



## Dispensation for Marriage and Sexual Health

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### **Abstract**

The phenomenon of early marriage can never be separated from the community even though the government has made reductions and renewals of applicable laws and low legal awareness in the community, especially at the age limit in Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning marriage. due to pregnancy out of wedlock, economic factors, dropping out of school, not continuing school and other contributing factors. Women who give birth at the age of 15-19 years are at risk of dying twice as much as women who give birth at the age of 20 years. in 2014 the deaths of adolescents aged 15-19 years were mainly caused by pregnancy and childbirth. Pregnancy at that age will increase the risk of death for the mother and fetus, especially in developing countries.

**Keywords:** *Underage Marriage; Reproductive Health; Early Marriage Factors*

### **Introduction**

Marriage is also called marriage in Indonesian "Marriage" comes from the word "kawin" which according to the language means forming a family with the opposite sex; have sex or have sex. Meanwhile, according to syarak, marriage is defined as a contract of surrender between a man and a woman with the aim of satisfying each other and forming a Sakinah household and a prosperous society. Therefore, marriage in the teachings of Islam can be considered as worship to God Almighty. According to Islam, marriage is a marriage, which is a very strong contract or mistaaqon gholiidhan to obey Allah's commands and carry it out is worship. Whereas what is meant by contract is a series of consents pronounced by the guardian and Kabul which is pronounced by the groom or his deputy witnessed by two witnesses. Underage marriages (early marriages) are marriages before the age of 19 (nineteen) years for men and for men. Women according to Law Number 16 of 2019 regarding amendments to Law Number 1 of 1974 are equal to 19 (nineteen) years. The marriage which is carried out not according to the age has violated the law and the marriage is carried out based on religious rules or customs only. the marriage cannot be registered at the Office of Religious Affairs (KUA) for Muslims and at the Civil Registry Office for non-Muslims In Article 7 paragraph (1) of Law Number 16 of 2019 concerning amendments to Law No. that marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years. The age limit for marriage is not discussed in fiqh books, even in fiqh books it allows the marriage of a child either directly or indirectly. Millennial age provisions must have a purpose, as referred to in

article 15 paragraph (1) KHI (Compilation of Islamic Law) regarding for the benefit and the household, marriage may only be carried out by the prospective bride and groom who have reached the age set in article 7 of Law number 16 of 2019 concerning amendments to the law. 1 of 1974, namely the prospective husband and wife must be at least 19 years old. The provisions of this KHI are in line with the emphasis of the marriage law that prospective couples must be physically and mentally mature in order to realize the purpose of marriage, namely to form a happy and eternal family (household) based on God Almighty and to create a *sakinah, mawaddah and rahmah* household. Without ending in divorce and getting good offspring. Therefore, marriages that have not been mentally and physically or psychologically should be rejected to avoid divorce in the future. Experts in the field of health, of course, firmly reject the age limit of 16 years for women to be able to marry, which generally prevents child marriage, for example, dr. Kartono Mohamad, he said that pregnancy and birth are the main causes of death for adolescents aged 15-19 years globally. In fact, teenage pregnancy increases the risk of death for the mother and fetus in developing countries. Julianto also stated that women under 20 years of age have a high risk of disease and death when carrying out reproductive functions. Entering the age of 20 medically (physical, biological, endocrinological and psychological, and emotional), women have the maturity to safely exercise their reproductive rights, especially in producing quality Indonesian generations. The former Chairman of the Indonesian Doctors Association (IDI) also voiced the same thing, babies born to mothers under the age of 20 have a 50 percent higher risk of dying at birth. "In addition, babies born to teenage mothers tend to be born with low birth weight and other health risks that can have long-term impacts. Kartono said that teenage pregnancy also has a negative impact on the economy and society of the teenager, his family and society. "Adolescents who get pregnant usually drop out of school. With low education and lack of skills, it is also difficult to get a job so that nationally it also reduces the productivity of the country. Not only impact on health, Child marriage also has an impact on the psychology of adolescents due to young marriage, namely the discontinuation of education, ongoing poverty, loss of job opportunities, being uprooted from the family before they are ready, easily divorced, children not paying enough attention, experiencing developmental delays, and behavioral deviations. The change in the rules regarding the legal age limit for marriage is certainly a breath of fresh air for the Indonesian people, especially underage girls who often experience forced marriages by their parents for economic reasons.

### ***Formulation of the Problem***

In this case the researcher has formulated the problem, namely How is the impact of underage marriage on the health and protection of women?

### ***Research Methods***

The target in this research is the community in Boyolali Regency, Central Java Province. The selection of this research location is based on the consideration that in this area, underage marriages are increasing every year. This research is a field research (Field Research) with a qualitative approach. The technique of collecting data is through field studies conducted by means of interviews with previously prepared questions that will be asked by researchers to related agencies or resource persons. As well as observations of secondary data related to the material that is the object of research. The data sources in this study were interviews and the results of observation of data related to this study were obtained from the Boyolali Religious Court.

## **Results and Discussion**

The Impact of Underage Marriage according to Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974.

Indonesia is a country with the most followers of Islam in the world, the majority of the population adheres to Islam, which is about 87.2 percent of the total population living in Indonesia, namely 207.2 million people are adherents of Islam or commonly called Muslims. Thus, Islamic religious principles and doctrines play an important role in the codification of positive law in Indonesia, including Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 concerning Amendments to Laws. Marriage. The two laws are used as the basis for applicable and binding rules for the Indonesian people to carry out marriages, both followers of Islam and other religions.

According to the National Population and Family Planning Agency, Indonesia is one of the countries with the highest percentage of young marriages in the world. This is evidenced by BKKBN data which states that, young women in Indonesia aged 10-14 as much as 0.2% or more than 22,000 (twenty-two thousand) are married (BKKBN). The head of the BKKBN, Surya Chandra Surapaty, revealed that the number of teenagers in Indonesia who already have children is quite high, namely 48 out of 1000 teenagers. This figure is still far from the target of the 2015 National Medium-Term Development Plan (RPJM), in order to reduce the number of early marriages, which is 38 per 1000 teenagers.

In addition, when viewed from the health aspect, women who have been married at the age of 16 are very vulnerable to physical disorders, especially reproductive health to undergo pregnancy. According to UNICEF data, women who give birth at the age of 15-19 years are at risk of dying twice as much as women who give birth at the age of 20 years. According to WHO data in 2014 adolescent deaths at the age of 15-19 years were mainly caused by pregnancy and childbirth. Pregnancy at that age will increase the risk of death for the mother and fetus, especially in developing countries. Babies born to mothers under the age of 20 years have a higher risk of dying before birth, reaching 50%.

Experts in the field of health, of course, firmly reject the age limit of 16 years for women to be able to marry, which generally prevents child marriage, for example, dr. Kartono Mohamad, he said that pregnancy and birth are the main causes of death for adolescents aged 15-19 years globally. In fact, teenage pregnancy increases the risk of death for the mother and fetus in developing countries. Julianto also stated that women under 20 years of age have a high risk of disease and death when carrying out reproductive functions.

Entering the age of 20 years medically (physically, biologically, endocrinologically as well as psychologically, and emotionally), women have the maturity to exercise their reproductive rights safely, especially in producing quality Indonesian generations. The former Chairman of the Indonesian Doctors Association (IDI) also voiced the same thing, babies born to mothers under the age of 20 have a 50 percent higher risk of dying at birth. "In addition, babies born to teenage mothers tend to be born with low birth weight and other health risks that can have long-term impacts. Kartono said that teenage pregnancy also has a negative impact on the economy and society of the teenager, his family and society. "Adolescents who get pregnant usually drop out of school. With low education and lack of skills, it is also difficult to get a job so that nationally it also reduces the productivity of the country. Not only has an impact on health, child marriage also has an impact on the psychology of teenagers due to young marriages, namely the loss of education, ongoing poverty, loss of job opportunities, being uprooted from the family before they are ready, easily divorced, children not paying enough attention, experiencing developmental delays, and behavioral deviations.

Someone who gets married early (under the age set by law) is usually not ready to face responsibility, usually they find it difficult to solve problems maturely and from the side of their

personality they are also still unstable, so these things can have an impact on the psyche. someone who does the early marriage will usually appear frustrated, stressed and even depressed. In addition, early marriage can also have a positive impact on someone, namely it can keep someone from adultery and promiscuity and reduce harmful things that are feared to violate established religious teachings.

According to Kumalasari (2012) the negative impacts of early marriage are:

### 1. Women's Health

- a. Reproductive organs are not ready to accept pregnancy so that it can cause various complications
- b. Early pregnancy and lack of nutrition for themselves
- c. Risk of anemia and increase the incidence of depression
- d. Increase maternal mortality (MMR)
- e. At risk for premature death
- f. The risk of getting sexually transmitted diseases

### 2. Child Quality

- a. Low Birth Babies (LBW) are very high, there is a need for more nutrients for pregnancy and the needs of the mother's own growth.
- b. Babies born to mothers under the age of 18 are on average smaller and babies with low birth weight choose 5-30 times more likely to die

### 3. Family Harmony and Divorce

- a. The number of young marriages is directly proportional to the high divorce rate
- b. Teenage ego is still high
- c. Affair
- d. Incompatibility with parents and in-laws
- e. Psychologically immature, so they tend to be unstable and emotional
- f. Less able to socialize and adapt

In this study, the author discusses Boyolali Regency which is one of the regencies in Central Java Province and is included in the Surakarta Residency which has 22 sub-districts and 261 villages whose residents have a working age starting at the age of 15 years or more. Boyolali Regency still has many villages whose geographical conditions are far from the city center, which can be classified as rural. Where many villagers work as farmers to support their families. The community can not be separated from the name "Marriage". Seeing the phenomenon that occurs, many people in Boyolali Regency still do early marriage. Early marriage here is an underage marriage carried out by a prospective husband and wife. In Law Number 16 of 2019 concerning Amendments to Law Number 1

of 1974 concerning Marriage, it is stated that the age limit for marriage is 19 years for men and women, if they have not reached that age, they must obtain a marriage dispensation proposed by the parents of the male party. men and women to the Boyolali Religious Court. In this case, marriage is something that has been passed down from generation to generation. Lack of understanding from the community causes early marriage. Even early marriage is very difficult to prevent and there are many factors that can affect the early marriage. Therefore, recently, many prospective married couples have applied for a marriage dispensation to the Religious Courts and asked to be married for various reasons.

According to Muadz Junizar, S.Ag., MH as Deputy Chairperson of the Boyolali Religious Court Class 1 B, sometimes people assume that the urgent condition is only in a pregnant condition, so that when people think that if they are not pregnant, then they will apply for a dispensation to be approved by the judge if the husband and wife are married. Those who apply for a courtship status can also apply for a marriage dispensation and it will be granted by the judge. But the conditions in the trial are different because the panel of judges examining the application for a marriage dispensation will consider various factors, even if in a condition of pregnancy out of wedlock, it is not certain that the application for a marriage dispensation submitted by a prospective husband and wife is not necessarily accepted (granted) by the judge. For example, "the prospective wife is pregnant but the future husband likes to get drunk, drugs. So if it is granted the impact will be even more severe." There are also prospective husband and wife couples who do not have an urgent reason for submitting a marriage dispensation application that can be accepted (accepted) by the judge. For example, "the condition of the prospective husband and wife has worked, has had a long relationship, lives in the same place (home) and has admitted that he has had sexual relations several times. And in terms of age, it is not too far from the current law. One of the judges' considerations for the prospective husband and wife pair if they are already working is considered to have matured. In addition to this, the judge also considers from the reproductive and psychological side of the prospective husband and wife.

## ***Conclusion***

Dispensation is the granting of the right to a person to get married even though they have not reached the minimum age for marriage. That is, a person may marry outside of that provision if and only if the circumstances "will" and there is no other option (ultimum remedium). In the latest Marriage Law, "deviations" can be made through submitting an application for dispensation by the parents of one or both parties of the prospective bride and groom. Apart from the dispensation factor proposed by underage children, the issue of Women's reproductive health is something that must be considered that pregnancy and birth are the main causes of death for adolescents aged 15-19 years globally. In fact, teenage pregnancy increases the risk of death for the mother and fetus in developing countries.

Entering the age of 20 years medically (physically, biologically, endocrinologically as well as psychologically, and emotionally), women have the maturity to exercise their reproductive rights safely, especially in producing quality Indonesian generations.

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