



## **AGE SELLING AS AN EFFORT TO LEGALIZE MARRIAGE**

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### **Abstract**

*Norms or rules are provisions that must be obeyed, but sometimes things happen outside these rules. For example, about the age limit in a marriage. With the passing of Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage, the age limit for marriage is 19 years. Meanwhile, the fact that occurs in society is the number of cases of underage marriages in the law which are caused by many factors, one of which is matchmaking, pregnancy outside of marriage and so on. This will have an impact, both in terms of education, social, economic, health and also a new tradition that occurs is manipulating data by buying age from village officials so that marriage can be legalized. The factors that are rooted in society certainly require the concern of all parties so that they become solutions to mistakes due to deliberate or public ignorance of these problems.*

*This research is a descriptive-research with a qualitative approach. The data sources used are primary and secondary sources. Collecting data in this study is by observation, interviews and documentation with the analysis technique using the interactive model of Miles and Huberman. The research stage is carried out, namely the preparation, implementation and reporting stages. The research location was conducted in Lowokjati hamlet, Baturetno village, Singosari district, district. Poor. The results of the research, the factors that motivated the perpetrators to buy and sell age are environmental factors and ignorance of the applicable law.*

*The results of this study indicate that (1) marriage occurs due to matchmaking factors (2) underage marriage occurs due to pregnancy outside of wedlock in junior high school children (3) underage marriage occurs due to economic factors. The recommendation from the author is the socialization to the public regarding the provisions on the age limit for a person to be considered mature for marriage, so that the community can understand more and can fully comply with the law and do not take illegal actions in legalizing marriage.*

**Key words:** *Marriage Law, Sale and Purchase, Marriage Legalization*

### **INTRODUCTION**

Adolescence is a time when teenagers feel it's time to find identity. In the process of searching for identity, young people have a sense of identity, namely curiosity that is quite large for the surrounding environment, according to them, this is something new. In this state of searching for identity, young people rely more on the outside world and the surrounding social environment. Until there is a situation where some teenagers who are emotionally unstable are easily influenced by the outside world, which will shape their personality in the future. The development of information technology also

has a very large contribution in shaping the behavior of millennial youth, because today's teenagers are more preoccupied with the virtual world than the real world. They are more engrossed in staying at home accompanying sophisticated machines called cellphones or computers than meeting friends and spending time chatting outside the home.

The development of information technology that occurs in the world certainly has positive and negative impacts. The positive impact of technological developments is that all activities can be carried out in a wider scope. Both in terms of education, business economy, social interaction with the international world it is very easy for anyone to do, anytime and anywhere. (Doni 2017) this impact certainly provides enormous benefits for users of information technology according to their fields and needs. In addition to the positive impact, technological developments also have a negative impact on users who may not be wise in their use. The negative impacts include: rampant fraud, showing adult content to underage children, finding partners who end up in criminal cases of rape and murder and even theft in cyberspace.

The negative impact of the use of information technology, especially social media, which is very easy for teenagers to use, gives happiness because they can interact with the opposite sex, while at the same time causing regret for being too liberated in promiscuity so that they have meetings with virtual girlfriends and surrender their self-esteem in the name of love and cradle. the lure of sweet words. So that they dare to have forbidden relations outside of marriage which result in pregnancy. This is certainly a historical event for a woman because it will create deep disappointment for the family, especially for her parents.

The pregnancy of a woman outside of marriage is an act of adultery that is committed outside the provisions of religion. Couples who commit adultery will be subject to social sanctions, namely having to marry the woman they are pregnant with and will become the talk of the local community. Whereas in Islam, people who have sex outside of marriage are threatened with punishment, regardless of whether the perpetrator is married or not, with or without mutual consent, because jarimah (criminal acts) and acts of adultery in Islamic law are included in the category of

criminal acts that must get punished. Jarimah (criminal acts) determines the rights of Allah, the rights of society, which means that the judge (ruler) is only obliged to follow the Al-Qur'an and al-Sunnah and has no right to increase or decrease the punishment for the perpetrator. (Rokhmadi 2017)

Sanctions for adulterers determined by Islam in the form of stoning are not fully implemented in Indonesia, only applied to special regions such as Aceh. As a result, acts of adultery are increasingly rampant, both among adolescents and adults. And the many cases of marriage caused by pregnancies prior to marriage have caused many problems in the course of the adulterer couple's household, including: the wetness of the marriage, the status of the children born, inheritance and even attempts to buy and sell age by unscrupulous employees can enter into a legal marriage in the eyes of religion and law in Indonesia

Whether or not a marriage is valid for a pregnant woman, all scholars agree that it is permissible for a man to marry a woman who are pregnant. As for the lineage of the child, if the woman is pregnant and the child she is carrying is born six months or more from the start of the contract, the genealogy of the child becomes her property. But if the child is born less than six months, then the lineage of the child cannot be borne by him. but to the mother, unless she says that the child is her child and does not explain that the child was born from adultery, because this recognition will raise various possibilities, including the occurrence of previous sirri marriages or having sex outside of marriage. (Muzammil 2019)

The status of children born out of wedlock in Law no. 1 of 1974 concerning marriage is categorized into two, namely (1). Children born from marriages held in accordance with the religion and beliefs of each parent without being legally registered at the religious affairs office (2) children born as a result of adultery and both parents have never married. (Republic 1974) . This means that marriages that occur in Indonesia are valid if they are carried out according to each other's beliefs and must be recorded in accordance with the laws and regulations in force in Indonesia. While the position of children in Islam can be categorized into 3, namely mula'nah children (ana born in l'an

by her husband), doubtful children (children whose father is unknown) and discordant children (children born who are still related by blood). . (Umar Haris Sanjaya 2017) .

Talking about blood relations between children and parents, of course related to whether or not there are children's rights to children over their biological father. For example, regarding inheritance, marriage guardianship of daughters and so on. this will certainly be a separate problem in the future, if it is not clarified at the beginning of the marriage contract.

The impact above is the impact caused by the actions of two human beings who do it intentionally or not in a relationship that is prohibited either by religion or by law. It does not stop at these impacts, efforts are made by the family in order to maintain the good name of the family, one of which is by buying the age of unscrupulous employees so that marriages can be carried out legally both religiously and stately and the men cannot run away and responsible for his actions.

The act of buying and selling age to legalize the marriage of women who are pregnant is a very common thing to do in society. In fact, if seen in practice, these actions are illegal actions that can cause legal consequences for the perpetrators. Because the age limit for marriage has been clearly regulated in No. Law No. 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. And if forced to enter into an underage marriage, then there are criteria that must be met to apply for a marriage dispensation at the Religious Courts. This phenomenon, which has become a tradition in society, is very interesting to study in order to find the factors that encourage people to commit illegal acts and also foster legal awareness in the life of the nation and state.

## **METHOD**

This research is a field research with the type of empirical research (Ishaq 2017) , namely by observing directly at locations where age buying and selling occurs to legalize underage marriages and also reviewing community legal compliance with applicable laws in Indonesia, especially regarding the age limit for marriage. The method

used in this study is qualitative with a legal sociology approach, namely seeking a deep understanding of a symptom, problem, fact or reality which includes actions and their consequences in social relations. (Racco 2010) . The data used in this study are primary and secondary data, namely data obtained from interviews, documentation, field observations, photographs and so on, which are then analyzed using data reduction steps, data presentation or display and conclusions or Verification. (Moleng 1995).

## RESULT AND DISCUSSION

### 1. *Marriage Age Limit*

Marriage is a bond that is carried out between a man and a woman who have considered various aspects, both internal and external, in order to achieve the family that is the dream of the bride and groom. One aspect that is taken into consideration in marriage is physical and psychological readiness in preparing to live a married life. Therefore, in Indonesia, to support the physical and psychological readiness of the prospective bride and groom, the law regulates the age limit in Law no. 16 of 2019 concerning changes to Law No. 1 of 1974 concerning marriage in article 7 paragraph 1 that a man and a woman are allowed to get married if they have reached the age of 19. (Government et al. 2019)

Regarding the age limit for marriage, the following is a description of several opinions regarding underage marriage. *First*, in Law no. 16 of 2019 changes to Law no. 1 of 1974 concerning marriage in Chapter II article 7 that a man and a woman may marry if they have reached the age of 19. So both of them were at least 19 years old at the time of marriage. Whereas in the Compilation of Islamic Law (KHI) the rules that a person can legally marry is that a man and a woman who have not reached the age of 21 may enter into a marriage if they have received the blessing of both parents, this is stated in the Compilation of Islamic Law Article 15 paragraph 2 . This regulation is in line

with Law no. 1 of 1974 in article 6 paragraphs 2, 3, 4 and 5 which explains the permissibility of marriage with the agreement of the bride and groom and with the permission of both parents. (Republic 1974)

Underage marriage according to the law in force in Indonesia, both the marriage law and the compilation of Islamic law in essence emphasizes that a marriage may be carried out by a person who is considered an adult both in terms of the quantity of age and also physically and psychologically and also obtains permission from both parents. In addition, if the marriage is forced to be carried out before reaching the age of marriage according to regulations in force in Indonesia for various reasons, then you must ask for a dispensation from the Religious Court and have it legalized by the Office of Religious Affairs (KUA) according to the domicile of the bride and groom. (Results 2019)

**Second**, age limit in the view of religion, in Islam marriage is a sunnah of the Prophet who has the value of worship. Underage marriage in Islam is indeed not as detailed as regulated in Indonesian law, but the age limit can be formulated by the theory of Islamic law based on the benefits that can be felt by the community. The age limit is not clearly regulated in the Qur'an, but there is a hadith which explains about the Prophet Muhammad marrying Aisha ra when she was 6 years old. This cannot be taken for granted, but must be studied in depth according to the development of the times. Because if it is accepted rawly it will cause new problems, for example it is permissible to marry underage children because of following the example of Abu Bakar As-Siddiq's daughter. Like the marriage of Acep Fikri and Fany Oktara who are still underage. (Rajafi 2015)

Cases like this certainly use the argument to justify their actions. Regardless of the negative impact that arises as a result of his actions. So that the argument about the marriage of Aisyah ra and the Prophet Muhammad must

be studied in depth using the theory of Islamic law *Maqasid Syari'ah* which takes into account the problems and also studies of contemporary science, for example by using medicine, sociology, anthropology and sociology so that Islamic law can become a responsive law. to social facts that occurred in accordance with the times. (Roman 2017)

**Third**, underage marriage according to customary law. In customary law, marriage does not only marry a man and a woman but unites the two extended families of the two bride and groom. Marriage must be agreed upon by both families so that the whole family can consider the seeds, weight and weight of each prospective bride and groom. So that family agreement is very important before marriage occurs. As is often the case in Madurese society, marriages are carried out according to the customs that apply on the island of Madura, namely marriages are carried out in accordance with the provisions or rules of the Islamic religion. Even though many of the marriages that occur are still underage. (Husyaimah 2019)

## **2. Reconstruction of Community Legal Awareness in Underage Marriage**

Age buying and selling occurs not only due to not meeting the age limit requirements set by the government but also due to several factors, including:

### **a. Matchmaking**

Marrying a child to someone who is considered good physically and spiritually is one of the obligations of every parent. But not infrequently there are parents who have the heart to match their children with partners who do not match the expectations of their children just because they choose children from their parents' friends. Even arranged marriages occur because they want wealth. Arrangements like this often occur only to fulfill promises or to become friends. Matchmaking is done since the child is still in elementary school, or some even arrange their child after birth. Even

though the growth and development of children today is very different from the past.

This arranged marriage certainly does not occur in all societies, only in certain families who want their children not to date. And parents take shortcuts by marrying off their children at a young age by marrying sirri. Sirri marriage is legal religiously, but according to state law it cannot be said to be legal. So that children born in sirri marriages are considered children born outside of marriage. This is one of the effects of underage marriage. So in order to make their marriage legal, they have to grow old by buying age or manipulating the birth data of the two underage marriage actors.

**b. Pregnant Marriage**

Pregnant out of wedlock, now seems to have become a very common thing among the people, both urban and rural communities. Marriage occurs because the woman is pregnant first. This means that the biological father or the man who got her pregnant must be responsible for his actions, namely marrying the woman. What causes pregnant marriages that are increasingly happening today? The fact on the ground is that due to the development of information technology, social media such as *Facebook*, *Instagram*, *Twitter* and so on are ranked first as the cause of pregnant marriages. (Mardani 2016)

As happened in Lowokjati Hamlet, pregnant marriages often occur among adolescents who are not old enough to marry. Because they are already pregnant, they have to marry their partners whether they want to or not. It doesn't matter what local people think, the most important thing is to get married to protect the child that has developed in the womb. So it is not the best way to buy age from age brokers to legalize their marriage in



the eyes of the law and to bind the prospective groom to be responsible and feel bound to a legally registered marriage.

**c. Economy**

Marriage is the last way for parents to change the destiny of their children. Marriages caused by a lack of economy also occur in many underage children. A daughter will be highly approved by her parents if asked by a man who is well-off from an economic point of view to be a wife. Parents are willing to cut off their child's education just for the sake of an established man who is considered capable of making his daughter happy.

Some of the factors above are the things that cause the phenomenon of buying and selling age to legalize underage marriages. Underage marriages will continue to occur if age trade continues in society. For this reason, it is necessary to have legal awareness of the community in complying with applicable laws in Indonesia. Community legal awareness in this case is that the community implements the law in accordance with applicable regulations and without coercion from any party. Do it consciously and sincerely. (Friedman 2009)

Carrying out legal obligations in daily life certainly requires knowledge of what laws apply or which rules have changed, so that people can carry out their rights and obligations in accordance with applicable regulations. Regarding regulations or laws regarding age limits for marriage, many Indonesian citizens, especially people in rural areas, still do not know about these regulations. So according to the writer's opinion, there is a need for socialization or counseling, especially on matters related to marriage. So that people do not commit acts that violate the law because of ignorance.

Legal counseling is an activity that aims to disseminate information related to legal norms or regulations that apply in Indonesia in order to build public awareness in implementing and complying with the law, so as to create an orderly and compliant legal culture for the sake of upholding the rule of law. (Kamaruddin 2016) to form a society that is aware and obedient to the law, of course, requires justice which has long been the ideal of all citizens. Because without justice it will be difficult to get people who are aware and obey the law. Due to the facts that occur in the field of law only applies fairly to people who have property so they can buy power. This is what causes people to prefer to use the law of the jungle rather than obey Indonesian law. (Hasibuan 2014)

Legal awareness is indeed an abstract conception that exists within humans. So that awareness can be interpreted as human values or expectations of existing laws or laws desired by all Indonesian citizens. Real legal awareness does not only apply to the poor, but also to officials and authorities. So far, we have watched many news shows on violations of the law on television which present that the majority of laws only apply to the poor. Poor people get harsh punishments like an old woman just because she stole two sticks of firewood. (<https://www.liputan6.com/news> 2015)

What's even cuter is when law enforcers, who *in fact* are people who understand and understand the law and its impact, actually commit violations of the law. For example, sexual abuse committed by police officers when applying for a driver's license in South Sulawesi. (<https://www.liputan6.com/news>, 2020) These cases show that law enforcers themselves are still not complying with the law. Things like this are certainly one of the reasons for the loss of public trust in the law and also adds to the difficulty in raising legal awareness in Indonesian society.

Growing people's legal awareness is not an instant thing, but this process requires time and the following stages: *First, the second* legal knowledge stage , *the third* legal understanding stage , the legal attitude stage and *the fourth*, the legal behavior pattern stage. All of these stages aim to provide knowledge about the existence of law and the purpose and benefits of law for society. In addition, the third and fourth stages intend to find out whether the law is accepted or not among the community and also the applicability of the law in society. (Fuady 2007)

Through the four stages above, the community is expected to obey the law with full awareness. These stages can be carried out in the form of legal counseling aimed at all levels of society, not only adults, but also children or adolescents, not only people who are blind to the law but also law enforcers. Because they are all legal actors who have the right to understand the laws that apply in Indonesia, as well as the impact or consequences that arise if they violate the regulations. So that every citizen understands his rights and obligations as an Indonesian citizen and lives a conscious and law-abiding life.

## **CONCLUSION**

Buying and selling age as an effort to legalize marriage is a phenomenon that occurs in the people of Lowokjati Hamlet, Baturetno Village, Singosari District, Malang Regency (1) marriages occur because of arranged marriages (2) underage marriages occur due to pregnancy out of wedlock in adolescents (3) marriages in underage due to economic factors. The majority of these problems occur due to ignorance. so socialization or legal counseling to the community is important to build public legal awareness. In addition, legal counseling, especially regarding the age limit for a person to be considered an adult for marriage, is also very

important, so that people understand more and can comply with the law as a whole and not take illegal actions in legalizing marriages.

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