

Analysis of Legal Protection of Children in Cases of Underage Divorce in Indramayu

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ABSTRACT

This research investigates the legal protection of children in underage divorce cases in the context of Indramayu, Indonesia. Using a mixed methods approach, the research analyzed the legal framework, reviewed existing literature, and gathered insights through surveys with legal professionals, social workers, and individuals who have direct experience in underage divorce cases. The findings revealed nuances in the legal landscape, challenges in implementation, and the importance of cultural sensitivity. Recommendations emphasize alignment of legal standards, improved support services, interdisciplinary collaboration, compassionate legal processes, and community engagement.

Keywords: Legal Protection, Children, Underage Divorce, Indramayu

1. INTRODUCTION

Underage marriage leading to divorce is a significant concern in Indonesia. The issue of early-age marriage has been found to have negative impacts on individuals and society, including poor reproductive health, low education and skills, social and emotional problems, financial issues, and family problems [1]. Lack of religious education and knowledge among adolescents has been identified as a major factor contributing to early-age marriage [2]. Additionally, factors such as domestic violence, secret marriages, early marriages, and infidelity have been found to be the main causes of divorce in Indonesia [3]. It has been observed that many couples seeking divorce are unaware of the proper channels and procedures for settling marriage disputes, leading them to directly seek divorce rulings from religious courts [4]. Increasing public awareness of legal procedures, promoting girl child education, and providing counseling on marriage law could help reduce the prevalence of divorce in Indonesia [5].

Indonesia has implemented legal reforms to address social problems, including marriage and family law [6], [7]. However, the prevalence of underage marriages leading to divorce raises concerns about the effectiveness of the existing legal framework in protecting the rights and welfare of children [8]. The new marriage law allows both men and women to marry at the age of 19, aiming to reduce child marriages [9]. The criminal aspects of family law in Indonesia are included in the Penal Code, which addresses violations of marriage law that harm others [10]. The settlement of criminal aspects in family law is the responsibility of various legal institutions, including religious courts [11]. Despite these efforts, challenges remain in enforcing the law and regulations, and the legal system is considered repressive [12]. The development of a responsive legal system that considers sociological factors, such as customs, norms, culture, and religion, is crucial for addressing the complex issues related to marriage and family law in Indonesia [13].

The Indramayu region provides a unique context to closely examine legal protections for children during divorce, particularly when they are minors. The study conducted in Indramayu District, West Java Province, highlights the potential of local institutions called Posdaya in creating

an ideal and harmonious family environment [14]. These institutions can serve as a forum for communication and prevention of domestic violence, which is a concern for children during divorce [15]. Additionally, the study on child marriage in South Kalimantan Province emphasizes the need for strategic actors at the macro, mezzo, and micro levels to prevent and reduce the practice of child marriage, which can have negative impacts on children's well-being [16]. By examining these issues and considering the broader framework of human rights law, it is possible to scrutinize and improve legal protections for children during divorce in the Indramayu region and beyond [17].

The main objective of this research is to conduct a comprehensive analysis of the legal protection afforded to children in cases of underage divorce in the particular socio-legal landscape of Indramayu, Indonesia. This research aims to dissect the legal provisions, their practical implementation, and their effectiveness in ensuring the protection and welfare of children amidst the complexities of underage divorce.

2. LITERATURE REVIEW

2.1 *Legal Framework on Underage Marriage and Divorce in Indonesia*

Indonesia's legal landscape regarding marriage and divorce is complex, encompassing a combination of national and local regulations. The legal age for marriage, the grounds for divorce, and special provisions relating to the rights of the child during the dissolution of a marriage are at the heart of this framework [9]. The Marriage Act of 1974, along with subsequent amendments, set national standards for marital ties [18]. The specific nuances of the region are regulated through regional regulations, so it is very important to examine both layers of legislation in order to understand the legal dynamics governing underage marriages and divorces that occur thereafter [19]. Within this framework, the legal age for marriage becomes an important point of analysis [20]. Although national laws set a minimum age for marriage, there are variations in local regulations [21]. An examination of these variations will provide insight into the challenges faced by children who marry at an age considered underage by national standards. The reasons for divorce in Indonesia are multifaceted, with legal provisions governing issues such as domestic violence, neglect, and irreconcilable differences. However, the extent to which these provisions take into account the unique circumstances of underage marriage is still a relevant question. This literature review will address the specifics of such legal provisions, analyzing their adequacy in protecting the rights and interests of children involved in underage divorce.

2.2 *Previous Research on Underage Marriage and Divorce in Indonesia*

Existing academic research provides valuable insights into the prevalence and consequences of underage marriage in Indonesia [22], [23]. These studies shed light on the socio-cultural factors that contribute to this phenomenon and help in understanding the root causes of underage marriage [24], [25]. This understanding is crucial for formulating effective legal protections for children in the event of divorce [26]. Previous research also explores the experiences of children after underage divorce, including the psychological, social, and economic implications of marital dissolution on minors [27]. Additionally, the literature highlights the role of local customs and traditions in shaping perceptions and practices around marriage and divorce, which often intersect with the legal framework. Analyzing these tangents is essential for developing legal protections that respect cultural diversity while ensuring the well-being of children.

2.3 Impact of the International Convention on the Rights of the Child

Indonesia's commitment to protecting the rights of the child can be assessed by examining the alignment between international standards and regional regulations. This literature review analyzes the influence of international conventions, such as the Convention on the Rights of the Child, on national and regional legal frameworks in Indonesia. The research papers provide insights into the legal challenges and opportunities in implementing these conventions. The paper by Prameswari et al. discusses how the Indonesian Nationality Law protects children at risk of statelessness and its connection to achieving the Sustainable Development Goals (SDGs) [8]. Suprpto's paper highlights Indonesia's role in preventing transnational cyber pornography of children in the Southeast Asian region through international cooperation [28]. Syahril and Redi's study examines the legal consequences of having a single candidate in general elections and its impact on democratic principles in Indonesia [29]. Runtunuwu and Tjahyadi's research focuses on advancing socioeconomic and cultural rights in Indonesia within the context of international human rights law [30]. Silaban et al.'s paper explores the freedom of association and assembly in Indonesia, including the restrictions imposed to protect national security and public order [31]. These papers provide valuable insights into the alignment between international conventions and regional regulations in Indonesia and identify areas where legal reform may be necessary to meet the obligations established by these conventions.

2.4 Legal Protection Mechanisms for Children in Divorce Cases

In the context of divorce, various legal mechanisms aim to protect the rights of children. These may include custody arrangements, visitation rights, and financial support. Analyzing the adequacy of these mechanisms in addressing the unique challenges posed by minor divorce is crucial. Additionally, understanding how these mechanisms are implemented in practice will provide insight into the effectiveness of legal protection for children.

3. METHODS

This research utilizes a mixed-methods research design, which combines qualitative and quantitative approaches. The integration of these methodologies allowed for a comprehensive exploration of the legal protection of children in underage divorce cases in Indramayu, Indonesia.

The qualitative component involved an in-depth analysis of legal documents, including laws, regulations, court decisions and legal commentaries. This analysis aimed to provide a deeper understanding of the legal framework governing underage divorce in the region, identifying key provisions and potential gaps.

The quantitative component, which included a survey, provided quantitative data to assess the perceptions of legal professionals and stakeholders regarding the effectiveness of current legal protections. On the other hand, interviews provided qualitative insights into the lived experiences of those directly affected by underage divorce.

3.1 Data Collection

a. Legal Document Analysis: Legal document analysis will involve a thorough examination of relevant legal sources. Laws, regulations, court decisions, and legal commentaries relating to underage divorce in Indonesia, with a particular focus on Indramayu, will be systematically reviewed.

b. Survey: A purposive sampling method is used to select legal professionals, social workers, and other stakeholders involved in underage divorce cases in Indramayu. A structured survey will

be conducted to collect quantitative data on their perceptions of the effectiveness of current legal protections for children in these cases.

3.2 Sampling

a. Legal Document Analysis: Sampling for the legal document analysis will include a comprehensive review of national and regional legal provisions relevant to underage divorce in Indonesia, with a focus on the specific regulations applicable in Indramayu.

b. Survey: Purposive sampling was used to select legal professionals, social workers, and other relevant stakeholders involved in underage divorce cases in Indramayu. A total of 110 survey data were completed.

3.3 Data Analysis

a. Legal Document Analysis: Content analysis will be used to identify key themes, patterns, and inconsistencies in legal provisions related to underage divorce in Indramayu. This will involve systematically coding and categorizing the content to extract meaningful insights.

b. Survey: Quantitative data from the survey will be analyzed using statistical methods. Descriptive statistics will be used to identify trends and patterns in the perceptions of legal professionals and other stakeholders regarding the effectiveness of current legal protections.

4. RESULTS AND DISCUSSION

Legal Framework on Underage Marriage and Divorce in Indramayu

Analysis of the legal documents reveals a complex interplay between national and regional regulations governing underage marriage and divorce in Indonesia, with particular attention to the unique dynamics in Indramayu. While the 1974 Marriage Law provides the basic framework, regional regulations provide different nuances to address local realities. Variations in the legal age for marriage and grounds for divorce have been identified, emphasizing the need for specific examination in each region.

Differences in legal age requirements and grounds for divorce require a critical review of the existing legal framework. Regional variations can pose challenges in ensuring consistent protection for children. To ensure comprehensive protection, it is important to harmonize national and regional regulations and create a unified, child-centered legal framework. This will help provide consistent and comprehensive protection for children in different regions. Harmonizing regulations will also facilitate the development of evidence-based prevention programs and risk assessments for high-conflict divorces, which can have negative consequences for children. By creating a unified legal framework, it will be possible to conduct prevention and treatment activities to reduce the level of conflict between parents and prevent adverse consequences for children.

Previous Studies on Underage Marriage and Divorce in Indonesia

Underage marriage is a prevalent problem in Indonesia, with various socio-cultural factors contributing to its occurrence. Various studies have shown that early marriage can have negative impacts on individuals and society, including poor reproductive health, low education and skills, social and emotional problems, financial problems, and family problems [32]. Religious understanding and practices also play a role in early marriage, with lack of religious education and knowledge as a contributing factor [3]. Interpretations of religious texts have perpetuated the practice of underage marriage, often neglecting the health and well-being of the married couple [3]. In remote communities, such as Suku Anak Dalam in Jambi Province, local norms and traditions influence marriage age limits, which may not be in line with state law [18]. These factors, along with customary practices, school dropout, economic factors, promiscuity, filial piety, and gender inequality, contribute to the prevalence of early marriage in Indonesia [33].

The literature underscores the importance of a holistic approach to addressing the challenges posed by underage marriage leading to divorce. Integrating sociocultural insights into legal reform

is a must. The synthesis of existing research forms the basis for proposing recommendations that address not only the legal but also the social dimensions of underage divorce.

Impact of the International Convention on the Rights of the Child

A review of international conventions, particularly the Convention on the Rights of the Child (CRC), highlights Indonesia's commitment to protecting children's rights. Indonesia has ratified the CRC and incorporated its principles into national laws, such as the Child Protection Law. This alignment between national and international standards underscores the importance of upholding the principles outlined in the convention. Indonesia's child protection legal framework aims to fulfill children's rights without discrimination and provide special protection for children in conflict with the law. Efforts to protect child victims of sexual violence and prevent child cyber pornography have also been made, both at the national level and through regional cooperation in ASEAN. Overall, Indonesia's commitment to children's rights is evident in its legal and policy frameworks, as well as its participation in international initiatives. However, this study identifies areas where legal reforms may be needed to bridge existing gaps.

Compliance with international conventions serves as a basis for advocating for comprehensive legal protection. However, the study encourages reflection on the practical implementation of these commitments and underscores the need for ongoing evaluation to ensure effective translation of international principles into national and regional legal frameworks.

Legal Protection Mechanisms for Children in Divorce Cases

Existing legal protection mechanisms, including custody and financial support arrangements, have strengths and weaknesses within the system. While these mechanisms provide a basis for protection, their effectiveness in divorce cases involving minors may be compromised due to unique challenges. The current operation of the family law system is a source of dissatisfaction for many individuals involved. Reforms are needed to ensure that the system works better within existing budget constraints. These reforms could include better gatekeeping strategies, creating priority lists for parties who have made efforts to resolve their disputes, and the use of costs orders against those who file unreasonable applications. In addition, an integrated legal system model that includes legal structure, substance and culture can effectively address domestic violence cases in divorce. Shifting the focus from a purely legal and rights-based approach to a more holistic and multidisciplinary approach can protect the best interests of the child in child protection cases.

This study advocates for a contextualized approach to legal protection mechanisms. Tailoring these mechanisms to the specific challenges posed by underage divorce, such as ensuring age-appropriate custody arrangements, emerges as a particularly important recommendation. This discussion contributes to the ongoing discourse on the evolution of legal protections to meet the evolving needs of children in diverse family structures.

Challenges and Critiques of the Current Legal Framework

The identification of challenges and critiques of the current legal framework highlights issues of implementation, enforcement gaps, and social barriers. Criticisms regarding the effectiveness of certain legal provisions in addressing the unique vulnerabilities of children in minor divorces have surfaced, necessitating a more in-depth examination of these shortcomings. Recognition of challenges in the legal framework serves as a catalyst for proposing targeted reforms. Addressing enforcement gaps, improving legal literacy, and developing support systems for children facing divorce emerged as critical components of a comprehensive legal response.

The Relevance of Local Culture and Traditions

The literature on legal culture emphasizes the importance of cultural sensitivity in legal reform, particularly in cases involving minor divorce. Cultural factors play an important role in

protecting and potentially jeopardizing the welfare of children in such cases [34]. The concept of legal culture encompasses the actions, experiences, and interpretations that surround the law, including the unofficial and non-legal behaviors that shape formal legal phenomena [35]. In addition, the study of legal culture explores legal consciousness, which refers to the meanings, sources of authority, and practices associated with or informed by law [36]. Understanding the interaction between legal provisions and local culture is crucial in addressing the complexities of underage divorce cases and ensuring the well-being of the children involved [37].

This research underscores the importance of recognizing cultural diversity when crafting legal reforms. Balancing respect for local traditions with the need for universal child protection standards requires a nuanced approach. Recommendations include encouraging dialogue between legal and cultural stakeholders to develop solutions that uphold children's rights while respecting cultural context.

Survey Results

Perceptions of Legal Professionals

Legal professionals have expressed a positive perception of the adequacy of the current legal framework in protecting children's rights in minor divorce cases, with 73% believing that the legal framework adequately meets the needs of children. However, there are concerns regarding inconsistencies between national and regional regulations, with 56% of legal professionals expressing their concern regarding this issue. This highlights the potential challenges in providing uniform protection for children in divorce cases. To address this issue, 82% of legal professionals emphasized the importance of ongoing legal education to improve understanding and implementation of child protection laws. This indicates a recognition of the need for continuous learning and improvement to ensure consistent and effective implementation of child protection measures in divorce cases involving minors.

Social Worker Perspective

Social workers were surveyed to gauge their insights on the practical implementation of legal protection and support services available to children in minor divorce cases. Key findings include: 64% of social workers believe that existing support services adequately meet the psychological and emotional needs of children in minor divorce cases. However, 48% expressed concern about the limited availability of resources, which impacts the scope and quality of support services. 90% advocated for increased collaboration between legal professionals and social workers to create a more holistic support system for children. While social workers generally viewed existing support services positively, limited resources posed a challenge. The emphasis on interdisciplinary collaboration suggests an opportunity to strengthen links between the legal and social work sectors to improve overall support.

Individuals with Underage Divorce Experience

The survey of individuals who had experienced divorce as minors provided valuable insights into the impact of divorce on children. The findings highlighted several important points. First, respondents expressed dissatisfaction with the legal process during a minor divorce, citing a lack of understanding and empathy from legal professionals. Second, there was a strong consensus (82%) on the need for age-appropriate custody arrangements and greater consideration of the child's voice in legal proceedings. Thirdly, community support was seen as crucial in mitigating the negative impact of underage divorce on children, with 75% of respondents emphasizing its importance. These findings underscore the need for a more compassionate and child-centered legal process, with tailored custody arrangements and increased community support to reduce the impact of underage divorce on children.

Recommendations

Based on the comprehensive analysis of legal protection for children in cases of underage divorce in Indramayu, several recommendations can be made. First, there is a need to harmonize legal standards at the national and local levels to ensure consistency and clarity in protecting children's rights. In addition, it is imperative to allocate additional resources to support services, such as psychological and emotional assistance, to ensure a wider and more effective reach for children facing the complexities of underage divorce. Interdisciplinary collaboration between legal and social work professionals is also essential to create a more integrated and supportive system for children, emphasizing a holistic approach to their well-being. In addition, implementing training programs for legal professionals to increase their understanding and empathy in handling underage divorce cases, with a focus on prioritizing child welfare, is also recommended. Lastly, community-based initiatives that provide a supportive environment for children experiencing minor divorce should be encouraged to foster understanding and acceptance within local communities.

Research Limitations

Access to specific legal documents and details of individual cases was limited, which may have affected the depth of legal analysis. The sample size for the survey, especially among individuals who have experience of underage divorce, may not fully represent the diversity of perspectives within the population. The cultural insights in this study are subject to the sensitivity and interpretation of the researchers, and additional perspectives from cultural experts may enrich the analysis.

CONCLUSION

In conclusion, this study contributes valuable insights into the multifaceted issue of underage divorce in Indramayu, Indonesia. By dissecting the legal framework, understanding the sociocultural dynamics, and engaging stakeholders, the research identified opportunities for improvement. The recommendations, based on the survey results and broader research findings, aim to strengthen legal protection and support systems for children facing the challenges of underage divorce. Recognizing the limitations of the research, this study serves as a foundation for future efforts to advance the rights and well-being of children in family transition.

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