

The Development of Policy Instrument in the Application of the Law Number 1 of 1974 on Marriage as the Effort to Reduce Underage Marriage

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Abstract: Underage marriage is one of the social problems in Indonesia. Based on data from the Central Bureau of Statistics of Indonesia, Sampang District constitutes one of the regions with a high rate of underage marriage. Regulations concerning the minimum age of marriage have been clearly stated in the Law Number 1 of 1974 concerning Marriage, however, in reality this Law has not been effectively applied. Therefore, this study aims to develop policy instruments as an effort to reduce underage marriage practices. The results of this study indicated three things. To begin with, the factors that cause underage marriage are cultural, religious, and educational factors. Secondly, agencies that act as applicator as well as the communities in Sampang District do not use the same rules of measurement to determine the minimum age of marriage. Thirdly, the policy instruments used in the implementation of Law Number 1 of 1974 concerning Marriage are information and exhortation. The conclusion of this study was that improper use of policy instruments causes many underage marriage practices in Sampang District. Therefore, it is necessary to develop instruments in the form of "family and community" and "regulation". Family and community instruments can be published through socialization to parents, religious leaders, and the community. Meanwhile, regulations can be realized in the form of written rules from the Government of Sampang District in the form of Regional Regulations.

1 INTRODUCTION

Underage marriage is a social problem in developing countries, including Indonesia. The percentage of underage marriage in Indonesia is still relatively high, even ranked second highest in Southeast Asia after Cambodia. Based on the UNICEF report, one of four girls in Indonesia were married before 18 years of age or around 26% in 2012. The definition of underage marriage is almost the same in several countries. The minimum age limitation for defining child marriage is 18 years (Hervish & Feldman-Jacobs, 2011; United Nations Children's Fund [UNICEF], 2007).

Underage marriage may have a negative impact because they violate human rights to children's education, health, and long-term prospects (Babatunde Executive Director of UNFPA, 2011). Other impacts on underage marriages are psycho-social losses, adolescent health and reproduction, and educational refusal (UNICEF, 2001).

In Indonesia, according to Law Number 1 of 1974 On Marriage, marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years. Although there are regulations providing a minimum age limit, there are still many cases of underage marriage. One area in Indonesia that has a quite high number of underage marriages is Sampang District, East Java Province. Based on data from the Central Bureau of Statistics (BPS), the percentage of underage marriage in Sampang District experienced fluctuation, namely in 2012 (45.12%), 2013 (43.33%), 2014 (43.47), 2015 (18.59%) and year 2016 (35.37%). Sampang District is also listed as the second poorest region in East Java Province with a total poverty rate of 23.57% in 2017. In addition, based on the data from the Sampang District Education Office, it is recorded that there was still a high school dropout rate of 1.20% at the junior high school level and 1.43% at the high school level in 2017.

The remaining numbers of underage marriage practiced in Sampang District indicates that the

application of Law Number 1 of 1974 On Marriage is still not effective. According to Howlett and M. Ramesh (1995: 80) instruments are needed as a tool to implement a policy in order to achieve its objectives. Policy instruments can be classified into 3 (three) types; *compulsory instrument*, *voluntary instruments*, and *mixed Instruments*. The three instruments are then translated into 10 (ten) types of policy instruments consisting of family and community, voluntary organizations, markets, regulations, public enterprises, information and exhortations, subsidies, auction of property rights, tax and user chargers (Michael, 1995: 83-97). Therefore, this paper intends to discuss the policy instruments used in the application of Law Number 1 of 1974 On Marriage in Sampang.

Research related to underage marriages has been carried out in various countries. The first research was entitled as "On the Impact of Early Marriage on Schooling Outcomes in Sub-Saharan Africa and South West Asia" by Marcos, Kwame, Ricardo and Jimena (2015). Second, it was researched on "Early Marriage: Trends in Turkey, 1978-2008" by İlknur and Banu (2014). Thirdly, there was a research entitled "Parents' Perception on the Factors of Early Marriage among the Urhobos in Delta State of Nigeria " by Emmanuel A. Agege, Yehezkiel U. Nwose and Stella Odjimogho (2017). As the fourth research, it was conducted under the title "Indonesian Marriage Law Reform: The Way to Strengthen the Protection of Children 's Rights Against Child Marriage" by Zesty Wulan Ayu Widhi Prameswari and Erni Agustin.

2 METHODS

This research utilized descriptive qualitative method. Data collection techniques were through interviews, documentation, and observation. The informants in this study were the Chairperson of the District Court Sampang District, Head of the National Population and Family Planning Office for Women's Protection and Child Protection, Chairperson of the Office of Religious Affairs, Head of the Ministry of Religion in Sampang, Chairperson of the Religious Courts, Head of the Regional Education Board, Head of Social Service, Community Leaders and the Sampang Community.

3 DISCUSSION

Based on data from the Central Bureau of Statistics of Indonesia, Sampang District is one of the regions that has a high rate of underage marriage. Similar phenomena on early marriage can also be found in India, Afghanistan, Pakistan and Myanmar. The trigger of underage marriage in Sampang District is slightly different from the occurrence in Rohingya Muslims communities in Myanmar. Quoting from *Liputan6.com* on December 27, 2017, Rohingya Muslims who fled from Myanmar to Bangladesh married their children earlier to ease the burden on households. Whereas in Sampang District, in addition to alleviating the burden on families, cultural factors (matchmaking), religious factors and low education are the causes of underage marriage. This is confirmed by the Head of the Office of Religious Affairs, Sampang District. Apart from that, a unique yet saddening fact of underage marriages in Sampang District is some people would feel happy because they are "sold out" and "free from school burdens". Underage marriage occurred in Sampang District are clearly contrary to Law Number 1 of 1974 concerning Marriage.

When connected with the theory of Michael Howlett (1995: 83-97), so far the instrument used by the Sampang District government to implement Law Number 1 of 1974 On Marriage is "Information and exhortation". According to Michael Howlett, information dissemination is a passive instrument that is carried out by providing information to individuals and business entities in the hope of changing behavior as desired by the government. Information dissemination to junior and senior high school students is carried out in the form of banners in public places by the Office Family Planning for Women's Protection and Child Protection. In addition, it is also carried out in the form of socialization to schools and the establishment of "Information and Youth Counseling" organizations by the Office of Family Planning for Women's Protection and Child Protection. Nearly 80% of children in Madura "school" lived and studied in boarding schools. Unfortunately, the socialization from the National Population and Family Planning Office for the Protection of Women and Child Protection as well as the Office of Religious Affairs regarding Law Number 1 of 1974 On Marriage has never been carried out in Islamic boarding schools. Meanwhile, the Ministry of Religion and the Office of Religious Affairs has programs socialization called Marriage Guidance. The target of this program is the bride who has registered a marriage

at the Office of Religious Affairs. Before the wedding day, the bride is given guidance in fostering a happy family. The material provided was the Sakinah Family Foundation by the representatives from the Ministry of Religion and the Head of the Office of Religious Affairs, as well as reproductive health by doctors in Sampang District.



Figure 1: Marriage Guidance

Source: Office of Religious Affairs

"Information and exhortation" conducted by the National Population and Family Planning Office for the Protection of Women and Child Protection, the Ministry of Religion and the Office of Religious Affairs did not have a significant impact. This can be seen from the data of underage marriage practices in Sampang District of 35.37% in 2016. Thus, it is necessary to develop a policy instrument that can help reduce underage marriage practices.

The development of the required instruments is "family and community". Socialization is not only given to children but also to parents and the community. Parents and communities are the main target of socialization to change the culture in the Sampang District by doing matchmaking since a toddler. The arranged marriage is carried out with a friend's child or the child of his parents. Some of the reasons underlying the match are to strengthen friendship, avoid adultery, and avoid the stamp as "old maid and not sold". The people in Sampang District also have a culture called "Bubuan" which is collecting money for the wedding party. As a result, parents will "sacrifice" their children to get married quickly if someone proposes. This matchmaking culture has turned into belief. The case of the severance of engagement in Sampang District was very large. Breaking the engagement means breaking up, breaking up brotherhood and become the public consumption. Besides, the fear of "witchcraft" will be received because of break off the engagement. Therefore, this is a belief for the people in Sampang District if their cancel the engagement means the huge disgrace. In addition, socialization also requires to be implemented at the Islamic boarding school with the main target being religious leaders. This is intended so that religious

leaders can change the mind-set about the minimum age of the bride and grooms.

According to Article 7 Paragraph 1 of Act Number 1 of 1974 On Marriage, it is expressly stated that marriage is only permitted if a man has reached the age of 19 years and a woman has reached the age of 16 years. Whereas in Paragraph 2 of the same article, it is stated that to hold a marriage each bride candidate who has not reached the age of 21 years as well as require the permission from both parents. The Ministry of Religion and the Office of Religious Affairs are guided by the regulation. However, Family Planning and Women's Protection and Child Protection Services mow the rules in which marriage can be performed if a man has reached the age of 25 and a woman reaches the age of 21 years. This is for physical, psychological, and reproductive maturity after marriage. Meanwhile, to determine the minimum age of marriage, the people in Sampang District uses the guidelines of age of age (adult age) based on the Islamic religion.

It can be seen that the agencies that play the role of applicator and the people in Sampang District do not use the same rules, so that Law Number 1 of 1974 concerning Marriage is difficult to implement. On the one hand, the community lives with its own wisdom based on culture and religion, while on the other hand the country is formally legal.

Therefore, it is also necessary to develop further instruments, namely regulatory instruments. According to Michael Howlett (1995: 83-97), policy instruments in the form of regulation are regulations that have a compelling nature without considering individual circumstances. Regulations required are in the form of written regulations from the Government of Sampang District in the form of Regional Regulations. Strict regional regulations will strengthen the implementation of the law by giving minimal limits on the age of marriage for men and women according to conditions in Sampang district.

4 CONCLUSIONS

The use of inappropriate policy instruments has caused many underage marriage practices in Sampang District. The instrument of "information and exhortation" policy that has been used so far has not been able to solve the main problem causing many underage marriage practices. Therefore, it is necessary to develop instruments in the form of "family and community" and "regulation" to strengthen the implementation of Law Number 1 of

1974 On Marriage. Familial and community treatment could be performed in the form of socialization to parents, religious leaders, and the community. Meanwhile, regulations can be realized in the form of written rules from the Government of Sampang District in the form of Regional Regulations.

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