



## Effectiveness of Early Marriage on The Protection of Children's Rights

Mansyur Nawawi<sup>1\*</sup>, Salmah Yusuf<sup>1</sup>, Belinda Sam<sup>1</sup>, Risman Iye<sup>1</sup>

<sup>1</sup>Universitas Iqra Buru, Indonesia

<sup>2</sup>Universitas Udayana, Indonesia

\*Korespondensi: [mansyuruniqbu@gmail.com](mailto:mansyuruniqbu@gmail.com)

### Info Artikel

Diterima 05 Juni  
2022

Disetujui 29  
Agustus 2022

Dipublikasikan 31  
Agustus 2022

Keywords:  
Early Marriage;  
Protection;  
Children's Right

© 2022 The  
Author(s): This is  
an open-access  
article distributed  
under the terms of  
the Creative  
Commons  
Attribution  
ShareAlike (CC BY-  
SA 4.0)



### Abstract

*The aims of the study are as follows: (a) What factors influence early marriage? b) What are the effects of early marriage on the rights of children? This is normative legal study, i.e., legal research that seeks to identify procedures, standards, or das sollen. This research was undertaken through library research in order to gather secondary data, including primary and secondary legal texts. Primary legal materials are binding legal documents, such as marriage and children's rights legislation. Comparatively, secondary legal materials are those that provide an explanation of the primary legal resources. The findings of the study indicate that marriages done below the legal age restriction are prevalent. Marriage demands psychological maturity, thus age restrictions are extremely crucial. Multiple factors, including environmental factors, health considerations, family parenting factors, and economic aspects, contribute to the occurrence of early marriage. Early marriage will have an effect on the non-fulfillment of statutory children's rights, such as the child's right not to be separated from his parents, the child's right to receive an appropriate education, and the child's right to obtain protection.*

## 1. Introduction

Humans who live their lives on earth undergo a number of significant events, including birth, marriage, and death. The three occurrences are legal occurrences that will have legal repercussions for themselves and others. The ultimate purpose of marriage, for society, is the development of a happy and eternal family, not merely sexual relations between the sexes, as is the case with other creatures. People will not be able to advance without the process of marriage (Hilma, Hadikusuma, 2003). Marriage can create children, who in turn establish families and communities of kin (Nurhikmah. et al., 2021).

The objective of marriage is so noble that it affects human honor, family, and society; therefore, the process of marriage is managed by mutually agreed upon laws to prevent deviations and violations of decency that imperil relatives and affect the honor of the family involved (Mubasyaroh, 2016). Marriage is frequently contracted by adults, regardless of their work, religion, ethnicity, socioeconomic status, or whether they reside in the countryside or the city (Yanti. et.al, 2019). However, quite a few individuals who already possess physical and mental abilities will seek a compatible companion. All marriages are permanent and not transient. Unfortunately, not everyone can comprehend the nature and function of a complete marriage, such as experiencing genuine marital joy at a young age. The marriage relationship cannot, in principle, be restricted to material and biological services alone, with the satisfaction of material wants such as food, clothing, and others serving solely as a means to satisfy nobler needs (Nurseha & Pratiei, 2019).

Young marriage is synonymous with young marriage. The marriage age restriction is significant or can be considered as very significant. Marriage involves psychological maturity, therefore (Maudina, 2019). Marriages between minors sometimes result in marital strife. This is due to a lack of mental readiness and an immature body and mind to establish a family, thus it is not rare for quarrels and misunderstandings to occur between the two, resulting in a divorce, which eventually impacts the well-being of the family and society (Pramana, et.al., 2017; Rais, 2006).

Determining the minimum age for marriage is crucial since marriage is both psychological and biological. This age restriction is necessary to avoid the practice of underage marriage, which might result in undesirable outcomes (Angraini, et.al., 2019; Nurseha, et.al, 2019).

The legislation stipulates that potential spouses must be physically and psychologically mature enough to marry, so that they can fulfill the purpose of marriage without divorcing and produce healthy children. For this reason, the marriage of minor potential husbands and wives must be forbidden (Saleh, 1982).

Also, marriage has a relationship with population issues; a lower age limit for a woman leads to a higher birth rate compared to a higher age limit (Indonesia Law Number 23). Marriage at a young age can damage a child's future rights if those rights are forfeited as a result of the marriage (Ramli Zein, 2000). The following issues can be formulated in light of this context: a. What are the causes of early marriage? b) What impact does early marriage have on the rights of children?

## **2. Methodology**

This is normative legal study, i.e. legal research focused at discovering techniques, norms, or the like. This accords with the opinion of Maria Sumardjono, who argues that normative legal study stresses the abstract part (Maria, 2000). This research was undertaken by searching library databases for secondary data including primary and secondary legal materials. Secondary legal resources are legal materials that provide explanations of primary legal materials, such as: (a) books on marriage, (b) books on children's rights, and (c) outcomes of seminars, papers, and articles pertaining to early marriage and children's rights. The research results were examined using a method of descriptive analysis that characterizes all research results in many variables, hence generating analytical descriptive data. In qualitative analysis techniques, the merits and legal certainty of all legal factors are

evaluated and compared based on their relative relevance to the issues under investigation. While the primary and secondary legal materials are studied through document-based studies of primary and secondary legal resources. As necessary, field research is conducted to complement and corroborate the information received from library research.

### **3. Result and Discussion**

#### **3.1 Wedding Concept**

Marriage is the behavior of beings created by the Almighty God so that life may flourish on Earth. Marriage occurs not only between humans, but also between other forms of life. Humans are intellectual beings; therefore, marriage is one of the regular civilizations, following the evolution of human culture in people's lives.

Marriage under the Indonesia Law of Marriage is an inner and outer commitment between a man and a woman as husband and wife to build a joyful and eternal family based on the One God. In addition to being a formal union, marriage is also a religious union. In Indonesia Civil Code, only civil law unions are recognized as marriage. Marriage is a legal transaction between a man and a woman, undertaken in accordance with civil law, with the purpose of cohabiting simultaneously (Zein, 2000).

Etymologically, Ehe (marriage) in the Indonesia dictionary derives from the English word married, to which the prefix per and the ending an are added. Given the prefix plus the suffix, the identical noun marriage becomes marriage. Marriage or marriage can be viewed as a contract between a man and a woman who is already married (Poewadarminta, 1994). In a broader sense, marriage is "a contract or engagement justifying sexual interactions between men and women in pursuit of the serene and loving bliss of family life in a manner that is agreeable to God."

According to fiqh, marriage is an arrangement with the capacity to have a relationship between husband and wife, that is, marriage or marriage with significance. According to Abu Zahrah, marriage is a contract between a woman that utilizes the legal union between husband and wife and mutual support, with each party getting rights and responsibilities.

#### **3.2 The Purpose of Marriage**

The objective of marriage, according to Indonesai Law of Marriage Number 1 of 1974, is to create a joyful and eternal family (home) based on the One God. It is intended that the family would flourish based on the religious teachings chosen by the Indonesia people, such as Islam, Christianity, Catholicism, Hinduism, and Buddhism, and will last forever.

As the first principle of Pancasila, the construction of a joyful and eternal family must be based on the belief in one God, so that it differs significantly from the principles of civil law, which are independent of religious precepts.

The objective of mating is to satisfy the biological need of reproduction. Consequently, marriage in Islam is broadly: (1) a means of satisfying biological needs; (2) a means of relieving tension; (3) a means of producing legal offspring; (4) a social function; (5) a means of strengthening family ties and group cohesion;

(6) an act of piety; and (7) a form of worship, namely devotion to Allah SWT and following the Sunnah of Prophet Muhammad. That marriage brings both material and spiritual bliss. The bliss to be attained is not merely fleeting, but permanent, therefore the anticipated marriage is likewise an immortal union that can end in death.

### **3.3 Early Marriage**

Early marriage is when a man and a woman marry while they are under the age specified by the Marriage Act or are still under the age. Indonesia Law of Marriage Number 16 of 2019 stipulates that only men and women who have reached the age of 19 may marry. Article 1 paragraph 1 of Indonesia Law Number 35 of 2014 defines a kid as a person under the age of 18, including unborn children (Jannah, 2016). The law clearly implies that those over this age are no longer children. So that you can marry. This age restriction is designed to discourage underage marriages.

However, if the child is under the age of 21, parental approval is required for the wedding. Article 6 paragraph 2 of Indonesia Law Number 1 of 1974), and Article 7 paragraph 1 of Indonesia Law Number 1 of 1974 specifies that marriage is only permitted if the man is at least 19 years old and the woman is at least 16 years old. Because Article 1 paragraph 1 of Indonesia Law Number 35 of 2014 on Kid Protection defines a child as a person who has not yet reached the age of 18, including unborn children, this provision authorizes child marriages for female youngsters. Changes to the age of girls in accordance with Indonesia Law Number 16 of 2019 on Marriage have exceeded the minimum age of a child as defined by the Child Protection Act.

#### **a. Factors that cause early marriage**

Yayasan Plan Internasional Indonesia (plan Indonesia), together with the Indonesia Women Coalition, launched a study on no-child marriage (Musyaro, 2016). The study found several factors that cause early marriage, including:

##### **1) Social Factors**

Become the most prominent driver of child marriage cases due to the following influences:

There are environmental influences

- Risky dating behavior
- Parental pressure to have grandchildren or daughter-in-law
- Relationships do not receive parental consent

The social environment and geography of a region are often closely related to early marriage, with rural areas having more cases of early marriage than urban areas.

##### **2) Health Factor**

Health determinants are triggered by teenage pregnancy, unstable emotional and mental states in adolescents, limited knowledge of reproductive health and sexuality, and risky dating patterns.

### **3) Parenting in The Family**

Family education is closely related to children's mentality, which influences their life choices (Lubis, 2016). Children who endure parental divorce are susceptible to developing mental problems. The child then attempts to find a suitable place outside of the home, such as with his girlfriend, before deciding to be married. For children with parents whose thinking and upbringing are conservative and too concerned with their children's relationships, this urges early marriage to avoid the negative consequences of their union.

### **4) Business**

Some parents are obsessed with improving household economics by bringing together underage children in hopes of easing the economic burden on the family.

## **b. Consequences of early marriage for children's rights**

The effects of early marriage will affect not only both parents but also their children both physically and mentally. The unpreparedness of both parents to become caretakers and protectors of children will lead to weak protection of the rights themselves. Some of the rights of children contained in the Child Protection Act can be neglected through early marriage, including:

### **1) The right not to be separated from their parents**

The right of children to never be separated from their parents stems from their innate desire to be close to their parents. A child is entitled to natural instinct as a fundamental human right. When a kid is separated from their parents due to divorce, the death of a parent, custody, deprivation of parental rights, or when the child is being tortured, is not being safeguarded, or is being neglected, fulfilling children's rights becomes an issue in a variety of situations. the parents' capacity to provide for the child.

### **2) Right to education and instruction**

The right to education and information is extremely inclusive. The education in question involves etiquette and character education. Currently, information is viewed as a child's right to get the information necessary for their development. In this instance, the right to education and the right to information are closely related (Paranam, et.al., 2007).

In fact, quite a few children are denied this right, especially children born of previous marriages. The economic situation of parents who originally belonged to the poor will affect their children's right to an adequate education. When parents can no longer meet their obligations, the streets become a place to find the life of the child.

### **3) Children's right to be protected**

Inadequate mental preparation for parenthood puts children vulnerable to violence. Children may experience physical and psychological aggression, as well as sexual abuse, as a result of their parents' incapacity to address household

issues. Parents no longer provide protection, but rather induce terror in their children.

#### 4. Conclusion

From the preceding discussion, it can be deduced that at least four factors contribute to the occurrence of early marriage, namely first social factors influenced by the environment, risky dating behavior, parental pressure to have a daughter-in-law and grandchildren immediately, and relationships not approved by both parents. Second, health determinants are generated by adolescent pregnancy, unstable emotional and mental states, a lack of understanding regarding reproductive health and sexuality, and unsafe dating practices. Third, family upbringing is strongly linked to children's attitude, which influences their life decisions. Children who endure parental divorce are susceptible to developing mental problems. The child then attempts to find a suitable place outside of the home, such as with his girlfriend, before deciding to be married. Some parents are obsessed with boosting the home economy by bringing together minor children in the hopes of reducing the family's financial load.

Child Protection Act rights, such as the right not to be separated from parents, the right to education, and the right to protection, are affected by the repercussions of early marriage.

#### Daftar Pustaka

- Angraini, W., Pratiwi, B. A., Febriawati, H., Yanuarti, R., Anita, B., & Oktarianita, O. (2019). *Faktor yang Mempengaruhi Terjadinya Pernikahan Usia Dini*. *Jurnal Biometrika Dan Kependudukan (Journal of Biometrics and Population)*, 8(2), 183–191. <https://doi.org/10.20473/jbk.v8i2.2019.183-191>.
- Hilma, Hadikusuma. (2003). *Hukum Perkawinan Indonesia menurut Perundangan, Hukum Adat, Hukum Agama*. Bandung; Mandar Maju.
- Isnawati Rais. (2006). *Hukum Perkawinan Dalam Islam, Badan Litbang dan Diklat Dep. Agama*; Jakarta.
- Jannah, M. (2016). *Remaja dan Tugas-Tugas Perkembangannya dalam Islam*. *Jurnal Psikoislamedia*. Vol.1. No. 1. DOI: <http://dx.doi.org/10.22373/psikoislamedia.v1i1.1493>
- Kwantjik, Saleh. (1982). *Hukum Perkawinan Indonesia*, Jakarta : Gramedia.
- Lubis, A. A. (2016). *Latar Belakang Wanita Melakukan Perkawinan Usia Dini*. *Jurnal Ilmu Pemerintahan dan Sosial Politik* 4(2), 150-160. DOI: <https://doi.org/10.31289/jppuma.v4i2.453>.
- Maria S.W. Sumardjono. (2000). *Pedoman Pembuatan Usulan Penelitian Sebuah Panduan Dasar*. cetakan ketiga, Jakarta: Gramedia Pustaka Utama.
- Maudina. (2019). *Dampak Pernikahan Dini Bagi Perempuan*. *Jurnal Harkat: Media Komunikasi Gender*, 15(2). DOI: 10.15408/harkat.v15i2.13465.
- Mubasyaroh. (2016). *Analisis Faktor Penyebab Pernikahan Dini dan Dampaknya Bagi Pelakunya*. *Yudisia*, 7(2) 387-409. DOI: <http://dx.doi.org/10.21043/yudisia.v7i2.2161>.

- Nurhikmah; Carolin, Bunga Tiara; LUBIS, & Rosmawaty. (2021). *Faktor-Faktor Yang Berhubungan Dengan Pernikahan Usia Dini Pada Remaja Putri*. Jurnal Kebidanan Malahayati, [S.l.], 7(1) 17-24. ISSN 2579-762X. Available at: <<http://ejournalmalahayati.ac.id/index.php/kebidanan/article/view/3110>>. Date accessed: 04 June 2022. doi:<https://doi.org/10.33024/jkm.v7i1.3110>.
- Nurseha & Pertiwi. (2019). *Determinan Pernikahan Dini di Desa Semendaran Kota Cilegon*. Jurnal Kedokteran dan Kesehatan. 15(1). <https://doi.org/10.24853/jkk.15.1.22-35>.
- Pramana, Adi, I. N., Warjiman, Permana, & Ibna, L. (2017). *Faktor-Faktor Yang Mempengaruhi Pernikahan Usia Dini Pada Remaja Wanita*. STIKES Suaka Insan Banjarmasin.
- Ramli, Zein. (2000). *Hukum Perdata I*. Pekanbaru: UIR Press.
- WJS, Poewadarminta. (1994). *Kamus Umum Bahasa Indonesia*. Jakarta: Balai Pustaka.
- Yanti, Y., Hamidah, H., & Wiwita, W. (2019). *Analisis Faktor Penyebab Dan Dampak Pernikahan Dini Di Kecamatan Kandis Kabupaten Siak*. Jurnal Ibu dan Anak, 6(2), 96-103. <https://doi.org/10.36929/jia.v6i2.94>