

PERCEPTIONS OF GOVERNMENT AND COMMUNITY LEADERS TOWARDS "NON-EMERGENCY CASE" EARLY MARRIAGE: A QUALITATIVE STUDY

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Abstract

Underage marriage impacts on later stages of life. The regulation on marriage dispensation provides an opportunity for this to increase. This study aims to determine the perceptions of government and community leaders about non-emergency case early marriage. This research is a type of qualitative research with a phenomenological design. 10 people were involved as research informants consisting of government elements and community leaders who were selected using purposive sampling technique. In-depth interviews were conducted to collect data and then analysed using the Nvivo application. The results of this study indicate that there are positive and negative perceptions from both the government and community leaders, including that the application for marriage dispensation was granted to fulfil the interests of the applicant, avoiding despicable acts (adultery). Although it is realised that early marriage has a negative impact on young couples. There are differences in perceptions from community leaders and the government regarding early marriage.

Keywords: Early Marriage, Government Perception, Community Leader Perception, Non Emergency Case.

INTRODUCTION

A healthy marriage will be achieved if the marriage is carried out by a man who has reached the age of 25 years and the woman has reached the age of 20 years. At this age, it is considered that the couple is mature to have a household and have an adult mind. Every married couple must be able to carry out their duties and responsibilities as husband and wife. One aspect that is considered is the biological aspect by paying attention to age maturity and physical condition. Being married is not something that is considered easy, because it may get problems and shocks that need mature thinking to solve. Therefore, it is necessary to understand the community about early marriage [1].

The government policy in determining the minimum age of marriage certainly goes through a very mature process and consideration. This is intended so that both parties are truly ready and mature from a physical, psychological and mental perspective in order to realise the goals of a good and healthy marriage [2]. This provision is also stated in Chapter II article 7 Paragraphs (1) and (2) of the Compilation of Islamic Law (KHI) which states: "Article (1) Marriage is only permitted when a man and a woman have reached the age of 19 years [3].

The Child Protection Law stipulates that parents are obliged and responsible for preventing marriage at the age of children (Article 26 paragraph 1). However, the law

does not include strict sanctions in the event of a violation because marriage is a civil matter so that if underage marriage occurs, the marriage is declared ineligible and can be cancelled. This provision actually does not solve the problem and is unfair to women [4].

Research on child marriage is becoming increasingly important as it is considered a Public Health issue and a human rights violation. Its prominence on the global agenda is demonstrated by its inclusion in the Sustainable Development Goals (SDG's), with a target to eliminate child marriage completely by 2030. Girls who marry at a young age are at greater risk of maternal mortality and morbidity due to early childbirth and high multiparity, contracting sexually transmitted infections, experiencing intimate partner violence and poor mental health [5].

The increasing number of underage marriages can be seen from the determination of marriage dispensation cases in 2019 totalling 24,864 cases, while in the previous year there were only 13,880 cases (Report on the implementation of Supreme Court activities, 2019). In addition to Dispensation of Marriage, another way for people to enter into underage marriages is through legalisation of marriage. There are several variants or patterns to "trick" the Marriage Law [6].

Dispensation of marriage is the granting of permission to marry by the court to a prospective husband or wife who is not yet 19 years old to enter into marriage. The institution of marriage dispensation can be symbolised as a simalakama fruit, on the one hand this institution is needed to prevent acts that violate religious norms, customary norms and decency, but on the other hand the spirit of maturing the age of marriage and changing the age limit for marriage seems futile if in the end there is legalisation of underage marriage through an application for marriage dispensation granted by the judge [7].

The incidence of early marriage in Indonesia is still high, while there are systems and rules that can prevent the occurrence of these cases. It requires active participation from all parties, both government and society. Because if preventive measures are not taken seriously, it will have a negative impact on adolescents and families. Based on this, this study aims to determine the perceptions of government and community leaders towards early marriage in non-emergency cases.

RESEARCH METHODS

This research is a type of qualitative research, in qualitative research this research studies ongoing phenomena by studying the things experienced by research subjects by describing perceptions, motivations, actions and others from research subjects holistically in the form of words and language by utilising natural methods. The research design uses a phenomenological design, with the aim of understanding or exploring the reality experienced or certain behaviours of individuals or groups of individuals as well as the aspects that underlie feelings, opinions, events, relationships, and others. Data collection methods were carried out by interview and observation. The data analysis used in this research is an interactive analysis technique, which starts from the data collection stage followed by data reduction, data display and conclusion drawing. In the data reduction stage, researchers look for relevant data from informants to serve as a basis for research on predetermined themes.

RESULTS

Based on table 1, it is known that the demographic data of the participants in the study are community leaders and the Office of the Religious Court who have participated in Barru Regency with 2 participants from the Head of Coppo Village, Head of Simpang Binangae Village, 2 participants from the Head of RW, 3 participants from the Head of RT, 1 participant from the Head of Neighbourhood and 2 participants from the Religious Court Office, namely the Judge of the Religious Court and the Deputy Chairperson of the Barru Regency Religious Court.

Table 1: Demographic Data of Participants

No.	Participants	Age (Years)	Gender	Position
1.	P1	56 Years	Male	Head of Coppo Village
2.	P2	54 Years	Male	Head of Simpang Binangae
3.	P3	59 Years	Female	RW Chairperson
4.	P4	56 Years	Male	RT Chairperson
5.	P5	43 Years	Male	RT Chairperson
6.	P6	57 Years	Male	RT Chairperson
7.	P7	51 Years	Male	RW Chairperson
8.	P8	72 Years	Male	Head of Neighbourhood
9.	P9	33 Years	Male	Religious Court Judge
10.	P10	39 Years	Female	Deputy Chief Judge of the Religious Court

Perceptions of Community Leaders on Early Marriage

Based on the results of interviews conducted with informants, it is known that there is a law that regulates the age limit at which a person can marry. The data explored in the research are interviews conducted with several informants as research subjects. The following is an explanation of the results of interviews with the research informants. Informants expressed their disagreement with child marriage on the basis that it violates the Marriage Law.

Child marriage is marriage under the age of nineteen (19) years according to marriage legislation. Informants were aware of child marriages in Barru Regency, namely around one to two people now and previously there had also been many. Informants expressed their disapproval of child marriage on the basis that it violates the Marriage Law.

P1 : “.....Sebetulnya kalau kita tidak sepakat sebetulnya cuman kalau sudah terjadi kan faktornya itu yang mau dianu (lakukan pernikahan).. Karena ada aturannya kan sekian umurnya dan itu normatifnya tapi kalau ada kecelakaan kan harus berproses. Kalau kami kan tidak sepakat sebetulnya tapi kalau terjadi mi mau di apa.....”

According to the informant, child marriage is a marriage that is under 19 years of age. He agrees with child marriage if it is related to a situation where there are factors that cause underage marriage such as having children out of wedlock or the economy of parents who are worried about children later.

P2 : “....ya ada sedikit tentang pengetahuan pernikahan usia dini. Pernikahan usia dini itu umurnya dibawah 19 tahun ke bawah artinya kawin muda tapi kita tuh pemerintah sarankan supaya bagaimana caranya jangan terjadi itu karena efeknya dan dampaknya akan dirasakan sendiri. Jadi saya tidak setuju dengan perkawinan anak....”

P6 : *"...kami sangat merespon sekali itu, bagus sekali karena umur itu yang sudah matang kalau sudah 19 tahun..."*

P8 : *".....Yah, ada juga yang datang ada juga yang tidak....."*

According to the informant, child marriage is the same as underage marriage and early marriage, where the age of marriage is younger than the age limit set by the government by laws and regulations.

According to him, child marriage is not justified in Indonesia because the age limit for marriage must be fulfilled by prospective husband and wife. The informant himself also knows that there are some people who enter into child marriages.

P3 : *".....Ada, karena itu juga tidak bisa dihindari, meskipun sebagian warga sudah mengetahui tetapi itu juga belum bisa secara umum artinya kadang-kadang misalnya pertama sudah kepepet, yang mungkin karena sudah darurat sekalipun usia anak itu tidak cukup tapi ada proses yang dilalui yang akan menjadi perkawinannya resmi. Jadi yang terlibat juga nanti ke puskesmas, ke lurah, ke KUA terus ke pengadilan agama mendaftar kemudian nanti dipengadilan agama diarahkan lagi untuk melengkapi berkas-berkas apa yang akan dilampirkan dan tetap melalui persidangan....."*

P8 : *".....Pernikahan dini terjadi biasa juga karena terpaksa..."*

The informant explained that child marriage is when a person has not reached the age of 19 and is married off by their parents to save them from adultery. According to her experience and knowledge, child marriage often occurs.

For example, when a child is married off by their parents, then after they reach the age of 19 they will be married off again at the KUA officially.

P4 : *".....Pernikahan yang dibawah usia, usia yang dibawah pemerintah. Kalau dari pernikahan dini itu dilihat dari dampaknya banyak, tapi kalau saya mengamati dan melihat perkawinan dini biasanya itu yang anak-anak muda yang berhubungan terlalu dekat dan tidak terpisahkan, karena orang tuanya juga menjaga itu supaya anak-anaknya tidak berbuat apa yang tidak diinginkan untuk menghindari aib dari keluarga....."*

Child marriage according to the informants is a marriage entered into by children who have not reached the prescribed age of marriage. This marriage is prohibited by the government because it avoids household problems. In some places, according to him, child marriage is still often carried out by traditional or village leaders on the grounds of avoiding adultery.

P5 : *".....Sudah ada langkah untuk mencegah yaitu dengan cara dakwah, sosialisasi dan nasehat-nasehat yang diberikan kepada anak-anak muda yang dimana pentingnya memperhatikan kesiapan fisik dan mental serta positif negatif dari pernikahan anak....."*

P7 : *".....Bagi anak yang sudah berkeinginan kuat untuk menikah hendaknya diberi pengertian tentang hal itu dan orang tua harus memperhatikan bebar-benar dampak positif dan negatifnya."*

Religious Court Government's Perception of Early Marriage

As stated by religious court judges regarding marriage dispensation granted to minors, those who fulfil the criteria for granting such dispensation are those who fulfil the criteria for granting such dispensation.

P9 : *".....Secara spesifik yang diatur dalam suatu benteng Peraturan Mahkamah Agung No. 5 tahun 2019 tentang prosedur menangani perkara dispensasi kawin yang diatur dalam peraturan tersebut itu dia yang bersangkutan boleh menikah dibawah umur atau dikabulkan dispensasinya jika dia lolos test kesehatan dengan hasil pemeriksaan dokter bahwa orang tersebut sudah boleh menikah ketika organ reproduksinya sudah siap, fisiknya sudah matang dan sudah layak menjadi seorang istri atau seorang suami. Aspek berikutnya dari kesehatan psikologis itu dia dapat rekomendasi dari seorang psikiater yang menyatakan kalau secara psikologis sudah cocok menikah kemudian dari finansial juga dibutuhkan terus pertimbangan pendidikan juga itu harus diberikan nasehat. Finansial, disini itu mereka biasa membuktikan kesehatan finansial dengan mengambil surat keterangan penghasilan dari pemerintah setempat misalnya ke Kantor Desa atau kepala desanya karena kepala desanya kan biasa tau itu bagaimana pekerjaannya sehari-hari dan dia tahu penghasilan dari pekerjaannya berapa setiap bulan dan dia minta surat penghasilan. Jadi dari atas dasar itu saya menganggap apakah ini benar atau tidak tapi saya harus percaya terhadap surat dari pak desa anda, kalau dari hasil pemeriksaan dokter itu dari hasil pemeriksaan lab, apakah organ reproduksinya sudah cocok jadi seorang istri atau masih belum bisa dan seterusnya....."*

Based on the interview with the Barru District Religious Court judge above, the Deputy Chief Justice of the Religious Court is of the opinion that one of the reasons for granting marriage dispensation is when the couple is mentally, physically, health and psychologically ready.

Regarding the considerations for granting marriage dispensation so that couples who will marry at an early age also have different causes for judges and deputy judges at the Barru District Religious Court.

P10 : *".....Kita melihat dari alasan mendesaknya kalau tidak masuk alasan mendesak menurut keyakinan kita (hakim) juga tidak berani karena secara aturan hukum kita tidak menjalankan itu secara beban moril kita (hakim) yang akan tanggung dosanya kalau salah memutuskan untuk memberikan dispensasi kawin....."*

Based on the interview with the deputy judge of the Barru District Religious Court above, he is of the opinion that marriage dispensation is not easily granted to couples who marry at an early age but looks back at the legal rules that have been stated.

DISCUSSION

From the results of interviews with all participants, the author concludes that there are two perceptions seen with early marriage in Barru Regency. The permissibility of early marriage in Barru Regency was expressed by P1, P4 and P5. The consideration put forward is that early marriage will provide benefits, namely avoiding despicable acts, namely adultery.

Taking into account this opinion, it appears that early marriage is aimed at something to avoid adultery. Then it is known that there is no specific evidence according to the participants who hold this opinion regarding the age limit for marriage in Islam.

This explanation does show that there is a side that takes into account that the ability and permissibility of a person to marry is marked by the presence of baligh. Therefore, the participants who hold this opinion must have taken this into consideration so as to allow children to get married.

Participants who stated that early marriage was not agreed and not allowed were P2, P3 and P6. The impermissibility is based on the existing legal provisions in Indonesia, namely Article 1 of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. This provision provides a requirement for those who want to get married to be 19 years old for both men and women.

In line with the research states that the increase in the age limit of marriage is based on the reason that the prospective husband and wife must be mature in body and soul to be able to enter into marriage, so that they can realise the purpose of marriage properly without ending in divorce and get good and healthy offspring. For this reason, marriage must be prevented between prospective husband and wife who are still underage. In addition, marriage has a relationship with population issues. It has been found that marriage results in a higher birth rate [8].

The age limit for marriage in Indonesia is regulated in Article 7 of Law Number 1 Year 1974 concerning Marriage. This article was later amended through Law Number 16 of 2019. The content of the article explains that a man and woman who want to get married must be 19 years old. Although the increase in the age limit for marriage does not mean that it closes the possibility for someone to marry under this age limit. Article 7 paragraph (2) of Law Number 16 of 2019 explains that there is an alternative to marrying under the age limit through dispensation at the Court on the grounds of urgency [9].

From the research data, it is known that the reasons for early marriage in Barru Regency are economic factors and promiscuity. Economic factors, if considered, arise because of the situation of parents who cannot afford to take care of children so that for them girls will be married off. Economics is a factor that causes early or early marriage. The economic difficulties experienced by families will cause parents to marry off their children at a young age [10].

Then promiscuity becomes a separate concern because obviously this often leads to adultery and even pregnancy outside of marriage. A frequent factor that necessitates early marriage is the existence of accidents (married by accident) such as pregnancy outside of marriage. Due to children who have relationships that violate legal and religious norms, they have to marry at an early age. This marriage forces them to take responsibility for becoming husband and wife and even father and mother. In addition, getting pregnant outside of marriage will cause fear for parents so that they encourage their children to get married.

The Marriage Age Limit in Law No. 16/2019 was enacted as a replacement for Law No. 1/1974. Although both men and women must be at least 19 years old to marry, if they are unable to do so, they can appeal to the local religious court for marriage dispensation with "very urgent reasons", there are times when immediate marriage is the only option due to urgent circumstances [11].

Furthermore, only see the condition of the child if it will cause harm afterwards if the application for dispensation of marriage is not granted, such as if the child is already pregnant, how will the child be in the future if the man does not marry off the man can escape his responsibility and can damage the psychic of the woman. The judge will grant the application for dispensation of marriage, if they are not yet pregnant but are too close, are worried that unwanted events will occur, want to avoid infidelity, and have two children who are ready to start a family.

Meanwhile, the reason for rejecting a marriage dispensation case is due to several factors such as coercion, so that the burden on parents disappears, parents are unable, and do not want to get married. Here the judge can reject the case for marriage dispensation because it is not beneficial for the child afterwards if the application is still granted, it is feared that divorce will occur in the future because the child is not ready for a household and then they take a way out by divorcing [12].

Based on the reasons described above, the marriage dispensation application is granted based on the results of interviews with the Deputy Judge of the Barru Regency Religious Court, namely that the application can be granted based on the principles and objectives and the interests of the child himself after hearing testimony from the child (prospective bride and groom), parents or guardians and witnesses after that the judge considers granting or rejecting the case. From a sociological and psychological point of view, if the application for dispensation is not granted, whether it will cause problems afterwards or not, if it causes problems afterwards, the marriage dispensation application can be granted.

The Deputy Judge of the Barru District Religious Court explained that the applicant must first receive advice from the Judge during the trial process and the advice is communicated and confirmed that the applicant has understood the dangers of marriage, including:

- (1) The psychological and sociological capabilities of children,
- (2) The possibility of stopping or dropping out of school,
- (3) The readiness to build a household,
- (4) The health of children, especially women, because their reproductive organs are not yet ready,
- (5) The potential for divorce is wider because they are emotionally unstable.

The judge decides whether or not to grant the application for marriage dispensation after considering the information that has been provided. If the judge determines that the marriage should take place immediately in the interests of the child, then the marriage dispensation application is approved. If the requirements have not been met, such as evidence of coercion, the judge will reject the application. The applicant can appeal the judge's decision if they are not satisfied with the decision.

CONCLUSIONS

From the results of research and discussion, it is concluded that the perceptions of community leaders regarding age marriage in Barru Regency have differences, namely participants who agree by looking at the positive impact of early marriage, namely the benefits of avoiding adultery. As for participants who do not agree with early marriage, they emphasise the negative impact of early marriage such as

disputes, physical and mental unpreparedness and even more dangerous divorce. Therefore, the Judge and Deputy Chairperson of the Barru Regency Religious Court also argue that to reduce the number of early marriages the government must include other aspects beyond the minimum age limit for marriage, including aspects of education, economy, culture, socialisation and guidance to the community in order to prevent early marriage, the dangers of free sex and prevent unregistered marriages.

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