

CHILD PROTECTION AND MARRIAGE PREVENTION

By:

Fransiska Novita Eleanora, Andang Sari
vita_eleanor@yahoo.com, andangsari29@yahoo.co.id
Faculty of Law, Bhayangkara University, Greater Jakarta

Abstract

Recognition and protection of children's rights is fully a shared responsibility of both the parents, the government and the wider community that guarantees its survival and development and the growth of children in a strong, healthy and intelligent state. The main role in the development of children in addition to nutrition and vitamin intake or fulfillment of clothing, food and shelter, is also needed attention to the development of children in the future which is the right of the child to get education and teaching so that the aspirations can be achieved and succeed as he wants. But with the changing times it turns out that the rights of children are neglected in the sense that they are not fulfilled as expected, because they are triggered by economic factors so that children cannot attend school or continue their education due to marriage at a young age or so-called early marriage. With the occurrence of marriage at a young age for children is a violation of the rights of children, and children experience the destruction of their future because they are not ready and mature thinking and psychology because basically children should be protected from any threat or anyone. Protection of children's rights is absolutely granted, and has been regulated in the child protection law and marriage law regarding the age limit of children, the fact that there is still a high level of child marriage. The research method that is used or used in this writing uses literature studies based on the literature of journals, books, magazines and even from legislation relating to child protection and child marriage. The results showed that economic factors are the dominant occurrence of early marriage and lack of awareness of parents and community members on the protection and prevention of child marriages, on the other hand there is the assumption that by marrying their children, the obligations of parents are completed and by carrying out the marriage live independently without depending on their parents. The involvement and participation of the government can also prevent early marriage, especially in the application of sanctions in the rules that have been set, because if you want to protect children's rights, one of them is to prevent early marriage, or in other words stop child marriage.

keywords: protection; prevention; marriage; child

INTRODUCTION

Children are reasonable and should be given full and comprehensive protection and cannot ignore all of their rights, especially the right to live, obtain education and teaching and health, these rights are absolutely possessed by a child, be it a healthy child or child who is disabled. Neglecting children's rights can lead to the destruction of their future, and in the context that causes them to be punished or known as criminal sanctions, if it is proven to do so, it is either due to intentional or negligent treatment of minors.

The rise of early marriage is one form of neglect experienced by children where the impact of children is not ready to deal with these conditions associated with attitude and mentality, including the unpreparedness of the reproductive system so that the baby dies, and is required to work to meet the needs his life, even though his age still had to go to school and get an education about his future to continue his dream.

The marriage rate of children is not free from the spotlight from data available at the UN Children's Agency (UNICEF) in the State of the World's Children in 2016, explaining that Indonesia is ranked 7th in the world, while ASEAN countries are in the order of 2 after Cambodia. Seeing the phenomena that occur above, of course we, as the Indonesian people, are concerned about the situation, it is not impossible that many Indonesian children will experience destruction from such situations and conditions, even though they are the generations who will continue the nation's struggle.

In Law Number 23 of 2002 which was revised by Law Number 35 of 2014 article 1 paragraph 2 indicates that child protection is all activities to ensure that children can grow and develop in accordance with human dignity and receive protection from discriminatory actions, according to Law Number 4 of 1979 concerning the welfare of children in article 1 child welfare, a system and life of children that can guarantee their growth and development fairly, both spiritually, physically and socially.

From the above perception it can be said that child protection is the responsibility and the main role of parents and the government and the community in promoting the rights of children.

PROBLEMS

Based on the introduction above, some problems are examined, namely how to prevent early marriage to children?

DISCUSSION

Understanding of Children

Various rules in the law explain the length of the age limit for children, whether in marriage law, employment, civil law and so on. Even in the child protection law it is also stated that children are between the ages of 8-18 years, with the logic that at the age mentioned above they should not marry at a young age, because after all they have to get education, especially learning, to study as high as possible so that every adult must provide special protection to every child.

Protection must indeed be given to children, because children have not been able to protect children, so marriage often occurs at a young age, such as (1) culture with the assumption of a child especially women must be quick to marry, because the highest school will definitely be a housewife, so marrying off their children is considered a responsibility from their parents already done, (2) poverty has an impact on urbanization, the existence of style and life or changes, and a change in expectations and quality and life, can prevent children from getting their dreams because they don't school or not continuing school because the costs do not exist, (3) parents' encouragement, this can happen because their parents have debt owed to rich people or moneylenders, causing their children to be encouraged to marry so that all of their debt is considered complete or paid off, and (4) the child is pregnant or contains s before the marriage occurred, due to the involvement of free association, resulting in the child falling and pregnancy occurring, unpreparedness could lead to intentional results in miscarriage, or if it turns out to give birth, must be forced to work to meet her and her child's needs in order to maintain their lives.

Early Marriage or Young Marriage

It is said that marriage at a young age means marriage where the age is under 18 years old, in carrying out marriage. in accordance with the meaning in the marriage law Number 1 of 1974 is defined as allowing or allowing girls to marry at the age of 16 years. Indeed marriage is not prohibited both in terms of religion and customs, because marriage is an inner bond between husband and wife to form a happy and eternal family.

Of course this contradicts and contradicts the law on child protection, the existence of differences in age limits results in weak supervision and law enforcement in Indonesia, which must be followed by the regulation, the community will also be confused in seeing some of these rules, because the child's age The marriage law is a 16-year-old woman and a 19-year-old male.

Even though it is explained in the child protection law Number 35 of 2014 that the state, the community, and even anyone must protect their children rights, very poor understanding of society and the absence of a growing awareness in the community both in urban areas or in the countryside, and resulting in the formation of the expected generation both considered to be of quality which can be seen from various aspects, namely health, education, and income which are in the scope of a weak community.

As the next generation, the characteristics can be seen from various aspects which are very important, namely the first physical / physical aspects, and the second psychological / psychological aspects, and the third contains social and cultural aspects, and the last aspect is spiritual and moral, physical aspects show good health.

If the omission of children who have an early marriage or because of promiscuity cannot be prevented anymore, then their future will be destroyed, especially the child clearly has dropped out of school and has no skills in his life and does not find and get decent work for himself, and especially not being able to manage the finances obtained, so it is very likely that he will become homeless, this dam is at very high risk.

Physical health is influenced by various types and qualities of food intake given since being in the womb of women and until birth, and in childhood, even adolescents, and even the most mature period of nutrition and vitamins must still be given as growth and development body and brain.

As for the psychological aspects that are indeed quality and can be measured from the level of development and the utilization of the emergence of various potentials that exist and are both those that come from within and from outside, such as the existing talents, interests and desires, ability to think, controlling in emotions or self control, caring and social sensitivity and others.

Part of the psychological quality of a child also includes: from aspects that are cognitive, also affective, and can be psychomotor. If it is cognitive, then the generation that is considered as quality means that he has a very sharp ability to think, there is a very deep understanding, and has extensive knowledge and insight.

Affective aspects tend to have a high level of emotional pleasure to work, discipline, dare to compete and seize the opportunity and psychomotor aspects have certain skills to be developed as productive sources and have expertise. This is what is meant by qualified generations who think and can prevent the occurrence of early marriage in addition to the socialization provided by the parties concerned.

Prevention of Early Marriage

Basically there is a principle that it is better to prevent than cure because prevention is carried out so that there is no child as a victim of early marriage so that it does not cause a tragedy or psychological impact on the psyche due to stress and prolonged depression.

There needs to be roles from professionals in preventing early marriages, so that those who can always monitor and supervise child protection, means monitoring and obtaining reports on early marriage in their area from RT, RW, village or sub-district heads.

The author believes that actions can be taken to prevent the occurrence of marriage at a young age or often carried out by children:

a) Instill self-awareness

The emergence of self-awareness that grows in every human being is actually a sense of mutual respect and respect for one another, assuming that children who are classified as underage should be given protection concerning the existence of their rights. This means placing children as a basis for fulfilling their daily needs, respecting and respecting children's rights must be prioritized by providing education that is truly in accordance with their development and especially with their talents and interests. If a child is forced or allowed to do a marriage at a very young age, it can be said that there is a violation of the child and his rights, not attending school or dropping out of school, and moreover there is a compulsion that the child is deemed worthy of parenthood not damaged, because it has not been labile and mature reproductive organs.

b) Conduct counseling / socialization

Not all people know the rules or laws of child protection, it needs to be done slowly need to be educated to the wider community and carried out in stages, starting from introducing laws, objectives, intentions to do and as well as the threat of punishment given to perpetrators violation of children's rights. this, it can foster realistic thinking and advance the community of the importance of child protection as God's creation.

c) Encourage protection of children

The realization starts from the smallest family by cultivating spiritual values, and acts to treat children gently, there is always time to gather with children, intense communication, while in school there needs to be guidance from the teachers so that the children in their association are not fall into promiscuity which can lead to pregnancy and result in the child being unable to continue his education.

d) The public is aware of the importance of child protection

Because children must be truly protected, the people who have realized that the marriage of underage children is very violating their rights, especially the right

to get education and health, and indeed must be truly protected so that later they can always be healed and mature in in his life so that the child becomes a child who has a moral, pious and virtuous character.

Application of Penal Sanctions

Sanctions or penalties are given if legally and condemned that the perpetrator has been proven to have committed a criminal offense, the criminal offense is considered as *ultimum remedium* which gives a deterrent effect to the offender, the intended crime is the fulfillment of an element, namely:

- a) The subject referred to here is the person (person) or corporation who is considered to be responsible for protecting the child, allowing or intentionally or committing negligence, so that the crime takes place.
- b) The act is against the law, meaning that the act committed is a violation or a crime and harms another person or endangers the safety of the people, clearly the perpetrator must be convicted.
- c) Errors, interpreted as intentional (*dolus*) here this intentionality can be due to various things such as threats so that someone commits a crime or because of intentions and opportunities that arise in themselves, while negligence is interpreted as something that is accidental but can become fatal, due to negligence resulting in the victim.
- d) These actions are regulated in the law, clearly the meaning contained that in order to punish or impose a person as a perpetrator, crime and violations have been arranged in the existing regulations, already written rules and threats of sanctions that apply, and not recognize the principle of retroactive
- e) Time, place, and circumstances, usually termed *tempus delicti* and *locus delicti*, here it is intended that the state of the perpetrator whether he can be held accountable for his actions, mature, not crazy, and where the crime is committed including here is the location or region, and when the act was carried out, what day he did and what time the crime was committed.

Then what about young marriage actors? can it be sentenced? in accordance with the provisions of the law on child protection article 26 paragraph 1 (c) stated

that parents are obliged and responsible for preventing the occurrence of marriage at the age of the child, but this law does not provide clear sanctions in the event of a violation of children's rights specifically in marriage very young age.

At least there must be penalty sanctions that apply to perpetrators who do not pay attention to children's rights, so that the incident does not recur, monitoring and supervision from the government, social institutions, non-governmental organizations will grow and develop from the child, including parties from the ministry of religion that participates in marrying off children at the religious affairs office, it must remain responsible for child protection.

There must be clear rules that apply the limits of the age of the child so that the community is easy to understand accompanied by clear penalty sanctions, meaning that not only sanctions are given to parents, the perpetrators themselves are sanctions, because by marrying at a very young age, of course it will cause quite a long problem, namely inadequacy in the law, if the marriage happens how is the survival in giving a living to the family, and can lead to domestic violence (KDRT) and so on, such a phenomenon must be considered before stepping into marriage, not like turning your palm.

The punishment given must also see whether the form of principal is imprisonment or imprisonment, or by compulsory reporting, because if it turns out that the child is the perpetrator, it must also be determined how long the sentence will be given, stigmatized as criminal child This means that children's rights must still be prioritized, especially if it turns out that due to free intercourse there is pregnancy outside of marriage, of course the child conceived must be given protection, if the parents are convicted what about the fate of the child.

Broadly speaking, the application of punitive sanctions must really be considered in the future, because early marriage is considered to have violated the rights of the child, and to who should be responsible, whether the parents, the child, or other parties involved in marrying the child so we have to really react to it so that early marriage can be reduced or not happen again .

Conclusions and Recommendations

A. Conclusion

1. Prevention of early marriage can be done by fostering awareness of the importance of child protection, and always prioritizing every child's rights by instilling children's growth and development, especially for parents and families.
2. Prevention can be done as early as possible by conducting monitoring and supervision of children both in the neighborhood, school or association, because parents are obliged and responsible for the protection and future of their children.

B. Suggestions

1. The need for clear rules about the age limit of child maturity, because each rule has a different perception, if there is clarity, then the wider community can know, and because this involves violations of children and their rights it is necessary to provide strict sanctions against the perpetrators.
2. The existence of socialization or counseling carried out to the wider community can minimize or reduce the level of early marriage, because after all we must be able to protect our children as a generation that will continue the nation's struggle

REFERENCE

- Rika Sarasawati, *Hukum Perlindungan Anak Di Indonesia*, PT. Citra Aditya Bakti, Bandung, 2009, hal. 27
- Djamilah, Reni Kartikasari, *Dampak Perkawinan Anak Di Indonesia*, Jurnal Studi Pemuda, Fisipol UGM, Vol. 3 No. 1 Mei 2014, hal. 2
- Halimatus Sakdiyah, Kustiawati Ningsih, *Mencegah Pernikahan Dini Untuk Membentuk Generasi Berkualitas Preventing early-age marriage to establish qualified generation*, Masyarakat, Kebudayaan dan Politik, Vol. 26 No. 1 Tahun 2013, Universitas Airlangga Surabaya, hal. 37
- Harian Surat Kabar Kompas, “*Masa Depan Anak Hancur Gerakan Bersama Stop Perkawinan Anak Harus Sampai Daerah*” Sabtu, 4 November 2017, hal. 12
- Cass, Hilary *Child protection: a blend of art and science*, Archives of Disease in Childhood; London Vol. 99, Iss. 2, (Feb 2014): 101-102
- Bochenek, Michael Garcia. *Children’s Rights as Human Rights*, Ethics & International Affairs; New York Vol. 29, Iss. 4, (Winter 2015): 473-488.
- UU No. 1 Tahun 1974 tentang *Perkawinan*
- UU No. 32 Tahun 2014 tentang *Perlindungan Anak*
- UU No. 4 Tahun 1979 tentang *Kesejahteraan Anak*
- UU No. 39 Tahun 1999 tentang *Hak Asasi Manusia*