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**KARYA ILMIAH : JURNAL ILMIAH**

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**Rizki Kurniawan, SH.,M.Kn**  
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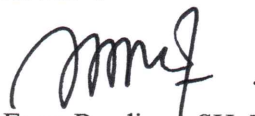
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## HISTORY OF EARLY MARRIAGE AND THE RATE OF DIVORCE CASES BY SOCIAL STRATA: A HISTORIOGRAPHIC PERSPEKTIVE OF LAW IN INDONESIA

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### ABSTRACT

Seeing real phenomena in Indonesia. There have been cases of early marriage and early divorce. The purpose of this paper is to look at the history of early marriage and the rate of divorce cases by social strata: a historiographical perspective of law in Indonesia. Based on observations, there are several factors for the occurrence of lively and crowded early marriages. Firstly, economic factors. This usually happens due to family conditions that are experiencing economic difficulties, so one way out is to marry off their children at an early age to ease the burden on the family and hope that their children will get a decent life. Secondly, low education factor. Factors low education occurs in parents and children. Parents with low education will tend to think resignedly and not calculate the impact caused to their children. Likewise, low education for children results in them only being able to accept what their parents order. Thirdly, cultural factors or traditions. This factor is usually rigid and cannot be changed. Some people think that refusing an application is something that is insulting even though they are not yet 16 years old. Fifthly, mass media factor. This factor occurs because of the ease of accessing information from all forms and types of sources in the current era. It is very easy for children to view pornographic sites which are then not equipped with sufficient emotional and knowledge provision, causing many pregnancies out of wedlock to trigger early marriage. The fact is that the implementation of marriage at an early age has many negative impacts on children, both physically and mentally. Based on the Study Report on Child Marriage in Indonesia, the high rate of early marriage can increase the risk of maternal and child mortality.

### ARTICLE INFO

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## 1 INTRODUCTION

Indonesia's population growth is still relatively high. Based on the 2010 Population Census, Indonesia's population was 237.4 million with a population growth rate of 1.49 per year, up from 1.47 in 2000 or in other words there would be 3.2 million Indonesians born per year or around 10,000. baby every day (Yani, M., et al, 2022). This is of course very worrying, considering that a large population with low quality human resources will become a burden for the state in development. How many schools, health facilities, jobs and food should the state prepare for these new Indonesians (Mk, M. A., 2010). One of the factors causing the high rate of population growth in Indonesia is due to the high number of cases of early marriage among Indonesian youth. Early marriage or marriage at a young age is increasingly widespread due to various factors including cultural factors and traditions from Indonesian society (Zainal, A. et al, 2022; Soetanto, R. et.al, 2022).

Humans in the process of development to continue their kind need a life partner who can give offspring according to what they want. Marriage as a way to be able to realize a happy family or household and provisions based on Belief in the One and Only God. This means that marriage lasts a lifetime and cannot just end. Marriage is generally done by adults regardless of profession, religion, ethnicity, poor or rich, living in a village or in a city (Swank, E., 2022; Miller, F. A. et al, 2022; Baird, S. et al, 2022; Landale, N. S., & Tolnay, S. E. 2019; McDougall. 2020).

The age of marriage that is too young results in an increase in divorce cases due to a lack of awareness to be responsible in household life for husband and wife. Even though the age limit for marriage has been stipulated in Article 7 paragraph (1) of Law no. I year 74, namely marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years. However, in practice we still encounter many marriages at a young or underage age, even though a successful marriage requires maturity, physical and mental responsibility to be able to realize ideal ideals in household life. The role of parents is very significant for the psychology of their children (Palacios, J. 2019; Mehta, C. 2020). Considering that the family is the first place for the growth of children's development from birth to maturity, the pattern of parenting in children needs to be disseminated to every family.

The phenomenon of early marriage is not new in Indonesia. Many of our ancient ancestors married underage girls (Wahhaj, Z., 2018; Kumari, N., & Shekhar, C., 2022). Even in ancient times, marriage at a "mature" age would create a bad perspective in the eyes of society. Women who don't get married right away will instead receive a skewed response from society and are usually called "kaseb" virgins or "old" virgins. In this case, parents want to speed up their daughter's marriage for various reasons, namely economic, social, and the notion of the importance of education for their daughters and the negative stigma against old maid status. According to Denov, M. (2022), on average, parents want their daughters to marry by arranging an arranged marriage with a man of their choice who is relatively older and more established, without asking their child's consent. The daughters are married under pressure and coercion from their parents. Another reason why parents want to immediately marry off their children who are still underage is that they think that with the marriage of these children, then in the girl's family there will be one less member of the family who is responsible (food, clothing, education, etc.) (Apostolou, M., 2007; Fuller, C. J., & Narasimhan, H. 2008).

However, along with the development of the era, early marriage is no longer based on coercion from parents but from the child himself (Syrett, N. L., 2016)., in this case not only girls but also boys. The flow of globalization that is speeding fast nowadays is changing the perspective of society, especially parents. Girls who marry young (Ouattara, M., Sen, P., & Thomson, M., 1998) or get married before they graduate from school are considered to be destroying their own future because it prevents these children from being able to gain broader knowledge and insights, or a more established life than before by pursuing higher education. However, now many young people are putting aside their education which is actually important for their survival. Young people now prefer to enjoy life with rah-rah than studying. For example, they prefer to play, party, dating and so on (Bruce A. MacLeod, 1993; De Walle, N. V., & Butler, K. S., 1999).

This can trigger the promiscuity of teenagers which has recently been increasingly widespread and has had a bad impact on their mornings (Wilson, J. L., 2002).

The rise of promiscuity among teenagers and the lack of parental supervision are suspected as triggers for marriage at an early age caused by pregnancy out of wedlock. In this case a lot of losses incurred both for teenagers. The losses incurred are more experienced by women than men. Teenagers who are pregnant out of wedlock will face various problems of psychological pressure. Namely fear, disappointment, regret and low self-esteem. The heaviest impact is when the partner who gets pregnant doesn't want to be responsible. In this case, women are responsible for their future children. Feelings of guilt make them not dare to be honest with their parents. In some cases it is often found that teenagers who are premarital pregnant become frustrated. Another impact is on reproductive health, reproductive health is very important for adolescents (girls) who will later marry and become parents. Excellent reproductive health will guarantee a healthy and quality generation (Marmot, M., 2018; Manjorang, A. P., & Aditya, I., 2015).

Early marriage is a form of bond/marriage in which one or both partners are under 18 years of age or are attending high school. So a marriage is called an early marriage, if both or one of the partners enters under the age of 18 (still in their teens). In the Marriage Law there are several articles, including in Article 1 it states that marriage is a physical and spiritual bond between a man and a women as husband and wife with the aim of forming a happy and eternal family or household based on Belief in the One and Only God. Article 2 states that marriage is valid if it is carried out according to the laws of each religion and belief, and each marriage is recorded according to applicable laws and regulations (Herlina, N., Asikin, Z., & Husni, L., 2019).

## 2 LITERATURE AND DISCUSSION

### Early-age Marriage

Early marriage is still an important issue in women's reproductive health in Indonesia (Adhim, M. F., 2002; Susanto, H., 2007). The Riskesdas notes that girls who marry for the first time at a very young age, 10-14 years, are quite high, the number is 4.8 percent of the total number of women aged 10-59 years. Meanwhile, those who married within the age range of 16-19 years amounted to 41.9 percent. Thus, almost 50 percent of Indonesian women marry for the first time under the age of 20. Provinces with the highest percentage of early marriages were South Kalimantan (9 percent), West Java (7.5 percent), and East Kalimantan and Central Kalimantan each 7 percent.

Early marriage shows the position of women who are economically and culturally weaker. Culturally, women are socialized to get married soon as their goal in life. As a result, women have more limited options to develop themselves as whole individuals. In addition, immediately marrying off a daughter means that the family will receive a valuable dowry in the local community, such as livestock. Riskesdas data shows that very young marriages (10-14 years) occur mostly in women in rural areas, have low education, have the poorest economic status, and come from groups of workers, farmers, and fishermen (Yunus, A., 2020; Faridl, M., 1999). Meanwhile, for women, getting married means being ready to get pregnant at a very old age. young. When accompanied by a lack of energy and protein, it will cause health problems that can result in death for the mother during childbirth and also for her baby. Marriage is a symbol of agreeing an agreement (akad) between a man and a woman (in traditional society it is also an agreement between families) on the basis of equal rights and obligations between the two parties. The total surrender of a woman to a man (Shihab, M. Q. 2010). The event when a father officially hands over his daughter to a manman to "wear" at will of the man.

Marriage is one of the things that has become the line of life for every human being, with marriage a new and complete family is formed with the presence of a baby (Fox, R., & Robin, F., 1983). All humans certainly want a good marriage full of happiness (Tao, H. L. 2019). But in Indonesia, which is still thick with it customs, age is not a barrier to entering into a marriage bond, it is even familiar if in Indonesia we find children aged 15 who have formed a family or are already married, this is what is called early marriage. This is of course very concerning because apart from having an impact on the condition of the teenager it will also have an impact on the rate of population growth in Indonesia.



One of the government's efforts to suppress the population explosion is to restrain the rate of population growth. However, because there is still a culture in the mindset of Indonesian people who want to quickly marry off their children, even though the child's age can be said to be inappropriate for forming a family relationship, this is the reason that triggers the birth rate to be very high (Beck, S. et al, 2010). When interviewed in an area One of the reasons parents want to quickly marry their children apart from the existence of customs inherent in the community is also because of the parents' assumption that if their child marries at a young/adolescent age (early marriage) they are released from responsibility to the child because there is already someone who is more responsible. It is these assumptions that must be eliminated in Indonesian society that marriage at a young age or early marriage has a very negative impact on the Indonesian state, even on the health condition of the child (Susilo, S. et al, 2021; Susanti, E., 2019).

The purpose of Marriage is to legally legalize sexual relations between a man and a woman. to legally regulate the rights and obligations of each including the prohibition or inhibition of polygamy. For data collection and demographic purposes. Criteria for success of a marriage, happiness of husband and wife, good relationship between parents and children, good adjustment between children, ability to obtain satisfaction from differences of opinion, togetherness, good adjustment in financial matters, good adjustment on the part of the couple's family . Marriage is a relationship (contract) between a man and a woman with the intention that each can enjoy the other (istim taa') and to form a sakinah family and build a clean society (Katni, K. 2022; Astuti, S. M., 2011).

Young (Early) Marriage is a marriage carried out by underage adolescents (between 13-18 years) who are still not mature enough both physically and psychologically, due to various factors including economic, social, cultural factors, wrong religious interpretations, education , and the consequences of promiscuity. Individuals who marry at a young age tend to depend on their parents financially and emotionally (Pratiwi, E. K., & Widayati, I., 2020; Widyastuti, S. H.2019).

Early marriage is a great institution to bind two persons of the opposite sex who are still teenagers in one family bond (Schänzel, H. A. et al, 2022). Early marriage is marriage under the age that should not be ready to carry out marriage (Amrin, A., et al, 2022). So it can be concluded that early marriage is a form of bond/marriage in which one or both partners are under 18 years of age or are attending high school. So a marriage is called early marriage, if both or one of the partners is under 18 years old (still in his teens). Adolescence, one might say, just stopped at the age of 18. And at the age of 20 - 24 years in psychology, it is said to be young adulthood. At this time, the transition from the turbulence of adolescence to a more stable adulthood usually begins. So, if the marriage is done under 20 years old, emotionally the teenager still wants to go on an adventure to find his identity.

### **Factors Causing the Presence of Early Marriage**

There are two factors that cause early marriage among adolescents, namely causes from the child and from outside the child. Firstly, cause of the son. Educational factors. The role of children's education has a very big role. If a child drops out of school at the age of compulsory schooling, then fills the time by working. At this time the child feels quite independent, so he feels able to support himself. The same is true if the child who dropped out of school is unemployed. In the void of time without work, they end up doing unproductive things. One of them is having a relationship with the opposite sex, which if out of control leads to pregnancy outside of marriage (Veringa-Skiba et al, 2022).

Secondly, factors have made a biological relationship. There are several cases where marriage is proposed because the children have had a biological relationship like husband and wife. Under these conditions, the girls' parents tend to marry off their children immediately (Bhattarai, P. C., 2022), because according to the girls' parents, because they are no longer virgins, this is a disgrace. Without putting aside the feelings and worries of parents, this is a solution that is likely to mislead children in the future. It's like a child who has made a big mistake, instead of correcting the mistake, parents actually bring the child to a condition that

is prone to problems. Because it is very large that later on the marriage of these children will be filled with conflict (Heggdalsvik, I. K., & Samsonsen, V., 2022).

Pregnant before marriage If the girl's condition is already pregnant, then the parents tend to marry off the children. There were even a number of cases, although basically the girl's parents did not agree with her future daughter-in-law, but because of the condition of the girl's pregnancy, the parents were forced to marry off the girl. There were even cases where the girl basically did not love her husband-to-be, but because she was already pregnant, she was forced to apply for a dispensation from marriage. This is all of course a very dilemmatic thing. Good for girls, parents and even trial judges. Because with conditions like this, it is clear that the marriage that will be carried out is no longer like a marriage as mandated by law and even religion. Because it was imagined in front of the eyes, later the color of this girl's marriage would be in the future. Marriages that are carried out based on love alone are likely to falter in the future, especially if the marriage is based on compulsion.

According to research, the age range for marriage for women is a minimum age of 20 years and a maximum age of 35 years, while for men it is 25 years old, because if women marry at the age of 20 and under, it is very risky, because apart from affecting their psychology, it will also have a negative impact on their reproductive organs. their reproduction, so that when giving birth to a baby it is likely to result in the death of the baby and even for themselves, whereas if young men marry under the age of 25, apart from affecting their psychology, it will also have an impact on their family's economy in the future.

Therefore, awareness is needed for Indonesian people, especially for parents to open their eyes and change patterns of thinking that are still primitive, and for youth who are the object of the problem of early marriage so that let's unite together in developing the Indonesian state and support BKKBN (Ahmad, E. H. et al, 2022), programs in suppressing population growth rate. Increasing the role of women, child protection and family planning, is pursued through increasing their abilities, increasing efforts to empower women who are independent both in knowledge and skills. This can be done through: education and training, empowering participation in family development, increasing participation and gender equality in development, developing information materials on counseling and fostering child growth and development, expanding information networks and family planning services, increasing accessibility and enabling control of women as equal partners with men to jointly participate in development in accordance with their nature and dignity without forgetting their shared role in creating prosperous, healthy and happy families, increasing the capacity of service systems, institutions and networks for family planning services and community participation in village development.

### **Cause External**

Religious Understanding Factors. There are some in our society who understand that if a child has a relationship with the opposite sex, there has been a violation of religion. And as parents are obliged to protect and prevent it by immediately marrying off these children. There was one case, where the child's parents stated that if the child had a relationship with the opposite sex, it was one: "adultery". Therefore as parents must prevent this by getting married immediately. When the judges questioned the girl who was not yet 16 years old, the child basically did not mind if she waited until she was 16 years old, which was only a few months away. But the parents are still adamant that the marriage must be carried out immediately. That the actions of children who like each other like boys are "adultery". And seba parents are very afraid of the punishment of letting their child continue to commit adultery.

Economic factor. We still encounter many cases where parents are in debt that they can no longer afford. And if the debt-ridden parent has a childvgirl, then the girl will be handed over as a "means of payment" to the debtor. And after the child is married, then the debts that are wrapped around the child's parents are paid off.

Customary and cultural factors. In several parts of Indonesia, there are still some understandings about arranged marriages. Where his daughter since childhood has been betrothed by her parents. And will soon be married shortly after the child has a period of menstruation. In fact, girls generally start menstruating at the age of 12 years. So it is certain that the child

will be married off at the age of 12, far below the minimum age for marriage mandated by law (Artina, D., 2022; Solovy, J. M. (1995).

### **Positive and Negative Impacts of Early Marriage**

**Positive Impacts** The various positive impacts of early marriage or underage marriage can be stated as follows. Emotional support: With emotional support, you can train emotional and spiritual intelligence in each partner (ESQ). Financial support: Getting married at an early age can lighten the economic burden and become more economical (Greenberg, P. E. et al, 1999). More freedom: Being away from home gives them the freedom to do what they decide to live their life financially and emotionally. Learning to take responsibility at an early age: Many youths had little responsibility before marriage because they had their parents, here they had to be able to manage their affairs without depending on their parents. Free from immoral acts such as adultery and others.

### **Negative Impacts**

Various positive impacts of early marriage or underage marriage can be stated as follows. Biological impact A child's biological means of reproduction are still in the process of reaching maturity so they are not ready to have sex with the opposite sex, especially if they get pregnant and then give birth. If it is forced, there will be trauma, extensive tears and infections that will endanger the reproductive organs and endanger the child's life. It should be questioned whether such sex relations are based on equality in reproductive rights between wife and husband or whether there is sexual violence and coercion of a child.

Psychological impact Psychologically, children are also not ready and understand about sex, so that it will cause prolonged psychological trauma in the child's soul that is difficult to heal. The child will be gloomy and regret his life which ended in a marriage that he himself does not understand the decision of his life. In addition, the marriage bond will eliminate the child's right to obtain education (reasonable 9 years), the right to play and enjoy his free time and other rights inherent in the child.

Social impact This social phenomenon is related to socio-cultural factors in a patriarchal society, which places women in a low position and is only considered a complement to men's sex. This condition is very contrary to the teachings of any religion, including Islam (Rahmatan lil Alamin) which respects women very much. This condition will only perpetuate a patriarchal culture which will give rise to violence against women.

The impact of deviant sexual behavior The existence of deviant sexual behavior, namely behavior that likes to have sex with children is known as pedophilia. This act is clearly illegal (using child sex), but it is packaged with marriage as if it were legal. This is contrary to Law No. 23 of 2002 concerning Child Protection, especially article 81, which carries a maximum prison sentence of 15 years, a minimum of 3 years and a maximum fine of 300 million and a minimum of 60 million rupiah. If legal action is not taken against people who use child sexuality illegally, there will be no deterrent effect from the perpetrators and will even become an example for others.

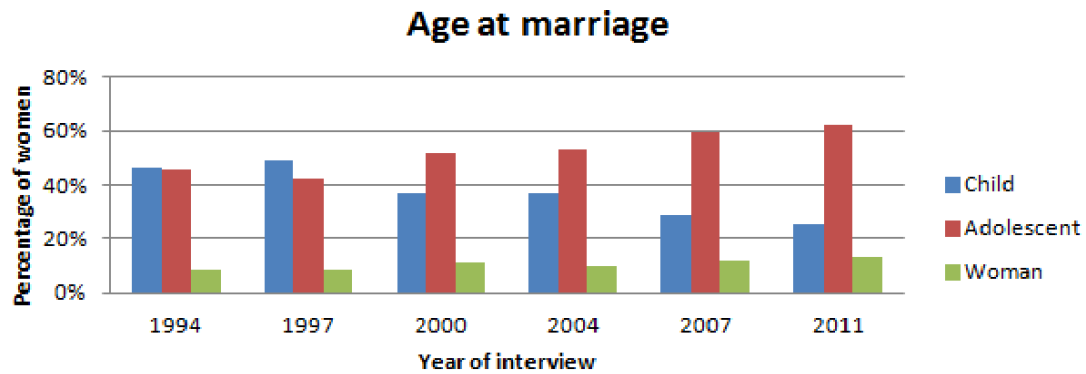
The impact on husbands It is undeniable that married couples who have married at a young age cannot fulfill or do not know their rights and obligations as husband and wife. This arises because of their physical and mental immaturity which tends to both have high selfishness. Impact on their children Communities who have married at a young age or underage will have an impact. Apart from having an impact on couples who marry at a young age, young marriages also have an impact on their children. Because for women who are married under the age of 20, if they become pregnant they will experience disturbances in their wombs and many of them also give birth to premature children.

### **Impact on each family**

Apart from having an impact on the husband and wife and their children, marriage at a young age will also have an impact on each of their families. If the marriage between their

children runs smoothly, of course it will benefit their respective parents. But if on the contrary their household situation is not happy and eventually there will be a divorce. This will result in an increase in their living costs and, worst of all, it will break the family ties between the two parties.

**Health Risks of Early Marriage** Health risks especially occur in female partners during pregnancy and childbirth. Pregnancy has a negative impact on the well-being of a teenager. In fact, she wasn't mentally ready to get pregnant, but due to circumstances she was forced to accept a high-risk pregnancy. The following are some of the high risks of pregnancy and childbirth that adolescents (less than 20 years of age) can experience.



### Marriage Cycle Range

Lack of blood (anemia) during pregnancy with bad consequences for the fetus in the womb such as delayed fetal growth, premature birth (not enough months). Malnutrition during pregnancy which can result in hampered biological development and fetal intelligence. Babies born with low weight. Complications during childbirth such as bleeding and prolonged labour.

Toxicity of pregnancy, which is characterized by swelling, especially in the feet and hands and high blood pressure. If this does not receive good and correct treatment, then this condition can cause convulsions which in turn can be fatal to both the baby and the mother. Imbalance of the baby's size with the width of the pelvis. Usually this will cause obstruction of labor. If it does not end with a Caesarean section, this situation will cause the death of the mother and fetus.

Couples who are not ready to accept pregnancy tend to try to have an abortion which can result in death for the woman. Due to a lack of reproductive health knowledge and care, early marriage is at high risk for contracting sexually transmitted diseases, such as abnormal vaginal discharge, painful urination, etc. The possibility of cervical cancer (cancer of the cervix of women) in young marriages is greater than those who marry at an age about twice as likely to get cancer compared to women who marry at an older age.

The risk of maternal and fetal death during childbirth is 2-4 times higher than that of women aged 20 to 35 years. Children born to teenage mothers experience several problems, including: stunted development, premature (low birth weight). This in turn will greatly affect the physical and mental growth and development of children.

### Handling Early Marriage Handling Young Marriage

Maturity of gestational age by using contraception so that pregnancy at reproductive age is healthy. Psychological guidance. This is intended to help couples in dealing with problems so that they have a perspective with maturity considerations, not prioritizing emotions. Family support. The role of the family is very much to help young families both in the form of material and non-material support for family continuity, so that they are more resistant to existing obstacles. Improving health by increasing health knowledge, improving nutrition for wives who are malnourished. The causes of early marriage are usually cultural and socioeconomic

factors. Early marriage is a marriage contract that is held at an age below the suitability of the applicable rules.

### 3 CONCLUSION

There are various causes of early marriage, for example, being pregnant out of wedlock (accident), wanting to avoid sin (free sex), and there is also coercion from parents. Early marriage is allowed in religion because if the teenager cannot control his lust, then it is better for him to get married. There are various impacts caused by early marriage. Biological impact, Psychological impact, Social impact, Impact on deviant sexual behavior, Impact on husband, Impact on children, Impact on each family. Basically, a household is built by shared commitment and is a meeting of two different individuals, but this is difficult to do at a young age. This spurred conflict which could result in separation or divorce, all because adolescents' emotions were still unstable, sometimes household problems could also cause neurotic depression so that adolescents experienced confusion in thinking about family life. Teenagers cannot divide their time between school and family, so they become severely depressed.

Early marriage can cause cervical cancer. For this reason, women who are sexually active are advised to have a Pap smear test every two to three years. Before doing early marriage, we should be able to think about the risks that will occur. And also make preparations that will be needed in the wedding. If there are problems in the family of early marriages, they should be resolved properly or ask for help and advice from people who know more and have experience.

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