

# The Effectivity of Law Number 1 of 1974 Concerning Marriage to Prevent Early Age Marriage in the Bantaeng Area of South Sulawesi

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*Abstract*— Article 7 paragraph 1 of Law No. 1 of 1974 concerning Marriage, requires that the age limit for marriage for women is 16 years old and 19 years old male. Namely in its implementation regarding the boundaries of the marriage provisions there are actually many incompatibilities with the existing rules. Factors that cause marriage to minors are technology, culture and tradition. Through this research, we will examine the factors that cause the marriage of underage children in Bantaeng Regency, South Sulawesi. The final results of this study, determine the effectiveness of the application of Article 7 paragraph 1 of Law No. 1 of 1974 in the Bantaeng area of South Sulawesi. One of the reasons for early marriage in Bantaeng District, South Sulawesi in the case of Rahman (13 years) and awalia Mar'a (14 years) is because of "fear of sleeping alone". This research method is a combination of normative legal research and empirical legal research. Normative legal research is legal research that uses primary data, while empirical legal research is legal research that uses secondary data and questionnaires. Based on this research, it can be concluded that the Application of Article 7 paragraph 1 of Law No. 1 The year 1974 is not effective. The ineffectiveness is caused by many young people in Bantaeng Regency, South Sulawesi who do not know the meaning of the provisions of Article 7 (1) of Law No. 1 of 1974. The ineffectiveness of Article 7 paragraph 1 of Law No. 1 of 1974 caused the existence of internal factors and external factors. Internal factors are accident marriages because of promiscuity and factors of their own volition. External factors are economic conditions, parents, tradition, and low levels of education. The implementation of early marriage in Bantaeng Regency, South Sulawesi, is based on the consideration of the judge of the Religious Court in Bantaeng, South Sulawesi or the District Court in Bantaeng, South Sulawesi.

## I. INTRODUCTION

Article 7 paragraph (1) Law No. 1 of 1974 concerning Marriage (Law No. 1 of 1974) stipulates that marriage can be carried out if the male has reached the age of 19 (nineteen) years and the woman is 16 (sixteen) years, and fulfills the specified marriage requirements. These requirements include, to carry out a marriage, a person who has not reached the age of 21 (twenty one) years must obtain prior permission from both parents. Minister of Religion Regulation No. 11 of 2007 concerning Marriage Registration in Chapter IV Article 7 says, "If a prospective bride has not reached the age of 21 (twenty one) years, must get written permission from parents". This permit is mandatory because at that age, the parties who will carry out the marriage are still considered to need guidance and supervision from their parents / guardians. In carrying out the marriage for the bride and groom who are not yet 21 (twenty one) years old, the parent / guardian must sign a clear name and name, so that the permit is used as the basis for the PPN / headmaster that the bride and groom have received permission / blessing from their parents . Another case if the two brides are more than 21 (twenty one) years, then the bride and groom can carry out a marriage without permission from parents / guardians [1].

Related to the age of marriage that has been stated in Law Number 1 of 1974, child marriage in Indonesia itself still

causes a lot of controversy and problems. Problems that arise due to the number of different perceptions. The contradiction between applicable laws is that the law states that it is valid for women who are married at the age of 16 as long as they get permission from their parents, and the rights of children who declare someone aged 18 or under are children who still need guidance, education and supervision parents. But the enactment of Law No. 1 In 1974 until now, there was no meeting point to determine the age limit in the game.

In this regard, there are important problems that parents do not think about further, namely the problem of the child's readiness to undergo marriage. Children who do underage marriage do not have

mental readiness because children at that age are not yet mature. This unpreparedness can cause various problems later on, such as dropping out of education, disrupting reproductive health, divorce.

Like the case in Bantaeng, South Sulawesi, the couple who will get married are Awal Rahman (13 years) and Awalia Mara (14 years). At first the marriage request submitted to the KUA (*Kantor Urusan Agama*)-Bantaeng South Sulawesi was rejected because the two applicants did not meet the marriage requirements in accordance with Article 7 of Law No. 1 of 1974. The KUA had refused by issuing N9 (denial of registration), but not long after the KUA refused, Awal Rahman (13 years) and Awalia Mara (14 years) submitted a marriage dispensation to the Religious Court. One of the requests for dispensation was due to "fear of sleeping alone". On this occasion the PA Bantaeng, South Sulawesi issued a decree by allowing Awal Rahman (13 years) and Awalia Mara (14 years) to carry out marriages on the grounds to avoid the occurrence of greater harm than the problem itself.

With the marriage request submitted by Awal Rahman (13 years) and Awalia Mar'a (14 years), this research is expected to be able to find out the factors that led to early marriage and the effectiveness of Law No. 1 of 1974. Research will be carried out in Bantaeng, South Sulawesi, to find out what factors cause early marriage and the effectiveness of Law No. 1 of 1974.

## II. DISCUSSION

Early marriage is said to be a term that is not directly included in the family planning (*keluarga berencana*) category. Family planning at a young age

when viewed by its target is the younger generation by targeting young people so it is recommended that the younger generation postpone marriage until the age is considered mature enough in various aspects to carry out a marriage [2]. When viewed from aspects of physical and spiritual health, it was stated that the ideal age for carrying out a marriage and forming a family within the community if it covers the adult category physically, mentally and emotionally. Family as the smallest community unit consisting of father, mother and child. Families can be formed if there is a bond of love between a man and an adult woman who is inaugurated with marriage, according to the marriage of the religion and the applicable law [3]. In this regard, the government seeks to accommodate this need by issuing Law No. 1 of 1974 concerning marriage. UU no. 1 Year 1974 states that to form a family must be prepared carefully including couples who will form a family must be mature, both biologically and pedagogically or responsibly. So that later it will lead to inner and outer bonds between men and women with the aim of forming a family that is *sakinah, mawaddah, and warohmah*. [4]

In terms of guaranteeing legal certainty, everything related to marriage that occurs before this Law takes effect, which is carried out according to existing law is valid, as well as if something about this Law does not regulate the existing provisions automatically apply (retroactive). Regarding marriage, the main purpose of marriage as stated in Law No. 1 Year 1974 is forming a happy and eternal family. To create a happy and eternal family, husband and wife need to help and complement each other so that each can develop his personality to help and achieve spiritual and material welfare (a harmonious family)[5]. If referred and reviewed again, Law No. 1 of 1974 states that a marriage is legal if it is carried out according to the laws of each religion and its beliefs and besides that each marriage must be recorded according to the applicable laws and regulations according to the religion he believes. Recording of each marriage is the same as important events in a person's life, such as birth, death which are stated in Certificates, an official certificate which is also included in the recording [6]. Factors that can make the reason for the marriage of minors in the Bantaeng area of South Sulawesi are due to internal factors and external factors.

Factors that cause early marriage in Bantaeng, South Sulawesi include:

#### 1. Internal Factors

Married by accident, the occurrence of extramarital pregnancy carried out by teenagers in the Bantaeng area of South Sulawesi forced them to conduct early marriages. Their goal of carrying out an early marriage is to clarify the status of the child conceived. Early marriage forced them to get married and be responsible for acting as husband and wife and being father and mother, so that this would later have an impact on premature aging. The cause of this early aging is due to the presence of both physical and mental absorption. Besides that, with pregnancy outside of marriage and the fear of parents of pregnancy outside marriage encourages their children to do an early marriage.

#### 2. External Factors

##### a. Economic Factors

Economic difficulties are one of the first external factors that cause early marriage in the Bantaeng area of South Sulawesi. Families who experience economic difficulties will tend to marry their children at a young age to have an early marriage.

In addition, the main factor of this accident can cause them to do an early marriage and be responsible for acting as husband and wife and being a father and mother. In addition, pregnancies outside marriage in the Bantaeng area of South Sulawesi encourage adolescent behavior for early marriage. The aim of adolescents to do early marriage is to get a relationship status and legal certainty. Not only are teenagers in the Bantaeng area of South Sulawesi assuming early marriage is done in order to avoid acts that are not in accordance with religious norms and society, thus both men and women can propose marriage at KUA are expected to have a positive impact on both.

Usually individuals or adolescents who choose to maintain their pregnancies will mostly decide to get married early to cover up the situation or to account for the consequences of sexual behavior that has been done. This situation in Indonesia is commonly known as married by accident or marriage because of an event that is an extramarital pregnancy.

##### b. Parents

The occurrence of early marriage, caused by influence, or even coercion from parents. There are several reasons parents marry their children at an early age, because they are worried that their children will fall into promiscuity and have negative consequences; because they want to perpetuate the relationship with their relationship by matching their children with relationships or their children; match their children with their children on the grounds that their possessions do not fall to other people, but are still held by the family.

##### c. Tradition and Culture

The fact is that early marriage is carried out in certain areas, especially in the Bantaeng area of South Sulawesi because it is not said to be a spinster. If we examine it again, based on the survey analysis of the population of the Central Statistics Agency, the number of marriages in urban areas is lower than in rural areas, for the rural group the difference is quite high, 45, 96% in rural areas and 35.36% for the urban index. This shows that more young women in rural areas do marriage at a young age. Tradition or often referred to as habit is a hereditary inheritance that is passed on by generations in the form of behavior as an element of culture[7].

##### d. Low Level of Education

Education in general is all efforts made to influence other people, individuals, groups or communities. So that they do what is expected by the Education players. For an individual, education is an important thing to avoid the occurrence of early marriage because with Education, a teenager can know clearly what will happen if married at an early age [8].

Apart from the pros and cons of marriage, early age is realized or not realized. Early marriage has a negative impact. The negative impact of early marriage includes interrupted child education in the sense that the existence of early marriage can cause children to drop out of school, this has an impact on the low level of knowledge and access to information on children. In addition, the existence of early marriage is vulnerable to domestic violence, so that the dominance of a partner due to unstable psychological conditions causes emotions so that the bias can affect Domestic Violence (*KDRT*).

Like the case in Bantaeng, South Sulawesi, the couple who will get married are Awal Rahman (13 years) and Awalia Mara (14 years). Initially when applying for a worker to the KUA-Bantaeng, South Sulawesi, the application was rejected because the two applicants had not fulfilled the marriage certificate in accordance with Article 7 of Law No. 1 of 1974. The KUA had refused by issuing N9 (denial of registration), but not long after KUA gave a rejection, Awal Rahman (13 years) and Awalia Mar'a (14 years) submitted themselves to the Religious Court to give dispensation. One of the requests for dispensation was due to "fear of sleeping alone". On this occasion the PA Bantaeng, South Sulawesi issued a decree by allowing Awal Rahman (13 years old) and Awalia Mara (14 years) to carry out marriages on the grounds to avoid the occurrence of greater harm than the problem itself.

Regarding these matters above, if we refer to the Determination of the Bantaeng Religious Court in South Sulawesi Number 42 / PDT.P / 2018 / PA.Batg which was decided on April 3, 2018, in legal considerations as summarized as follows:

1. Considering that both parties have a close relationship and the application has made an application and the families of both parties have agreed to the marriage plan. Between the two there is no marriage obstacle and no other party has objections to the marriage plan.
2. There is concern by the Religious Courts, the concern originates because both of them are currently having a girlfriend relationship and there are concerns that things will happen negatively for the families of both parties so that the judges of the Religious Courts judge to avoid negative or negative access for the families of both parties. The marriage will also be an instrument in order to maintain the hearts, complaints and values of high religiosity in the local community in order to avoid

Regarding the explanation above, when we want to know the extent of the effectiveness of the law, we must first measure the extent to which the rule of law is adhered to or not adhered to, of course, if a legal rule is adhered to by the majority of the targets of obedience, we say that the legal rule in question is effective. A rule of law must be a valid state before it is discovered whether

the rule is effective. In order for

the law to become valid, the law must be accepted by the community. And vice versa, that in order to be applied to society, a legal method must be a valid or legitimate law. effective means that people really do in accordance with legal norms as they must bind, that the norms are truly applicable and obeyed.

Another case according to Soerjono Soekanto, the factors that influence the effectiveness of a law are four, namely: (a) the law itself, (b) law enforcement, (c) facilities and facilities, (d) society and culture. The theory of legal protection for children as stated by Philipus (1991), focuses on legal protection in the field of child rights. The theory of child protection can be interpreted as an effort to protect the law against various freedoms and children's rights (fundamental rights and freedoms of children) as well as various interests related to child welfare. Child protection in general is a way of life and livelihood of children that can guarantee their growth and development fairly, both spiritually, physically and socially.

The existence of a marriage dispensation that results in a deviation from the rules regarding the age limit of marriage. Submission of a marriage dispensation judge cannot refuse the marriage dispensation proposal. Judges in granting marital dispensations also consider matters that require marriage to take place such as being pregnant outside of marriage. The Religious Courts in granting underage marriage permits through marital dispensation do not make it difficult or even reject the application. This is done to protect the benefit. Especially if the marriage is performed on women who are pregnant outside of marriage. Dispensation is done to protect the rights of pregnant women, with the availability of justice-based welfare. Justice for pregnant women. Just like there is a car in which there are sick people who must be taken to the hospital immediately but there are traffic lights that require a stop but because there is a sick person in the car who must be taken to the hospital immediately the vehicle must violate the signs traffic. This is done for the benefit of the sick. As is the case with pregnant women and naka who are in their births who have to defend their rights and get justice to get married. Underage marriage rates are still very high. The reason for doing underage marriage is the culture of matchmaking from a young age, fear of parents

because their children are dating too close, and the occurrence of pregnancy outside of marriage. Some of the marriages are listed and not listed in the official administration of state regulations. Marriage carried out by minors can be recorded because of the addition of age (older) when registered both through legal procedures (judicial) or not. Marriage that is not recorded and continues to take place is a marriage that is held in *sirri* (secretly).

If we examine it wisely in Article 47 paragraph

(1) of the Marriage Law "children who have not reached the age of 18 (eighteen) years or have never held a marriage are under the control of their parents as long as they are not revoked from their power". In the Marriage Law Number 1 Year 1974 article 6 paragraph (2) regulates the marriage conditions which are "to carry out marriage a person who has not reached the age of 21 (twenty one) years must get the permission of both parents". Then in article 7 paragraph (1) "marriage is only permitted if the male reaches the age of 19 (nineteen) years and the woman reaches the age of 16 (sixteen) years".

Article 7 paragraph

(2) "in the case of deviation from paragraph (1) of this article may request dispensation to the Court or other officials, appointed by both male and female parents". So that the role of parents in the implementation of marriage is also important, because in applying for marriage must go through parental permission. The implementation of an underage marriage permit starts with the permission of the next parent from the village head who is forwarded to the local Office of Religious Affairs.

The implementation of the age limit for marriage in the Bantaeng area of South Sulawesi "basically has been effective" because the application of the age limit for marriage is in accordance with the provisions of the Marriage Law. Due to several factors that require the implementation of underage marriage, there must be a deviation of the marriage age limit stipulated in the Act. The Marriage Law also regulates the deviation of the age of marriage which is called marriage dispensation. Marriage compensation is issued by the local religious court so the prospective bride can carry out her marriage. Can be briefly concluded from the presentation, the enactment of Article 7 (1) of Law No. 1 of 1974 is not effective, this is because many people in the Bantaeng area violate the provisions of Article 7

(1) of Law No. 1 of 1974 concerning the age limit of marriage.

This is also reinforced from the results of 134 correspondence submitted to adolescents in Bantaeng Regency, South Sulawesi regarding the existence of Law No. 1 of 1974. Based on the results of the above correspondence if we see the existence of Law No. 1 In 1974, adolescents especially in Bantaeng Regency, South Sulawesi, 65% did not know of the application of underage age limits. Thus, it can be concluded that the lack of socialization carried out by the Government especially in Bantaeng Regency, South Sulawesi, has made adolescents do marriage at an early age. Teenagers' ignorance of the existence of Law No. 1 of 1974 caused an ineffectiveness in implementing Law No. 1 of 1974 concerning the age limit. From this presentation, it is not possible that 72% of the people in Bantaeng Regency in South Sulawesi have known about underage age marriage, 86% have found out that there is no truth in doing underage marriage, 73% of correspondents know of the minimum age in marriage, and 83 % of the impact of underage marriage.

### III. CONCLUSIONS

Application of Law No. 1 of 1974 is not effective, the ineffectiveness is due to the existence of Law No. 1 In 1974, adolescents especially in Bantaeng Regency, South Sulawesi, as many as 65% did not know of the application of underage age limits. The lack of socialization carried out by the Government, especially in Bantaeng Regency, South Sulawesi, has made adolescents do marriage at an early age.

Of the total presentation it does not rule out the possibility that teenagers in Bantaeng Regency, South Sulawesi, 72% already know about underage age marriage, 86% have found out that there is no truth in doing underage marriage, 73% of correspondents have known the minimum age limit in marriage, and 83% of the impact of underage marriage. The effectiveness of the regulation is divided into internal factors and external factors. Internal factors are factors that are caused by accidents (married by accident) and factors of their own volition. External factors are caused by economic conditions, parents, tradition, and low levels of education. The implementation of early marriage in Bantaeng, South Sulawesi, is based on the consideration of the judge of the Religious Court in Bantaeng, South Sulawesi or the District Court in Bantaeng, South Sulawesi. Although the

Office of Religious Affairs does not allow marriage to take place because of insufficient age. However, parties can submit an application to the Religious Court or to the District Court in Bantaeng, South Sulawesi. If the Religious Court in Bantaeng, South Sulawesi, or the District Court in Bantaeng, South Sulawesi, gives permission through stipulation, then the process of marriage of early childhood is conducted.

Based on the conclusions above, there are three suggestions regarding the discussion of early marriage. First, there is a need for further socialization carried out by the Government and academics in implementing Law No. 1 of 1974 especially in Article 7 paragraph 1 in Bantaeng, South Sulawesi. Second, the special role of parents (family) in controlling educates and provides general and religious knowledge to children, life experiences, provision of provisions both physical, mental and socio-economic maturity in preparation for future life, especially in life married. Finally, there is a need for in-depth socialization of the effects of early marriage conducted by the Government and academics in Bantaeng, South Sulawesi.

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