

Formulation of Underage Marriage in The Perspective of Islamic Law and Legal Sociology

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Abstract : *The child's independence in pursuing ideals and realizing success for the future is a desire for parents and the country. This can be achieved when the child has carried out a good learning process that can be taken through the formal or informal level. However, the irony that occurs if a child's dream of becoming a person is useful for the future, religion, and the state must be cut off with what happens, such as marriages that are still not on time or underage marriages. This research aims to analyze underage marriages from the perspective of Islamic law and understand the benchmarks of legal awareness in society to minimize the occurrence of underage marriages and to know the implications of underage marriages. This study is library research using a qualitative approach. The results show that Marriage is a strong bond or *mitsqon golidhon* carried out by couples who have met the age limit or *baligh*, but marriages, carried out by someone who is underage must be based on a recommendation through a marriage dispensation issued by a religious court. Second, community indicators in realizing legal knowledge and understanding will form a stable legal attitude so that they can apply patterns of legal behavior. Third, the implications of underage marriage include the disruption of compulsory education, Fulfillment of subsistence, which is not optimal for the families, diversion of responsibility to parents because they have not been able to work properly, Reproductive health conditions are still vulnerable due to lack of good nutrition and give rise to poverty and vulnerability to divorce.*

Keywords : *Underage marriage, legal sociology, legal awareness*

Abstrak : Kemandirian anak dalam mengejar cita-cita dan mewujudkan kesuksesan untuk masa depan adalah keinginan bagi orangtua dan negara. Hal ini dapat dicapai ketika anak telah menjalani proses pembelajaran yang baik, baik melalui jalur formal maupun informal. Namun, paradoks terjadi jika impian seorang anak untuk menjadi individu yang bermanfaat bagi masa depan, agama, dan negara harus terhambat oleh peristiwa seperti pernikahan yang terlalu dini atau pernikahan di bawah umur. Penelitian ini bertujuan untuk menganalisis pernikahan di bawah umur dari perspektif hukum Islam dan memahami tanda-tanda kesadaran hukum dalam masyarakat untuk meminimalkan pernikahan di bawah umur serta mengetahui dampak dari pernikahan tersebut. Penelitian ini bersifat penelitian perpustakaan dengan pendekatan kualitatif. Hasil penelitian menunjukkan bahwa pernikahan merupakan ikatan kuat atau *mitsqon golidhon* yang dilakukan oleh pasangan yang telah mencapai batas usia *baligh*, namun pernikahan yang dilakukan oleh seseorang yang masih di bawah umur harus didasarkan pada rekomendasi melalui dispensasi pernikahan yang dikeluarkan oleh pengadilan agama. Kedua, indikator masyarakat dalam mewujudkan pengetahuan hukum dan pemahaman



akan membentuk sikap hukum yang stabil sehingga mereka dapat menerapkan pola perilaku hukum. Ketiga, dampak dari pernikahan di bawah umur termasuk gangguan dalam pendidikan wajib, pemenuhan nafkah yang tidak optimal bagi keluarga, pemindahan tanggung jawab kepada orangtua karena mereka belum mampu bekerja dengan baik, kondisi kesehatan reproduksi yang masih rentan karena kurangnya gizi yang baik, dan munculnya kemiskinan serta kerentanan terhadap perceraian.

Kata kunci : Pernikahan di bawah umur, sosiologi hukum, kesadaran hukum.

I. PENDAHULUAN

According to Law number 1 of 1974 article 7 (1), marriage is permissible if the groom is nineteen years old and the bride is sixteen years old at the least. Those married under the age of nineteen for men and sixteen for women are categorized as underage marriage. However, currently, there has been a change in the age limit according to regulations contained in the law that marriage is permitted only for men and women who are nineteen years old.¹

The concept of underage marriage is when a marriage is carried out by someone who in essence does not have maturity both physically and psychologically. This is in contrary to the nature of marriage as stipulated in the Law. It is implied that marriage should contain a strong physical and spiritual bond between a man and a woman as husband and wife to be able to form a family that is *sakinah*, *mawaddah* and *rohmah* based on The One Almighty.²

Basically, an amendment to the law that highlights the age limit for marriage is one of the efforts to protect children's rights and create a healthy and prosperous marriage. It is not just a marriage full of momentary romance but a marriage that embraces the readiness for the inevitability of building a nation's civilization. Indeed, it is a huge responsibility and impossible to place on children who are still cared for and protected for their growth and development. Thus, they are not ready physically and spiritually even though this is in spite of the understanding of fiqh which states that there is no limit to the age limit for marriage.³

The absence of the age limit for marriage in the understanding of fiqh is based on the history of the thirty-six-year-old Prophet Muhammad who married six-year-old Aisyah. Therefore, it appears that there is no age limit in Islam. Underage marriage in the context of Islamic law refers to a marriage involving one or both partners under the Islamic legal age limit for marriage. Islamic law itself does not determine a fixed age limit

¹ Mohammad Hatta, "Batasan Usia Perkawinan Dalam Perspektif Ulama Klasik Dan Kontemporer," *Al-Qanun* 19, no. 1 (2016).

² Kahar Amarun and Hadi Suprianto, "Penyuluhan Hukum Pencegahan Perkawinan Usia Dini Pada Siswa-Siswa SMA Negeri 3 Buton Selatan," *SWARNA: Jurnal Pengabdian Kepada Masyarakat* 2, no. 1 (2023): 157–162.

³ Publikasi dan Media Kementerian PPPA, "Menteri PPPA: Perkawinan Anak Harus Dihentikan!," *Kementerian PPPA*, last modified 2020, <https://www.kemenpppa.go.id/index.php/page/read/29/2822/menteri-pppa-perkawinan-anak-harus-dihentikan>.

for marriage but provides general guidelines that marriage must take place when both parties have reached physical and mental maturity. Several important points regarding underage marriage according to Islamic law are as follows; Physical and Mental Maturity: In Islam, marriage is expected to occur when both prospective husband and wife have reached physical and mental maturity. Understanding and emotional readiness to face the responsibilities of marriage are important considerations. Next, consent of the married parties: Marriage in Islam must be entered into with the free and voluntary consent of both prospective husband and wife. There must be no element of coercion or pressure.⁴

Furthermore, in marriage guardians become the successor factor. In Islam, the bride-to-be needs a marriage guardian to consent to the marriage. Marriage guardians act as protectors and legal representatives of women in the marriage process. If the marriage involves very young couples, Islamic law stipulates the obligation to protect the rights of children. Married children may require special protection regarding education, welfare, and other rights.⁵

Another problem is child welfare considerations. In situations of underage marriage, the child's welfare is a priority. The main consideration is the physical and emotional condition of both partners and their readiness to care for and care for children. Besides that, the balance between Sharia and social welfare is also an important point in the marriage. In dealing with underage marriage, society and governments in various countries with a majority Muslim population are trying to achieve a balance between the principles of Islamic Sharia and social welfare. Several countries have set minimum ages for marriage in an effort to protect children's rights and reduce the incidence of underage marriage.⁶

In addition, Islamic law encourages education and awareness about the importance of waiting until the bride and groom reach maturity before marrying. Education about marital responsibilities, the rights and obligations of husband and wife, as well as the importance of providing adequate educational opportunities for children are important aspects. It is important to note that approaches to underage marriage may vary across Muslim communities and across countries with an Islamic legal basis. Some countries may have a minimum age for marriage set by law, while in others, Islamic law may leave more room for local judgment or family law.⁷

However, if one looks at it very carefully to the history of the Prophet Muhammad and today's developments, it is judged to be very different, because what happened one and a quarter centuries ago is certainly different today. One of the many factors that should be highlighted is the age of puberty that women come across to is different. The puberty which is marked by menstruation and sexual puberty is very dependent on the

⁴ Vicky Widiadhana and Muh Jufri Ahmad, "Urgensi Pernikahan Anak Di Bawah Umur Ditinjau Dari Perspektif Undang-Undang Perkawinan," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 2 (2023).

⁵ S Widihartati et al., "Underage Marriage in the Perspective of Women's Protection," *UNTAG Law Review* 1, no. 2 (2017): 38–50.

⁶ Beni Ahmad Saebeni, *Sosiologi Hukum* (Bandung: CV. Pustaka Setia, 2013).

⁷ E.K Jackson, "Addressing the Inconsistency Between Statutory Rape Laws and Underage Marriage: Abolishing Early Marriage and Removing the Spousal Exemption to Statutory Rape," *UMKCL* 8, no. 5 (2016).

temperature and social conditions experienced by a person. So, the situation and conditions that occurred at the time of the Prophet thousands of centuries ago are very different from today because human development is very dynamic and times have changed many things including human beings.

II. RESEARCH METHOD

This research is a literature study that uses qualitative data analysis which aims to analyze and rewrite underage marriages from various references and sources related. In addition, the research also seeks to understand the benchmarks of legal awareness in society to be able to minimize the occurrence of underage marriage as well as to find out the consequences that occur due to underage marriages. The approaches used in this study are conceptual approaches, historical approaches, and sociological approaches.⁸ Primary data sources in this study are reference books related to underage marriages, and secondary data sources are records, mass media, and journals related to this paper. The data are processed through three stages, namely: data collection, data reduction, data presentation, and drawing conclusions.

III. DISCUSSION

Underage Marriage in the Perspective of Islamic Law

Marriage is a ware for two people who will establish love and affection based on Sharia. So, from this underage marriage, qualified generations will be born as successors to the people. A good marriage is a marriage that fulfills the requirements and harmony that have been determined by sharia, which among the requirements for marriage is puberty.

The absence of a concrete age limit in Islamic law for someone who will enter into a marriage is a polemic. Because Islamic Sharia only gives signals and signs as a characteristic of someone who has reached puberty in his age. Because it is up to the public to determine the age limit for the marriage to be permitted which of course is adjusted to the time and place where a law is promulgated.⁹

In the view of Islamic law, underage marriage is a marriage for people who have not reached the age of maturity and are not yet *mumayyiz*. Thus, those who carry out such marriages are called underage marriages.¹⁰

Ibn Kathir in his book Tafsir Al-Quran Al Adzim responds to the issue of decent enough age for someone who is mature and allowed to marry. He interpreted that puberty in boys is marked by dreams (*ihltlam*) during sleep, in which dreams in their sleep cause the emission of emanating semen which can become a child. Ibn Kathir also responded that the question of being old enough for someone to be allowed to marry is not limited

⁸ Rianto Adi, *Metodologi Penelitian Sosial Dan Hukum* (Yogyakarta: Yayasan Pustaka Obor Indonesia, 2021).

⁹ Kamal Muchtar, *Asas-Asas Hukum Islam Tentang Perkawinan* (Jakarta: Bulan Bintang, 1993).

¹⁰ Zulfiani, "Kajian Hukum Terhadap Perkawinan Anak Di Bawah Umur Menurut Undang-Undang No.1 Tahun 1974," *Jurnal Hukum Samudra Keadilan* 12, no. 2 (2017): 211–222.

to being smart/clever, but there are other things that are also important, namely having reached adulthood.¹¹

According to Muhamad Rasyid Rido, the *bulughul al-nikah*, or the time when someone has reached the age of marriage is marked by the coming of a dream (*ihtilam*). At this age, a person is considered to be able to pass on offspring. It is at this age when *takliif* has been put on his shoulders to be able to worship, do *muamalah*, wear the headscarf (for women), and perform and carry out worship in accordance with sharia. The scholars of Fiqh in Islam responded to what is the benchmark or reference for someone who has reached puberty as legalization in entering into a marriage is that it is permissible to do *wathi'* based on mental and physical readiness with all the consequences arising from *wathi'* namely pregnancy, childbirth, and breastfeeding.¹²

Some scholars who give opinions regarding underage marriages are inseparable from the history of the Prophet Muhammad who married Aisha who was still young. However, this history cannot be used as a general argument, because of the specificity of the prophet Muhammad that his people cannot imitate. This opinion is supported by Ibnu Syubromah who proposes the concept that underage marriages are prohibited, since according the essence of marriage is to fulfill biological needs and perpetuate offspring. While the two important things that are used as the essence of this marriage cannot be fulfilled in children who are underage or not yet mature and not yet *mumayyiz*. In fact, Ibnu Syubromah put forward matters of puberty based on history, social and custom, not just confined to contextual ones.¹³

The view of Fiqh provides clarity on the meaning of puberty, that is, for men it is marked by dreams accompanied by the emission of semen that can inseminate. As for women, it is marked by the discharge of menstrual blood of menstruation. If males and females are already at puberty, they are expected to be ready to carry out biological marriages. However, what is happening in this millennium is that biological ability is not enough to carry out marriages without having economic and psychological abilities.

A person's age usually reflects their level of maturity. A person becomes more mature with age. This also applies to problems related to marriage that have arisen in Indonesia. The minimum age for marriage is 19 years for men and 16 years for women, according to Law No. 1 of 1974 concerning Marriage. Then, with the passing of Law Number 16 of 2019 which stipulates that the minimum age for marriage is 19 years for both men and women, this minimum age limit was changed. This shows that the age of marriage has increased. According to the author, this is very appropriate, because one of them is influenced by the social conditions of society. Thus, this causes the current level of maturity to be different from the level of maturity in previous times. In this regard, the

¹¹ Ibnu Kathsir, *Tafsil Al-Qur'an Al-'Azim* (Mesir: Dar al Kutub, n.d.).

¹² Muhammad Rasyid Ridha, *Tafsir Al-Qur'an Al-Hakim* (Beirut: Dar al Kutub al Imiyah, 1999).

¹³ Yusuf Hanafi, *Kontroversi Perkawinan Di Bawah Umur (Child Marriage) Perspektif Fikih Islam, HAM Internasional, Dan UU Nasional* (Bandung: CV. Mandar Maju, 2011).

Compilation of Islamic Law states that marriage is only permissible for prospective brides who are old enough for the benefit of family and household.¹⁴

Most people who marry before the legal age fail to continue their education at a higher level due to the lack of economic social and cultural conditions. When they become parents, those who have low education can be one of the factors that indicate conditions for their children to have no desire to pursue higher education. Besides, underage marriage is also considered a serious problem because it is socially controversial not only in Indonesia but throughout the world.¹⁵

It is common nowadays for a woman who is still in grade 4 elementary school (10 years old) to already have her period. She is considered biologically mature, yet physically and psychologically too young to marry. There are many negative and positive factors that must be faced with underage marriage couples even though the preparations involve both concerns and are based on the permission of both parents. In the view of Islam, it is permissible and valid. Imam Abu Hanifah gave his opinion regarding the legality of underage marriage with certain conditions. It includes the presence of marriage guardians either close guardians or distant guardians for girls. Also, for sons who are underage, the presence of the father of the grandfather is more prioritized due to the enactment of a marriage contract with the choice of both children after reaching adulthood.¹⁶

The legality of underage marriage according to Abu Hanifah is the same as the opinion of Imam Syafi'i who stated that child marriage is permissible. However, only the father and grandfather are entitled to marry, and if the father and grandfather are not present, the right to marry cannot be transferred to another guardian.¹⁷

And Imam Malik gave the opinion that the marriage of children who are underage can only be carried out by their fathers. If the father has passed away, the person who has the right to marry is someone who is appointed as a guardian mandated by his father before he died as a tribute to the father of his daughter.¹⁸

The fuqoha has formulated the regulations regarding underage marriages through the *Ijtima* decision of the 3rd Indonesian Fatwa Commission in 2009. It is stated that there was no clear stipulation regarding the minimum and maximum age limits for marriage. It's just that there is a tendency that must be underlined about the wisdom contained in marriage namely to protect offspring. The effort to protect this offspring is becoming the basis for fostering a household with a peaceful household that requires maturity in thinking and acting. Thus, peace and tranquility will only be obtained if the couple is of

¹⁴ Sofia Gussevi, "Sosialisasi Dan Pendampingan Faktor Penyebab Dan Dampak Perkawinan Di Bawah Umur Serta Undang-Undang Nomor 16 Tahun 2019 Tentang Batas Usia Perkawinan," *SIVITAS* 3, no. 1 (2023).

¹⁵ Widiadhana and Ahmad, "Urgensi Pernikahan Anak Di Bawah Umur Ditinjau Dari Perspektif Undang-Undang Perkawinan."

¹⁶ Saifullah, *Refleksi Sosiologi Hukum* (Bandung: PT. Refika Aditama, 2013).

¹⁷ Okfita Sari, "Analisis Sosiologi Hukum Terhadap Pernikahan Di Bawah Umur Dalam Keluarga (Studi Kasus Masyarakat Desa Purworejo Kecamatan Geger Kabupaten Madiun)" (IAIN Ponorogo, 2018).

¹⁸ Badan Litbang dan Diklat Puslitbang Kehidupan Keagamaan, *Menelusuri Makna Di Balik Fenomena Perkawinan Di Bawah Umur Dan Perkawinan Tidak Tercatat*, Kustini. (Jakarta: Kementerian Agama Republik Indonesia, 2013).

sufficient age and mature as well as reaches maturity in biological and other processes that should exist in a household.¹⁹

Ibnu Hajar al Atsqolani in his book *Fath al Baari* provides an explanation that underage marriages are permissible, although it does not have to do *wathi' jima'* biological relationship between husband and wife for their underage. However, if the biological relationship can cause harm (*mafsadat*) both for those who are underage or who are adults, marriage should not be an option.²⁰

Underage Marriage in the Perspective of Legal Sociology

Literally, the sociology of law is a combination of words from sociology and law.²¹ It is also defined as a branch of science that analytically and empirically analyzes the mutual relationship between law and social phenomena that occur in society.²² Sociology of law in the macro sense is not a science of law but rather a social guideline or norm, ethics, procedure, policy, or law that regulates the pattern of human life in general in society. Specifically, the sociology of law is a social science study that highlights and becomes the origin of the law that applies in society.²³

The presence of the sociology of law becomes something substantial considering the social phenomena that occur in society are an important part of the existence of law in society, and vice versa. So, this reciprocal relationship is very important to study sociologically and philosophically.²⁴

In connection with the rise of underage marriages that occur in society, socially it is the behavior of the community or actors that cannot be prevented. It is because of the paradigm and perception of parents (guardians) who give approval on underage marriages as a choice in anticipation of promiscuity. The parents came to the conclusion as the consequence for the rampant cases of children who step into adulthood unavoidable technological advances such of adultery. Parents who think like such cannot necessarily be blamed because they make an analogy based on existing facts and the adhered to Shari'a.²⁵

The Marriage Law No. 1 of 1974 stipulates that the minimum age requirement for a groom is 19 years and a minimum age for a bride is 16 years. Then, with the passing of Law Number 16 of 2019 which stipulates that the minimum age for marriage is 19 years for both men and women, this minimum age limit was changed. However, under certain conditions, if a man and a woman who have not reached the age of marriage are allowed to marry, apart from the consent of both parents, they must also apply for a Dispensation

¹⁹ K Sirin, *Perkawinan Di Bawah Umur* (Jakarta: Ghalia Indonesia, 1999).

²⁰ Imam Maulana Munandar, "Faktor-Faktor Penyebab Terjadinya Pernikahan Dini Di Kota Medan," *Al-Mashlahah: Jurnal Hukum Islam dan Pranata Sosial Islam*, no. Special Issue (2022).

²¹ Ahmad Saebeni, *Sosiologi Hukum*.

²² Suadi Amran, *Sosiologi Hukum, Penegakan, Realitas, Dan Nilai Moralitas Hukum* (Jakarta: Prenada Media, 2018).

²³ Ahmad Saebeni, *Sosiologi Hukum*.

²⁴ Jackson, "Addressing the Inconsistency Between Statutory Rape Laws and Underage Marriage: Abolishing Early Marriage and Removing the Spousal Exemption to Statutory Rape."

²⁵ Muchtar, *Asas-Asas Hukum Islam Tentang Perkawinan*.

of Marriage to the Religious Court. The conditions set regarding the age limit for men and women who carry out marriages are concrete steps to prevent underage marriages (gussevi: 2023).

The rise of the underage marriage phenomenon is inseparable from the emergence of social phenomena as a result of association that occurs outside the boundaries which is possible to create new problems in society. On the one hand, there is Law Number 16 Article 1 of 2019 which stipulates the age limit for men and women to be married. But on the other hand, with the swift currents of globalization, parents cannot fully control the attitudes and behavior of children who have not yet reached maturity. With their immaturity, they tend to do various things that can result in the collapse of values and morals. Thus, some parents ask for a marriage dispensation for their children who are younger but are already pregnant. So, inevitably the young children are forced to marry. With the existence of social phenomena that occur in society, it is actually a study for legal sociology to find solutions and solutions to existing problems. Among them is legal awareness and compliance with the law which is socialized back to the community as a whole so as to minimize adverse social phenomena with renewed awareness and legal compliance.²⁶

Specific teachings that are used as guidelines for norms and regulations that apply in society have been agreed upon as law*. An expert, Soetandyo Wignyosoebroto stated that the study of the sociology of law consists of: first, studying law as something that can control society; second, studying law as a social rule institutionalized by the government; third, social and legal strata; and fourth, the correlation of social change and legal change.

Society Legal Awareness

Society's legal awareness starts from individuals who know the law so the existing mindset is in stark contrast to obedience to a law. Significantly, increasing and developing society's legal awareness must be carried out. In this case, the government has a role in disseminating existing legal products so that the public can provide assumptions and opinions related to legal awareness that has been embedded in every individual. The more individuals understand the law, the more it provides greater space for the community to build legal awareness so that they can make a good contribution to society's life.²⁷

Legal awareness that has been realized in society is a concrete attitude of society in understanding and obeying a pattern of law originating from the government. The existence of legal awareness in society must be in sync with real community behavior in the form of obedience to the law. However, the factor of satisfaction with the law is a manifestation of social satisfaction and social support for the community which can be realized when the desire for justice for the community is achieved.²⁸

²⁶ Saifullah, *Refleksi Sosiologi Hukum*.

²⁷ Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum* (Jakarta: Rajawali Pers, 2012).

²⁸ Ahmad Tholabi Kharlie, "Kesadaran Hukum Masyarakat Lebak Banten," *Al-Qolam* 25, no. 1 (2008).

Legal awareness is created through law forming in society which consists of formulations of individual and social life in society. A legal product will not function properly if legal awareness is absent in society which leads to legal violations.

Normally, legal awareness is abstract in nature. It is like a relation of understanding related to the realm of order and tranquility in the arrangement, formation, and effectiveness of a rigid law. That is why legal awareness has an essential meaning in applying existing laws in society in general or even for law enforcement. In identifying legal awareness, there are two main points, namely: a) positive legal awareness which is identified with legal compliance, and b) negative legal awareness, which is identified with legal non-compliance.

Legal experts use the term legal awareness to be used as a basis for society in understanding and interpreting law in the form of experiences of other people. While, in identifying legal awareness, there are four standard indicators: a) legal knowledge, b) legal understanding, c) legal attitude, d) legal behavior.²⁹

Legal knowledge is characterized by someone who knows all the concepts or rules of written or unwritten law relating to orders, prohibitions, rules or norms that apply in society.

Legal understanding can be realized when someone knows the written legal rules. They can understand the essence of law, the purpose, and benefits of law significantly to provide goodness to society as a whole. As for legal attitudes can be shown by someone in obeying and following existing laws as a result of an individual's assessment of a law that exists and applies in society.

Legal behavior is a legal practice for individuals to comply with and apply applicable legal rules. In addition, legal behavior for each individual is based on knowledge, understanding, and judgment or legal attitude until a legal behavior is realized.

Legal awareness that is formed within individual paradigm will become a reference to be able to protect individual interests properly. It is because it will provide an inevitability of legal behavior that can sort all good things out. Thus, they will be followed or obeyed, and something that is not good will be kept away or abandoned. This is all inseparable from the nature of humans as social beings who always interact in their lives. So that his legal awareness will prevent this individual from sanctions or punishments.³⁰

Every individual in society will learn either directly or indirectly about the behavior that must be obeyed. This all correlates with a pattern of relations among them which will give individual self-awareness to be a good human being who can obey the law to avoid sanctions. It is inseparable from a behavior that is guided by an applicable law. So that human relations that occur will not have a bad impact. On the contrary, it will have a good influence on others when all individuals can realize legal patterns that have become common rules.³¹

²⁹ Soekanto, *Pokok-Pokok Sosiologi Hukum*.

³⁰ Ibid.

³¹ Ibid.

Legal awareness or values that exist within individuals on existing and expected laws can be used as a basis for humans to be able to comply with the law. Even though sometimes a legal awareness possessed by the community cannot be used as a guarantee that the community is compliant with the law.³²

With the existence of legal awareness in every individual in society in Indonesia, it should be realized that there are several impacts that can affect perpetrators of underage marriages including: First, Education, most underage marriages cause children to drop out of school, thus hampering the government's program for 12-year compulsory education. Second, Fulfillment of maintenance for the wife is not optimal because after all the husband is still too young to be able to find a living himself let alone his wife. The husband may not be able to provide sufficient income, and cannot meet the needs that exist in the household. Third, since they barely find work at such a young age, unemployed youths will automatically rely on their parents to provide their wives and children because of their inability to meet household needs. This often happens for underage child marriage couple since the responsibilities of both partners' parents and maintenance cannot be transferred to other people. Fourth, health, from the point of view of reproductive health, children are still very vulnerable when giving birth and having children because they have to pay attention to mother and baby nutrition, good child care and other things. All of those things contain a risk that is vulnerable to causing death for both mother and child. Fifth, the economy, a child who is married at a young age will experience difficulties in getting decent work to support the family, earn low wages, and create poverty and new problems for child workers. Sixth, psychological burden. For young couples who are inexperienced and immature when they are in a marriage condition, they must fulfill all rights and obligations as husband and wife and for those who are not mentally prepared will result in an acute psychological burden. So, it is very detrimental to the husband-and-wife relationship.³³ Seventh, self-will, underage marriages occur because of a will that already feels that they belong to each other.³⁴

Adverse effects for underage married couples will reduce freedom of association and interaction with peers. This is because children will experience premature pregnancies. Underage marriage will also reduce access to education and increase the low-income group due inability to meet expected educational qualifications thereby increasing the dependence of spouses on their parents. In addition, they will be vulnerable to health risks such as early pregnancy.³⁵

Some of the factors above are a number of reference points for calculating the Human Development Index. That the higher the number of underage marriages the more it affects the decrease Human Development Index in Indonesia.³⁶

³² Saifullah, *Refleksi Sosiologi Hukum*.

³³ Robiatul Adawiyah et al., "The Reconstruction of Aisyah's Marriage Age as a Resolution for Child Marriage Practices Phenomenon," *Al-'Adalah* 19, no. 1 (2022).

³⁴ Lilis Rahmawati and Any Ismayawati, "Implementasi Undang-Undang Perlindungan Anak Terhadap Perkawinan Di Bawah Umur Akibat Kawin Hamil Di Luar Nikah," in *International Collaboration Conference on Law Sharia and Society (ICCOLaSS)* (Kudus: IAIN Kudus, 2022).

³⁵ Shieva Nur Azizah Ahmad et al., "Resiko Pernikahan Dini Dari Sudut Pandang Kesehatan, Hukum, Dan Agama," *Community Services Social Work Bulletin* 2, no. 2 (2022).

³⁶ PPPA, "Menteri PPPA: Perkawinan Anak Harus Dihentikan!"

Sociological studies of law examine legal phenomena in the context of society and see how social norms and societal values influence the formation, application, and interpretation of law. Child marriage is a social phenomenon that can be analyzed from a legal sociology perspective. The following are several aspects of theoretical studies on child marriage from a legal sociology perspective; Social Conflict Theory: Child marriage can be analyzed within the framework of social conflict theory. There are potential gender inequalities and social inequalities that can arise as a result of underage marriage. The analysis will focus on the extent to which these practices create inequalities in rights and opportunities, especially for young women who may experience greater impacts socially and economically.³⁷

The next is the Functionalism theory. In the context of functionalism, child marriage can be analyzed as the result of certain social functions. For example, in some societies, child marriage may be seen as a way to maintain social structures and traditional values. Analysis may also involve understanding how these practices are perceived by society as contributors to social stability or as factors that threaten social harmony. Furthermore, Symbolic Interactionism Theory. From the perspective of symbolic interactionism, underage marriage can be interpreted as the result of interaction and interpretation of social symbols. For example, how society and individuals interpret gender roles, status, and maturity in the context of marriage. The analysis will highlight how underage marriage creates or modifies social symbols related to marriage and position in society.

Critical Legal Studies Theory. Within the theoretical framework of Critical Legal Studies, child marriage can be analyzed as part of a legal system that may create or maintain social inequality and oppression. The analysis will highlight how laws and policies can reflect and reinforce existing power structures. The focus will be on aspects of policy that may require reform to achieve social justice and human rights. In addition, Feminism Theory. Within the framework of feminist theory, child marriage can be seen as a manifestation of gender inequality and oppression of women. The analysis will highlight the specific social and economic impacts experienced by young women. Understanding how social and legal norms can create or perpetuate patriarchal structures will be the focus of the study.

Lastly, about critical racial theory. In critical racial theory, analysis of child marriage may involve examining the impact on particular racial and ethnic groups. These practices can reflect or reinforce racial inequality and discrimination. The focus will be on how laws and social norms may disproportionately affect certain groups. Through these theoretical approaches, legal sociology studies can provide an in-depth understanding of child marriage, including how society and the legal system understand, create, or perpetuate this practice within the framework of social norms and community values.

³⁷ F.R.A. Putri, "When Girl Become Wives: The Potrait of Underage Marriage in Indonesia," *The Indonesian Journal of International Clinical Legal Education* 2, no. 4 (2020): 463–480.

IV. CONCLUSION

The existence of underage marriages in the view of Islam is permissible, as long as it does not bring harm to the couple who do it. It is because marriage is a powerful physical and spiritual bond or *mitsaqon golidhon*, which can provide peace and happiness for those who live it. However, couples who carry out underage marriages must obtain a marriage dispensation recommendation from the Religious Court. To determine the level of public legal awareness, four indicators are used as benchmarks: legal knowledge, understanding, legal attitudes, and patterns of legal behavior. The four indicators are inseparable from the basics of indoctrination, namely the rules of legal compliance that apply in society, habituation as a process of socialization that will gradually become habits, and the benefits reflected in human behavior that tend to desire a proper and orderly life. In addressing the public's legal awareness of the rise of underage marriages, clear and transparent socialization regarding the implications of underage marriage must be provided for parents to have a deep awareness of being able to realize Law No.16 of 2019 concerning the age limits. There are detrimental implications for children who go into underage marriages including education, economy, reproductive health, lack of decent work opportunities, psychological burden, and inadequate fulfillment of nutrition for mothers and children.

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