

THE OPINION OF JAMAAH TABLIGH ABOUT MARRIAGE AGE BY UNDANG-UNDANG NUMBER 16 OF 2019 (A Case Study of the Jamaah Tabligh in Deli Serdang District)

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Received: December 20, 2022; **Revisions:** January 20, 2023; **Published:** February 23, 2023

Abstract: This study aims to answer how the opinions and practices of the Jamaah Tabligh in Deli Serdang district about the age of marriage by making Undang-Undang Number 16 of 2019 as the basis for the analysis. This study uses empirical juridical research, and data collection techniques in this study are observation, interviews, and document studies. This study found that there are opinions and practices of the Jamaah Tabligh community in Deli Serdang district in marrying off their children may be done when they reach puberty. The background factor is to avoid adultery and promiscuity. Meanwhile, the minimum age for marriage regulated in the Undang-Undang Number 16 of 2019 for men and women as stipulated in Undang-Undang Number 16 of 2019 concerning amendments to Undang-Undang Number 1 of 1974 concerning Marriage. According to the opinions of the Jamaah Tabligh in Deli Serdang district Stick rules regarding the minimum age limit for marriage stipulated in the law are a form of recommendation, so there is no problem with not following the statutory rules regarding the minimum age limit for marriage when marrying off their children for good purpose.

Keywords: Marriage Age, Jamaah Tabligh

I. INTRODUCTION

In principle, the purpose of marriage is to form a happy and eternal family. This is confirmed in Undang-Undang Number 1 of 1974 concerning Marriage, that 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 Belief in the One Almighty God. Of the many rules that are directly related to marriage, one that often becomes a separate problem in the context of carrying out a marriage is related to the age limit. In fiqh there is no rule that regulates the minimum age limit for someone to enter into marriage. So far, the requirements known in fiqh are that he is mature, has sound mind, is able to distinguish good from bad so that he can give his consent to marry, then he is allowed to enter into a marriage.

Determining the age limit for marriage is very important, because a marriage requires both biological and psychological maturity. The age limit for marriage is not discussed in fiqh books. Even the fiqh books allow marriage between men and women who are still small. However, the absence of evidence that explicitly states the age limit for marriage is not the end of the establishment of a law.

When getting married, it is implied that they are sane and mature, so they can fully understand and realize what they are doing. The general opinion of fiqh experts here states that adulthood is the same as puberty. According to public opinion, the age of puberty is 15 years for men, while for women it is 9 years. So in the elucidation of the law it is stated that the prospective husband and wife must be mentally and physically mature to enter into a marriage so that they can carry out a good marriage without ending in divorce and produce good and healthy offspring. For this reason, marriages between prospective husbands and wives who are still underage must be prevented. Marriage in Indonesia cannot be separated from religious guidance or guidance, especially from Islamic law. The inclusion of the words Belief in the One and Only God contained in Law Number 1 of 1974 confirms this.

In this regard, the government of the Republic of Indonesia as state administrator has an obligation to regulate the state and society based on Pancasila and the 1945 Constitution. The Marriage Law has provided a legal umbrella as the main basis so that marriage events can be carried out according to applicable regulations. In Undang-Undang Number 16 of 2019 regarding amendments to Undang-Undang Number 1 of 1974 concerning Marriage Chapter 7 paragraph (1) "Marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years". That the spirit of Undang-Undang Number 16 of 2019 regarding changes to Undang-Undang Number 1 of 1974 concerning Marriage Chapter 7 paragraph (1) which regulates the age of marriage is to create maturity or maturity between men and women. And to prevent early marriage.

With the passing of Undang-Undang Number 16 of 2019 on amendments to Undang-Undang Number 1 of 1974 concerning Marriage, in order to be allowed to enter into a marriage, the ages of men and women must reach 19 years. Of course, with the situation that is happening in the midst of society, many people, especially the Jamaah Tabligh who carry out underage marriages, are very much against the regulations of Undang-Undang Number 16 of 2019 regarding amendments to Undang-Undang Number 1 of 1974. This social practice is a separate problem in carrying out these regulations.

II. METHOD

This study uses a qualitative research approach. Research using qualitative research aims to explore or build a proposition or explain behind the reality.¹ This type of research includes empirical juridical research, namely case study legal research, because the problems studied

¹Burhan Bungin, *Qualitative Research Methodology, Methodological Actualization Toward Contemporary Variants*, PT RajaGrafindo Persada, Jakarta, 2007, p. 124.

are in a certain area and time. This research was conducted in Deli Serdang District, North Sumatra. The sources of information that were determined in this study were figures from the Jamaah Tabligh of Deli Serdang District. For data collection techniques in this study carried out by observation, interviews and documentation studies. Meanwhile, the stages of data processing and analysis are editing, classification, verification and analysis. The main data source in analyzing the data in this study is Undang-Undang Number 1 of 2019.

III. RESULT AND DISCUSSION

The Opinions of Jamaah Tabligh Deli Serdang District About Minimum Age of Marriage

Jamaah Tabligh is an international Islamic movement that first appeared in India, the founder of the Tablighi Jamaat is Sheikh Maulana Ilyas al-Kandahlawi (1885-1944 M/1303-1354 H) based in Nizamuddin, India. As an international movement, now this movement's missionary activities have reached almost the entire world. The movement's largest followers are in India, Pakistan and Bangladesh. Since the early 1980s, this movement began to expand its da'wah wings to the Middle East, Asean, Europe, Australia, to Latin America.²

Jamaah Tabligh is not an organization that only exists in Indonesia, but is a transnational organization originating from India. The founder of the Tablighi Jamaat is Maulana Muhammad Ilyas al-Kandahlawi, he was born in 1303 AH in the village of Kandahlah in the Muzhafar Nagar region, North Bangladesh India. He died on 11 Rajab 1363 H. The name Jamaah Tabligh is a name for those who deliver. The Tablighi Jamaat initially did not have a name, but Islam was sufficient. Even Maulana Muhammad Ilyas said that if I had to give a name to this business, I would name it the "faith movement".³

The reality that happened to the Jamaah Tabligh community in Deli Serdang District when their children married off was not in accordance with the applicable law. In the period from 2019 to 2022 there were 34 couples in the Jamaah Tabligh community of Deli Serdang District who were married. So from this reality, the ages in marriage vary, for example the prospective groom is 18-20 of. Meanwhile, the prospective bride and groom are aged between 16-19 of. However, more brides are married under the age of 19 than grooms.

The P3N (marriage registrar's assistant) Chief of Staff of the Religious Affairs Office of Deli Serdang District stated that, in the period from January to June in 2022, the number of cases of underage marriages that occurred in the Batang Kuis sub-district was still quite high. It was recorded that there were 45 couples who married under the age stipulated by Undang-Undang Number 16 of 2019, it's just that 45 of these couples were not all categorized as included in the Jamaah Tabligh that the author meant, the number of 45 couples is the total number of couples who married both from among the Jamaah Tabligh and the general public who are married under the age limit stipulated in Undang-Undang Number 16 of 2019.

In the author's interviews with several informants from the Jamaah Tabligh of Deli Serdang District, several arguments were found regarding the reasons for marrying off their children who had not yet reached the minimum age limit stipulated in the Law, namely as follows:

- a. Already *baligh*. As conveyed by Mr. Muhammad Talib, "if a child is mature (*baligh*), then it is permissible to enter into a marriage. The age for marriage in Islamic teachings is not explained, even marrying off adult children is highly recommended, because marriage is highly recommended to avoid adultery and promiscuity. Thus, these actions will bring

2 Abdul Aziz Dahlan, Islamic Encyclopedia Supplements, Ichtiar Baru Van Hoeve, Jakarta, 1999, p. 266.

3 Mulwi Ahmad Harun Al Rosyid, Correcting Misunderstandings Against Jaulah (Jamaah Tabligh), Pustaka Haromain, Magetan, 2004, p. 21.

- goodness to anyone, including the extended family of both parties. So, the basic reason is more to the demands of religious teachings, and the main requirement is *baligh* (adult)".⁴
- b. Parents have the right to marry off their daughter. As stated by Mr. Ali Ahmad, "marriage is the right of every person when they reach the age of puberty, so as parents they have the right to find a mate for marriage, of course the aim is that their children avoid actions that are prohibited by religious and customary norms". Seeing husband and wife who get married early, their household is fine. As stated by Mr. Ali Ahmad, "so far the pilgrims who have married that are not in accordance with applicable regulations, their households are still running well, conducive, their offspring are healthy without quarrels and so on. This means that age is not a fundamental reason for creating a *sakinah, mawaddah wa rahmah* household".⁵
- c. Already have a good understanding of the rights and obligations of husband and wife. As stated by Mr. Muttaqin who is an early marriage practitioner, "I was 18 of my age when I married. At that age there are no serious obstacles to getting married. That is, age is not a benchmark for building a household, towards *sakinah mawaddah wa rahmah*. However, what must be built is that husband and wife must understand each other's rights and obligations. For me that is the main requirement that must be understood by all prospective brides. Regarding the age limit for marriage, it is a form of caution in getting married".⁶

Based on several factors behind the implementation of marriages below the minimum age for marriage regulated in the Law in the Jamaah Tabligh community in Deli Serdang District, it can be concluded that the Jamaah Tabligh community in Deli Serdang District is of the view that achieving the main goal of marriage is to have a happy family, the minimum age limit for marriage is not the main factor to achieve it. The minimum age limit for marriage can be said to be a form of caution so that in carrying out household life you are able to face the trials and problems that come your way.

The effectiveness of the law to change people's behavior is not entirely dependent on the attitudes of citizens in accordance with the law, or on existing sanctions. Since society is made up of many different elements, what is an offense to certain sections of society may not necessarily be considered an offense to other sections of society.⁷

Analysis of the Age Limit for Marriage According to Undang-Undang Number 16 of 2019

Marriage is valid according to Indonesian positive law if the marriage is carried out in accordance with Undang-Undang Number 1 of 1974 concerning Marriage. Chapter 2 paragraph (1) and paragraph (2) also emphasize the validity of marriage. namely: (1) Marriage is legal, if it is carried out according to the laws of each religion and belief. (2) Every marriage is recorded according to the prevailing laws and regulations. This includes fulfilling all the requirements stipulated in Undang-Undang Number 1 of 1974 concerning Marriage and statutory regulations relating to marriage matters.

The minimum age limit for marriage can be seen in Undang-Undang Number 16 of 2019 regarding amendments to Undang-Undang Number 1 of 1974 concerning Marriage Chapter 7 paragraph (1) Marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) of. The spirit of Undang-Undang Number 16 Of 2019 regarding changes to Undang-Undang Number 1 Of 1974 concerning Marriage Chapter 7 paragraph (1) which

⁴ Muhammad Thalib, Personal Interview, Deli Serdang, 06 Desember 2022.

⁵ Ali Ahmad, Personal Interview, Deli Serdang, 06 Desember 2022.

⁶ Muttaqin, Personal Interview, Deli Serdang, 06 Desember 2022.

⁷ Soerjono Soekanto, Fundamentals of Sociology of Law, PT Raja Grafindo Persada, Jakarta, 2014, P. 200.

regulates the age of marriage is to create maturity or maturity between men and women. As well as to prevent early marriage.

The Regulations issued in 1947 direct the marriage officials to discourage the practice of child marriage. Under these Regulations, it is the liability of these officials to prevent, as far as possible, a child marriage from taking place and being registered.⁸ In its implementation, the minimum age limit for marriage according to the law may not necessarily be fully complied with. In order to encourage people to marry above the minimum age for marriage, Article 6 paragraph (2) has actually done so by providing a provision that in order to get married for a person who is not yet 21 years old, he must obtain permission from his parents.⁹ Law is presented to create order by preventing or overcoming all forms of chaos. The existence of social consequences, encourages humans to carry out interrelationships among humans in order to realize interests on the basis of their respective existences.¹⁰

In the meaning of marriage according to Undang-Undang Number 1 of 1974 above it also means that the purpose of continuing the marriage is to form a happy and eternal family.¹¹ To achieve a happy and eternal family, of course, serious efforts are needed, one of which is to have maturity in behavior so that we can understand each other. In Chapter 1 paragraph (1) of Undang-Undang Number 35 of 2014 concerning Child Protection it is stated that, "a child is someone who is not yet 18 (eighteen) of, including children who are still in the womb". The definition of a child shows that someone who is under the age of eighteen is categorized as a child. Children born to a teenage mother who is still young have a lower level of knowledge when compared to children born to a mother who is mature and more developed. The low knowledge of children is caused by a mother's unpreparedness in giving mental feeling to her child. This is because a mother is still young and does not deserve the status of a mother.¹²

In Chapter 2 of the Compilation of Islamic law it is written that, "Marriage according to Islamic law is a marriage, namely a very strong contract or "*Mitsaqon Ghalidzan*" to obey Allah's commands and carrying it out is worship." Therefore, in entering into a marriage, one thing that must be considered is the minimum age limit for marriage between men and women. In fiqh there is no rule that regulates the minimum age limit for someone to enter into marriage. So far, the requirements known in fiqh are that he is mature, has sound mind, is able to distinguish good from bad so that he can give his consent to marry, then he is allowed to enter into a marriage.¹³

The spirit of Undang-Undang Number 16 Of 2019 regarding changes to Undang-Undang Number 1 Of 1974 concerning Marriage Chapter 7 paragraph (1) which regulates the age of marriage is to create maturity or maturity between men and women when they want to get married. Apart from that, it is also to avoid early marriage which can have negative impacts on marriage.

This law regulates the principle that the prospective husband and wife must be ready physically and mentally to be able to enter into a marriage. In order to realize the goal of good marriage without ending in divorce, and get good and healthy offspring, for this reason marriages between prospective husband and wife who are underage must be prevented

⁸ Tahir Mahmood, *Family Law Reform In The Muslim World*, The Indian Law Institue, New Delhi, 1972, P. 194.

⁹ M. Atho' Muzdhar and Khairuddin Nasution, *Family Law In The Muslim World Modern*, Ciputat Pers, Jakarta, 2003, P. 210.

¹⁰ M Syukri Albani, *law in a philosophical approach*, Prenada Media Group, Jakarta, 2016, P. 45.

¹¹ Pangeran Harahap, *Islamic Law In Indonesia*, Citapustaka Media, Bandung, 2014, P. 48.

¹² Khairul Mufti Rambe, *Islamic Family Psychology*, Al Hayat, Medan, 2019, p. 23.

¹³ Anshary, *Marriage Law In Indonesia Crucial Issues*, Pustaka Pelajar, Yogyakarta, 2010, p. 10.

because marriages have a relationship with population problems, so to limit higher birth rates child marriage must be prevented.¹⁴

IV. CONCLUSION

The Jamaah Tabligh community in Deli Serdang District is of the opinion that in order to achieve the main goal of marriage, namely having a happy family, the minimum age limit for marriage is not the main factor in achieving it. The minimum age limit for marriage can be said to be a form of caution so that in carrying out household life you are able to face the trials and problems that come your way. In Islamic religious guidance it is recommended to get married immediately if a person is able to assume responsibility as a husband or wife and in this case there is no minimum age limit for marriage. The practice of early marriage in the Jamaah Tabligh community, Deli Serdang District, which has been going on so far, is not a barrier to achieving a happy family.

To achieve a happy and eternal family, of course, serious efforts are needed, one of which is to have maturity in behavior so that we can understand each other. In Chapter 1 paragraph (1) of Undang-Undang Number 35 of 2014 concerning Child Protection it is stated that, "a child is someone who is not yet 18 (eighteen) of, including children who are still in the womb". Therefore, the presence of Undang-Undang Number 16 Of 2019 on amendments to Undang-Undang Number 1 Of 1974 concerning Marriage can be said as an effort to improve happy families in Indonesia because with adulthood the husband and wife are more capable and ready to carry out household life. A mother who has a child when she is an adult in psychology is said to be more capable and mentally prepared in caring for her child.

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¹⁴ Akmaluddin Syahputra, *Civil Law in Indonesia*, Citapustaka Media Perintis, Bandung, 2011, P. 47