

Review of Young Marriages According to Islamic Law in Liang Country, Salahutu District, Central Maluku Regency

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Abstract

This study aims to find out and obtain results related to the review of young marriages according to Islamic law in the liang country of salahutu district, Central Maluku regency. This research covers how Islamic law views young marriage and the impact of young marriage in a family. This type of research is qualitative using descriptive methods. The data collection techniques used are observation, interviews, and documentation. The information of this study was determined by purposive sampling. The data analysis technique used is descriptive qualitative through data collection, data reduction, data presentation, and conclusions so that a systematic series is arranged. The results of this study show that in the implementation of marriage at a young age according to the view of Islamic Law and The Number Act. 1 The year 1974 is justified and has the element of allowing for the good of those who marry at a young age, thus if strong and accountable reasons are found by both parties. The impact of marriage at a young age is an influence that affects the course of marital relations in the household ark, many of the impacts that affect marriage can be seen from the elements of economy, readiness, and knowledge. So before marriage, it is necessary to have readiness and maturity of each of them both mentally and materially. So that the marriage can go well.

Keywords: Young Marriage, Islamic Law, Impact



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INTRODUCTION

Man in the process of his development to pass on offspring needs a life partner who can give his offspring according to what he wants. Marriage as a way that can create a happy and eternal family or household based on the One True Godhead. It is intended that, the marriage should last a lifetime and should not end just like that. Marriage is a fitrah for every individual, marriage is very important in the life of every human being because, with a marriage a person will gain a balance of life both psychologically, biologically, and socially. As in the Marriage Law No. 1 of 1974 article 1 paragraph (1) states that: "Marriage is a bond born between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One True Godhead". In the Compilation of Islamic Law (KHI) article II states that: "Marriage according to Islamic Law is marriage, that is, a very strong contract or mitsaqin ghalidzan to obey Allah's commands and to carry them out is worship."

Marriages are generally performed by adults regardless of profession, religion, ethnicity, poor or rich, living in a village or in a city. Marriage is something to look forward to in human life because through a marriage a family can be formed that will be continued with offspring. In marriage, it is also necessary to prepare carefully in entering the household or family level. Not only material and physical preparation but also mental preparation.

In connection with marriage in this case, there are provisions based on the age of a person to carry out marriage which has also been regulated in Marriage Law No. 16 of 2019 article 7 paragraph (1). This article states that: "Marriage is only permitted when the man and woman have reached the age of 19 (nineteen) years". Thus in the Compilation of Islamic Law

(KHI) in article 15 it is said that: "For the benefit of the family and household, marriage can only be carried out by prospective brides who have reached the age stipulated in Article 7 of Law No. 1 of 1974, namely the prospective husband at least 19 years old and the future wife aged 16 years".

In Islam, there are expressly no rules that determine the age limit of marriage, based on Islamic law, basically all age levels can perform marriage ties (Hilma Hadikusuma, 2003: 54). Successful marriage is often characterized by readiness to assume responsibility. Once they decide to get married, they are ready to bear all the burdens arising from marriage.

The impact of this young marriage causes problems in fostering family life, such as quarrels, quarrels, clashes between husband and wife. Unstable emotions that allow for a lot of quarrels in the household. The impact in terms of physical, psychological and social aspects on family life will certainly be felt by someone who performs marriage at a young age, for example, their daily needs are not met, there is no readiness to build a household so that there is no knowledge to be a father and mother, and an environment that cannot necessarily accept it as a result of marriage at a young age.

Therefore, the authors put forward the results of preliminary research on the occurrence of young marriages, according to observers that the lack of parental supervision is lacking towards his children so that at a young age many perform marriages. This is shown to further corroborate the claims that the public will receive as a result of actions in the scientific realm. Thus, later the public will understand more about young marriage, moreover, the basis for consideration is Islamic Law. In this study, it was entitled "Review of Young Marriage According to Islamic Law in Liang Country, Salahutu District, Central Maluku Regency".

RESEARCH METHODS

The method used is through a qualitative research approach. In research using qualitative methods as a research procedure, you will get descriptive data in the form of oral or words from the symptoms observed or studied. What is meant by qualitative research is research that produces descriptive data in the form of written or spoken words of people and observed behaviors (Bogdan and Taylor in Moleong, 1990:3).

RESULTS OF RESEARCH AND DISCUSSION

Young Marriage In View of Islamic Law

Young marriage in the Islamic view is an inner bond between a man and a woman to live together in a sakinah, mawadah, warohma household to be able to maintain life by producing offspring that is carried out in accordance with Islamic law as in QS. Al-Hujurat, 13, according to Imam Shafi'i in Ramulyo, marriage is a contract by which sexual relations between men and women are halal (Ramulyo, 1984:2).

Amir Syarifuddin explained in the Islamic view that marriage is an act of worship, it is also the sunnah of Allah and the sunnah of the Apostle, the Sunnah of Allah means according to the qudrat and iradat of Allah in the creation of this nature, while the Apostle means a tradition that has been established by the Apostle for himself and his ummah (Amir Syarifuddin, 2007: 76). Thus it can be known that marriage in Islam is facilitated because it is in accordance with the hikma llayat to support the preservation of human development reasonably and honorably In Islam marriage is mubah, or it is said that it is permissible as long as the pillars and conditions of marriage have been met. For everyone married, whether it is the age of the young or old when they decide to enter into a marriage, it is allowed.

In Islamic law (Fiqih) there is no age limit for performing a young marriage. Amir Syarifuddin said that the age limit for marriage is not discussed in the fiqh books. There is no

Qur'anic verse that clearly and purposefully mentions the age limit of marriage nor does there is a hadith of the Prophet that directly mentions the age limit. The Indonesian Ulema Council (MUI) issued a fatwa that the age of marriage eligibility is the age of ability to do and receive rights (*ahliyatul ada'* and *ahliyyatul wujub*). *Ahliyatul Ada'* is the nature of a person's legal acting skills that has been considered perfect to account for all his actions, both positive and negative actions.

Ahliyyatul Wujub is the nature of a person's ability to accept the rights to which he is entitled and has not been able to be burdened with all obligations. Meanwhile, according to the Positive or Indonesian Law, it was explained in the Civil Code (KUHPperdata) before the existence of Law Number 1 of 1974 concerning marriage has outlined the age limit for marriage. The Civil Code (Civil Code) CHAPTER FOUR article 29 states that "a person who has not reached the age of even 18 years, such as a girl who has not reached the age of even 15 years, is not allowed to bind herself in marriage". Meanwhile, the limit of a person's maturity under the Civil Code CHAPTER FIFTEEN article 330 states that "immature are those who have not reached the age of even twenty-one years, and do not mate first".

However, based on the Concluding Provisions of Law Number 1 of 1974 concerning Marriage article 66 states that "for marriage and everything related to marriage based on this Law, then with the enactment of this Law, the provisions stipulated in the Civil Code are declared invalid". One of them is the invalidity of the marriage age limit provisions because Law Number 1 of 1974 concerning Marriage also regulates the marriage age limit.

Basically, settling the age limit for marriage is intended for the benefit and good, especially for the bride and groom. Although the age limit has been set, there are still deviations by doing marriage age underage. Against this deviation, the marriage Act provides a solution in the form of a marriage dispensation to the courts.

Based on the Regulation of the Minister of Religious Affairs Number 3 of 1975 that the Dispensation of Religious Courts is "A determination in the form of a dispensation for prospective husbands who have not reached the age of 19 years and or prospective wives who have not reached the age of 16 years issued by religious courts." Underage marriage through the establishment of a dispensation in Law Number 16 of 2019 article 7 paragraph (2) states that "in the event of a deviation from the age provision as in paragraph (1), the male party's parents and/or the woman's parents may request a dispensation to the court on very urgent grounds accompanied by sufficient supporting evidence". A new dispensation is allowed if it is casuistically urgent that the bride and groom should be mated, as a manifestation of the *sadd alzar'ah* method for avoiding the possibility of the emergence of greater *mudharat*. All of the above provisions regarding marriage are one of the efforts to protect children by providing a limit on the age of marriage.

There are certain factors regarding young marriage, one of which is getting pregnant outside of marriage. Pregnant marriage is the marriage of a woman who becomes pregnant out of wedlock, either married by a man who impregnates her or by a man who does not impregnate her (Abdur Rahman Ghazaly, 2003: 124).

Opinion of Mahzab Shafi'i

Imam Shafi'i and Shafi'iyah scholars argued that it is permissible or legal for a woman's marriage to become pregnant as a result of adultery whether married by the man who impregnated her or another man without the need to wait for the branch of the baby conceived by the woman to be born. Marriages performed by women even though they are pregnant are allowed according to Mahzab Shafi'iyah as long as the marriage meets the conditions of marriage and the existence of a *kabul ijab*. A woman who becomes pregnant as a

result of adultery, then there is no law of iddah obligation for her, and is allowed to marry her and also marry her (Abdurrahman al-Jaziri, 2004: 523).

Opinion of Mahzab Hanafi

Imam Abu Hanifah also expressed almost the same opinion, that marriage for a pregnant woman is valid on the condition that the person who marries her is the man who impregnated her. As for men who do not impregnate her, it is still legal to marry a pregnant woman due to adultery, but must not have intercourse until the woman gives birth to the baby she is carrying. Hanafiyyah scholars argue that a woman pregnant because of adultery is not obligatory for her during the iddah period, because iddah aims to keep the nasab, so it is permissible to marry a pregnant woman without having to wait for the iddah period (As-Sayyid Sabiq, 1983: 282).

Mahzab Maliki's opinion

Unlike the Mahzab Shafi'i and the Hanafi School, Mahzab Maliki's opinion is the complete opposite. Stated by Imam Malik bin Anas, he absolutely forbidden the implementation of maternity. Imam Malik argued that the law of marrying a pregnant woman as a result of adultery is invalid, whether the one who marries is the man who impregnated her or who does not impregnate her (Wahbah Az-Zuhaili, 1991:150).

Opinion of the Hanbali School

The opinion of the Hanbali School bears similarities with the Maliki School, which was put forward by Imam Ahmad ibn Hanbal, he argued that it is not legal to marry a woman who is known to have committed adultery, both men who menzinai her and men who did not menzinai her. An adulterous woman, whether she is pregnant or not, must not be married by a man who knows her circumstances, except under two conditions: She has expired, but if she is pregnant, then her iddah is exhausted until she gives birth to her child, and may not marry her before her iddah period. And you have taken the woman from the deeds of maksiat, and if she has not repented then she must not marry her.

If both conditions have been perfected, that is, they have expired their iddah and have repented of their sin, then it is lawful to marry the woman for the man who committed her or another man (Zainuddin Ali, 2006:45). Married while pregnant, in the law in force in Indonesia, the problem of pregnant marriage is found in the Compilation of Islamic Law (KHI) in CHAPTER VIII on Maternity Marriage article 53 paragraphs 1 to 3 it is stated that: A person who becomes pregnant out of wedlock, can be mated with the man who impregnated her. The marriage with a pregnant woman referred to in paragraph (1) may take place without waiting for the birth of her child. With the marriage taking place at the time of the woman's pregnancy, no remarriage is required after the conceived child is born.

The above efforts to allow the marriage of pregnant women are intended to be aimed at providing legal certainty to the child in the womb, and the logic is to end the status of adulterous children. This article explains the ability to carry out marriages for pregnant women outside of marriage. Regarding this article, it actually provides a settlement for a person who becomes pregnant as a result of adultery to immediately enter into a marriage, this article does not provide punishment or sanctions only provide a solution.

In this case, for people who get married because they are pregnant, they must pay attention to the nasab relationship of their children, there are some things that must be considered towards their children's nasabs. First. Children outside of marriage cannot use their father's name bin because they are pregnant outside of marriage. The child must use his

mother's bin, even if the father has married his mother. Second. If the child born out of wedlock is a boy, then the boy cannot be a guardian for his younger sisters. The guardian is the guardian of the judge. Third. Children born out of wedlock also do not get inherited property. Children who are from a pregnant marriage do not necessarily belong to the lineage of their parents, so this is where the importance of lineage in Islam can only be obtained from marriage.

The benefits of marriage cannot actually be separated from its purpose, it can be seen from the purpose of marriage in the Compilation of Islamic Law (KHI) in CHAPTER II article 3 states that "Marriage aims to realize a domestic life that is *sakinah, mawaddah, and rahmah*". Similarly, Law No. 1 of 1974 in CHAPTER I article 1 states that "with the aim of forming a happy and eternal family (household) based on the Supreme Godhead".

The purpose of marriage described in Undang-Undang No.1 of 1974 is in line with the nature of marriage in Islam, because both of them not only look at the contractual bond of birth, but also the bond of spiritual linkage between husband and wife which is aimed at fostering an eternal and happy family in accordance with the will of God Almighty. If there is a marriage carried out by a minor in this case the government provides a policy in setting a minimum age limit of marriage which of course goes through a process and various considerations or commonly referred to as a dispensation. This is intended so that both parties are fully prepared and mature from the physical, psychic and mental side to perform marriage, because it requires the marriage to be carried out so that one day it can eternal development based on the One True Godhead until life separates the two and to support the population program.

If there is a marriage carried out by a minor, it is not only Islamic law that regulates it, but positive or Indonesian law also plays an important role in the affairs of young marriage. Our country has arranged for youth marriage". In Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, a minimum age limit for marriage is determined. The provisions regarding the minimum age limit are contained in Article 7 paragraph (1) of Law Number 16 of 2019 which says that "Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years". Policy in setting a minimum limit The age of marriage which of course goes through a process and various considerations or commonly referred to as a dispensation. It is intended that both parties are fully prepared and mature from the physical, psychic and mental side to perform the marriage.

The Impact of Young Marriage in a Family

In general, those who marry at a young age are caused by accidental "accidents" due to promiscuity or dating. Marriage is carried out aimed at covering up the shame and disgrace borne by the family, this is used as a reason for them to marry solely to cover the disgrace, if the disgrace is closed then the legal marriage will cause certain good, such as the child will be clear in status and also the mother will be protected by her good name. So in this case there is no other choice but to marry them at that very moment even though they are young.

Those who carrying out a young marriage in Liang Country does not all have a perfect level of maturity or maturity so that the purpose of marriage has not been fully realized, because this must be based on readiness to start a domestic life that should form a happy and eternal family based on the One True Godhead. As seen from getting pregnant outside of marriage including adultery, this marriage is often referred to as marriage due to adultery because at the time of marriage by those who are preceded by acts that are not lawful, for

example committing copulation between men and women, which is beyond the provisions of Islamic Law and the applicable Marriage Law.

In terms of positive law, Law Number 1 of 1974 concerning Marriage and Government Regulation Number 9 of 1975 concerning Implementation of Law Number 1 of 1974. It's just that the content in the Compilation of Islamic Law (KHI) is more detailed, the prohibition is more affirmed and added points as existing laws and regulations. As for what concerns KHI and again refers to Law Number 1 of 1974 concerning Marriage and Government Regulation Number 9 of 1975, among others, marriage restrictions. However, there is nothing explicitly governing the marriage of pregnancy outside of marriage but it is implicitly stated in article 2 paragraph (1): "marriage is, if performed according to the laws of each of its religions and beliefs." Therefore, the marriage of a pregnant woman due to adultery remains valid in accordance with the provisions of article 2 paragraph (1) and must also meet the conditions for the validity of a marriage.

In general, those who marry at a young age often have problems, such as financial problems this is what makes one of the sources of disputes in the family, They are not yet able or ready to be burdened with a job that requires physical skills to generate income for them and support their families. So it is very often to find young couples who still live with their parents. When someone runs a domestic life, it would be nice to prepare themselves in advance so that they will have a handle for their household.

As seen from the results of the investigator's interview, every marriage must have 1. Readiness, if they want to go to a marriage they must first have, the readiness in question is mental, physical, material and other readiness. 2. Emotional maturity, according to Muhammad Qorni emotional maturity is humanity to adjust, establish ourselves and face all kinds of conditions in a way where we are able to solve the problems we face at that time (Muhammad Qorni, 2002: 112). Through emotional maturity a person can maintain the continuity of their marriage because they are able to take care of differences in the family. 3. Having the provision of knowledge, according to Fauzil Adhim, there are many things that must be learned to face domestic life. There are obligations and policies. A marriage that demands to have its knowledge so that it can carry out well and not deviate. Teaching religious knowledge to wives and children, reminding and advising wives, accompanying husbands, and so on requires knowledge. Berjimak also needs knowledge about how to jujuk in accordance with the recommendations of the Prophet Muhammad SAW (M. Fauzil Adhim, 2002: 30) for this household knowledge is needed to direct his family's ark. 4. The ability to perform duties or responsibilities, the ability to perform responsibilities by the husband or wife sometimes makes a person afraid of marriage, for the husband side requires fulfilling responsibilities such as clothing, food and shelter for his wife and child. And for the wife herself to serve the husband in the best way, take care of housework, educate children, there are still many responsibilities that a husband and wife have to bear. Therefore, before marriage, you must be ready to accept the responsibilities that will be carried so that the family ark runs well. 5. Readiness to receive children, in forming a household a person is not only required for readiness to marry but also required readiness to form a household, namely forming a family consisting of father, mother and child. Husbands and wives must be prepared to accept the presence of children in their lives (M. Fauzil Adhim, 2002: 31).

Communication is one aspect of human life and behavior as a whole. Humans are interconnected with each other through communication and with communication also humans meet all the needs of their lives. As we know that every human being wants to complete his life by getting married, the important thing for the relationship is to build a communication relationship (Rivika Sakti karel, 2014:1). But in reality, what happens to

married couples often experiences problems triggered by poor communication between them that create rifts in the household. The rights and obligations of husband and wife are often ignored. The roles and functions between husband and wife are constructed in the form of rights and obligations inherent in the parties. A right is something that is inherent and must be accepted or owned by someone, while an obligation is something that must be given that must be fulfilled by someone to another person. This formulation of rights and obligations will be a barometer to assess whether a husband and wife have performed their functions and roles correctly (Hamim Ilyas, 2003:122).

Family problems It does not come from only one party but both that bring problems, so couples must be able to understand each other and take a path or solution to solve the problem that occurs. Husband and wife in terms of making a decision often have differences of opinion, because each of them has an opinion that is held in the household ark so that this can cause problems or conflicts between the two. In married couples, problems or conflicts are common situations, the dynamics of family life are increasingly complicated and married couples are required to experience these situations with all the efforts that can be deployed by both parties. In marital life happiness is one of the main concepts of the expected target for a marriage. But to seek a happy marriage is not an easy task because domestic happiness will be realized if the presence of high-quality marital interaction between spouses.

Couples who marry at a young age sometimes do not have the readiness to become parents. It is this unpreparedness to be a parent that will create problems of obstacles or obstacles for parents. The obstacles for parents include readiness, economy, knowledge and skills. Couples who marry at a young age, most of them get married because they are pregnant out of wedlock and have children at a young age, therefore the parents of the married couple participate in taking care of their grandchildren, both in terms of taking care of children to meet the needs of their children's families. The obstacles in young marriage parents related to taking care of their children include: Mental unpreparedness, from their unpreparedness is what makes small things to quarrels arise in the household, especially regarding children's affairs. We cannot deny it in this family affair It must have happened because they weren't mature enough in thinking either so unwanted things were afraid to happen. With this lack of mental preparation those who marry at a young age no one neglects their children and does not even commit violence to their child. The economy, economic problems will also exert an influence in their household ark. Couples who marry at a young age are also not financially mature because they do not have a permanent job, which can cause family conflicts. Related economy in the family even though those who marry at a young age but they have already achieved the rights for their children even with a modest income, 1. The right to care, 2. Right to life, 3. The right to make a living, and 4. The right to education.

There are several obstacles or obstacles they face after marriage: Those who marry at a young age do not yet know how to bear responsibility. They are still labile thinking and still have to learn about marriage; There is confusion that they feel when they just have children. They are at a loss as to how to take care of their child so that it stays healthy, does not cry, meets the needs of their children and so on; When the child goes berserk because he does not get something he wants, for example, wanting to buy a toy; When the economy is limited and the child wants to buy something or a need so that parents feel sad because they cannot meet; and When the child is sick and there is nothing to replace in caring for the child because the husband is busy at work.

In our country, the obligations of parents in caring for children are regulated in Law Number 23 of 2002 concerning Child Protection CHAPTER IV the third part of article 26 which reads: Parents are obliged and responsible for: Nurturing, nurturing, educating and

protecting children; Fostering the development of children according to their talents, and interests; and Preventing the occurrence of marriage at the age of children. In the Compilation of Islamic Law (KHI), the definition of hadhonah according to article 1 of CHAPTER I letter g states that "Child care or hadhonah is the activity of nurturing, nurturing and educating children until adulthood or being able to stand alone." Thus in article 77 of CHAPTER XII verse 3 states that "Husbands and wives assume the obligation to nurture and care for their children, both regarding their physical, spiritual and intellectual growth and religious education.

CONCLUSION

In the implementation of marriage at a young age according to the view of Islamic Law and Law No. 1 of 1974, it is justified and has the element of allowing for the good of those who marry at a young age, thus if strong reasons are found and can be accounted for by both parties. Regarding the Islamic Law view of marriage at a young or underage age is that if a child has achieved *aqil baliqh*, *mumayyiz* can distinguish right from bad, meets the pillars and conditions for the validity of marriage and is able to be responsible both in terms of economy, as well as other household needs, then marriage is considered valid. However, when viewed from the Positive Law, marriage at a young age is considered invalid because it violates Law No. 1974 that the minimum age limit can be married if men and women are 19 years old. However, if he wants to carry out a marriage, he should apply for a marriage dispensation by the court as stipulated in Law No. 16 of 2019 article 7 paragraph 2 that if there is a deviation from the age provision as referred to in paragraph 1, then the parents of the man/woman party can ask the court for dispensation on the grounds that it is very urgent accompanied by sufficient supporting evidence.

Impact Young marriage is an influence that affects the course of marital relations in the household ark, many of the impacts that affect marriage can be seen from the elements of economy, readiness, and knowledge. So before marriage, it is necessary to have readiness and maturity of each of them both mentally and materially. So that the marriage can go well. Thus, if self-and mental readiness are not yet capable of marriage, it will be difficult to lead to a domestic relationship that is *sakinah, mawaddah, rahma*, and forms a happy and eternal family based on the One True Godhead.

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