

## EARLY MARRIAGE IN ISLAMIC LAW: ADDRESSING SOCIAL AND ETHICAL CHALLENGES OF LEGISLATION

Ami Rosalia, Muhammad Raffa Assidqi, Najmatur Radhwa Millati, Edi Suresman, University of  
Education Indonesia

Email : [radhwamillati@upi.edu](mailto:radhwamillati@upi.edu) , [raffsidqi@upi.edu](mailto:raffsidqi@upi.edu) , [rosalia.ami14@upi.edu](mailto:rosalia.ami14@upi.edu)  
[esuresman@upi.edu](mailto:esuresman@upi.edu)

Corresponding Author: [radhwamillati@upi.edu](mailto:radhwamillati@upi.edu)

### Abstract

*Early marriage remains a prevalent phenomenon in various regions of Indonesia. This study aims to analyze the issue from the perspectives of Islamic law and national legislation, focusing on the underlying factors, as well as the social and health consequences and their relationship with legal and ethical values. The method utilized is a qualitative approach, which includes a literature review and the distribution of questionnaires to adolescent groups. The findings indicate that early marriage is influenced by several factors, such as economic pressure, family expectations, cultural values, and instances of marriage resulting from unplanned pregnancies, often referred to as "marriage by accident." The implications of this practice include mental unpreparedness, disruptions in the educational process, and an increased risk of divorce. Government laws, as stated in Law Number 16 of 2019, have set a minimum marriage age to safeguard children and adolescents, even though Islam does not explicitly forbid early marriage under specific situations. We hope that by doing this study, people will start to realize how dangerous child marriage is and how important it is to harmonize religious rules with governmental requirements.*

**Keywords:** *Child marriage; Islamic law; social impact; contributing factors*

### Article History

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### A. Introduction

The marriage bond between a man and a woman is a sacred and sacred bond accepted by the state as a legally binding bond. Law Number 1 of 1974 establishes marriage as a legal

institution and regulates its essential aspects, including the minimum age for marriage, the conditions of marriage, the official registration process, the rights and responsibilities of each spouse, and the legal reasons for divorce. Several parts of the Criminal Code have been updated by Law Number 16 of 2019 to adapt to the needs of contemporary society. In its original form, the law envisioned marriage as a sacred bond between a man and a woman, uniting them in body and soul to build a stable household based on trust in God. Meanwhile, in its latest revision, marriage is seen as the basis for the formation of a family that plays an important role in society and still follows the provisions of religion and state law. Ideally, marriage is carried out when both parties have matured both physically and psychologically, so that they are able to live a responsible domestic life. In the Islamic view, marriage not only reflects a legitimate biological relationship between a man and a woman, but also concerns spiritual, emotional, and human values. The marriage bond in Islam is part of the way of life that is in harmony with the teachings of faith and piety to Allah SWT. Therefore, marriage is not just a physical union, but also a spiritual union and a moral responsibility.

This change aims to encourage the formation of a healthy and harmonious family, as well as anticipate various problems that often arise due to marriage carried out when they are too young. However, the reality on the ground shows that the practice of marriage under the specified age is still rampant, even considered part of local traditions or culture in some regions of Indonesia.

According to Ramulyo as quoted by Shufiyah (2018), early marriage occurs when individuals are still in the adolescent phase or have just passed it. This phenomenon is not only limited to rural areas, but is also widely found in urban areas. Couples who have not reached the legal age of marriage often marry in this way. Personal considerations, family pressure, and societal influences (such as promiscuity, economic pressure, and cultural norms that favor early marriage) are the causes of early marriage, according to Elisabeth Putri Lahitani Tampubolon (2021). The impact is also quite wide and serious, including disruption of educational continuity, increased potential for domestic violence, disturbances to children's physical and mental health, and the emergence of legal problems related to the legal status of couples at an immature age.

## **Problem Formulation**

1. What are the factors that affect the high rate of early marriage in Indonesia
2. What is the relationship between the legislation in Indonesia and the view of Islamic law on early marriage?
3. What are the social and health impacts arising from early marriage that are not in accordance with the ethics of laws and Islamic principles?

## **B. Research Methods**

This study uses a qualitative approach with the aim of understanding in depth related to

the phenomenon of early marriage. in terms of Islamic law and national law. The main focus of this study was to identify the main causes of early marriage and examine its impact on the psychological and social conditions of adolescents. The qualitative approach was chosen because it was considered the most appropriate to capture the complexity of social reality through an in-depth analysis of the information obtained. The type of research used is in the form of literature studies combined with field data collection through the distribution of questionnaires. Literature studies are used to evaluate relevant theories, legal provisions, as well as the results of previous research, while the main purpose of the survey is to obtain direct reports from adolescents. Both primary and secondary sources of information are included for this investigation.

Respondents' direct reports of early marriage, their thoughts and feelings about Islamic law and government law, and their own life and environmental experiences provide most of the data. Secondary data is sourced from a variety of sources that address the topic of child marriage from a legal, psychological, and social perspective. These sources include scientific publications, journal articles, government regulations, and other papers. Data collection was carried out through literature review and analysis of questionnaire results, which were then processed using qualitative descriptive methods to produce in-depth interpretation. The results of this data are integrated to provide a comprehensive picture of early marriage in legal aspects and its influence on the social and psychological development of adolescents.

## **C. Findings and Discussion**

### **Marriage Pillars and Conditions**

Based on Indonesian law, there are a number of prerequisites for a marriage to be considered valid, as stated in Law Number 1 of 1974, which has been revised by Law Number 16 of 2019. One of the important provisions contained in Article 6 is that marriage can only take place if there is voluntary consent of both prospective brides, emphasizing that free will and full understanding on the part of both men and women are the foundation of the validity of the marriage contract. Meanwhile, the revised Article 7 sets a minimum age of 19 for both brides, as part of the government's efforts to curb underage marriage, which can adversely affect adolescents' physical and mental health as well as their academic performance and social development.

The Islamic legal system regulates the validity of marriage through sharia law, which is sourced from the Qur'an, hadith, and scientific interpretations of legal principles. According to Al-Hamdani (2002), in order for marriage to be legally valid, there must be several things, namely the presence of the two brides, the marriage guardian for the bride, the existence of ijab-qabul between the guardian and the groom, and dowry which is the husband's obligation to his wife. Although classical Islamic texts do not mention a specific age limit for marriage, scholars generally affirm that physical maturity and mental readiness are important prerequisites before entering domestic life. Thus, both Indonesian positive law and Islamic law are in line in

emphasizing the elements of agreement and readiness as the core of the validity of a marriage, although each highlights a different aspect.

### Early Marriage in the Perspective of Islamic Law

From the perspective of Islam, marriage is seen as an institution that is not only sacred and spiritual, but also has worshipful values and is a moral foundation. This concept shows that marriage is not merely a contract between two individuals, but is also an institution based on religious teachings. Islamic law provides a diverse classification of marriage laws, from highly recommended (sunnah) to forbidden (haram), which illustrates the flexibility of Islamic teachings to adapt to the times. Marriage in Islamic teachings has two main functions, namely as a form of worship and as part of social life that guarantees happiness and blessings, both in this world and in the hereafter. The issue of early marriage has raised various problems in society. Some scholars, such as Imam Muhammad Syirazi and Asadullah Dastani Benisi (in Setiawan, 2020) argue that getting married at a young age is permissible. in Islam, refers to the practice that occurred in the early days of Islamic development before external influences formed social norms. However, the debate arose along with the story of the marriage of the Prophet Muhammad PBUH with Aisyah, which was carried out when Aisha was still six years old. The opinion of scholars such as Ibn Shubromah states that the event is a special condition that cannot be used as a general reference for Muslims. In principle, Islamic law establishes five main elements of protection: religion, soul, heredity, property, and intellect. One of the important principles is the safeguarding of offspring (hifdzu al-nasl), where sexual relations are only considered valid if they are carried out in a marriage bond. Ibn Shubromah emphasized that Islam does not advocate marriage before a person reaches the age of puberty, because the main goal For children who are not yet emotionally and physically developed, the purpose of marriage—satisfying biological needs and continuing the lineage—is irrelevant. The main purpose of marriage is specifically emphasized by Ibn Shubromah. The initial law of marriage, according to fiqh, is sunnah (mandub), as stated in the word of Allah (SWT). Letter An-Nisa verse three.

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَنًى وَتِلْكَ رُبَاعٌ خَفِئْتُ أَلَّا تَعْدِلُوا فَوَاحِشَةً أَوْ مَا مَلَكَتْ  
أَيْمَانُكُمْ ذَٰلِكَ أَدْنَىٰ أَلَّا تَعُولُوا

"And if you fear that you will not be able to do justice to an orphan (if you marry her), then marry (other) women whom you like: two, three or four. Then if you are afraid that you will not be able to do justice, then (marry) only one, or the slaves that you have. That is closer to not doing wrong.

The command to marry in the verse indicates an encouragement (thalab al-fiil), but the status is not mandatory (ghairu lazi) because there is a choice between marriage and slave ownership (miku al-yamin). Therefore, this demand should be understood as sunnah, not an obligation. Unless there is a legal guardian, Muhammad Jawad Mughniyah (2008) emphasizes that most academics agree that a person must be old enough to marry in order to get married. (Arista

Yuniarti, 2022). In a hadith, Ibn Mas'ud once said: "Observe, O young men, let everyone who is able to marry marry. And whoever is unable to pay for a marriage, let him fast, for fasting can appease lust." (H.R. Al-Bukhari).

## **Early Marriage in Laws and Regulations**

Article 1 of Law Number 1 of 1974 concerning Marriage states that the purpose of marriage is to foster a happy and eternal household. The basis of marriage is the teaching of God Almighty. Marriage can only take place if both brides and grooms are at least 18 years old, in accordance with the Criminal Code (KUHP). If a person has reached the age of 21, then he is considered legally adult according to Article 330 of the Criminal Code. Marriage can be annulled if the age limit is not met.

Law Number 16 of 2019 stipulates in Article 7 paragraph (1) that the legal age for marriage is 19 years for men and women. Therefore, marrying before that age is often considered a criminal offense. In addition, before taking part in the marriage, the bride and groom must obtain the consent of their parents or legal guardians, as stated in Law Number 1 of 1974.

However, based on Article 7 paragraph (2) of Law Number 16 of 2019, couples who are seeking a marriage license and both are under nineteen years old can submit a petition for relief. With strong reasons and evidence, any parent or grandparent spouse can apply for a dispensation for their child or grandchild to a religious court or district court. Thus, although early marriage is generally not allowed in Indonesia, the law provides room for its implementation through a dispensation mechanism, provided that all legal requirements are met.

## **Factors Causing Early Marriage**

Adella, et al. (2024) argue that early marriage can occur due to being influenced by various factors. These factors vary greatly, including:

### **1. Economic Factors**

Economic factors are often the dominant cause of marriage at a young age, especially among people with low economic levels. In difficult economic conditions, parents often find it difficult to meet their children's educational needs. In some cases, parents choose to marry their children early, arguing that marriage will reduce their economic burden. By marrying children, they assume that part of the responsibility for financing and maintaining the child will pass to the child partner. In addition, early marriage is also seen as a solution to reduce financial burdens, especially in families with many children. When parents find it difficult to finance their children's education or living needs, they see marriage as an alternative that can reduce their responsibilities to children.

On the other hand, this economic factor is also related to the lack of access or opportunity to obtain a better education. In many areas, especially in rural areas or areas with high poverty rates, educational opportunities for girls are limited. In such a situation, early marriage is seen as a way to ensure the future of the girl, even though in reality early marriage actually hinders

the child's educational and development opportunities.

## 1. Parent Factor

The role of parents is crucial in determining the direction and decision of marriage, especially in supporting and giving permission to their children in the occurrence of early marriage, especially in the culture of arranged marriage. In some communities, parents have a strong influence in determining the future of their children, including when it comes to choosing a life partner. In some cases, parents match their children with close relatives or people they deem suitable, with the aim of keeping them safe from anything potentially harmful, such as promiscuity or sexual relations before marriage. Sometimes, early marriage is also seen as a way to protect girls from various negative possibilities that can arise from uncontrolled associations. In addition, this matchmaking is often carried out for the reason of maintaining relative relationships or strengthening family ties. In certain cultures, marriage is considered a step to strengthen social and economic networks, as well as to maintain family honor. In this context, parents feel responsible for their child's marriage decisions and often urge the child to marry early for reasons related to the family's good name and social relations.

## 2. "Married by Accident" (MBA) Factor

Refers to marriages that are forced to be carried out due to pre-marital relationships that lead to pregnancy. In situations like this, the bride-to-be involved—especially the woman—often feel compelled to get married because of an unplanned pregnancy. This pregnancy is the main reason for getting married, due to social pressures and norms that require them to be responsible for these consequences. In this factor, early marriage occurs because of individual desires, but because of a social obligation to overcome situations that are considered incompatible with religious or cultural norms. Women who become pregnant out of wedlock often experience great social stigma, so marriage is a way out to avoid social punishment or condemnation from society.

Marriages that occur after these "accidents" are often not based on the physical and mental readiness of both parties. They are often not ready to go through marriage, let alone take care of children. So it will have an impact on larger family problems, such as divorce, domestic violence, or psychological problems in the young couple.

## 3. Cultural Factors

Local culture or traditions greatly influence the practice of early marriage. In some cultures, early marriage is considered a natural thing and is even considered a social obligation. In some societies, there is a view that marrying young is a widely accepted part of life's journey, especially for girls. This is often associated with social norms that consider marriage as a way to maintain family honor and strengthen social structures.

In some areas, early marriage is even seen as a form of respect for family and community traditions. If a girl does not marry at an age that is traditionally considered appropriate, then



they may be considered to have violated social norms. Teens may be pressured into marrying at a young age in an attempt to protect them from the consequences of more serious problems, such as criminality and promiscuity.

## **The Impact of Early Marriage on Social Psychological Impact**

Marriage at a young age often triggers a sense of mental and emotional unpreparedness on both sides. This mental unpreparedness can occur because adolescents tend to lack sufficient understanding of a marriage, healthy relationships, and how the adolescent manages conflicts that occur in the household. Teenagers in general lack psychological maturity in dealing with challenges that occur in a household. In addition, often early marriage has emotional unpreparedness because they are not able to control their feelings and emotions properly. Teenagers are generally still looking for identity or identity, so with the occurrence of early marriage, teenagers will have difficulty in communicating and solving problems that result in the marriage relationship not being harmonious and not feeling happy. From this unhappiness, there will be an emotional imbalance and there can be an outlet such as acts of violence and even thinking about ending the relationship or it can be called divorce. Divorce is a formal process that breaks the marriage bond through a legal mechanism. In addition to ending the status of husband and wife, divorce also has an impact on children in the family, especially those who are still teenagers (Bennet, 1994; Fajar et al., 2023).

## **Impact of Social Behavior**

Early marriage has a huge impact on social behavior, especially for women and men. For women, the impact of social behavior that occurs can cause them to be kept away from the environment they should be like school friends or peers, because marriage at a young age can limit a person in developing their own abilities, narrow the scope of association, and cause shame and fear due to social stigma related to pregnancy out of wedlock. The social impact that arises, such as shyness, often makes adolescents reluctant to get along with the surrounding community. Teenage pregnancy that occurs due to promiscuity can have social consequences, where this problem is considered to be resolved by marrying the couple involved (Ririn and Devi, 2021). After marriage, women tend to take care of the household so that it will reduce women's opportunities for personal development such as continuing education. On the other hand, men will also have a significant impact, because in essence married men will be responsible for the family that is run as well as providing sustenance as the role of the head of the family.

## **D. Conclusion**

Early marriage, which is usually caused by social and cultural factors, presents a variety of problems both at the individual and societal levels. Although Islamic law does not completely

prohibit early marriage, there are provisions that regulate the age and mental and physical readiness of the couple. According to Islamic law, careful preparation before marriage, including psychological and financial preparation, is essential. However, in a social context, early marriage has significant negative consequences, including increased divorce rates, reproductive health problems, and barriers for women to pursue education. The inconsistency between Islamic law and current state law, which often allows underage marriages with parental or court consent, makes this issue even more difficult.

The journal encourages increased public education about the consequences of early marriage and the importance of harmonization between national regulations and Islamic law to provide more protection to prevent early marriage, it is important to educate adolescents about marriage readiness and the importance of maintaining reproductive health.



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