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## Analysis of Parents' Responsibilities towards Children Who Marry Underage

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**Abstract:** *Marriage is not just about forming a bond for a man and a woman to become legal husband and wife, but has more complex aspects. Aspects of marriage also include kinship aspects and broader social aspects. Based on this, marriages should ideally be carried out by men and women who have met the minimum age limit for marriage, and parents are also obliged to protect their children so that they do not enter into underage marriages. This research aims to analyze the responsibility of parents towards children in the event of underage marriage. The research method used in writing this article is normative legal research with a statutory approach. The results of this research are positive law, Law Number 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection has provided protection in the form of criminal sanctions for people parents who allow their children to marry underage and ensnare them under child neglect provisions.*

**Keyword:** *Responsibility, Parents, Early Marriage.*

**Abstrak:** Perkawinan bukanlah sekedar membentuk ikatan bagi laki-laki dan perempuan menjadi suami istri yang sah, akan tetapi memiliki aspek yang lebih kompleks. Aspek-aspek perkawinan meliputi juga aspek kekerabatan, dan aspek sosial kemasyarakatan yang lebih luas. Berdasarkan hal tersebut idealnya perkawinan dilakukan oleh laki-laki dan perempuan yang telah memenuhi batas minimum usia untuk melaksanakan perkawinan, dan orang tua turut berkewajiban untuk menjaga anaknya agar tidak melangsungkan perkawinan di bawah umur. Penelitian ini bertujuan untuk melakukan analisis terhadap pertanggungjawaban orang tua terhadap anak dalam hal terjadinya perkawinan di bawah umur. Metode penelitian yang dipergunakan dalam penulisan artikel ini adalah penelitian hukum normative dengan pendekatan perundang-undangan. Hasil dari penelitian ini adalah hukum positif, Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak sebagaimana telah diubah dengan Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak telah memberikan perlindungan berupa sanksi pidana bagi orang tua yang membiarkan anaknya menikah di bawah umur dan menjeratnya dengan ketentuan penelantaran anak.

**Kata Kunci:** Tanggungjawab, Orang Tua, Pernikahan Dini.

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## INTRODUCTION

Marriage is a physical and spiritual 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 and only God (Hamzah, Mangarengi, & Buana, 2020). Along with current developments in society, many cases of underage marriage have been found. There are many factors that are the reasons why people in Indonesia carry out underage marriages, but the most common ones are family factors that are classified as underprivileged or economically which allows a child to marry underage, apart from that there are also factors that influence underage marriages, namely educational factors. where there is a lack of knowledge about marriage, traditional factors that encourage early marriage and also promiscuity factors that result in pregnancy at an early age.

Legislative regulations regarding marriage have been formed and regulated to suit the conditions of the Indonesian nation and adapt to social habits which make people live in harmony, prosperity and happiness when carrying out marriages and are of course protected by law as a tool to regulate society. The law on marriage was formed to regulate society so that there are no implications of the law itself (Zulfadhli & Muksalmina, 2021).

The Supreme Court made a regulation which actually creates an opportunity for underage marriages to take place, namely Supreme Court Regulation Number 5 of 2019 concerning Marriage Dispensation. So there are several people who apply for underage marriages which results in underage marriages in Indonesia continuing to increase. So according to data from the Central Statistics Agency (BPS), in the last year 2020 the rate of early marriage in Indonesia reached 10.35%, so underage marriage in Indonesia is still relatively high. Child marriage is a marriage entered into by a man and a woman who are not old enough as determined by statutory regulations. This marriage certainly has an impact that causes problems in the future. One of the legal implications that occurs if underage marriages are carried out is that due to a lack of maturity in thinking and responsibility they have, underage marriages often end in divorce. This is because their social maturity is not yet sufficient for marriage (Bukido, 2018).

This can also have an impact on the role of early parents in carrying out their role as parents. Therefore, in the context of children's rights as confirmed in Law number 35 of 2014, amendments to Law number 23 of 2002 concerning child protection, which is explained in Article 26 paragraph (1) Parents are obliged and responsible for: a. look after, educate and protect children b. Develop children according to their abilities, talents and interests; c. Prevent marriages at the child's age; and d. Providing character education and instilling moral values in children.

The role of parents in educating children has a very big influence on the child's development process, although it needs to be supported by social institutions such as schools and the environment. Likewise, the husband's attitude towards his wife and vice versa, has a big influence on family education, because this can influence the characteristics or behavior of children. A child's success is largely determined by the family, because that is where the child first receives an education (Asnuddin & Mattraah, 2020).

One of the main problems faced by the impact of early marriage is how to educate children with appropriate and correct parenting styles, because up to now there have been many cases found that often occur in children whose parents married at a young age, making parents democratic, permissive, and authoritarian (Arianto, 2019).

In reality, underage marriage mostly has a negative impact on the survival of children, this impact is financial so that children's economic needs are often not met. Early marriage results in dropping out of school because they have to support their families, they marry and

have to work in conditions of low productivity, which results in weak competitiveness and also an increase in poverty rates in Indonesia, including the inability to manage household finances which are already minimal. This means that children's rights to develop themselves through fulfilling their basic needs, receiving education, benefiting from knowledge and improving their quality of life and welfare are not fulfilled (Eleanora et al., 2021).

There are several obstacles for parents who marry underage and are unable to fully care for, maintain, educate and protect their children, one of which is the character formation of children born to couples who marry underage, namely in terms of school education to the child's psychological needs. There are other obstacles faced by parents who marry underage, namely: their young age means they still have unstable emotions, low finances, the surrounding environment, and the time that both parents who marry underage have with their children.

## **METHOD**

This article was written using a normative type research method with a statutory approach (Peter Mahmud Marzuki, 2016). The technique for collecting legal materials uses library research (Fajar ND & Achmad, 2007). The legal materials used in this research are primary legal materials and secondary legal materials. Analyze legal problems using deductive analysis techniques (Sulaiman, 2018).

## **RESULT AND DISCUSSION**

Children, whether spiritually, physically or socially, do not yet have the ability to stand alone or live on their own, therefore the parents are responsible for fulfilling children's rights. Children born from a marriage result in a legal relationship in the form of a bond between parents and children. The relationship that arises between parents and children consists of rights and obligations. Rights and obligations are a form of reciprocal relationship (Siskha & Imahda Khoiri Furqon, 2021).

Obligations are basically something that is mandatory and must be done and fulfilled by that person without exception. In this case, parents also have obligations towards their children, which obligations are responsibilities that must be carried out. A parent's responsibility is not only limited to fulfilling the child's needs materially, but also psychologically, namely by providing attention and affection to the child. Emphasizing parental obligations towards children's rights in fulfilling children's rights is important for the child's future and quality and guaranteed child welfare (Yuhani`ah, 2022).

As for the responsibilities of parents towards children, according to Law Number 35 of 2014, an amendment to Law Number 23 of 2002 concerning child protection as explained in article 26 paragraph (1), parents are obliged and responsible for: a. To care for, maintain, educate, and protect children b. Develop children according to their abilities, talents and interests; c. Prevent marriages at the child's age; andd. Providing character education and instilling moral values in children.

Parents' responsibilities towards their children must be carried out in fulfilling the child's economic or financial, psychological needs and many more. However, this can be an obstacle for parents who marry underage in taking full responsibility for their children. The obstacles faced by parents who marry underage include:

1. Age and physical condition of the parents.

The age of parents who marry underage is one of the factors that results in obstacles for parents in educating their children. Basically, these early parents don't understand how to take care of children, and because of this lack of understanding, they automatically don't understand the character development of the children they are born with. Even though they are married and have become parents, a child is still a child regardless of the situation and conditions. He still has the nature of a child who wants to play, socialize

with peers, has difficulty making decisions or has difficulty acting. This unstable age also hinders and becomes an obstacle in parenting and character formation, sometimes because this age encourages the biological parents of young couples to take part in the upbringing and character formation of this child.

## 2. Environment

Apart from unstable age, another obstacle is the environment of the parents themselves. Even though parents are as good as possible in carrying out their role in educating their children, the environment is also the determining factor because this environment is a place where children can get new things and new friends without ruling out the possibility of children imitating everything that happens in the environment, whether it is imitating their own parents, family, etc. and friends. No matter how good parents are in their upbringing regarding the child's personality, religion, education, without the support of a well-maintained environmental influence it is difficult to build a child's quality characters.

## 3. Economy

Economics can also be an obstacle for parents who marry underage. This is caused by early parents dropping out of school because they have to support their families. They marry and have to work in conditions of low productivity and it is difficult to get a job, this means that every child's right to develop themselves by fulfilling their basic needs, as well as improving the welfare and quality of life of children, is not fulfilled. Even though they already have children, there are also parents who marry underage who live dependently on their parents. Sometimes it is the parents of young married couples who support their children in the household.

## 4. Education

Education from parents is also an obstacle or constraint in building children's character, because parents who marry early automatically drop out of school, whether from junior high school (SMP) or senior high school (SMA). Dropping out of school causes a lack of education from both parents, because this lack of education affects parenting patterns both in terms of social education, the child's character, religion, etc. According to interviews with several sources, because they dropped out of school, they experienced difficulties in teaching children, educating or being role models for children.

## 5. Time

The obstacle faced by parents who marry underage is the time they have between parents and children. Lack of time or limited time between parents and their children makes children socialize more and be closer to other people, whether it is their grandmother or grandfather, uncle or aunt or family who live in the same house or in the environment where the child lives. So parents who marry underage do not have the closeness that parents should have with their children.

Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, participate optimally in accordance with human dignity and receive protection from discrimination. However, in its development, many children have become victims of violence and abuse.

Efforts to protect children are implemented from the time the fetus is in the womb until the child is 18 years old. Children who are part of the young generation as one of the human resources are potential and successors to the ideals of the nation's struggle, who have a strategic role and have special characteristics and characteristics, require guidance and protection in order to ensure physical, mental and social growth and development. completely, harmoniously, harmoniously and in balance (Hartono, 2019).

Children's rights are something that must be followed up again so that children's rights can be fulfilled optimally and avoid neglect. Child neglect is the behavior of parents who

have failed in their responsibilities and are unable to meet their needs adequately (Fitri, Riana, & Fedryansyah, 2015).

The following are several forms of neglect, including the following: 1. Forms of physical neglect, such as parental indifference towards children, delays in seeking medical help, inadequate parental supervision and lack of need for security in the family. 2. Forms of emotional neglect, can occur if parents are not aware of their children's habits in terms of behaving and speaking words that have exceeded normal limits and parents provide different treatment and affection between their children which is often called favoritism. 3. A form of educational neglect, which occurs when children pretend to receive education. which is appropriate even though in reality the child is not able to participate in learning optimally so this results in the child's performance at school decreasing. 4. A form of neglect of medical facilities, this occurs when parents are not alert or fail to provide medical services for children even though they are financially adequate (Fahlevi, 2015).

The factors that cause child neglect are as follows:

1. Social and cultural factors

Social and cultural factors also influence factors where feelings of shame can encourage parents who marry underage to commit the crime of child neglect. This factor is more of a psychological or individual psychological factor. Factors that arise from within the individual, because the pressure that disturbs a person's mental condition is unbearable so that taking solutions to problems from the results of the act of giving birth to children outside of marriage is a disgrace.

2. Lack of religion understanding

The lack of understanding of religion. The lack of religious upbringing which is a guide and life guide for teenagers has caused them to lose direction in life and has given rise to negative symptoms such as promiscuity between men and women and establishing relationships outside of the Shari'a. This causes teenage girls to become pregnant before there is a legal union.

3. Economic factor

Economic factors can also be a factor in perpetrators abandoning their children with low economic conditions where someone can encourage them to commit acts of child neglect. The inability of couples who marry underage to support and raise their children in the future, encourages them to abandon their children because they are still underage and do not yet have permanent jobs.

4. Technological factor

With technological advances that are not supported by society's readiness to filter information. As time goes by, advances in the field of information technology offer a lot of sophistication and convenience in various aspects of life, it is becoming easier for people to access any information via the internet.

5. Promiscuity factor

The promiscuity factor is a form of deviant behavior that crosses the boundaries of obligations, demands and conditions. Where family conditions greatly influence the behavior or psychological development of teenagers, where parents' conditions are not in harmony which disrupts children's psychological development and children tend to look for fun outside to feel happy and forget what happened.

In terms of the application of criminal sanctions, it is the judge who decides in the district court and it is the judge who determines the amount of criminal sanctions given to the perpetrator who commits the crime of child neglect, whether the maximum or not the maximum threat of punishment that has been imposed is in accordance with the established law. The police only carry out investigations and prepare files, after which the files are sent to court, then the police bring the perpetrator to court to be tried (Khairullah, Elidar, & Sahara, 2017).

In Law Number 35 of 2014, amendments to Law Number 23 of 2002 concerning child protection explain the prohibitions and criminal threats against perpetrators of criminal acts of child neglect. In article 76 B concerning the prohibition against perpetrators of criminal acts of child neglect, it states "everyone is prohibited from placing, allowing, involving, ordering to involve children in situations of abuse and neglect." And the criminal threat is stated in article 77B which reads "any person who violates the provisions as intended in article 76B, shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of a maximum of IDR 100,000,000.00 (one hundred million Rupiah)

## CONCLUSION

Parents who marry underage cannot be fully responsible for their children in accordance with Law Number 35 of 2014, an amendment to Law Number 23 of 2002 concerning child protection. There are several obstacles for parents who marry underage and cannot fully care for, care for, educate and protect their children because they still have emotions that cannot be controlled, low finances, the surrounding environment they have, and the time for parents who marry underage with their child.

The application of sanctions against parents who marry underage for committing criminal acts of child neglect is explained in Law Number 35 of 2014, amendments to Law Number 23 of 2002 concerning child protection, in article 76 B concerning prohibitions against perpetrators of criminal acts of child neglect and for The criminal threat is stated in article 77B which reads "any person who violates the provisions as intended in article 76B, shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of a maximum of Rp. 100,000,000.00 (one hundred million Rupiah)

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