



THE PHENOMENON OF EARLY MARRIAGE IN INDONESIA ISLAMIC FAMILY LAW PERSPECTIVE

Suci Br Sitepu¹

¹ Faculty of Social Sciences Faculty of Social Sciences Study Program: History of Islamic Civilization,
Universitas Islam Negeri Sumatera Utara

*Corresponding Author: Sucisitepu3@gmail.com

Article Info

Article history:

Received :

Acceptance :

Published :

Available online

<http://aspublisher.co.id/index.php/lexsocietas>

E-ISSN: xxxx-xxxx

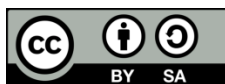
How to cite:

Sitepu (2025) "The Phenomenon Of Early Marriage In Indonesia Islamic Family Law Perspective" Lex Societas: Journal of Law and Public Administration," *Lex Societas: Journal of Law and Public Administration*, vol. 2, no. 2, pp. 146-154,,2025.

ABSTRACT

Early marriage is a phenomenon that continues to be of concern in Indonesia, especially in areas with strong cultural traditions. This study aims to examine the phenomenon of early marriage from the perspective of Islamic family law, highlighting the factors that drive the practice and its impact on individuals and society. Using a normative juridical approach, the study finds that although Islamic law provides for a marriage age limit based on physical and mental capability, the practice of early marriage is often driven by social pressure, poverty and lack of education. The article recommends the need for synergy between Islamic law and national regulations to protect children's rights and realize the goal of harmonious marriage in accordance with maqashid sharia.

Keywords: Early Marriage, Islamic Family Law, Indonesian Positive Law.



This is an open access article under the [CC BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) license

1. INTRODUCTION

The phenomenon of early marriage in Indonesia is a complex and diverse social issue, involving cultural, economic, educational, and religious dimensions. Although the government has set a minimum age limit for marriage through Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, the practice of early marriage is still widespread, especially in rural areas and communities with limited access to education. This phenomenon has various implications, both socially, psychologically, and legally.

From the perspective of Islamic family law, early marriage is often justified based on interpretations of religious texts. However, the main challenge faced is how Islamic law can be harmonized with positive law and contemporary issues, such as children's rights and gender equality. In this context, it is important to understand how Islamic values can be harmonized with child protection efforts and strengthening public awareness of the negative impacts of early marriage.

This paper aims to explore the phenomenon of early marriage in Indonesia through the perspective of Islamic family law. With a normative legal approach method and several journals that have been analyzed related to early marriage law. This research is expected to provide a comprehensive view of the role of Islamic law in dealing with the issue of early marriage, as well as offer recommendations to address this problem effectively.

2. RESEARCH METHODE

This research is a qualitative research in the form of library research using the content analysis method. The contents of each material in the form of books, journals, or articles that are relevant to the topic that have been collected are reviewed, analyzed, and synthesized in order to form a complete concept in answering research questions. This research is a qualitative research using a descriptive approach. The qualitative method is a method that focuses on in-depth observation.

3. RESULT AND ANALYSIS

A. Definition of Early Marriage

The definition of early marriage is marriage under the age permitted by the Indonesian Child Protection Law and the Indonesian Marriage Law with various causes(Rambe & Sihombing, 2024). Early marriage is marriage that occurs to children. Children, according to the nationally accepted definition, are people aged between 0-18 years. If married or married at that age, then the marriage is considered a child marriage or early marriage.

As for the understanding of Islamic legal experts regarding the term early marriage limits, most define it as a marriage carried out by people who have not reached puberty, namely when men experience dreams until semen comes out and menstruation for women. - The scholars have different opinions in determining the age limit for people

who are considered puberty. Syafi'iyah and Hanabilah scholars state that boys and girls are considered puberty when they have reached the age of 15 years. Hanafi scholars determine the age at which a person is considered to have reached puberty, namely that boys are considered to have reached puberty when they are 18 years old and girls are 17 years old. -While scholars from the Imamiyyah group state that boys are considered to have reached puberty when they are 15 years old and girls are 9 years old. The ideal age limit from the perspective of maqasid shari'ah certainly takes into account many aspects, such as a study of the texts of the Qur'an and Sunnah regarding the purpose of marriage, as well as the views of contemporary sciences such as medicine, psychology, anthropology, sociology, and others so that the understanding produced is comprehensive and integral.

B. Early Marriage in the Perspective of Islamic Law

Scholars discuss the law of marriage and find that marriage can sometimes be sunnah (mandub), can be obligatory or even can be permissible. Even in certain conditions it can be makruh. And there are also laws of marriage that are forbidden to be done (Rambe et al, 2024). All will depend on the condition and situation of a person and their problems. 1) Marriage that is obligatory for someone who is financially capable and also at high risk of falling into adultery. 2) Marriage that is Sunnah. While those who are not required to marry are those who are capable but still do not feel afraid of falling into adultery. 3) Marriage that is Forbidden Normally, there are two main things that make it forbidden for someone to marry. 4) Marriage that is Makruh for People who have no income at all and are not perfectly able to have sexual intercourse, it is makruh for them to marry. 5) Marriage which is legally permissible. People who are in a middle position between the things that encourage them to get married and the things that prevent them from getting married, then the law makes marriage permissible or permissible.

In the Koran, Allah commands his people to marry in QS. An-Nur Verse 32 which reads:
وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ ۖ مُؤَامِلًا يَكُونُوا And marry those who are single among you, and those who are worthy of marriage from your male and female slaves. If they are poor, Allah will enrich them from His bounty. And Allah is All-Encompassing, All-Knowing".

According to Ibn Syubromah, Islam forbids early marriage (marriage before the age of puberty). According to him, the true value of marriage is to fulfill biological needs and perpetuate offspring, both of which are not found in children who are not yet adults. He emphasizes more on the main purpose of marriage. In the perspective of fiqh, the original law of marriage is sunnah (mandub) according to the word of Allah SWT Q.S An Nisa: 3 which reads:

"And if you fear that you shall not be able to deal justly with (the rights of) orphans (when you marry them), then marry (other) women of your choice: two, three or four. Then if you fear that you shall not be able to deal justly, then (marry) only one, or the slaves you possess. That is nearer to not committing injustice".

Based on this, the law of early marriage is still not fully explained among scholars, some allow it, some forbid it. Permissibility of Early Marriage Early marriage is permissible

(mubah) according to sharia and is valid, an adult man marries a woman who is still young (not yet menstruating). At-Thahawy and Ibn Hazm refute the view of the majority of scholars who allow early marriage above, who argue that this issue has not yet become *ijma'*.

The basis is the opinion of Ibn Shubramah who said that the marriage contract with a girl who has not reached puberty (before puberty) is void. - According to him, the true value of marriage is to fulfill biological needs and perpetuate offspring. While both of these things are not fulfilled in children who are not yet adults.

C. Early Marriage in the Perspective of Law in Indonesia

The purpose of marriage according to Law No. 1 of 1974 concerning marriage Article 1 is to form a happy family (home) with eternal life based on belief in God Almighty. When the purpose of marriage according to the Compilation of Islamic Law is to realize a family life that is *sakinah*, *mawaddah* and *rahmah*.

According to Indonesian law or positively explained in (KUHPerdata) before Law No. 1 of 1974 which describes the age limit for marriage. The Civil Code (KUH Perdata) Article 29 states that men who have not reached the age of eighteen and girls who have not reached the age of fifteen years are not able to marry. The limit of maturity of a person based on the Civil Code Article 330 is 21 years old. If the age requirements that have been explained cannot be met, the continuation of the marriage can be prevented or terminated because at that age it does not guarantee the happiness and maturity of both partners in various aspects of life and often there is still a high dependence on both parents. Article 26 of Law No. 23 of 2002 concerning Child Protection stipulates that parents are required to protect their children from early marriage. However, as stated in the Marriage Law (Rambe et al., 2023), the law is not accompanied by criminal sanctions, so it seems useless to protect children from the threat of early marriage (Rambe, 2024).

So what is the meaning of law without criminal sanctions in it. Supervision of law enforcement in Indonesia is very weak, allowing anyone, including parents from certain groups/communities, to falsify population documents, government officials, especially regarding age, so that marriages can take place. It is not surprising that we often see teenagers who are married/married under the age of 16 (Muntamah et al., 2019). Law no. 35 of 2004 contains Amendments to Law no. 23 of 2002 concerning Child Protection, the child referred to here is someone who is not yet 18 (eighteen) years old, including children who are still in their mother's womb. Children have rights that must be protected, guaranteed and fulfilled by their parents, society, family, government and the State. In the 1989 United Nations (UN) Convention on the Rights of the Child, children's rights are: 1) the right to play; 2) the right to education; 3) the right to protection; 4) the right to obtain a name (identity); 5) the right to obtain national status; 6) the right to obtain food; 7) the right to access health; 8) the right to recreation; 9) the right to equality; 10) the right to have a role in development (Candraningrum, 2016).

In cases of deviations regulated by law, the parents of the prospective groom, both men and women, can request a marriage dispensation from the local Religious Court accompanied by the provisions that must be met and also the reasons behind the

application submitted. Marriage dispensation is an exception to the provisions of laws or regulations that must be applied formally. In other words, marriage dispensation is an exception to the provisions of Article 7 paragraph 1 of Law no. 1 of 1974 concerning the minimum marriage age limit for prospective brides and grooms who have not reached the minimum age of marriage due to several things or in certain circumstances, thus the Religious Court can exempt prospective fiancés to immediately marry a marriage relationship requires physical, psychological, economic, social, intellectual, cultural and spiritual readiness. Early marriage cannot meet the requirements stipulated in Article 6, namely the free will of the prospective bride and groom because they are not yet adults. And early marriage, namely before the age of 18, is a violation of Law No. 35 of 2014 concerning Child Protection, which is an additional regulation of Article 28B (2) of the 1945 Constitution. Therefore, the age of 16 years in Article 7 paragraph (1) of the Marriage Law has created legal uncertainty and violated children's rights guaranteed in Article 1(3), Article 28B (2), and also Article 28C (1) of the 1945 Constitution. So the age of 16 years is not interpreted as the age of marriage in Article 7 of the Marriage Law, it is constitutional if interpreted as above 18 years for legal reasons.

D. Impact of Early Marriage

Early marriage also has impacts both physically and psychologically, including:

a. Physical Impact

1. Cervical Cancer

Women who marry early are generally under 20 years old, this is very at risk of cervical cancer. At this age, the cells in the cervix have not yet entered the mature phase, the condition of young cells when exposed to human papilloma virus or HPV will interfere with their growth and even deviations into cancer. The cervix has two layers of epithelium consisting of squamous epithelium and columnar epithelium. At a young age, the connection between the two epithelia experiences active growth. The growth that occurs is called metaplasia. Cancer that grows begins with the presence of HPV that sticks then there is a deviation in growth into dysplasia. Unlike cells in women over the age of 20, the risk of this cancer is lower because they already have mature cells.

There are several symptoms to watch out for, such as vaginal discharge that smells, itching, and bleeding after intercourse. In order to prevent more severe conditions, sexually active women are advised to have a pap smear test every 2-3 years. By doing the test, this cancer can be prevented in the early stages or precancerous, and uterine cancer can be completely treated.

2. Risk of Maternal Death in Childbirth

Young age is a vulnerable age during the childbirth process, because immature age affects the safety of the mother and the baby in the womb. The age that has a small risk during childbirth is between 20-35 years, in other words, the childbirth process under the age of 20 years and over the age of 35 years has a very high risk. Pregnant women under the age of 20 years are likely to experience prematurity (premature birth) with a high possibility of birth defects, physical or mental, blindness and deafness. Although not all

pregnant women with middle age experience this, it would be better to avoid pregnancy ages that are risky for the mother and the baby.

b. Psychological Impact

1. Depressive Neurosis

Severe depression in early marriage can occur in different personality conditions. In someone with a closed personality (introvert) it will make the person anti-social or withdraw from their social environment, tend to be quiet. Unlike people who have an open personality (extrovert) since childhood, teenagers will vent their emotions by doing strange (unusual) things, such as breaking glass objects, abusing children and other things. both forms of depression have dangerous potential, it is difficult to distinguish which is more stable in managing their emotions, because both boys and girls at adolescence have unstable emotions. The presence of children in a family formed by early marriage can cause problems, because basically the two teenagers are not mentally ready to become parents, especially if the family's economic status does not support or is not sufficient. it is different if the two teenagers who marry at a young age have a family background with an adequate economic level, of course the family will help with economic matters. At a young age, decision making often creates new problems, lack of long-term thinking in deciding something and decisions taken based on momentary emotions result in mistakes in determining choices. There needs to be family supervision at the beginning of early marriage, because basically adolescence is not the right age to build a family.

2. Conflict in the Family

According to E. B. stated that early marriage has a big risk because mentally they are not ready to bear the big responsibility as a family. A teenager is busy managing a world that is very new to him, and he is really not ready to accept this change. Positively, he tries to be responsible for the consequences of his actions with his partner. It's just that not a few early marriages end in divorce.

At the age of 24, a person's emotions begin to reach a stable phase, because at that time a person begins to enter adulthood. In psychology, adolescence stops at 19 years old, and the age of 20 to 24 years is said to be young adulthood or lead education, marked by the transition of emotional turmoil that changes to be more stable

4. CONCLUSION

What can be concluded from the explanation above is that the definition of early marriage is a marriage under the age permitted by the Indonesian Child Protection Law and the Indonesian Marriage Law with various causes. Early marriage is a marriage that occurs to children. Children, according to the nationally accepted definition, are people aged between 0-18 years, while early marriage from an Islamic legal perspective is: 1) Marriage that is obligatory for someone who is financially capable and also at high risk of falling into adultery. 2) Marriage that is Sunnah. While those who are not required to marry are those who are capable but still do not feel afraid of falling into adultery. 3) Marriage that is Haram Normally, there are two main things that make it haram for someone to marry. 4) Marriage that is Makruh for People who have no income at all and

are not perfectly able to have sexual intercourse, it is makruh for them to marry. 5) Marriage that is permissible by law People who are in the middle position between things that encourage their obligation to marry and things that prevent them from marrying, then for the law marriage becomes permissible or permissible.

while the purpose of marriage according to Law No. 1 of 1974 concerning marriage Article 1 is to form a happy family (home) eternal life based on belief in God Almighty. When the purpose of marriage according to the Compilation of Islamic Law is to realize a family life that is *sakinah*, *mawaddah* and *rahmah*.

And the last is the impact of early marriage there are two, namely physical and psychological. The physical impact is cervical cancer, the risk of maternal death in childbirth. While the psychological impact is neurotic depression and conflict in the family.

References

- Fatma Amilia. "Pernikahan Dini dalam Perspektif Hukum Islam." *Jurnal Musawa* Vol. 8, no. No. 2 (Juli 2009).
- Iriani, S. (2018). Fenomena Pernikahan Dini dalam Perspektif Islam (Studi Kasus di Desa Kalikuning). *Jurnal Penelitian Keislaman*, 14(2), 153–161.
- Inayah, N. (2010). Analisis Hukum Acara Peradilan Agama. *Nurul Inayah Al – Ah. L*, 10(2).
M. Nur lat Djamilah, Reni Kartikawati. "Dampak Perkawinan Anak di Indonesia." *Jurnal Studi Pemuda* Vol. 3, no. No. 1 (Mei 2014).
- Raharjo, Satjipto, 2000. *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung.
- Rambe, R. F. A., Bayu, S. I., & Sagala, S. (2023). Penerapan UU ITE (Informasi dan Transaksi Elektronik) dan UU Perlindungan Konsumen pada Kasus Jual Beli Jasa Review Palsu. *Journal on Education*, 6(1), 10030-10040
- Rambe, R. F. A. K., & Sihombing, M. A. A. (2024). Implikasi Perlindungan Hak Asasi Manusia Dalam Hukum Pidana. *Jurnal Ilmiah Penegakan Hukum*, 11(1), 24-31.
- Rambe, R. F. A., Al Khoir, A., & Marpaung, H. S. (2024). Pidana Mati dalam Pandangan Hak Asasi Manusia dan Hukum Pidana Indonesia. *Journal on Education*, 6(2), 14013-14023.
- Rambe, R. F. A. K. (2024). IMPLEMENTATION OF PANCASILA VALUES AS THE BASIS OF THE STATE IN THE FORMATION OF LEGISLATION AND REGULATIONS. *LEX SOCIETAS: Journal of Law and Public Administration*, 1(2), 91-98.