International Journal of Education, Vocational and Social Science
https://e-journal.citakonsulindo.or.id/index.php/IJEVSS
E-ISSN : 2963 4954
IJEVSS

\

Analysis Study Of The 2009 MUI Fatwa About The Law Of Early Marriage

[1] Dony Frenki, [2] Eficandra, [3] Yengkie Hirawan
[1, 2 ,3] Islamic University Of Mahmud Yunus Batusangkar

e-mail: dony.frenky.box@gmail.com

Abstract

Marriage is an act recommended by Allah and by the Prophet, this can be seen in the Al-Qur'an and the Hadith of the Prophet where the content is in the form of a recommendation to marry. In 2009, the MUI issued a ijtima' decision on early marriage. According to the MUI, early marriage is legal as long as the conditions and pillars of marriage have been fulfilled, but it is illegal if it causes harm. In terms of maṣlāḥah, early marriage is not against Islamic law, because marriage aims to create problems. However, the impacts arising from early marriage tend not to bring problems to the marriage partner. This is the focus of this research. The research question is what is the background to the emergence of the 2009 MUI Fatwa on the Law on Early Marriage, what is the intention of getting married at an early age unlawful if there is concern that harm will arise in the MUI fatwa. According to existing regulations, the age for student acceptance is for elementary school students in the age range of seven years to a maximum of 12 years and a minimum of six years on July 1 of the current year. Then junior high school students with a maximum age of 15 years and high school 21 years. This means that according to applicable regulations, high school students are allowed to marry because they are between 21 and 23 years old. An in-depth study is needed on this matter.

Keywords: Analysis, MUI Fatwa, Early Marriage

INTRODUCTION

Marriage or marriage is also the desire of all human beings or also known *as fitra tun* insaniah. Because Islam is a religion that contains natural elements , Islam does not accept things that are contrary *to human nature* . So, because of this, Islam advises its people to tie the ropes

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\
of affection with a strong bond, namely through marriage or marriage . In this regard, Allah SWT has said in the Koran in Surah An-Nur verse 32 which reads:

"And marry those who are still single among you, and also those who are worthy (married) of your male and female slaves. If they are poor, Allah will give them ability with His grace. And Allah is Extensive (His gifts), more Knowing ". (QS. An-Nur : 32) .

The age of marriage in Islam is not strictly regulated, both for men and women, but Islam recognizes the concept of *bā'ah* (ability) as a criterion for someone who is about to marry (Asni, 2012: 78-79). The concept of *bā'ah* in marriage is the ability in all matters, both the ability of a husband to provide for his wife physically and spiritually or the ability to manage the emotional nature that can sometimes appear in his wife. If this is experienced, then Islam recommends that marriage be carried out . However, if you haven't experienced it, then Islam provides a solution, namely by carrying out fasting as a barrier. (Mihdlor, 1995: 23). This is as explained in the hadith of the Prophet SAW:

"Abdullah said: The Messenger of said to us: O subjects young! Whoever among your is able to marry, marrySo, in fact, marriage is more closing my eyes (lowering eyes) and maintaining , whoever has not been able to do it, should fast because fasting will relieve of *sexual desire* "Bukhāri, 2008: 438).

With the existence of law number 16 of 2019 which revised law number 1 of 1974, the age of men and women who wish to marry is equated to 19 years. If you look deeper into Islamic law, someone who will carry out a marriage as a standard is 'āqil bāligh, known as *Alāmatul Bulūgh* , (Hakim, 2000: 142) that is, for women it is based on menstruation (menstruation) and for men it is based on when he begins having jima' (*coitus*) dreams (Sudirman, 1999: 34). Seen externally, baligh is a conception that contains knowledge about certain biological processes experienced by a person as a sign of biological maturity. If you look at the equality of ages for marriage in the revised Article, it can be assumed that men and women come of age at the same time. Because men and women are allowed to marry when they are 19 years old.

If you look at the other side about *Ius Constitutum* implemented by the Indonesian state , A marriage so that it does not occur at an early age. Knowing this has been stated in Article 26 paragraph (1) in letter (c) , namely Law Number 23 of 2002 concerning Child Protection. It explains that parents are obliged to prevent their children from getting married or marrying at a young age or at an early age . This was also confirmed by the Constitutional Court Decision Number 22/PUU-XV/2017, December 13 2018, *in conjunction with* the UUP Revision which equates the age limit for marriage or marriage between a man and a woman, namely 19 years.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\

Appearance Law i Number 16 of 2019 article 7 regarding minimum age for marriage which was 16 years changed to 19 years, so the requirements propose marriage both man female must be at least 19 years old For people who are less than 19 years old who want to carry out a marriage, submit a dispensation to the court with very urgent reasons and supporting evidenceIf you have completed the proof of marital dispensation, the court will determine whether or not the marriage is allowed to continue. In carrying out trials at the level of the Religious Courts unable to complete the marriage dispensation, the trial will proceed to the Constitutional Court.

RESEARCH METHODS

research was conducted using *library research* which limited its activities to library collection materials without the need for field research. Reading sources can be in the form of text books, dictionaries, encyclopedias, scientific journals and research results. If the researcher does not have his own reading sources, then he can look at the library, both formal institutional libraries and private libraries. Good reading sources must meet three criteria, namely relevance, completeness, and up-to-date (except for historical research, this research actually uses old reading sources). Relevance is related to the suitability between the variables studied and the theory put forward, completeness is related to the number of sources read, and sophistication is related to the time dimension. The newer the source used, the more up-to-date the theory will be. (Sugiyono, 2013)

LITERATURE REVIEW

Definition of Marriage Age Limit

The age of marriage is an important aspect in creating the goal of marriage, namely family life that is sakinah, *mawaddah* and *rahmah*. The age limit for marriage is the maximum age that is allowed to carry out marriage, this is one measure of maturity, even though Islam does not explicitly mention the limit. Islam only mentions puberty as one of the conditions for marriage. Conventional fiqh scholars (hereinafter written: madhhab scholars), provide different limits regarding baligh as a measure of maturity. The Syafi'iyyah and Hanabilah scholars, for example, determine that adulthood starts at the age of 15 (even so, they still accept maturity with signs of menstruation for women and wet dreams (*ihtilam*) for men.). *Second*, Abu Hanifah argues that male maturity begins at the age of 19 and women begins at the age of 17. *Third*, Imam Malik stipulates that the age of adulthood is 18 years for both men and women (Audah, 1964: 602-603). *Fourth* , the Ja'fari School argues that a man's maturity comes when he is 15 years old and a

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\
woman's 9 years old. However, the Ja'fari school of thought also views that a guardian may marry off a minor.

The Qur'an concretely does not specify an age limit for those who will get married. Limits are only given based on the qualities that must be married by them as in the Qur'an letter al-Nisa' verse 6:

"And test the orphans until they are old enough to marry. then if in your opinion they are smart (good at maintaining wealth), then give them their wealth. and do not eat the wealth of orphans more than the limit of decency and (do not be) in a hurry (spend it) before they grow up. Whoever (among the caregivers) is able, then let him refrain (from eating the orphan's wealth) and whoever is poor, then he may eat the treasure according to what is appropriate. Then when you hand over wealth to them, then you should make witnesses (about the surrender) for them. And sufficient is Allah as the Watcher (of that testimony). (QS, Al-Nisa ': 6).

Interpreting this verse, ' *until they are old enough to marry'* , Mujahid said: It means *baligh* . Jumhur ulama said: *puberty* in boys is sometimes by a dream, that is during sleep; dreaming of something causing a gushing discharge of semen, from which a child will be born. The period of 'aqil baligh should have been experienced by everyone in the age range of 14-17 years. One sign that is commonly used as a benchmark for whether we have reached puberty or not is the arrival of wet dreams (*ihtilam*) (Adhim, 2004: 26-47).

However, in our current era, the arrival of ihtilam is often not in line with our minds having matured enough so that we have thought maturity. Many of the generations born in our time have sexual maturity, but do not yet have the maturity of thought. Razhmat Syafe'i writes, determining that someone has *reached puberty* is marked by the discharge of menstruation for the first time for women and the discharge of semen for men for the first time through a dream, or when they are fifteen years old (Syafe'i, 1999: 336).

The provisions of *baligh* for boys are marked by *ihtilam*, namely the discharge of sperm (semen), both in a dream and in a conscious state Meanwhile, for girls, the provision for *reaching puberty* is marked by menstruation or menstruation, or in fiqh occur the age of 9 years Provision for daughter can also be imposed because pregnant). If there are no indications then *baligh* / *balighah* determined by Abu Hanifah argues that the age of puberty for boys is 18 years, while for girls is 17 years, meanwhile Abu Yusuf Muhammad bin Hasan, al-Shafi'i say 15 years old as a sign of good *puberty* for male female (Husein, 2007: 90).

If the age limit is determined by the year then a young marriage is a marriage under the

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\
age of 17/18 according to Abu Hanifah. The majority of scholars, Ibnu Mundzir, even it an *ijma'* (consensus) of scholars, young/young marriages, or in more popular terms, to as marriages. According to them, for matters of, the criteria for being *mature* and reasonable are not a requirement for its.

Limit Marriage Age According to the Marriage Law in Indonesia

The minimum age for marriage in Indonesia is regulated Law No. 16 of 2019 concerning Amendments to Law Number 1 1974 concerning Marriage which took effect since October 15 In this regulation are a of points, namely:

1. Marriage is only permitted if the man and have reached the age of 19 (nineteen) (article 1 paragraph 1).
2. In the event of a provision as referred to in paragraph (1), the male and/or parents may request a from the with very urgent reasons by sufficient supporting evidence (article 1 paragraph 2).
3. The granting of dispensation by the Court as referred to in (2) must listen to of both the prospective bride and groom who out.

The Impact of Underage Marriage for High School Equivalents

There are number of reasons early (underage) still occur, andthere is also a request for the Court (PA). The reasons referred to can be grouped general into two, namely: (1) cause of the child; (2) causes from outside the child.The reasons for children can be grouped into two, namely: (a) because they do not go to school; and (b) because the child had sexual intercourse, even because was pregnant But it can also be said that these two causes are. The slightly more detailed explanation is follows (2009: 383):

1. Cause of the Son
   a. No school. This factor of not going to school can be a factor occurrence of early marriage two forms *First*, drop out of school, both at compulsory school age and outside it. As a result, child fills time by working. In this condition where work, that i child feels independent, so he feels able to support himself. *Second* , in the absence of work, they do one of is having a with the opposite sex. This relationship does not rule out the possibility of getting pregnant out of wedlock.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\

b. Making Biological Relationships. As mentioned earlier, not going to school (unemployment) can be one of the reasons for having early biological relationships. Of course, this does not rule the possibility of cases like this occurring for other reasons.
c. Pregnant Before Marriage pregnant before marriage is similar to the reasons for having relations like theand wife mentioned above. However, not every have sexual intercourse results in pregnancy. In condition that the daughter is already pregnant, of course makes the parents feel that they are to marry her off (2009: 384) .

2. Cause from Outside the Child
   a. Worried about Violating Religious Teachings mean worried about violating religious teachings here is my child having a relationship with of a different kind in various forms: going out together, playing together, studying together, even including sending short messages / SMS-SMS). Everyone is of course afraid of breaking religion, it's just that in there is a difference In this case, there are who are not willing if their child has a relationship with the opposite sex without being. In words, having a relationship without marriage is included. In many cases the child himself also holds the same opinion. In order to prevent these violations, early marriage appears that they avoid adultery.
   b. Factor Economics. Economic reasons as a factor of early marriage can be seen at least from two forms *First* , the parents' economy does not support children. As a result, what mentioned earlier, maybe work and feel independent, then get married, or unemployed then have a relationship with another kind which result in. *Second* , for economic reasons parents make children as sacrifices to settle, daughters. The form can be a daughter as a debtor Nasution, 2009: 385).
   c. Indigenous and Cultural Factors. The meaning of custom and culture is custom and matchmaking culture which are still common and occur several regions in Indonesia (Nasution, 2009: 387) Usually the reason is to immediately realize the bonds of family relations between the groom's i relatives and the 's they have long wanted to be together. This is the reason that sometimes causes a child is still in the womb to be married to child of a certain family, simply because he is motivated by the desire to have family ties with family. And the desire for family ties itself arises because these ties will bring benefits to both parties Wignjodipoera 1995: 133).
   d. Technology Factor. At technology has so rapidly it has influence on the of adolescents phones is one of the most. Mobile phone technology, is currently equipped various devices such as photo and can also be used as videos, seems to have been put to bad

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\

by teenagers. Curiosity and want to be appreciated existence as an adult camera to store pornographic photos and record scenes that should not have done. These things make teenagers fall into promiscuity read the impact on the occurrence of unwanted pregnancies) and marriage at an early age. Likewise, with the easy reach of TV and with the price ofwhich are relatively cheap as well often found on television some shows that depict the easy and beautiful life of a household, even though viewers often forget up that all it is just a soap opera show which is of engineering and is commercial in nature (2009: 11-12). What can conclude from the causes of early marriage above at least that poverty education influences each other the occurrence of early marriage. Poverty is one of the causes of not being able to access education unemployment. Without education, get changes in paradigm culture. Furthermore, the paradigm is of the reasons for the of culture and customs, including and customs that are not prospective. Unemployment is one of the reasons people act and do anything to their time, including relationships with types. Having a relationship another sex results in the possibility of. The next consequence, to solve the problems that arise, is marriage. Thus, it is hoped that from early education it can be explained the weaknesses of marriage. Likewise, efforts to paradigms are urgently needed to minimize practice of early marriage (Nasution, 2009: 387).

According to Edi Nur Hasmi, Psychologist who is also the director of Youth Reproductive Health of the BKKBN, stated early marriage has 2 impacts namely;

a. From a physical point of view, the teenager is not yet, his pelvic bones still too small which could endanger the process.
b. In terms of mental , emotional teenager is not yet stable. Emotional stability occurs at the age of 24, because 's when people enter adulthood. And at the age of 20-24 years in psychology is said to be a young adult lead educators. During this period, usually begin to emerge from the of adolescence to adulthood which is more stable. So if the marriage done under the age of, emotionally, the still his (BKKBN, 2009: 13-14) .

CONCLUSION

Marriage is an that is very important human life the basics of marriage formed by the natural elements of human life itself which include needs and biological functions, giving birth to offspring, need for affection, brotherhood, nurturing these children to become perfect members of society . Early marriage or marriage, especially for senior h igh school students, does more harm

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License

\
than good. Therefore it should be opposed. Parents must be made aware not to allow marrying/marrying off their children who are still in high school or equivalent at an early age or children and must understand the laws and regulations to protect children. Communities who care about child protection can submit class-actions to perpetrators, report to the Indonesian Child Protection Commission (KPAI), other child-care NGOs and law enforcers must conduct investigations and investigations to see if there are violations of existing laws and act against perpetrators to be subject to criminal articles from existing laws and regulations. (UU No.23 of 2002 concerning Child Protection, Marriage Law). The majority of scholars in stipulates permissibility of an to marry when he is of the age of *baligh* which is marked with wet dream for men or menstruation for women. If these indications are not found, then a maturity is determined age.

REFERENCES

Adhim, M. F. (2004). Indahnya Pernikahan Dini, Jakarta: Gema Insani.

Audah, A. Q. (1964). At-Tasyri' al-Jinai al-Islami, Juz I. Kairo: Dar al-Urubah.

BKKBN Provinsi Jawa Timur. (2009). Buku Panduan PLKB/PKB Dampak Perkawinan Usia Dini Bagi Keluarga. Surabaya.

Hakim, R. (2000). Hukum Perkawinan Islam. Bandung: Pustaka Setia.

Muhammad dan Pornomo, S (2009). Buku Panduan PLKB/PKB Dampak Perkawinan Usia Dini Bagi Keluarga. Surabaya; BKKBN Provinsi Jawa Timur.

Mihdlor, A. Z.i. (1995). Memahami Hukum Perkawinan. Cet. Ke-2 Bandung: Al-Bayan.

Muhammad, H. (2007). Fiqih Perempuan (Refleksi Kiai atas Wacana Agama dan Gender), Yogyakarta: LKiS.

Nasution, K. (2009). Hukum Perdata (Keluarga) Islam Indonesia dan Perbandingan Hukum Perkawinan di Dunia Muslim. (Yogyakarta: Academia + Tazzafa.

Sudirman, R. (1999). Konstruksi Seksualitas Islam dalam Wacana Sosial. Yogyakarta: Media Pressindo.

Syafe'i, R. (1999). Ilmu Ushul Fiqih (Untuk IAIN, STAIN, PTAIS), Bandung: CV Pustaka Setia.

Undang-Undang No.16 Tahun 2019 tentang Batas Usia Perkawinan

Wignjodioera, S. (1995). Pengantar dan Asas-asas Hukum Adat. Jakarta: Gunung Agung.

Sugiyono, D. (2013). Metode Penelitian Kuantitatif, Kualitatif, dan Tindakan. Bandung: Alfabeta.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-Share Alike 4.0 International License