

The Urgency of Legal Pluralism in Addressing Early Marriage in Indonesia

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Abstract

Legal pluralism lives in the midst of Indonesian society to this day, this condition is because Indonesian society still upholds customary norms and religious norms. This diversity has an impact on the benchmark for a person's maturity to enter into marriage. Each region has a different interpretation of the age and conditions for marriage. This research aims to see the urgency of legal pluralism to address the phenomenon of early marriage that still occurs due to various aspects of life. This research uses normative juridical method, which is a research method of principles and theories with data obtained from various data in the form of books, journals, documents, and relevant information to support the scientificity of this research. The results of this study are, 1) The high rate of early marriage is caused by hereditary conditions, low education, passive parents, and the influence of the local environment. 2) The urgency of legal pluralism is very important to address this phenomenon, because Indonesia is filled with three pillars of law, custom, religion, and law. In order to reach an agreement, legal pluralism is enforced.

Keywords: *Early marriage, Legal pluralism, Urgency.*

Abstrak

Pluralisme hukum hidup ditengah masyarakat Indonesia hingga saat ini, kondisi demikian karena masyarakat Indonesia masih memegang teguh norma adat dan norma agama. Keberagaman itu berimbas pada tolak ukur kedewasaan seseorang untuk melangsungkan pernikahan. Setiap daerah memiliki interpretasi berbeda-beda mengenai usia dan syarat pernikahan dapat dilakukan. Penelitian ini bertujuan untuk melihat urgensi pluralisme hukum untuk menyikapi fenomena pernikahan dini yang masih terjadi akibat berbagai aspek dalam hidup. Penelitian ini menggunakan metode yuridis normatif, yaitu metode penelitian asas-asas dan teori-teori dengan data diperoleh dari berbagai data berupa, buku, jurnal, dokumen, dan informasi yang relevan untuk mendukung keilmiahan penelitian ini. Hasil dari penelitian ini yaitu, 1) Tingginya angka pernikahan dini disebabkan oleh kondisi turun temurun, rendahnya pendidikan, orang tua pasif, dan pengaruh lingkungan setempat. 2) Urgensi pluralisme hukum sangat penting untuk menyikapi fenomena ini, karena Indonesia diisi oleh tiga pilar hukum, adat, agama, dan undang-undang. Guna mencapai kesepakatan maka pluralisme hukum diberlakukan.

Kata Kunci: *Pernikahan dini, Pluralisme hukum, Urgensi.*

Introductio

Criminality cases involving young couples are still part of the reality of life in society. Social media users can access the latest news about problems that have been committed by



young couples in less than 24 hours. As a result, there is a perception in society that young couples who do not have mental and physical readiness and economic stability who choose to have children are considered an intentional crime. This is not only a perception that is present due to community sentiment alone, but is also influenced by the cases of parents' crimes against children that are circulating.

Young couples have been found in many studies to be at higher risk than couples of an ideal age when establishing a household. Discussions about the risk of maternal mortality, *stunting*, abuse, violence to child neglect, and deprivation of children's rights to education, health, and a decent life. Scannapieco and Connell-Carrick (2016, p. 59) in their research explain that the perpetrator of violence against children in young families is a mother who is socially and mentally unable to provide good parenting due to inadequate age. Although this cannot be generalised to all teenage parents, motherhood at a young age is considered one of the causes of child maltreatment

Maltreatment committed by young couples has various motives, such as economic, psychological, health, environment and so on. The case of violence against children in 2024 was launched by iNews, namely a young couple in Bandung who had the heart to persecute their 14-month-old adopted child to death without a clear motive (Warsudi, 2024, p. 1). The news released by Tempo in January also shocked the Indonesian people regarding the discovery of the corpse of a 5-year-old boy full of wounds in a black sarong. This case attracted attention because the victim's parents were named as suspects, who were 19 and 20 years old respectively (Warsono, 2025, p. 1). According to Dr Indria Laksmi Gamayanti, Psychologist of FK-KMK UGM, child abuse is often committed by the closest person because they tend to have mental health disorders in themselves or are not emotionally mature (Juwita, 2024, p. 1).

Young marriage in Indonesia today still exists in the midst of a society that knows the various negative impacts through various information media. This condition occurs because the community is faced with interpretations of a person's readiness to marry in each region, especially in rural areas or among residents who still closely hold their customs regarding the criteria for a person's maturity to enter into marriage. For example, maturity in the Sasak Tribe is measured based on the ability to weave cloth and spin pearls (Fajriyah, 2016, p. 33-39), and the ability to climb betel nut trees like the Lintau Buo community (Fadhli, 2018, p. 100). This means that people in each region have their own standards about marriage according to their beliefs, norms and customs understood as laws that have lived with them since time immemorial.

Whereas looking at the positivism legal system adopted by the Indonesian nation, the point of truth is the regulatory text in the form of written legislation. Marriage has been regulated in such a way by the legal system in Indonesia through the Marriage Law (UUP) No. 1 of 1974, this law contains the age of the prospective groom 19 years and 16 years for women. Then in 2019 the age limit for prospective brides was equalised, as stated in the amendment of UUP No. 16 article 7 paragraph 1, "*Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years*". Examining the laws applied by the Indonesian nation, the issue regarding the risks of early marriage should have been resolved. Moreover, the revision of the minimum age of marriage is motivated by the high rate of child marriage in

Indonesia which is also accompanied by the divorce rate of women under the age of 18 and a low level of education (Rahmawati & Nuraeni, 2021 , p. 5).

According to Mohsi (2021, p.73) , the law adopted by the Indonesian people is based on or derived from three sources, namely customary, Western and Islamic law. All three contributed to the early formulation of Indonesian law, including marriage law, so it is not surprising that when opening the law, it is still very vulnerable to finding these three characteristics, although not explicitly. Researchers have explained that the behaviour of Indonesian society, which still leans on religious norms and customary norms, produces a system that reflects the diversity of cultures, values and traditions that live in state law which ultimately affects law enforcement. Simply put, this coexisting legal system is called legal pluralism.

There have been many studies on legal pluralism and early marriage, both by national and international researchers. Oktavia and Huda (2019), in their research entitled "Legal Pluralism and Policies Against Early Child Marriage in 2019", stated that the revision of the Marriage Law has not fully accommodated religious law and local wisdom. The state is considered not to fully recognise the concept of maturity according to Islamic law which is based on balig, not chronological age.

Another study by Winda Fitri (2020), entitled "Polemics Behind Early Marriage: Contradictions in Pluralistic Marriage Laws in Indonesia", found that legal contradictions in marriage can be prevented through synergy between government policies, parental awareness, and strengthening the role of education. She emphasised the importance of a collaborative approach to address the practice of early marriage in a plural legal system.

Internationally, Scannapieco and Connell-Carrick (2016) examined the correlation between early marriage and child maltreatment. They found that young mothers are more likely to become abusers due to emotional immaturity and lack of parenting preparedness, which poses a great risk to the well-being of children in young households.

Disantara (2021) argues that Indonesia's unique legal pluralism is an adaptive strategy to legal modernisation. He emphasises that recognition of the existence of customary and religious law needs to be integrated into the national legislative process to avoid alienation of local values that have long lived in society.

Natalia et al. (2021) examined the health impacts of early marriage and concluded that the practice increases risks to young women's reproductive health, including pregnancy complications, postpartum depression, and psychological disorders. These findings add an important aspect to understanding the multidimensional impact of early marriage.

This research presents a novelty by placing legal pluralism not merely as a social fact, but as a strategic instrument in formulating public policies that are relevant to the context of the plurality of Indonesian society. Unlike previous studies that tend to focus on conflicts between state law and religious or customary norms, this research highlights how legal pluralism can be used as a solutive bridging mechanism in addressing the complex and multidimensional practice of early marriage.

In addition, this research distinguishes itself by formulating six forms of legal pluralism urgency that have not been systematically explained in previous studies. These aspects include the protection of children and women, strengthening the values of Pancasila, dialogue between

legal norms, and local culture-based strategies in preventing early marriage. This research also raises contemporary social dynamics such as the influence of the media, changes in the younger generation's perception of marriage, and the high divorce rate of young couples as a factual background that reinforces the urgency of a plural approach.

Using a normative juridical approach accompanied by sociological reflection, this research confirms that regulation alone is not enough to overcome early marriage. An integrative understanding of the plurality of legal norms living in society is required. As such, this research provides a new contribution to the legal and social policy literature in Indonesia, as well as expanding the scope of locally-based solutions in addressing the challenges of early marriage.

Based on the above problems, researchers found academic anxiety related to the pluralism of marriage law and the social reality that occurs due to confusion in the application of rules in the field. The implementation of policies related to early marriage experiences new challenges every time, while legal pluralism is a dynamic process and will continue to work with other legal orders. The issue of marital legal pluralism is increasingly complex as times change, there are many gaps, problems, and the influence of new understandings about marriage. So the researcher is interested in studying the Urgency of Legal Pluralism in Responding to the Phenomenon of Early Marriage in Indonesia.

Research Method

This research aims to analyse the important role of the legal pluralism approach in overcoming the problem of early marriage in Indonesia, which involves the interaction between the state legal system, religious law, and customary law. The method used is normative juridical, which focuses on the study of legal principles, legal theories, and norms contained in laws and regulations. The data sources used are secondary legal materials collected through literature studies, such as books, scientific journals, and relevant official documents (Soekanto & Mamudji, 2003, p. 11-12). The analysis is conducted using a logical and normative approach, which emphasises the preparation of rational and structured legal arguments to assess the extent to which the application of legal pluralism can influence the formation and implementation of policies related to early marriage in Indonesia.

Result and

A. The Phenomenon of High Early Marriage Rates in Indonesia

Marriage is not just a bond between a man and a woman but also a process of uniting two families (Sukti, Munid, & Arifin, 2020). Marriage is a mature choice made by both parties to live in a household, because marriage itself is categorised as a scientific human instinct, on the other hand humans are social creatures who always need other people in their lives. In order to avoid various undesirable possibilities if human biological needs are not channelled marriage is regulated in such a way

According to Pelu and Tarantang (2021) marriage is held on the basis of the will of the prospective bride and groom, if there is coercion in the process or there is pressure from one of the parties then the marriage is considered invalid, and is not in accordance with the

purpose of marriage in Article 1 UUP No.1/1974, namely to form a happy and eternal family / household.

The above explanation reflects that Indonesia facilitates and regulates community marriage in statutory provisions. However, the implementation of marriage still refers to the laws of each religion and belief. The current rules are not intended to obscure the essence of marriage based on community customs, nor the readiness of an individual to marry according to the standards contained in their religious rules. This is influenced by the increasingly complex problems regarding marriage in Indonesia.

From time to time, the problems of marriage seem endless, even experiencing new challenges every time. Some time ago, a video on a social media page was widely discussed by the public. The video shows the action of Domestic Violence (KDRT) experienced by an *influencer*, later revealed that the treatment had been carried out by her husband for 5 years (CNN Indonesia, 2024, p. 1). When this issue became public, the hashtag *marriage is scary* was widely discussed. This tendency rose to the surface as the number of ideal age marriages in Indonesia declined.

Although the *marriage is scary* mindset is agreed upon by various parties, in fact the facts about the condition of Indonesian marriage *are* inversely proportional where the number of early marriages *is* higher than the number of marriages at the ideal age. This condition occurs because the rate of early marriage in Indonesia is still high (Pertiwi & Helim, 2024, p. 60). The statement discussed by the community, with the existing reality is in a different direction. Early marriage until now has caused problems and groups of pros and cons regarding this phenomenon.

In simple terms, early marriages are entered into by brides and grooms below the legal and social minimum age, or occur during the adolescent phase. often brings up various problems from various aspects, such as the tendency to try new things that can challenge adrenaline, although they often lack understanding of the consequences of these actions that can have an impact on their future. Low education, limited knowledge, and difficulties in obtaining decent work can affect the family's economy. Moreover, early marriages resulting from late sexual intercourse leading to pregnancy, as well as family rejection due to shame, can cause severe stress to pregnant adolescents (Syalis & Nurwati, 2020, p. 30).

Early marriage is a socio-economic phenomenon that still occurs in many developing countries (Yuniati, 2022, p. 72), including Indonesia. The government has taken steps to strengthen the protection of underage women with the aim of preventing them from falling into the practice of early marriage. One such effort was the revision of the Marriage Law in 2019 which raised the minimum age of marriage to 19 years, for both men and women. While this policy is a positive step in reducing the practice of child marriage, its implementation still faces significant challenges. Data shows that the national child marriage rate is still at an average of 8.64 per cent in the period 2020-2023, indicating that the policy has not been fully effective in tackling this phenomenon. (Budianto, 2024, p. 1).

The phenomenon of high rates of early marriage is inseparable from the culture that lives in society. Marriage is a sacred matter, a big commitment between a servant and His God when deciding to start a family. A Muslim is taught that marriage is the longest act of worship in a lifetime, it also regulates how to run a family, the role of the husband, the role



of the wife, the matter of maintenance to inheritance. Although in Islam a person's readiness to marry is not measured by age, it does not make the marriage requirement flexible for any Muslim who is biologically mature.

Nowadays, early marriages are organised to prevent children from being promiscuous. In addition, terms such as '*old virgin*' or '*bujang lapuk*', as unmarried people are called, cause fear. It is considered a disgrace to delay marriage for too long. On the other hand, low education also contributes to the number of early marriages

The thinking of Indonesian society is still confined to the continuity of the practice of early marriage in order to escape the economic shackles in the family. Parents with traditional thinking in each region explain that the maturity of a person who is ready to marry is not only measured by education, economy, or age because household happiness is created in their own way. The association of children and adolescents plays a major role in the phenomenon of high rates of early marriage, marriage is a way to get out of parental rules, prove independence, and pride for parents on the grounds that it is commonplace in their environment. Children who have made their choices, coupled with the passive attitude of their parents, early marriage can no longer be avoided

B. The Urgency of Legal Pluralism in Facing the Complexity of the Early Marriage Phenomenon in Indonesia

The diversity of legal systems in Indonesia, especially in the context of family law, cannot be separated from the inclusive attitude of the Archipelago towards the entry of foreign cultural influences into the archipelago (Manan, 2013, p. 78). The open attitude of the Archipelago towards the spread of foreign cultures influenced the changes that occurred in the original culture, which contained various legal norms. This acceptance of foreign cultures has led to the simultaneous existence of local and foreign norms in the life of the Archipelago. This practice is reflected in the application of various legal systems by Indonesian society, which in legal studies is known as legal pluralism (Nurtjahjo, 2010, p.)
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The term pluralism comes from the word "plural," which means plural or more than one. Pluralism refers to a state that reflects diversity, both in the context of social and political systems, indicating the existence of diversity in society. The word "plural" refers to something that is more than one, while "pluralist" refers to a category that indicates the number of more than one or two, especially in the context of materials or systems that have duality. Pluralism can be defined as the condition of a pluralistic society, in which different cultures can coexist, or as a state in which large and small groups can maintain their respective identities in society without having to oppose the dominant culture. (Bagus, 2002, p. 54 ; Ikram & Gassing, 2024, p. 30-34).

Legal pluralism in Indonesia began to be recognised since the era of the Dutch East Indies government. The fact that the indigenous people applied various legal systems encouraged the Dutch East Indies government to apply a uniform law for all indigenous people. Issues related to the Dutch East Indies government's policy in establishing a single legal system applicable to the indigenous people triggered experts to seek appropriate legal

formulations. From here, various discussions, both oral and written, emerged regarding customary law and Islamic law. (Murdan, 2016, p. 50).

This means that legal pluralism is not a new discussion among Indonesian people. Since the Dutch era until now, pluralism has been an inseparable part of the legal system, including the issue of early marriage. Local wisdom is likened to an important part that will forever be implemented and maintained, because its presence has become a habit for the community. Then this habit slowly transforms into customary law, mentioned so because customary law is basically part of the community

Essentially, the concept of legal pluralism refers to a situation where two or more legal systems operate and develop simultaneously in the same social sphere. This theory emphasises that customary norms, social norms, state law, and religious or ethical law can be applied simultaneously without hindering each other (Disantara, 2021, p. 5), with the aim of optimal interaction between the three norms (Ledvinka, 2020, p. 205). Legal pluralism is an attack on legal centralism (Naso, Bulte, & Swanson, 2020, p. 10), which is the idea that law is the only formal institution of the state.

The most interesting part of legal pluralism in Indonesia is in customary law and religious law, especially Islam as the religion with the largest adherents in Indonesia joins, making people who believe in it have an understanding that as a servant, they must obey the rules of Allah Swt. Oriented to this situation, the three pillars of Indonesian law, namely Adat, Islam and the State, have been practised simultaneously. This is reinforced by Ratno Lukito's opinion (2003, p. 47) that Muslim communities in Indonesia practice law dynamically, reflecting the diversity of norms that live in social life, the state is required to be able to accommodate Islamic law and customary law in the process of forming written law. Recognition of these two legal systems is important so that national regulations can reflect the local and religious values that have been deeply rooted in society.

Conceptually, legal pluralism can be understood as a condition in which social space is not solely dominated by state law, but is also coloured by the existence of various other normative systems that live in society. This diversity of legal systems has the potential to create harmony in social life, but on the other hand, it can also cause tension between legal norms that apply simultaneously. (Colchester & Chao, 2012, p. 10). Between harmony and tension is interpreted as a consequence of the existing legal pluralism, then a hot topic of discussion arises about the urgency of legal pluralism in dealing with the complexity of early marriage.

The impacts and risks of early marriage in today's sophisticated world are easy for people to access, but the choice to enter into it remains at a high percentage every day. The legal structure regarding marriage has also undergone changes, adjusting to conditions, understanding, and the state's efforts to suppress the rise of divorce. In fact, the divorce rate among young couples is as high as early marriage. These two events are in stark contrast amidst state law, customary law and Islamic law on marriage.

The amendment of the Marriage Law in 2019 to contain a minimum age limit of 19 years is concrete evidence of the government's efforts, through various authorities in it, so that underage marriage does not increase. But on the one hand, the renewal of legal positivism that is carried out will not release the existence of customary and Islamic law. So

that the urgency of legal pluralism to overcome early marriage includes *first*, showing the seriousness of the state as a protector of society through the adaptation of customs/customs and Islamic law. The plurality of the Indonesian nation indirectly affects life in society, so the formation of law needs to provide space to decide, make or implement laws.

Second, the existence of legal pluralism is in line with the heterogeneous conditions of Indonesian society, which consists of various cultures, ethnicities, races, and religions. In this context, the law acts as a regulative centre that aims to build legal awareness in society, especially in terms of marriage considerations that must be reviewed from various dimensions such as psychological, biological, educational, economic aspects, and stability in various sectors of life. Thus, the minimum age limit is understood as a chronological benchmark. If this is not done, it is likely that every community group, both among customary and Muslim groups, will marry according to their understanding and hereditary traditions. This condition will obscure the essence of marriage as the longest worship for life and will affect the continuity of the nation's generation due to the negative impact of marriage unpreparedness, such as maternal mortality, domestic violence, malnutrition, and so on.

Third, the implementation of the 5th principle of the Indonesian state foundation, Pancasila, which reads "*Social justice for all Indonesian people*", by accommodating various legal regulations that apply to various groups. Legal pluralism provides opportunities for everyone to obtain fair rights in the context of marriage but still prioritises the protection of children and women.

Fourth, legal pluralism allows for dialogue between religious law and state law to find solutions that respect religious freedom, while still ensuring protection for more vulnerable individuals, especially women and children from exploitation, abuse and health problems.

Fifth, legal pluralism can include different approaches in different regions, depending on the socio-economic and cultural conditions of local communities. For example, in areas with high rates of early marriage, customary and religious-based approaches can be combined with education and women's empowerment policies to combat early marriage more effectively.

Sixth, a plural legal system will strengthen people's understanding of the consequences of early marriage, namely psychological, social, physical health, postnatal depression, the risk of abnormalities in infants and the risk of reproductive diseases (Natalia, Sekarsari, Rahmayanti, & Febriani, 2021, p. 81), because in this case collaboration between the government, religious organisations and traditional institutions can encourage a more holistic approach through education and counseling on early marriage.

The urgency regarding the application of legal pluralism that the Indonesian nation is living is a contribution in regulating the various actions of the community which sometimes pivots on compliance with hereditary rules rather than state law. The problems faced by society today cannot be solved instantly through the application of legal pluralism, given the involvement of various legal systems that exist in social life. One of them is customary law, which has long been attached to society before the presence of other legal systems. Customary law is not just a regulation that applies in everyday life, but also an inseparable part of the traditions and social structures that have been formed since ancient times.

Therefore, the application of legal pluralism requires special attention to the diversity of existing legal systems, to prevent overlap or misalignment between the norms that apply in society (Panjalu, 2024 , p. 24).

Conclusion

Early marriage in Indonesia is influenced by a number of social and cultural factors. In the social context of society, marriage is often perceived as a preventive mechanism against behaviour, as well as an attempt to avoid the negative stigma attached to unmarried individuals of a certain age. In addition, the low level of education and traditional thinking that considers maturity is not only measured by education, economy or age. This phenomenon is also fuelled by the desire of children and adolescents to prove their independence and avoid parental rules. With parents' passivity in dealing with their children's decisions, early marriage becomes difficult to avoid. Therefore, efforts are needed to increase public education and awareness about the impact of early marriage in order to create an environment that supports more mature decisions in terms of marriage.

Legal pluralism in Indonesia reflects the diversity of cultures, races, ethnicities and religions that exist in society. However, the law should serve as a central guideline to raise people's legal awareness of the importance of considering various aspects-psychological, biological, educational, economic, and stability-in marriage. Setting a minimum age for marriage should be understood as an important measure to prevent marriage practices that are based on tradition and inadequate understanding. If this is ignored, there is a risk that community groups, both indigenous and Muslim, will continue unprepared marriage practices, which can obscure the meaning of marriage as an act of worship and negatively impact generational sustainability, such as increased risk of maternal mortality, domestic violence, and malnutrition. Therefore, it is important to educate the public and implement regulations that support healthy and marriage readiness.

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