

Prevention of Underage Marriage with the Purpose of Creating Household Peace Based on a Review of FIQH Law and Civil Law

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ABSTRACT

This study aims to describe the prevention of underage marriages with the aim of creating domestic peace based on a review of fiqh law and civil law. The purpose of this research is to educate readers to carry out marriages at the age set by the government, this type of research is qualitative which seeks to reveal phenomena phenomena that are currently developing in the masses, data collection techniques include observation, unstructured interviews, after the data is obtained, an in-depth analysis is carried out. Based on the results of the research, it has been found that the following are civil law instruments regulated by regulations and legal mechanisms set by the government, while fiqh law must fulfill the pillars of marriage, the age of marriage must follow the provisions set by the government, the trigger for early marriage is the family factor digital technology factors, promiscuity factors and cultural factors

INTRODUCTION

The prospective bride and groom must choose the choice of their life partner carefully and review the perspective of the weight and seeds that become potential partners. From an Islamic perspective, marriage law is permissible (mubah), but at the next level, marriage law is very dependent on the condition of the person who will become prospective bride and groom psychologically, materially, as well as the ability to be responsible for his family. Therefore, the prospective bride who will enter into a marriage contract must have the character of maturity so that the real purpose of marriage can be realized. (Pratama, 2017)

Marriage will be recognized by the state if the marriage has positive legal force and fiqh which is carried out by following the legal mechanism recorded by the marriage registrar from the District Religious Affairs Office, marriage is a sacred bond between a man and a woman. Islamic perspective However, marriage is not just a civil matter. It is also not just a family matter and a cultural issue but a religious issue and event, because marriage is done to fulfill the sunnah of Allah and the sunnah of the Prophet and is carried out in accordance with Allah's instructions and the instructions of the Prophet. So because of that, marriage also not only gets peace in life, but also gets the blessing of Allah SWT. The elaboration that has been explained in the paragraph above, the urgent principle that is carried out by the Islamic Marriage Law in the Islamic world is the principle of maturity or maturity of the prospective bride and groom. Therefore, in the regulations, namely the Marriage Law adheres to the principle that every prospective couple who will carry out the marriage contract absolutely has the ability physically and psychologically (spiritual), and must even be prepared to face all the obstacles in life that will hit, Based on the things that have been stated in the definition of marriage itself "marriage is a special relationship that exists physically and spiritually between a man and a woman". In relation to this principle of maturity, the standard reference that is applied is the determination of the age of marriage. In Law Number 16 of 2019 which has been in force since October 15 2019, the new regulation states that the minimum age for marriage is 19 years for both men and women. The regulations that have been set by the government in setting the minimum age for marriage have gone through scientific studies and have followed various processes and considerations. This is intended so that the prospective bride and groom are truly ready and mature physically and spiritually. This is in line with the principle laid down in the Marriage Law, that the prospective husband and wife must be completely prepared physically and spiritually. so that the essence of marriage can be realized properly without ending in divorce and getting pious offspring. Therefore it must be done to prevent marriage between prospective husband and wife who are still underage. (Ryan et al., 2013)

The Marriage Law and the Child Protection Law have set a minimum age limit for marriage and legal instrument implementing agencies such as the Sub-district KUA and the Office for Women's Empowerment and Child Protection, Population Control, and Family Planning are making efforts to prevent underage marriages. even in villages there are still many marriages under the age of 19 for various reasons. Many people who apply for dispensation to the Religious Courts

for men or men who are under the age of 19 years, is a portrait of life that underage marriages still occur for certain reasons. the wife to carry out the mandate of Allah SWT by producing pious offspring and is also a contract of affection and mutual help between groups and strengthening relationships between families. In order to support this program, the government's role really needs legal instruments that play a role in preventing underage marriages. The agencies/institutions that play a role in preventing underage marriages are: KUA Subdistrict, Women's Empowerment Service, Population Control and Family Planning. These government agencies/agencies must collaborate or synergize so that underage marriages can be prevented. . Maturity at this age is an accumulation of physical, economic, social, mental or psychological, religious and cultural readiness.(Handayani et al., 2020)

THEORETICAL REVIEW

1. Early marriage

Early marriage in the law does not find the term definition of early marriage or underage marriage, this term emerged after Law No. permitted if the man is 19 (nineteen) years old and the woman is 16 (sixteen) years old. So according to the law it is said early marriage if one or both of the bride and groom are under 19 or 16 years old, this underage marriage is permitted by the State with certain terms and conditions. a very young age, that is, at the very beginning of a certain time, in the sense that it is still in a state of life that is not yet established physically and psychologically. Whereas in a pluralistic society where the level of education is inadequate, especially in rural communities, it is not surprising that most people still hold on to tradition, old habits passed down by their ancestors, among others, wanting to marry their children quickly. And the law itself also does not completely close the loophole for marriage, but the law opens up opportunities for underage marriages to occur through a marriage dispensation process by the court, whether or not it is permissible depends on the conscience of the judge who examines and decides in court. Likewise, jurisprudence munakahat normatively allows early marriage, although it must consider the benefits and disadvantages so that marriage can be *sakinah, mawadah and warohmah*. (Ritonga, 2014)

2. Ideal Age of Marriage

Marriage is a union between men and women to build a harmonious family or household or *sakinah mawadah and rahmah*, to be able to create all of that requires many supporting factors in marriage one of which is age, where age also plays a role in creating a harmonious family because in carrying out a marriage must be prepared both physically and psychologically, the age limit in carrying out marriage is very important because in marriage requires psychological maturity. 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. A successful marriage is often characterized by a readiness to assume responsibility. Determining the age limit for marriage is very important. Because a marriage requires biological and psychological maturity, the general elucidation of the marriage law states that the prospective husband and wife

must be mentally and physically mature to be able to enter into a marriage so that they can have a good marriage without ending in divorce and having healthy offspring. In addition to the age limit in Article 6 paragraph 2 of the Marriage Law, it includes provisions that require every man and woman who has not reached the age of 21 (twenty one) years to obtain permission from both parents to marry, if permission cannot be obtained by the parents, the court may grant that permission. Marriage that is carried out at a young age or a teenager is theoretically very prone to problems because in adolescents they are still very unstable in acting, because emotions in adolescents have not been fully formed, adolescent emotionality is between the emotionality of children and adults. Apart from an emotional point of view from a health perspective, it also has an influence on marriages carried out in their teens, health problems are closely related to the woman because if a woman marries young it is likely that pregnancy will occur in her teens which is a major problem because it has a high risk during childbirth, birth defects, even the death of the mother or child.(Rahmatillah & Nurlina, 2018)

METHODOLOGY

This research is a qualitative research, namely a social research that fundamentally depends on human observations in their own area and relates to these people who try to reveal the facts/actual phenomena that occur in the field. It is said so because this type of research has characteristics including the actual setting, the researcher is the key instrument, the data is descriptive, emphasizes the process, the data analysis is inductive, and the meaning of each event is an essential concern in qualitative research. The facts are said because they are in accordance with what happened on the ground. The aim of the research is to describe social events by revealing factual events in the field and revealing hidden values, being more sensitive to descriptive information and trying to maintain the integrity of the object under study. Approach. Based on the above, this research approach is an analytical descriptive approach. The analytical descriptive approach aims to describe, describe, and systematically describe the facts or characteristics of certain populations or certain fields in a factual and accurate manner. This approach also aims to obtain an in-depth description of speech, writing and observable behavior of an individual or community group or organization in a certain setting which is studied from a comprehensive point of view.(Sakdiyah & Ningsih, 2013).

RESULTS AND DISCUSSION

Marriage is the initial process of forming family life and is the beginning of the manifestation of forms of human life. The daily life of people of different sexes created by God Almighty, men and women naturally have an attraction between one another or it can be said to form emotional and spiritual bonds to create a happy family or household. , harmonious, and eternal. According to subekti, marriage is a legal relationship between a man and a woman for a long time. Marriage is one of the most important event orders in people's lives, because marriage does not only concern the man and woman of the prospective bride and groom, but also the parents of both parties, and their siblings and even

their respective families. Based on the provisions of Article 7 paragraph (1) 1) and (2) Marriage Law No. 1 of 1974 marriage is only permitted if the male party reaches the age of 19 (nineteen) years and the female party has reached the age of 16 (sixteen) years. And in paragraph (2) it reads in the case of deviations in paragraph (1) of this article, you can ask for a dispensation from the court or other officials requested by both parents of the man or the woman. Early marriage is marriage under the age that should not be ready to carry out marriage. So that marriage should be carried out when teenagers have entered adulthood, because unpreparedness in marriage has an impact on married life. Lack of education can trigger early marriage, because without adequate education, teenagers cannot think long and hard about making choices, so they choose to get married quickly. Early marriage is interpreted as a great institution to bind two persons of the opposite sex who are still teenagers in one family bond. There are several factors that cause early marriage, namely personal factors and family factors. From the personal factor of teenagers is because they want to avoid sin (free sex), and some are because of "accidents". Meanwhile, the family factor is due to coercion from parents. A happy family is a family that always has a good sense of tension among family members, does not suspect each other, helps each other, is not easily influenced by outside issues that can damage family harmony. Happy family, a family in which there are various family problems/problems. But it's all faced with the head wanted and with good communication, between members of the family, wife and husband, children and mothers, children and fathers, parents-in-law with sons-in-law, and other members of the family. (Dewi et al., 2019)

Triggers of underage marriages

1. Parental factors

The family has an important role in adolescent education as well as being controlling, but because of the lack of scientific knowledge of the family to provide education to their children so that children are difficult to control, therefore their association is difficult to supervise, what often happens to children who are already teenagers is promiscuity which has an impact against underage marriages, if the family neglects education for their sons and daughters. It is clear that children's behavior is not only influenced by the environment. So far, people have said that children depend on where they hang out, but also depend on how parents educate their children. In Islam, it is said that the beginning is from parents and family. In everyday life, families are met with several things that make them pay less attention to children's development, for example a father or mother has a busy profession to earn income from morning to evening, so there is no creation of showers of affection, a sense of peace, security and family harmony, especially for children. and the factor of parents who do not supervise their sons and daughters is also the cause of the free association of adolescents. This factor often causes underage marriages such as getting pregnant before the marriage contract is caused by the release of children from the supervision of parents so that parents are forced to marry off their children to cover disgrace and must also be morally responsible for their daughter's pregnancy.

2. Digital Technology Factors

The implementation of underage marriages can occur due to the influence of advances in digital technology such as hand phones and social media. the rapid growth of digital technology is like a double-edged knife, on the one hand it provides benefits, on the other hand it provides harm because the wrong use of digital technology by teenagers affects the lifestyle of adolescents which results in eliminating social values and norms and a culture of shame. The incessant showing of sex on social media makes it easy for today's modern teenagers to watch and imitate so that it makes teenage desires peak and take them out on female friends resulting in pregnancy out of wedlock which results in underage marriages.

3. Factor promiscuity (Free Sex).

In the discussion above, it has been explained that digital technology has an extraordinary impact on its users, can have positive and negative impacts that are easily accessed by using an Android mobile phone, sophistication of mobile technology connected to the internet is easily accessible by children and adolescents, so that Teenagers easily see pornographic or sex pictures or shows so that teenagers at school age or dating are socially influenced by the influence of the social environment which makes teenagers try to find out what they don't know. The reason that often occurs is because parents are not supervised and faith is shallow, supported by night entertainment activities in the area, resulting in unlimited association between young men and women which results in accidents (pre-marital pregnancies).

4. Strength of the Implementing Agency Legal instruments in preventing underage marriages.

A valid marriage is a marriage that has passed a series of positive legal and fiqh mechanisms, but in this study it will be examined in more depth related to the Fiqh point of view. efforts to obstruct the implementation of the marriage contract to be held, this is caused by the prohibition of marriage in law. Prevention of marriage aims to avoid a marriage that is prohibited by Islamic law and statutory regulations. Law No. 1 of 1974 concerning marriage has regulated when marriages can be prevented, namely marriages can be prevented if there are parties who do not meet the requirements to enter into a marriage. Not meeting the requirements as referred to above refers to two conditions; administrative requirements and material requirements. Administrative requirements relate to the administration of marriage, while material requirements concern basic matters such as the prohibition of marriage. The Marriage Law, as contained in article 16 paragraphs 1 and 2, authorizes officials to prevent marriages. (Misbachuddin 2014) In general, there are four Islamic family law institutions that play a role in preventing underage marriages, namely: the Sub-District KUA, the Women's Empowerment Service, Population Control and Family Planning and customary institutions. However, from several legal instrument implementing agencies that play an active role in preventing underage marriages, the authors here only take three legal instrument implementing agencies, namely: the District Office of Religious Affairs, the Office of Women's Empowerment and Child Protection, Population Control and Family

Planning (DP3AP2KB) for the reasons that the three state-owned institutions can be clearly and clearly seen that they carry out cross-sectoral activities with related agencies, one of which is by conducting counseling or pre-marital guidance to the public which is conveyed on various other ceremonial occasions to prevent underage marriages .

5. The impact of underage marriage on household harmony.

In carrying out a household ark, marriages carried out by prospective husbands and prospective wives who are underage will certainly have an impact, this impact will appear when the marriage has been going on for about three months, the impact is in the form of a positive or negative impact Likewise, the occurrence of early marriage will have a direct impact on the couple, the positive impact of each husband and wife's desire, but if the negative impact arises, there will be household disharmony, conflict or disputes that lead to divorce. Many marriages that end in divorce are also experienced by married couples who are relatively young in age, and at a very young age of marriage too, early marriage is viewed from the perspective of emotional, mental, physical maturity not ready to face domestic turmoil. it can even make a big obstacle and end in divorce. In order to achieve harmonization in the household, a balance between the rights and obligations of each in order to know that all of this requires religious guidance and instructions that explain the boundaries of rights and obligations in a fair and wise manner. if a husband and wife carry out their obligations, of course the rights will also be carried out by themselves. If the husband has carried out his obligations to his wife as well as possible, then the wife's rights will be fulfilled. Likewise, if the wife has carried out her obligations well towards her husband, the husband's rights have also been carried out. From the perspective of positive law and fiqh, you must always maintain a balance. are ready mentally and physically capable of being economically and worried about committing adultery if they are not married, and the law of marriage according to fiqh is categorized as sunnah almost the same as the group of mandatory marriage laws, the difference is only if the mandatory law already has a high desire for lust if not immediately channeled it will cause bad things for that person, but if the sunnah law from the point of view of lust is not yet so volatile and he can still hold his lust then it will not cause bad things for him. Nevertheless, there is also a law on marriage that is haraam because the people who are married have goals that are not in accordance with the Shari'a and will cause harm to their partners. From the perspective of maqosid sharia it will lead to a good impact on marriage because marriage is carried out correctly in accordance with the teachings taught by religion to form a harmonious family. To make a marriage comply with maqosid sharia, the marriage itself must be legally obligatory or sunnah because if the marriage is lawful, it certainly cannot be in line with maqosid sharia, while one of the goals of marriage is in accordance with maqosid sharia, namely protecting offspring, creating a sakinah family. , mawadah, warohmah, maintaining lineage.

Maintain diversity in the family, organize, pattern good relationships in the family, manage the financial aspects of the family, almost all cases are caused because the couple is already pregnant and then married which makes the

impression that marriage is bad. From the law of marriage, they can be classified as obligatory, that is, because their lust or desire has flared up and if the marriage contract is not carried out, it will cause something bad for them, and this is proven by the emergence of cases of pregnancy out of wedlock which resulted in them getting married. They should have entered into a marriage contract first before having a husband and wife relationship, so that the marriage will be seen more positively by the community because it provides a good benefit for both of them, so the marriage law will greatly affect the good or bad impact received by the married couple so Whether the impact is good or bad depends on the person who did the underage marriage. if the man and woman can no longer hold back their lust, then it is better if they have to carry out a marriage contract so that the marriage has a positive impact, but if lust has not yet flared up, it is better not to get married first, especially if there is no desire and material, then don't get married first , because later the marriage can be lawful sunnah, it could even be illegitimate because he doesn't want to get married just for the sake of status, not because of the intention of worship which will make a marriage lawful haraam. each person has a different law for marriage, it all depends on them, which group they belong to, whether it is obligatory, sunnah or haram, and knowing this is also very important with regard to education because if they do not have sufficient knowledge then they cannot distinguish their position. where and how to do it. In accordance with the goal of forming a family that is sakinah, mawadah and wa rohmah, marriage is not just a channel for biological needs, but also a strong relationship by creating calm psychological conditions so as to create a peaceful, peaceful and beautiful household atmosphere, marriage makes a gateway to love and to pour out love to each other so that feelings of calm and peace will be created. Even if there is a problem that comes to the household, it becomes a spice of love that will add to the romance of the household. To present a harmonious family, you must know the boundaries and guidelines in establishing a household, so that if there are a few problems on the way, you can be ready to handle them. (Ryan et al., 2013)

After digging up various information related to the harmony of underage married couples, what happened is describing to the reader if to build a household one has to marry at the ideal age because at the ideal age one will be mature both mentally and physically, but in fact the married couple are under Age can run harmoniously, the most important thing is a sense of responsibility and carrying out their rights and obligations towards young marriage actors, however, if the age of the young bride and groom is really ready, it is impossible for their household to be harmonious. it is difficult to form a harmonious family because the age that is still too young to be married results in an unprepared mindset and responsibility towards oneself and one's partner, and do not know the obligations and rights of the partner so that it is vulnerable to the sustainability of the household of couples who marry at an early age. However, if this is not in line with underage marriages, underage marriage actors can overcome the problems that often arise and cause divorce. Even though they are the same age as other couples who do not meet the requirements to get married, underage marriage partners can prove that they are aware of having to be

responsible for the status that binds them, even though in their marriage it is undeniable that the problem is something that is natural and certain to exist in every household, but they can survive because of love and also because they already have offspring so that hell must fight together, and it is undeniable that in early marriages carried out by the people of Pegandon District, economically only mediocre they remain compact and patient in seeking fortune. Broadly speaking, underage marriages carried out by certain people according to their age are not mature and fulfill the requirements, but because they are aware that they already have responsibilities to their husbands or wives, their marriages can run smoothly even though from an age point of view they are not ready and immature in their lives. build a household. (Orth et al., 1999)

CONCLUSIONS AND RECOMMENDATIONS

The role of the government is urgently needed as a legal instrument that plays a role in preventing underage marriages. The agencies/institutions that play a role in preventing underage marriages are: KUA District, Women's Empowerment Service, Population Control and Family Planning. These government agencies/agencies must collaborate or synergize so that underage marriages can be prevented. . Maturity at this age is an accumulation of physical, economic, social, mental or psychological, religious and cultural readiness.

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