child marriage is encompassed within the fifth objective of the sustainable development objectives, specifically focused on attaining gender equality and empowering women and girls. One of the objectives is the eradication of child marriage.
- c. The National Strategy for Preventing Child Marriage (Stranas PPA) is a comprehensive plan aimed at reducing the occurrence of child marriage. The objective of the PPA National Strategy is to enhance the alignment of development plans and programs across all levels of government. This will be achieved through five key strategies: maximizing the potential of children, promoting environmental support, improving service accessibility, reinforcing regulations and institutions, and enhancing stakeholder coordination at both national and regional levels.

The collaboration, dedication, and proactive involvement of regional governments will significantly enhance the efficacy of integrating Child Marriage Prevention (PPA) into regional development planning. This can be achieved by

⁴⁵ Titing Sugiarti dan Kunthi Tridewiyanti, "Implikasi dan Implementasi Pencegahan Perkawinan Anak." *Jurnal Legal Reasoning* 4 No.1, (2021), p. 86

utilizing various policy instruments in provincial and district/city regional development planning, as outlined below:⁴⁶

- a. Law Number 23 of 2014, specifically Articles 260-262, which pertain to the Regional Government. During the process of developing the Child Marriage Prevention (PPA) policy.
- b. Regulation Number 90 of 2019 by the Minister of Home Affairs, which pertains to the planning and execution of regional development programs and activities.
- c. Minister of Home Affairs Regulation number 40 of 2020 regarding the Guideline of the Regional Government Workplan (RKPD).
- d. Minister of Home Affairs Regulation Number 64 of 2020, which pertains to the preparation of Regional Revenue and Expenditure Budgets (APBD)

Child marriages are a result of the legal loophole created by the inconsistency between Article 7, paragraph (1) and paragraph (2) of Law Number 16 of 2019 regarding Marriage. This law allows children under the age of 18 to get married by requesting a marriage dispensation. The enactment of Supreme Court Regulation (PERMA) Number 5 of 2019, which provides guidelines for adjudicating marriage dispensation applications, aims to curb and prevent minor marriages. The purpose of PERMA is to reduce the incidence of underage marriages and ensure that the best interests of the child are carefully considered before granting marriage permission. Judges must thoroughly evaluate multiple factors when deciding whether to approve or reject applications, including psychological, legal, philosophical, and sociological considerations. The judgments made should prioritize the child's best interests. Regional plans aimed at preventing child marriage are disseminated throughout districts and cities and are actively promoted by local governments. Additional preventive measures that can be implemented are promoting awareness about the prevention of child marriage at an early age, followed by offering training to community-based integrated activists (PATBM) to assume the roles of reporters and pioneers.⁴⁷

Conclusion

Child marriage, as defined by the Child Protection Law, refers to the act of a child getting married before reaching the age of 18. Marriage at a young age is considered a violation of the principles of child protection, as it goes against the principles of life, growth, development, and what is in the best interest of the kid. Implementing child marriage impedes the full realization of children's rights, posing several dangers of rights violations and adversely affecting education and health. This particularly hampers children's ability to grow and develop in alignment with

⁴⁶ Titing Sugiarti dan Kunthi Tridewiyanti, "Implikasi dan Implementasi Pencegahan Perkawinan Anak." *Jurnal Legal Reasoning* 4 No.1, (2021), p. 87.

⁴⁷ Muhammad Iqbal (et.al), "Peran Hakim Dalam Pencegahan Perkawinan Di Usia Anak Dan Perlindungan Kepentingan Terbaik Bagi Anak Terkait Pengajuan Perkara Dispensasi Kawin Di Pengadilan Agama Pangkalan Balai", *Jurnal Hukum Doctrinal* 8 No. 1, (2023), p. 64.

the State constitution. Child marriage has significant legal, economic, educational, social, psychological, and health consequences. In order to prevent child marriage, it is imperative for the government to demonstrate a strong commitment to implementing the relevant laws pertaining to the marriage of underage individuals. This will serve as a deterrent for those who want to marry kids, compelling them to reconsider their actions. In addition, it is imperative for the government to enhance its efforts in raising awareness about child marriage and enforcing strict penalties for any infractions. Furthermore, the government should clearly articulate the severe consequences that might arise from child marriage to society. These campaigns aim to raise public awareness about the detrimental nature of underage marriage and discourage its use. To effectively prevent child marriage, it is crucial for both the central government and regional governments to enhance and synchronize rules. Furthermore, it is imperative to engage all segments of society, including young individuals, in collaborative efforts towards this goal. Parents bear the primary responsibility for preventing child marriage.

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