



The Effectiveness of Dormitory Chess and Marriage Law in Preventing Early Marriage in Gianyar Regency

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Abstract

As the times progressed, marriages over the age of 10 in Gianyar reached 5151,344 people. Based on this data, the possibility of early marriage with an age range of 10-16 years in Gianyar Regency is still occurring according to the statistical data book entitled Gianyar in numbers 2020. Based on these data, it is necessary to conduct a form of scientific research related to the age limit regulated by law. 1 of 1974 with the effectiveness of the enactment of the law in regulating marriage. Several things are regulated, related to the ideal age for marriage, so that they are considered capable of establishing a household. This type of research uses empirical legal research that examines problems that arise in the field based on existing theories. With the results obtained, this research was carried out in Pejeng Kelod Village, Gianyar Regency. With the Regent Regulation No. 13 of 2017 concerning Child Marriage in Gianyar Regency which states the ideal marriage age is 19 years for boys and 16 years for girls. There are several factors that influence early marriage, such as economic factors, education, parents, biology and public perception. With the regulations set by the Regent, it is hoped that early marriage can decrease so that it can be prevented from happening.

Keywords: *Effectiveness of Law; Marriage; Early Marriage*

Introduction

Marriage is a very important thing for humans, which not only contains a civil relationship but there is a sacred element because it involves the relationship between God and humans as evidenced by the rules of every religion regarding marriage. Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead. So that it has the following elements: the emergence of a legal relationship between a woman and a man, to form a family, in the long term, carried out according to the law, religion and belief.

Looking at the elements above, in terms of marriage, age or maturity is needed which includes psychological and sociological. Ideally a good marriage, if a happy, eternal family is formed based on love, mutual affection, mutual understanding. However, not many are found in a marriage relationship that does not last long or there is a separation or divorce. One of them is because of limitations in

understanding the nature of marriage, the existence of violence between one partner, not being emotionally ready both physically and mentally, the entry of third parties and so on.

Marriage is a legal event, so legal subjects who carry out marriages must meet the requirements. One of these conditions is the ability to carry out legal actions, namely a person must be considered an adult which is measured based on a person's age. Prospective husband and wife must be prepared mentally and physically to be able to carry out a marriage in order to realize a good marriage without ending in divorce and obtaining good and healthy offspring. For this reason, marriages between prospective husbands and wives who are still underage must be prevented.

Marriage has a relationship with population problems. A lower age limit for women to marry results in higher birth rates. That's why the 1974 law stipulates the age limit for marriage for men is 19 years and for women 16 years. The stipulation of the age of 16 years for women to be allowed to marry means that it is seen as an adult requirement for a woman. With reference to this requirement, if the prospective bride is under the age of 16 years, then the person concerned is categorized as a minor and is not allowed to act under the law, including marriage.

Marriage at a young age is based on various factors. First, the lack of reproductive health education for adolescents. Second, economic factors, third, customs and traditions. Likewise, the impact of marriage at a young age is also very diverse, and which is certainly detrimental to the perpetrators themselves. Marriage at a young age has more disadvantages than benefits (Siti Musdah Mulia, 2006).

Early marriage causes various kinds of problems for the perpetrators. It is undeniable that the association of teenagers in this modern era has tended to approach promiscuity. Free sex, drinking alcohol, drug use become close friends for some teenagers. From some of the effects of promiscuity carried out by teenagers, free sex is the biggest contributor to early marriage. This underage marriage occurs because of free sex, whether it results in a pregnant or non-pregnant woman, or often referred to as an MBA, married by accident, marriage by accident.

If the premarital relationship does not cause the woman to become pregnant, then usually the parties do not proceed to the level of marriage. However, if from the premarital relationship the woman becomes pregnant, then as a form of responsibility, marriage must be carried out. A person's adult age essentially contains elements related to whether or not a person can be responsible for the legal actions he has committed. This fact gave birth to two legal problems: first, the harmonization of law between one legal system and another; second, the challenge to marriage law legislation in Indonesia related to underage marriage (Hukum Online, 2020).

Marriage at an early age triggers the high rate of maternal and child mortality. Given that early marriage has become a special target in the Sustainable Development Goals (SDG's) by 2030, it is hoped that there will be no more child marriage practices (Sonny Dewi Judiasih, 2018). National statistics on underage marriages with brides under the age of 16 reach more than a quarter. The existence of restrictions on the age of marriage for both men and women is expected to reduce the birth rate to a minimum.

The existence of this age restriction with the aim that the bride and groom fulfill the noble goals of the marriage carried out. Article 7 paragraph (2) of the 1974 Marriage Law provides space to carry out marriages under the pretext of marriage dispensation for those who do not meet the minimum age requirements, so that it becomes a gap for child marriage (Musyarrofa Rahmawati, et al, 2018). Basically, the determination of the age limit for marriage is intended for profit and goodness, especially for the prospective bride and groom. Limiting the age of marriage is also carried out with the aim of improving the quality of Indonesia's human resources. By limiting the age of marriage, it is hoped that Indonesian

children can get a longer period of education so that in the future they will be able to improve the quality of Indonesia's human resources.

The effectiveness of the age limit provision is the responsibility of the apparatus, such as the Village Head, Marriage Registrar Employees (PPN) and the Religious Courts. Today's marriage is related to the 1974 Marriage Law. If there is an early marriage, of course, the bride and groom who are still under age will be refused to marry by the Marriage Registrar (PPN) or at the District Religious Affairs Office (KUA) where he lives. and in order to achieve the goal, the matter is then submitted to the Religious Court to obtain a marriage dispensation, to obtain a permit to marry underage. This marriage dispensation can be an introduction for prospective brides to carry out their marriages so that they are legal in the eyes of the law.

But in reality, not a few people also do not ask for a marriage dispensation to the Religious Courts, they only marry religiously, or directly register marriages, the dispensation application does not reach the Religious Courts. They only take care of it down to the village level or increase the age of the prospective couple who will get married. So that they no longer apply for a request for dispensation from the Court based on Article 7 paragraph 2 of the Marriage Law of 1974. Early marriage or underage marriage in Gianyar Regency is quite high and needs attention, because ideally marriage according to the 1974 Marriage Law is male. - 19 years old boy and 16 year old girl.

Based on data from the population census in 2020 conducted by the National Statistics Agency, the population in Gianyar Regency is 5151,344 people. Based on this data, the possibility of early marriage with a vulnerable age of 10 (ten) years to 16 (sixteen) years in Gianyar Regency still occurs (Gianyar in Figures 2019). To find out more specific data regarding the number of early marriages in Gianyar Regency, it is necessary to conduct a form of scientific research related to the marriage age limit regulated by law related to the effectiveness of the law in regulating marriage based on the ideal age, so that it is considered competent in perform legal actions. Based on the explanation above, the author is very interested in researching this further in the form of studies and scientific presentations with the title: "The Effectiveness of Dormitory Chess and Marriage Law in Preventing Early Marriage in Gianyar Regency".

Research Methods

Data Types and Sources

In general, in legal research there are several kinds of approaches, namely the Case Approach, The Statute Approach, The Fact Approach, the Analytical & Conceptual Approach Phrase, Historical Approach, and Comparative Approach. Meanwhile, in this study, a research approach is used in the form of the Statute Approach and the Fact Approach.

Research Instruments

Data collection of a research conducted by various research methods such as observation, interviews, literature study and documentation, requires a tool as an instrument. The instruments in question are cameras, cell phones for recorders, pencils, ballpoint pens, books and drawing books. The camera is used when the author makes observations to record important events in an event either in the form of photos or videos. Recorder, is used to record sound when collecting data, either using interviews, observation, and so on. While pencils, ballpoints, books, and drawing books are used to write or describe data information obtained from resource persons.

Method of Collecting Data

According to Soejono Soekanto, in research it is usually known that there are three types of data collection, namely the study of documents or library materials, observations or observations, interviews or interviews (Soejono Soekanto, 1990). Interview techniques (Interviews) are used to collect primary data by preparing questions to respondents and informants related to research problems. While the document studies technique is used to collect secondary data as a first step in any legal research and as primary data support to solve research problems.

Results and Discussion

Overview of Research Sites

The research location is in Gianyar Regency, because it is known (based on observations) that there are quite high cases of early marriage in Gianyar Regency. The location of this research was chosen for reasons that have been explained as in the background of the problem, namely the problem of the effectiveness of the Marriage Law in preventing early marriage and what are the legal consequences of early marriage.

Gianyar Regency is one of the centers of carving culture in Bali, with a population of 5151,344 people based on the results of a population survey in September 2020 according to the book Gianyar in Figures 2021. The rate of population growth tends to slow down, and the percentage of the elderly population increases. Gianyar Regency is concerned with the protection of women and children and seeks to reduce the rate of population growth, one of which is by preventing early marriage. Gianyar Regent Regulation Number 13 of 2017 concerning Prevention of Child Marriage in Gianyar Regency seeks to prevent first marriage at an early age with programs, activities, social actions that involve the participation of the community and parents.

Pejeng Kelod Village is one of the villages located in Tampaksiring District, Gianyar Regency, Bali Province, Indonesia. Pejeng Kelod Village consists of 7 (seven) Banjar Dinas and 5 (five) Pakraman/Indigenous Villages. Banjar Dinas in Pejeng Kelod Village include Banjar Gepokan, Banjar Sawagunung, Banjar Kelusu, Banjar Bitra, Banjar Gubat, Banjar Pacung, Banjar everyi. The Pakraman/traditional villages in Pejeng Kelod Village are Gepokan Pakraman Village, Sawagunung Pakraman Village, Kelusu Pakraman Village, Semagading Pakraman Village and Patemon Pakraman Village.

Based on the data sources obtained, the population of Pejeng Kelod Village is 3,122 people, consisting of 1,586 men and 1,536 women (Gianyar in Figures 2019). Traditional village awig-awig does not regulate private matters, but rather regulates public matters such as population, environmental conservation, settlement of cases, customary affairs or anything related to religious activities. In these four villages, it is indicated that there are several cases of marriage at a young age. Socio-economic conditions of education level affect this. Early marriage in Gianyar Regency is quite high, various factors can influence this.

The regent's regulation is expected to reduce the number of early marriages in Gianyar Regency. Early marriage in Gianyar Regency tends to be covered up and there are very few complaints regarding reporting or disapproval of women in giving marriage permits to their underage children.

Setting the Age Restriction for Marriage in Gianyar

a. Age Limits for Marriage According to Hindu Law and Balinese Customary Law

The purusa (patrilineal) family system adopted in Balinese family law (dresta Bali) is very important in its influence on marriage law for Hindus in Bali. Based on research in the field and based on Awig-awig Kelusu Traditional Village, Gepokan Traditional Village, Patemon Traditional Village, Seme Gading Traditional Village, there has been no regulation regarding the age limit of a person, both female and male, to marry. According to Hinduism and customary law in Bali, to determine a person's maturity is not seen in terms of age. A man is considered an adult when he is able to carry out social tasks in the Banjar (village) or has been working, while a woman is menstruating (menstruating).

When viewed from the provisions of Hinduism, a woman who is an adult is a woman who has *menek dehe* or is king of *selela*. Age requirements to be able to marry, for women and men are adults, there is no definite provision for the size of this age. In society, it is generally known as "*menek bajang*", after women have their first month, and after men change their voices (*ngembakin*).

Since the enactment of Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law), various implementing regulations have been made. All of these regulations in the field of marriage can be seen as the National Marriage Law which applies to all regions and Indonesian citizens. Thus, the principles and material of the law automatically apply to Hindus in Indonesia, including Hindus in Bali. However, it should also be noted that the Marriage Law is a unique legal unification because it still respects and respects the diversity of the socio-cultural conditions of the Indonesian people.

Through Article 2 paragraph (1), the implementation of marriages, especially those related to the validity of marriages, is left to regulate according to the laws of each religion and belief. Thus, the diversity of religions adopted by the Indonesian people will color the implementation of the Marriage Law. In many areas, especially for Hindus in Bali, the implementation of marriage will also be colored by the enactment of customary law, in addition to being difficult to separate between custom and religion, marriage law is also strongly influenced by family law which is still controlled by customary law.

Basically, not all prospective husband and wife couples can get married; only couples who have met the requirements to carry out a marriage regulated in the provisions of the legislation can carry out a marriage. The conditions for couples wishing to marry are regulated in Article 6 and Article 7 of the 1974 Marriage Law. In this provision, two conditions are specified for marriage, namely internal conditions and external conditions. Internal requirements are the conditions concerning the party who will carry out the marriage.

A marriage can be declared valid, apart from being based on religion, it must also fulfill the requirements contained in the law. Based on the Civil Code, the conditions for a valid marriage are divided into two groups, namely:

1. Internal requirements/material requirements/subjective requirements, which are differentiated into absolute and relative, which are contained in Articles 27 to 40 of the Civil Code;
2. External requirements/formal requirements/objective requirements, which are contained in Articles 50 to 84 of the Civil Code.

Conditions determine a legal action, especially regarding whether or not the act is legal from a legal point of view. The terms of marriage should not be abandoned, the marriage becomes invalid if these conditions do not exist or are incomplete. Conditions are something that must be met before the

marriage is carried out. Based on the Marriage Law, there are two kinds of conditions for marriage, namely material requirements, which are conditions attached to each party, also called subjective conditions, and formal requirements, namely regarding the procedures or procedures for carrying out marriages according to religious law and the law. also objective requirements (Abdulkadir Muhammad, 2000).

The terms of marriage (material requirements) are regulated in Articles 6 to 12 of Law Number 1 of 1974 concerning Marriage. Formal requirements are requirements related to formalities regarding the implementation of marriage. The formal requirements are explained in the Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of the Marriage Law Article 3 paragraph (1) which reads:

"Everyone who will carry out a marriage shall notify the Registrar of his wishes to the Registrar at the place where the marriage will take place"

Legitimate means something that meets all the conditions, in addition to the absence of obstacles, otherwise, it is considered null and void. A legitimate legal act has legal implications in the form of rights and obligations. The same applies to legal acts of marriage. From a legal marriage arises the right to get along as husband and wife, the right to inherit each other, the obligation to provide for children and wives, and so on. The requirements for a valid marriage according to the Marriage Law are contained in Article 2 paragraphs (1) and (2), namely:

- 1) Marriage is legal, if it is carried out according to the laws of each religion and belief;
- 2) Each marriage is recorded according to the applicable laws and regulations.

The requirements to enter into marriage for those who have not yet reached the age of 21 (twenty one) years, must obtain permission from their parents or the court. Someone who is an adult (according to Balinese customary law) when married does not require parental permission. Considering that in Bali there are known marriage registrar institutions such as civil records, to overcome the difficulties in implementing the marriage registration, a decree was issued by the Governor of the Head of the Level I Region of Bali as stated in Decree No. 61/Kesra II/c/504/75 dated September 29, 1975 concerning the appointment of Camat as a marriage registrar for Hindus and Buddhists. In the decree, it has been regulated about:

1. Appointment of sub-district heads throughout Bali as marriage registrar employees for Hindus and Buddhists.
2. Camats have the duty and authority to register marriages and make marriage certificates.

The Decree has been amended several times and the last one is the Decree of the Governor of Bali No. 233 of 1990 dated 26 May 1990 concerning the appointment of the head of sub-district government affairs and the bendesa adat/kelian adat at the village level as assistants to register marriages for Hindus in the Level I area of Bali. A fact that, nowadays people are still lazy to report or register their marriage. With this decree, the validity of marriage according to Balinese customary law after the enactment of Marriage Law No. 1 of 1974 a marriage is considered valid, if a religious ceremony has been carried out and is administratively registered through a marriage registration institution.

b. Marriage Age Restrictions According to National Law

Underage marriages can be interpreted as marriages carried out by people who have not entered the age of marriage. Underage marriage is not a new thing, and it can be legal to carry out, but by

fulfilling certain requirements, as regulated in Law No. 1 of 1974 concerning Marriage. Therefore, it can be said that underage marriage is a marriage which according to law cannot be carried out freely.

The regulation of the minimum age for marriage as stated in the Marriage Law represents a cohesive relationship between the interests of the state and religion. The minimum age for marriage was initially not institutionalized, then emerged in a new form in the form of regulations that must be agreed nationally, even as a condition for marriage according to the state.

Regarding the determination of age in marriage according to Law no. 1 of 1974 can be concluded in Article 7 paragraphs 1 and 2 as follows: a. Marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years. b. In case of deviation from paragraph (1) of this article, you can request a dispensation from the court or other official appointed by both parents of the woman. In the Civil Code, it is explained in article 29 as follows: "A boy who has not reached the age of 18 years, as well as a girl who has not reached the age of fifteen years is not allowed to bind herself in marriage". Meanwhile, in the case of important reasons, the president has the power to remove this prohibition by granting a dispensation. The provisions regarding dispensation in this article are no longer valid. As stated in the explanation of article 7 paragraph (2) of Law no. 1 of 1974 the provisions of the dispensation governing the granting of dispensation to marriage as regulated in the Civil Code are no longer valid with the enactment of Law no. 1 of 1974 concerning Marriage.

Law No. 1 of 1974 concerning marriage, stipulates that the determination of the age limit of 19 years for men and 16 years for women to be able to carry out marriages is based on physical maturity (physical), spiritual maturity, or psychological (psychic). So it is expected that a man and a woman at that age limit have been able to understand the consequences of the implementation of marriage and have the responsibility to be able to foster a happy family, in accordance with the goals expected by the marriage law. Marriage is not only an outward bound but also an inner bond of husband and wife in a happy and eternal life partnership. The age of marriage is also related to the maturity of the age of husband and wife, within that age limit it can be carried out properly, in fostering family welfare, and in their social interactions.

If we compare the provisions in Article 29 of the Civil Code, the determination of age in a marriage is for men 18 years and for women 15 years. The size for determining the age limit in the Civil Code is based solely on the biological function of a man and a woman. Where at this age limit a person is considered to have matured to carry out a marriage, so that if they carry out a marriage it is expected that from the marriage children can be born. The basis for determining age in marriage can be said to be based solely on one's physical maturity or one's biological function.

The Effectiveness of Setting Marriage Age Limits in Gianyar Regency

a. Factors Affecting Early Marriage

Along with the development of the era of underage marriages, it is increasingly common and this incident is caused by various factors that arise in society, both in rural and urban communities, although the law has prohibited carrying out underage marriages, dispensation for a marriage is still given to children by the government. court institution filed by the child's parents.

Many factors affect underage marriage, one of which is an urgent economic factor (poverty). Many parents from poor families think that marrying their children, even though the children are still underage; will reduce the economic burden on the family without thinking about the positive or negative impacts. Based on the results of an interview on December 16, 2020 to Mr. A.A Made Putra Wirawan as Legal and Advocacy Division, Center for Integrated Services for Women and Children Empowerment,

the main causes of early marriage are the desire to be able to immediately get additional family members; lack of understanding about the bad consequences of marriage too young, both for the bride and groom themselves and their descendants; external cultural factors and the influence of promiscuity.

Based on the results of an interview on December 16, 2020 to Mr. A.A Made Putra Wirawan as the Legal and Advocacy Division, Integrated Service Center for Women and Children Empowerment, the occurrence of young marriages is caused by family economic problems; the girl's parents ask the male family if they want to marry their daughter; that with the existence of such child marriages, in the girl's family there will be less than one member of her family who is responsible (food, clothing, education and so on).

- 1) Economic factors, the lack of economics causes parents to marry off their children at a young age, rather than sending their children to a higher level. Parents who have many children will tend to experience more financial difficulties when compared to those who have few children. And marriage at this young age often occurs in people who live in villages. Usually children come from underprivileged families. This will certainly have an impact on both the children and their parents. The child can get a decent life and the burden on his parents can be reduced.
- 2) Educational factors, the low level of education and knowledge of parents, children and the community, cause a tendency to marry off their underage children. Factors dropping out of school caused by the low level of public education. Most of the dropouts are caused by the poor family economy and the influence of the environment, as well as the desire of the child not to go to school. In fact, they say it is better to work that can make money than a school that is not necessarily successful and even costs parents' money.
- 3) The factor of parents who are worried about promiscuity, because their daughter is dating a man who is very clingy so they want to marry their child immediately. Factors pregnant out of wedlock, social factors, namely many children who are pregnant out of wedlock and caused by the free cultural association they get through the features of the internet that makes them want to try it. The influence of the internet which often contains pornographic sites or displays pornography. They only promote the desire to imitate what is seen without doing any filtering. Factors of pregnancy outside of marriage commonly referred to as unwanted pregnancy. Unwanted pregnancy is a condition where the couple does not want the birth of a pregnancy. And this happens due to promiscuity, which is known as starting from premarital sex or free sex.
- 4) Biological Factors, one of which arises because of the Mass Media and Internet Factors above, with easy access to this information, children become aware of things that they should not know at their age. The mass media, the incessant exposure of sex in the mass media causes modern adolescents to become increasingly permissive of sex. So, there is an extramarital relationship that can lead to pregnancy out of wedlock.
- 5) The perception factor in society is that marriage at a young age occurs because parents are afraid that their child is said to be an old virgin so that they are immediately married.

Based on the results of an interview on December 16, 2020 to Mr. A.A Made Putra Wirawan as the Legal and Advocacy Division, Center for Integrated Services for Women and Children Empowerment, the internal factor for the occurrence of underage marriage is internal factors (self-will). Factors that affect marriage at a young age can come from internal, namely factors that come from within the individual. The desire of children who choose to marry of their own volition because they are mentally ready to face married life. This couple got married because of the feeling of mutual love and already feels compatible. This condition finally makes the decision to get married at a young age without thinking about what problems will be faced in the future. In addition, children marry at a young age because of the child's self-concept. They assume that having married at a young age does not make them feel inferior or insecure either in society or in their association. Only a few of the children limit their relationship after marriage because they already have the responsibility to take care of the household.

In addition to the desire of oneself, another factor that encourages children to marry at a young age comes from the wishes of their parents. Parents have the highest position compared to others to be respected, obeyed, and obeyed. Parents want their children to get married soon because of the fear from within the parents if their child one day does something that will embarrass the good name of the parents. In addition, there are also those who marry off their children so that they can be helped in terms of work. Support from parents that affects marriage at a young age where parents are worried that their children will engage in promiscuity and be free from responsibility in the event of pregnancy.

b. The Effectiveness of the Marriage Law in Preventing Early Marriage in Gianyar

Prevention is an effort used to avoid the occurrence of marriages that are contrary to the provisions of the law. A marriage can be prevented if there are parties who do not meet the requirements to carry out the marriage. The parties who can prevent marriage are families in a straight line up and down, relatives, marriage guardians, guardian guardians of one of the prospective brides. They can also prevent the marriage from taking place if one of the prospective brides is under guardianship, so that with the marriage, it will cause misery for the other prospective brides.

The Marriage Law also provides an opportunity for the wife or husband of one of the prospective brides who are still bound by marriage to one of the prospective brides to prevent the marriage from taking place, of course by paying attention to the permission for polygamy. In addition, the party who can prevent marriage is the appointed official, in the event that:

- 1) The male party has not reached the age of 19 (nineteen) years and/or the female party has not reached the age of 16 (sixteen) years.
- 2) There is a ban on marriage.
- 3) One or both of the prospective bride and groom are still bound by marriage to another person.
- 4) The two prospective brides were first husband and wife who had been divorced, then remarried, then divorced a second time.
- 5) Non-fulfillment of the procedures for the implementation of marriage.

Marriage prevention is submitted to the court in the jurisdiction where the marriage will take place by notifying the marriage registrar. Furthermore, the marriage registrar will notify the prospective bride and groom of the prevention of marriage. The prevention of marriage can be revoked by a court decision or by withdrawing the petition for prevention to the court that prevented it.

The effectiveness of the application of a rule is influenced by various factors, as stated by Soerjono Soekanto in the Theory of Legal Effectiveness, namely, whether or not a legal rule is effective is influenced by the following factors, First; the legal factor itself (law). Second; law enforcement factors, namely the parties that form and apply the law. Third; factors of facilities or facilities that support law enforcement. Fourth; community factors, namely the environment in which the law applies or is applied. Fifth; cultural factors, namely as a result of work, creativity, and taste based on human initiative in social life. In addition, it refers to the principle of effectiveness theory from Hans Kelsen, where legal reality means that people should behave or act in accordance with the rule of law. According to Soerjono Soekanto, from several factors that influence the effectiveness of a legal rule, the effectiveness of the regulation regarding the minimum marriage limit contained in Law Number 1 of 1974 concerning Marriage will be studied.

Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage regulates the minimum limit for marriage. Which was originally in Law Number 1 of 1974 for men 19 years and women 16 years, after being revised into Law Number 16 of 2019 the minimum age for men and women became 19 years. Based on the results of an interview on December 16, 2020 to Mr. A.A

Made Putra Wirawan as the Legal and Advocacy Division, the Integrated Service Center for the Empowerment of Women and Children, it is very necessary to increase its efficiency in terms of maturing the age of marriage in the community, such as through socialization.

If from the government of Gianyar Regency there are no steps that make functionally efficient regional regulations to regulate the minimum marriage limit, it will only increase the graph of the number of early marriages in Gianyar Regency. Why is that, what was originally a marriage that occurred at the age of 17 or 18 years was not an early marriage, but after the enactment of Law Number 16 of 2019 marriage at that age was included in the category of early marriage. Because if the age of marriage is too low, it will have a negative impact on the country, namely causing a high rate of population growth.

With the change in the minimum age limit for marriage in Law Number 16 of 2019 the graph of the number of underage marriages has increased, because previously Law Number 1 of 1974 set the minimum age for marriage at the age of 17 and 18 years. With the enactment of Law Number 16 of 2019, the category or age group at the time of marriage will certainly increase graphically due to differences in the age limit for marriage. The minimum age limit for marriage, which is 19 years for both men and women, in Law Number 16 of 2019 has not been implemented and implemented optimally. Because with the implementation of the law, underage marriages are more common than when the age limit for marriage was imposed in Law Number 1 of 1974. This is due to the lack of public awareness of the importance of limiting the minimum age of marriage for the welfare of the bride and groom in the future.

To support that Law No. 16 of 2019 is implemented effectively, the Integrated Service Center for the Empowerment of Women and Children with the help of extension workers has made efforts such as socialization. The socialization is carried out directly to the community or through village officials. But in doing socialization is impossible if there are no obstacles. There are so many obstacles faced by extension workers, including the number of promiscuity, parental factors, and economic factors and also the lack of socialization. The limited number of extension workers who are not proportional to the size of their work area causes the general public to not understand the importance of maturing the age for marriage.

Although there are many factors that hinder the effective implementation of Law Number 16 of 2019, the Center for Integrated Service for the Empowerment of Women and Children and the community must work together to stop the rise of cases of early marriage. Because the negative impact is very dangerous. The public awareness of the importance of regulation of the minimum marriage limit is needed. Thus, the community has helped streamline the regulation of Law Number 16 of 2019.

In terms of regulations, the dispensation is contained in the Marriage Law No. 1 of 1974 Article 7, Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law no. 1 of 1974 concerning Marriage, Regulation of the Minister of Religion of the Republic of Indonesia Number 11 of 2007 concerning Marriage Registration Article 8, all of these regulations state the need to obtain dispensation from the Religious Courts before carrying out marriages for prospective underage brides. The age limit stipulated by the Marriage Law to carry out marriages in Article 7 paragraph 1 is that women are 16 years old and men are 19 years old. However, in reality not all prospective underage brides get dispensation from the Religious Courts before getting married.

Based on the results of an interview on December 16, 2020 to Mr. A.A Made Putra Wirawan as the Legal and Advocacy Division, Center for Integrated Services for Women and Children Empowerment, regarding early marriages that occurred in Gianyar Regency from 2017 to 2020, it was found that there were 68 cases of early marriage. The number of dispensation cases in the period 2017 to 2020 was 18 cases, so not all those who marry underage get dispensation from the Court. Of the 68 early marriages that occurred in Gianyar Regency, only 18 marriages requested dispensation to the Court first.

Only a few of the underage married couples get dispensation. In fact, this dispensation is needed as a ticket given by the judge to the prospective underage bride to carry out the marriage. Dispensation is basically a softening of the barriers that prohibit or cancel a marriage in a special case or concessions granted by the Court to the prospective bride and groom who are not yet sufficient to carry out a marriage or marriage that should not be carried out but due to certain reasons or certain reasons must be given a dispensation by the Court.

The effectiveness of the law if viewed from the juridical social aspect can examine the effectiveness of the application of the dispensation rules in the Marriage Law Number 1 of 1974 both in terms of legal material, legal instruments, and supporting facilities for implementing the law as well as legal compliance and community behavior. This view is in accordance with the theoretical basis put forward by Soerjono Soekanto that the effectiveness of the rule of law is effectively determined by the harmony of four indicators, namely, the law or regulation itself, the metallicity of law enforcement officers, supporting facilities for law enforcement, and legal awareness, legal compliance and public behavior. In addition, the firmness of sanctions from a rule can support the effectiveness of a rule. As stated by Leopold Pospisil regarding the attribute of law, one of them is the attribute of sanctions which determines that decisions from the ruling party must be issued with sanctions based on the power of the people who real.

The application for a marriage dispensation is submitted by the parents of the prospective bride and groom who are not yet old enough to the Court in the applicant's jurisdiction, after examining the trial and believing that there are things that allow for a minor marriage dispensation to be granted with a stipulation. The proceedings for this dispensation application use a civil procedure process which is usually called a voluntary case, where in the case of a volunteer involved in the application only unilaterally, namely the applicant himself, the process of examining the application is only unilateral or ex-parte. The implementation of underage marriages is carried out without dispensation from the court. So that it can be seen that the effectiveness of the Marriage Law in Gianyar Regency has not been implemented effectively, because there are still cases of underage marriages. And the marriage dispensation mandated by law is not implemented.

Implications for the Age Limitation for Marriage in Gianyar

Marriage is a legal act that has legal consequences. Whether or not a legal action is legal is determined by positive law in the field of marriage, namely Law Number 16 of 2019 j.o Law Number 1 of 1974 concerning Marriage Underage marriage is a birth bond the inner relationship between a woman and a man as husband and wife with the aim of forming an eternal and happy family which is carried out by a prospective husband or wife at an early age.

Law Number 16 of 2019 j.o Law Number 1 of 1974 concerning Marriage and various other related laws and regulations have regulated the minimum limit for a person to be able to hold a marriage and the obligation to register marriages with the Marriage Registrar. However, in reality there are still many practices of underage marriages and unrecorded marriages that occur in the Gianyar Regency. According to Article 7 paragraph (1) of Law Number 16 of 2019 j.o Law Number 1 of 1974 concerning marriage, regulating marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen years. The validity of a marriage is determined by the provisions contained in the law as regulated in Article 2 of Law Number 1 of 1974 concerning Marriage.

The provisions on the age limit for marriage in the Marriage Law regarding the age requirements of 16 years for women are actually not in accordance with Law Number 23 of 2003 concerning Child Protection. A person who is categorized as a child is someone who is not yet 18 years old, so that the adult provisions according to the Child Protection Act are 18 years. The Child Protection Act stipulates

that parents are obliged and responsible to prevent marriage at the age of children. The principles adopted by the Marriage Law and the Child Protection Act, although the two laws specify different ages in determining maturity, do not want underage marriages to occur.

Based on the law in force until now, there is no understanding of adults and minors. Law Number 1 of 1974 concerning Marriage, only regulates parental permission for people who will carry out marriages if they have not reached the age of 21 years, meaning that men and women who want to marry must obtain parental permission if they are not even 21 years old, the minimum age to be allowed marry, namely 19 years old and women 16 years old, children who have not reached the age of 18 years or have never been married, are under the control of their parents, are under the authority of a guardian. There are no provisions governing minors and adults in the law the law also do not explicitly prohibit underage marriage.

Article 7 of Law Number 1 of 1974 concerning Marriage states, to be able to get married, men must have reached the age of 19 years and women have reached 16 years. However, deviations from the age limit can occur if there is a dispensation granted by the court or other official appointed by both male and female parents. The marriage law provides tolerance for every citizen whose age limit is not sufficient with a letter of dispensation from the court or other official appointed by both male and female parents. Perpetrators and parties involved in underage marriages will be difficult to criminalize without looking at the aspects of the causes (reasons), the process and purpose of the marriage.

Underage marriage according to Law Number 1 of 1974 concerning Marriage is limited by age. This means that every man and woman who has not reached the stipulated age limit may not enter into marriage. If the marriage takes place under this age limit, then the man and woman can be declared to have married under age.

Every legal action creates a legal consequence between husband and wife after the marriage is carried out. As happened in the marriage of minors. Minors who get a marriage dispensation may carry out marriages even though they are still underage. So that the legal consequences after a child carries out an underage marriage is that the child is considered an adult and is considered capable of carrying out a legal act or he is no longer under the care of his parents. After the child is married, then the child becomes pregnant and gives birth to a child, then the child becomes a legal child as a result of being married off. And if the child is married and then the child is born as a legitimate child, then a civil relationship arises between the parents and the child on the marital property. The meaning of a legitimate child here is because at the time he was born he had a father and mother and from the result of a legal marriage as well.

The age of marriage is too young can lead to increased divorce cases due to lack of awareness to be responsible in married life for husband and wife. Successful marriages are often marked by a willingness to take responsibility. Once they decide to get married, they are ready to bear all the burdens that arise as a result of the marriage, whether it involves providing a living, children's education, or relating to protection, education, and good relationships.

The age of marriage is too young, it is vulnerable to domestic violence, because of limitations and immaturity to marry, girls who are forced to become a wife at a very young age do not have a strong bargaining position with their husbands, so they are very vulnerable to becoming victims and targets of domestic violence. Likewise, boys who marry at a young age, because of limitations and emotional immaturity for marriage will tend to become perpetrators of violence.

In terms of positive law in Indonesia, this is actually a violation of children's rights. Violating children's rights to grow and develop, socialize, learn, and enjoy their childhood. It's not right because it's psychologically time to play. Legal arrangements regarding marriage have applied equally to all citizens;

therefore, every citizen must comply with applicable laws, including the marriage law which is the basis for creating legal certainty, both in terms of family law, property, objects and legal consequences. a marriage (K. Wajik Saleh, 2012). In civil law, the element of age has an important role because it is associated with the ability to act and the birth of children's rights.

With the age limit for holding marriages, it is hoped that all members of the community know and understand the provisions of the legislation, so that from there people will not be in a hurry to hold marriages or marry off their children who are still under the provisions of existing laws and regulations. Because in accordance with the reality that underage marriage usually will soon have children while they are still in their productive age, it is conceivable that the rate of population growth will soar rapidly.

The legal consequences after a child is married are underage, namely the child is considered an adult and is considered capable of carrying out a legal act, or he is no longer under the care of his parents. After the child is married, then the child becomes pregnant and gives birth to a child, then the child becomes a legal child as long as he gets married as a result of being married off.

Conclusion and Recommendations

Conclusion

1. Every legal action creates a legal consequence between husband and wife after the marriage is carried out. As happened in the marriage of minors. Minors who get a marriage dispensation may carry out marriages even though they are still underage. So that the legal consequences after a child carries out an underage marriage is that the child is considered an adult and is considered capable of carrying out a legal act or he is no longer under the care of his parents. After the child is married, then the child becomes pregnant and gives birth to a child, then the child becomes a legal child as a result of being married off. And if the child is married and then the child is born as a legitimate child, then a civil relationship arises between the parents and the child on the marital property.
2. Law no. 1 of 1974 concerning marriage, stipulates that the determination of the age limit of 19 years for men and 16 years for women to be able to carry out marriages is based on physical maturity (physical), spiritual maturity, or psychological (psychic). So it is expected that a man and a woman at that age limit have been able to understand the consequences of the implementation of marriage and have the responsibility to be able to foster a happy family, in accordance with the goals expected by the marriage law.
3. The effectiveness of the Marriage Law in Gianyar Regency has not been implemented effectively, because there are still cases of underage marriages. And the marriage dispensation mandated by law is not implemented.

Recommendations

1. Tighten the requirements for applying for a marriage dispensation permit with the aim of reducing the number of cases of marriage at an early age. It is recommended for parents and related agencies to provide sexual and reproductive health education to children in their teens. Especially regarding the factors that cause early marriage, providing understanding to parents about the protection and rights of children according to their age.
2. It is recommended to all people who are going to get married to pay attention to the age limit for marriage and think twice before establishing themselves to do marriage bonds. If early marriage is unavoidable, it is advisable to report to the District Court to authorize or permit a marriage dispensation.

3. To the community, especially parents, they should be more concerned with the future of their children. Parents should not be careless in educating. The importance of awareness of the dangers of early marriage must also be applied in the family. And the community is also expected to play an active role in preventing child marriage in their environment. The younger generation should think focused on the future first by doing positive activities. And you should choose a positive social environment so that we can hone our potential. So that you don't fall into unwanted relationships.

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