

IMPLEMENTATION OF MARRIAGE LAW FOR CHILDREN

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ABSTRACT

Marriage is a partnership between 2 people who have agreed to live together forever. Child marriage occurs in the adolescent phase. time Adolescence is a period of transition or transition period from childhood to adulthood and have attraction to the opposite sex. According to Chapter 7 of the Marriage Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage (Marriage Law), states that marriage is only permitted if a man and woman have reached the age of 19 years. While, Chapter 26 of the Child Protection Law Number 23 of 2002 (Child Protection Law), it is stated that parents are required to protect their children from child marriage. However, this Chapter, similar to the Marriage Law, does not include provisions for criminal sanctions so that these provisions are almost meaningless in protecting children from the threat of child marriage. Weak supervision and law enforcement in Indonesia, provides an opportunity for anyone, including parents, government officials, certain groups and communities to falsify residence documents, especially regarding age, so that marriages can take place. It is not surprising that there are often many girls who marry under the age of 19.

Keywords: Law, Child Marriage

INTRODUCTION

Indonesia as a nation based on law to regulate the whole society. According to the Marriage Law, the principles are to provide a legal basis that applies to all groups in society. Chapter 1 of the Child Protection Law states that; "A child is a person who is not yet 18 years old, including a child who is still in the womb. This is also stated in Chapter 26 (paragraph 1) point C of the Child Protection Law: "Family and parents are obliged to prevent marriage at the age of a child, and Chapter 7 of the Marriage Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage (Marriage Law), states that marriage is only permitted if a man and woman have reached the age of 19 years. While Chapter 26 of the Child Protection Law Number 23 of 2002 (Child Protection Law), it is stated that parents are required to protect their children from child marriage. However, this Chapter, similar to the Marriage Law, does not include provisions for criminal sanctions so that these provisions are almost meaningless in protecting children from the threat of child marriage. Child marriage takes place If the marriage is carried out at a certain age violate the rules of the Marriage Law, namely that women and men are less of 19 years.

Weak supervision and law enforcement in Indonesia, the absence of strict criminal sanctions for violations of the Marriage Law, causes those who commit marriage freely and openly.

Based on the above background, the researcher is interested in conducting research with the title "Implementation of the Marriage Law for Children".

RESEARCH METHOD

The type of research used in this research is normative legal research. Normative Legal Research is legal research that done by researching library materials or secondary data. Normative legal research is also known as doctrinal legal research. According to Peter Mahmud Marzuki, normative legal research is a process to find a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced. "In this type of legal research, law is often conceptualized as what is written in legislation or the law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate. In normative research, mainly using library materials as a source of research data. or also called (Library research), the method used to collect data from various literatures.

RESULTS AND DISCUSSION

Marriage in Indonesia has a legal perspective (law), namely: The Civil Code, and the Child Protection Law. Principles of Legality, which are owned are: Chapter 1 paragraph (1) of the Criminal Code: "No action can be punished, except by the strength of the criminal rules in the existing legislation, before the act is committed".

Adopting unlawful acts in the Civil Code is regulated in Chapters 1365 to 1380. Liability in civil law, namely: contractual and unlawful acts. Unlawful acts can be adopted in Chapters 1366 and 1367 for compensation due to acts committed by other people and causing other parties to suffer losses. Strengthened by Chapter 1371 related to unlawful acts for compensation for injuring or disfiguring other people's limbs. Chapter 1372 of the Civil Code only regulates the first element of Chapter 1365 of the Civil Code, namely Acts against the Law. To be able to say that someone has committed an unlawful act, the conditions for an unlawful act must be fulfilled, namely: there must be an act. the act must be against the law, there must be an error,

The protection of children's rights has been regulated in the 1945 Constitution Chapter 28 paragraph B paragraph 1 it is stated that any person or any person can or has the right to form a family and continue a lineage through a bond or legal marriage, while paragraph 2 also states that The continuity of life, growth, and development and getting protection from discrimination and violence is the right of every child as well and children have the right to get it (Nurjannah & Yohannis, 2018). The application of the 2002 Child Protection Rules or Laws and Number 23 concerning Amendments from 2014 with Number 35 stated or stated that the state, and the government, or families and even all levels of society at large are obliged to and or provide for the Fulfillment of

Children's Rights and or protection of children in optimal conditions. Even in the provisions of Chapter 26 paragraph 1 point c it is explained or stated that the obligation of parents is to prevent or prevent child marriage from occurring (Dewi, 2018).

The Convention on the Rights of the Child (CRC) has become part of the national legal system, one of the principles in the CRC, namely "the best interests of the child", is in all actions related to children carried out by the government, society, legislative and judicial bodies, the interests of which are the best for the child should be the main consideration. In Chapter 1 of the Child Protection Law paragraph 2 it is stated that "child protection" is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and protection from violence and discrimination.

In the Declaration of Human Rights, it is stated that marriage must be carried out with the full consent of both partners. However, the reality faced in child marriage is that marriage approval is often in the form of coercion or pressure from the parents/guardians of the child, so that the child agrees to marry (a sense of devotion and respect for parents). Parents assume that having married their child means a form of protection for the child, but this actually causes the child to lose the opportunity to develop, grow up healthy, and lose the freedom to choose.

A similar statement was also issued by the International Humanist and Ethical Union, that child marriage is a form of child abuse. In this case, child marriage certainly causes the "best for children" principle to not be fulfilled, so this is a violation of children's human rights.

The Child Protection Law clearly states the obligations of parents and society to protect and prevent child marriages (Chapter 26). Criminal sanctions in the form of imprisonment and fines are regulated in Chapters 77-90 if violations of the Chapters of Child Protection are found. Child marriage is also influenced by religious norms, customary norms, cultural norms and societal norms. Most child marriages occur because the bride is pregnant so that child marriages are carried out, but there are some child marriages that are carried out because there is an agreement between parents where both parents match each other to get their children married and child marriages are carried out as one of the preventions so as not to avoid slander and adultery.

CONCLUSION

The implementation of child marriage is also influenced by many factors such as having arranged marriages by parents, MBA (married by accident), promiscuity, reciprocation and avoiding slander and adultery. Child marriage is also influenced by religious norms, community norms, customary norms and cultural norms. The impact of child marriage can be experienced by brides who commit child marriage, then can proposed legislation or reinforcing the marriage law for children as an effort to prevent child marriage.

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