

Factors Causing Forced Marriage of Minors (Sociological Review of Law)

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Abstrak

Marriage is a bond that binds two human beings in a bond called household. Where the basic principle of a marriage is the agreement of both parties who will marry to unite the principles and responsibilities in running the household in the future. Children are gifts from God that are entrusted to both parents to be raised and educated according to the rules that apply. In the laws and regulations in Indonesia, children are also protected by the state regarding children's rights to live and get a decent life and education. In its journey there have been so many cases of underage child marriages that have occurred due to forced marriages. The rise of forced marriage at an early age has attracted the attention of all parties, both from the government and society, to address this problem. The high number of child marriages is a threat to the fulfillment of children's basic rights. The research method used is a normative research method with a legal sociological approach. Early age forced marriages occur due to several factors, namely cultural factors, parents' wishes, lack of knowledge about positive law in Indonesia, incidents of immoral violations, and economic factors. Each of the factors that cause forced marriage at an early age has an impact that can affect the child's survival.

Keywords: *Forced Marriage, Impact of Early Childhood Forced Marriage*

A. Introduction

(Pratiwi et al., 2021) (Pratiwi et al., 2021)

Children are gifts from God entrusted to both parents to be raised and educated in accordance with applicable rules. In the laws and regulations in Indonesia, children are also protected by the state regarding children's rights to live and get a decent life and education. Along the way, so many cases of child marriage occurred due to forced marriage.

Indonesia is a region that has many tribes in it. Customs in Indonesia are still highly respected by some customary law communities in Indonesia. One custom that is still thick in indigenous communities is marriage that must be carried out by a girl who has experienced a menstrual period. Children who should have the rights to a decent life and education do not receive it are instead required to marry when the child has been assessed as an adult by indigenous peoples regardless of the age of the child.

According to data from the Ministry of Women and Child Empowerment, cases of child marriage have entered the category of worrying. From the data of the Religious Court on applications for child marriage dispensation, in 2021 there were sixty-five thousand cases, and in 2022 there were fifty-five thousand cases per year for various reasons. The high rate of child marriage is one of the threats to the fulfillment of children's basic rights.

A harmonious and prosperous family can be manifested in a relationship between two persons, so basically every marriage needs property that is the material basis for family life. Forming and realizing a happy and prosperous home is not easy, each family member must realize the purpose of marriage. Marriage based on love must be approved by both parties, namely of their own volition without any element of coercion from others. As stated in Article

6 of the Marriage Law, namely: "marriage must be based on the consent of both parties or the prospective bride" in writing certified by the marriage registrar officer, after which the contents shall also apply to third parties as long as the third party is involved". Article 7 Paragraph (1) of the Marriage Law is: marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.

Underage brides are more likely to drop out of school, get pregnant too early, which can result in a number of dangerous health risks for both mother and baby. Limited education, lack of access to employment so that the cycle of poverty will not be broken easily. Thus, child marriage continues to be a burden in Indonesia.

Marriage is not prohibited in Indonesia, the terms and procedures for marriage have been regulated by law. However, the problem is that the high rate of child marriage in Indonesia needs special attention by the state, because marriage is not just an ordinary relationship, but marriage is a sacred event that must be carefully prepared. Therefore, the author is interested in researching the causal factors of forced marriage of minors according to the review of Sociological Law.

B. Research Methods

The research method that the author uses is an empirical research method to get accurate results about what are the factors causing forced marriage of minors. Research conducted by examining how the law works in real terms. The research took social facts that existed within the community and local community leaders.

This research uses a sociology of law approach, namely the effectiveness of the rule of law, compliance with the rule of law, the role of institutions or law enforcement agencies, the implementation of the rule of law, and the influence of the rule of law on social problems.

This research data uses primary data and secondary data. Primary data is a source of legal material that is authoritative (has authority). While secondary data is publication data that is not an official document obtained from literature studies or references that have been published.

Data collection techniques are carried out by reading, studying, studying, and analyzing legal materials (primary legal materials and secondary legal materials) by adjusting the problems studied by the author. This is intended to obtain a theoretical basis related to legal research reviewed by the author.

C. Results and Discussion

Based on the results of research conducted by the author, the factors causing forced marriage of minors are:

1. Customs

Customs are one of the contributing factors to the occurrence of cases of forced marriage of minors in Indonesia. Some indigenous peoples argue that children who have experienced the mensruasi cycle are children who are ready to be married. This happens to most girls where when the child is considered an adult according to custom, the child must be married. Education for girls in some indigenous communities is not allowed.

Girls are considered to have the obligation to take care of household needs and give birth to offspring. Does not have the right to continue education like a boy.

Early marriage is rife in Indonesia due to local cultural myths. Like the culture of early marriage in Rembang, it is said that if there is one girl who wants to be proposed by a man, he must be accepted, if the myth is not accepted until he is old, it will not sell. The strength of traditions like this can force children, especially girls, to marry early because they cannot reject the customs that apply in their area. So it is not surprising, often found girls who already hold the status of widows because both parents do not care.

Early marriage cases due to local cultural coercion like this can have a negative impact that can reduce the quality of life of children. For girls, they will have the status of widows if they fail to build their households, the turmoil in the quality of education will also affect because of the priority to take care of their households, and the loss of children's youth due to the compulsion to start a family prematurely.

Generally, in rural areas early marriage is still considered commonplace. Especially in areas that are still thick customs or cultures that support early marriage. In the area, there are still many arranged marriages found by parents. The geographical location that is difficult to access if possible, there is a poor socialization of the impact of early marriage, and lack of education are the causes of early marriage in rural areas. Not only that, low-income jobs can also cause children to become victims in young marriages, so parents consider that marrying off their children at a young age is a solution to reduce the economic burden.

In contrast to urban cultures that have begun to open their awareness about the importance of planning a wedding at a mature age. Most of them prioritize education and career over plans to settle down. Even many women in urban areas are "late for marriage", meaning they marry at an age that is more than the mature age of women to marry. So it's no wonder that spinsters are found in urban areas because of the mindset to prioritize their education and career.

Each culture in different regions greatly influences the traditions in the local environment. The circulation of hereditary myths believed by the local community, is able to indoctrinate the community itself to carry out their daily activities. Regardless of what is done is good or can even have a bad impact on the community itself.

2. Parents' Wishes

The second factor that causes forced marriage of minors is the desire of the child's parents. Some parents consider children to be a burden of life that must be married immediately in order to live independently. The occurrence of forced marriages often occurs because of the unstable economy of the parents so that in some cases children are forced to marry because of the problem of parental debt receivables. Some parents' wishes also who do not want the brotherhood to be severed are also factors that cause parents to want to marry their children.

For some parents, having an attitude that supports child marriage is born from their perceptions that are influenced by experience, learning processes, knowledge, education, and socio-culture. Positive perceptions about child marriage can also be born

from the culture in society that it is a pride and achievement if the daughter marries quickly. (Rafidah, Erni Yuliastuti: 2015).

The changing times have changed the lifestyle and culture in Indonesia. Promiscuity oriented to western culture has become common in various cities in Indonesia. In addition, low religious education and rarely taught by some parents, makes there is no longer a deterrent for children to fall into promiscuity.

3. **Lack of Knowledge About Positive Law in Indonesia**

In principle, all marriages performed according to religion and belief are valid according to Article 2 paragraph (1) of the Marriage Law. As long as it is carried out in accordance with the laws of each religion and belief, there are no sanctions for the child's parents or guardians. The provision regarding the minimum age for marriage according to Indonesia according to Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage is nineteen years. However, there are still many parents in Indonesia regarding this age limit, with a lack of knowledge about marriage law in Indonesia.

The ignorance of some people about the age at which a person can marry is one of the reasons they marry off their children. Even though the law has regulated in detail the age limit for marriage to sanctions for people who force marriage. In addition to being regulated in Article 7 paragraph (1) of the Marriage Law, there are several rules to protect children from forced marriage, including:

a. **Undang-Undang Nomor 35 tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 23 tahun 2002 tentang Perlindungan Anak.**

In this law, the age limit for children is eighteen years. Although generally accepted, with reference to this provision marriage should take place after the age of eighteen. In this law it is also stated that parents have the obligation to prevent child marriage, in accordance with Article 26 that is, Parents are obliged and responsible for:

- 1) Nurturing, nurturing, educating, and protecting children;
- 2) Develop children according to their abilities, talents, and interests;
- 3) Prevent marriage at the age of the child; and
- 4) Provide character education and instillation of ethical values in children.

Furthermore, Article 45 also obliges parents to maintain and educate their children as well as possible from the time the child is born until a child marries or stands alone (has a family).

b. **Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (UU TPKS).**

With the promulgation of the TPKS Law, forced marriage became a prohibited act. It can even be categorized as a criminal act of sexual violence, as stated in Article 4 paragraph (1) of the TPKS Law which states that the criminal act of sexual violence consists of:

- 1) nonphysical sexual abuse;
- 2) physical sexual abuse;
- 3) forced contraception;

- 4) forced sterilization;
- 5) forced marriage;**
- 6) sexual torture;
- 7) sexual exploitation;
- 8) sexual slavery; and
1. electronic-based sexual violence.

Furthermore, Article 10 paragraph (1) explains that forced marriage is an act that is punishable by imprisonment for nine years and/or a maximum fine of Rp200,000,000 (two hundred million rupiah). Then, regarding acts that include forced marriage, it is explained in Article 10 paragraph (2), including:

- 1) child marriage;
- 2) forced marriage in the name of cultural practices; or
- 3) forced marriage of the victim to the perpetrator of rape.

One of the factors causing forced marriage of minors is the lack of public knowledge about the laws in force in Indonesia. The ignorance of some people about Law No. 16 of 2019 regarding the age limit for a person to marry and Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection and also public ignorance about the Law on Sexual Violence No. 12 of 2022 which states that forced marriage is one of sexual violence makes cases of forced marriage continue to occur. People do not understand and do not know that forced marriage is a criminal offense.

4. **Economic Factors**

Many forced marriages occur due to economic factors. Instead of reducing the family's financial burden, parents often assume that marrying their children to others can ease their burden. Because by getting married, the child's living expenses have become the responsibility of her husband.

Though early marriage has the potential to cause many problems and adverse effects on children. The most noticeable impact is the loss of children's educational opportunities and disruption of reproductive health. Not only that, the adverse effects that occur can even lead to violence in the staircase, economic neglect, and divorce which causes the child to have to become a single parent.

In terms of the impact of education, there are many cases of children who are forced to drop out of school after they get married. This is due to the psychological burden, feelings of shame and reduced time to study due to the priority of taking care of the household. In fact, many of the children who are victims of early marriage have difficulty finding livelihoods. In the end, the thought of parents marrying off their children at an early age is not a solution to reduce their financial burden. Because if the child eventually finds it difficult to find a job, the economic burden will more or less also be the burden of both parents.

D. Conclusion

1. Based on the results of the explanation above, the author can conclude that the factors causing forced underage marriage are as follows:

2. First, customs, some indigenous peoples argue that children who have experienced menstrual cycles are children who are ready to be married. The wishes of parents, some of the wishes of parents who do not want the brotherhood to be severed are also factors that cause parents to want to marry their children.
3. Second, some parents consider children to be a burden of life that must be married immediately in order to live independently. The occurrence of forced marriages often occurs because of the unstable economy of the parents so that in some cases children are forced to marry because of the problem of parental debt receivables. Some parents' wishes also who do not want the brotherhood to be severed are also factors that cause parents to want to marry their children.
4. Third, the ignorance of some people about Law No. 16 of 2019 regarding the age limit for a person to marry and Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection and also public ignorance about the Law on Sexual Violence No. 12 of 2022 which states that forced marriage is one of sexual violence, thus making cases of forced marriage continue to occur.
5. Fourth, Economic factors. Instead of reducing the family's financial burden, parents often assume that marrying their children to others can ease their burden.

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