
The Unregistered Child Marriage on Lumbang Society Norm Perspective Legal Pluralism

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Article Info

Article history:

Received 27 April 2024

Accepted 15 May 2024

Published 29 May 2024

Page: 39-56

Keyword:

*Unregistered Marriage,
Child marriage, Legal
Pluralism*

Abstract

Unregistered child marriage has become a custom in the Lumbang community. Nevertheless, the Lumbang community registered their marriage with the State when they had children. The existence of this phenomenon shows that the Lumbang community adopts more than one norm regarding child marriage. This article will reflect on the legal practices in the Lumbang community regarding child marriage. This article is an empirical legal research with a legal anthropology approach. This article uses John Griffith's theory of legal pluralism as a means of uncovering the facts of legal practice in the Lumbang community. This research shows that legal pluralism occurs strongly in the practice of unregistered child marriage in Lumbang. The practice of strong legal pluralism occurs through the incorporation of religion-adult law, State-adult law, and the distinction of State-adult law. The community conducts unregistered child marriage as a convergence of customary-religious norms as well as divergence of norms due to restrictions on the minimum age of marriage by the State. Then, the State will register the marriage when they have children as a form of convergence of State-adult norms.

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Introduction

MA, as a part of the Lumbang society, said that he got married because she was not considered a burden on society even though she had only graduated from elementary school (MA, 2024). MA's statement was supported by his wife's explanation (NA) that she got married because of the demands of community customs (NA, 2024). In addition, the Modin, as the marriage authority, explained that unregistered marriages became a community habit because people married off their children under the age of 17 (SA, 2024). The three statements above are a summary of field data showing that unregistered child marriage has become a customary norm in the Lumbang community.

Child marriage in positive law can be registered/legalized when there are urgent matters through an application for marriage dispensation—Law Number 26 of 2019 jo. Law Number 1 of 1974 concerning Marriage has regulated the existence of marriage dispensation for those not yet 19 years old (Lestari & Hendar, 2022). These favorable

Editorial Office:

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rules are supported by the emergence of Supreme Court Regulation Number 5 of 2019 as a guide for judges to decide marriage dispensation cases (Tim Asosiasi Dosen Hukum Keluarga Islam Indonesia (ADHKI), 2020). This shows that a legal policy supports marriage dispensation even though it opens the gap for child marriage (Rohman, 2023).

The registration of the child's marriage through marriage dispensation has a strong causality with the State registration of marriage. A valid marriage, in the eyes of the law, is a marriage that is registered as stated in Article 2, paragraph 2 of Law Number 1 of 1974 about Marriage (Zamroni, 2019). The demand for State legitimacy has led to the emergence of marriage registration through marriage dispensation when there is underage marriage. This is intended to bypass the State's age limit for marriage when certain conditions are urgent (Tim Asosiasi Dosen Hukum Keluarga Islam Indonesia (ADHKI), 2020).

The existence of marriage dispensation, which indirectly legitimizes child marriage, is inversely proportional to the application of norms in Lumbang society. MA's parents' testimony shows that the Lumbang community does not register child marriages (PMA, 2024). This is due to the community's custom that considers marriage to be done before 17 years of age (SA, 2024). In addition, the Lumbang community views the validity of marriage more in terms of religious norms (namely *nikah siri*) than State norms. (RF, 2024). However, the Lumbang community will legally register the marriage when a child is produced due to the marriage. (RF, 2024).

The previous explanations show that there is more than one norm that applies in the Lumbang community regarding child marriage. This aligns with the legal pluralism described by Griffith as the condition of more than one legal order operating in a social arena (Griffiths, 1986). Griffith explains that the plural legal order in society is divided into two types, which are strong legal pluralism and weak legal pluralism. (Rikardo Simamta, 2013). Weak legal pluralism according to Griffith is when State law is considered a significant influence despite the plurality of legal orders in society (in the form of customary law/folk law) (Rikardo Simamta, 2013). On the other hand, strong legal pluralism, according to Griffith, is when several legal orders in society are considered to have the same position. (Griffiths, 1986).

This research aims to reflect on the plurality of legal practices in the Lumbang community regarding child marriage. The reflection is explored through aspects of community legal practice regarding child marriage and the choice of law that applies in the Lumbang community as the concept of Legal Pluralism (Griffiths, 1986). Then, this research explores social actors in applying norms and views the position of norms regarding child marriage because social actors have a role in practicing their norms. (Griffiths, 1986).

Several earlier studies show that the practice of child marriage has been practiced for a long time. Some of these research studies are described below:

Guowgioksilong's 1969 research describes a study of what the future of marriage law in Indonesia should be. This research touches on marriage law in Indonesia as an empirical fact and its legislation during the Dutch colonial period (Gouwgioksilog, 1969). This research outlines the fact that the emergence of the 1937 Ordinance plan was also used to reduce the number of child marriages in Indonesia during the Dutch colonial period. (Gouwgioksilog, 1969). However, child marriage in Indonesia has become a culture of society, so the laws formed will have difficulty in regulating this behavior (Gouwgioksilog, 1969).

Then, a 2018 study on the problems of child marriage showed that Indonesian regulations are still inconsistent in preventing child marriage. (Natsif, 2018). This study explains the inconsistency of norms regarding the prevention of child marriage due to different standards in determining the age of the child (Natsif, 2018). According to this study, positive law (marriage law and child protection law) in Indonesia has different criteria for what constitutes child marriage (Natsif, 2018). This study found that child marriage, according to Islamic law, is also different due to different views on the age criteria for marriage. (Natsif, 2018). However, this study was conducted before the changes to the Marriage Law in 2019 about marriage age.

Then, research in 2021 on the role of judges in preventing child marriage shows that judges have a role in preventing child marriage because they have the authority to determine marriage dispensation (Mansari & Rizkal, 2021). The judge in this study tried to advise the parents of the applicant for marriage dispensation to prevent child marriage. However, judges in enforcing marriage prevention are hampered by existing regulations and facts in Indonesia. These regulations are the 2019 Marriage Law and the firm will of parents and children regarding marriage (Mansari & Rizkal, 2021).

Research in 2019 on the factors causing child marriage in Bengkulu shows that child marriage is caused by the social environment, the economic conditions of the community, the culture of the community, and the low level of education (Sunaryanto, 2019). This research highlights the ineffectiveness of relevant regulations and policies in addressing/handling child marriage due to the preceding factors (Sunaryanto, 2019). This research shows that the socialization regarding marriage prevention is less than optimal due to social conditions described in the previous factors (Sunaryanto, 2019).

Based on previous studies, this research will explore the practice and position of several norms in the Lumbang community. In addition, this research will continue Guowgioksilong's study of child marriage (Gouwgioksilog, 1969) and child marriage in Bengkulu (Sunaryanto, 2019). The difference between the two previous studies is that this research explores the complex practice of legal selection in the Lumbang community and the concept of legal pluralism (Griffiths, 1986). Then, this research also reflects the application of State norms on child marriage, which is still not optimal, as in the study on the role of judges in preventing child marriage (Mansari & Rizkal, 2021), and research on

the problem of child marriage (Natsif, 2018).

This research will answer and reflect on some of the problems of child marriage in the pluralism of normative practice in society. This study describes the practice of legal pluralism of child marriage in the Lumbang society. Then, this study illustrates how the reflection on the occurrence of child marriage in the Lumbang society.

Research Methods

Researchers use empirical legal research as their methodology. Empirical legal research is legal research that explores aspects of legal practice and society (Muhaimin, 2020). This research, using this methodology, will examine aspects of the practice of legal norms regarding child marriages that are not registered in the Lumbang Community.

This research uses a legal anthropology approach and a conceptual approach. The legal anthropology approach in this research was used to explore the cultural aspects of legal norms practiced by the Lumbang community regarding child marriage (Muhaimin, 2020). Then, a conceptual approach was used to explore the concepts of norms practiced by society regarding child marriage as well as the concept of State norms regarding marriage (Muhaimin, 2020).

The theory used in this research is legal pluralism by John Griffiths (Griffiths, 1986). This theory is used to carry out investigations regarding the practices and views of several norms, including religious norms, traditional/folk law norms, and State norms, in Lumbang society, as the norms in society are complex, according to Griffiths (Griffiths, 1986). In addition, this theory reflects several views of complex legal norms regarding child marriage in Lumbang society (Griffiths, 1986).

The empirical approach used in this research is qualitative. This approach shows that this research explores the data in depth (Abdussamad, 2021). The technique used in the qualitative approach and data management for this research is data reduction. This technique is used to reduce/data that is relevant to the approach and theory used (Cresswell, 2019).

The place/locus of this research is Lumbang Sub-District (Kecamatan), Pasuruan Regency (Kabupaten). Information about the research location is used by researchers to confirm the location of the research data (Cresswell, 2019). Apart from that, this information becomes a guide and boundary for the area explored by researchers (Cresswell, 2019). The data taken relating to the location of this research is data from the Lumbang Sub-District community, the Lumbang Sub-District headman/Modin, and the Lumbang Religious Affairs Office.

The data sources in this research are respondents who married children and their parents. Then, the data source in the form of informants and sources in this research is *Modin* and the Lumbang Religious Affairs Office. The data source in the form of respondents in this study was taken from 3 cases of child marriages that were not

registered in Lumbang. The explanation of the data source in the form of respondents is formed in notational form by the researcher as follows:

- a. The first case is MA (male) and NA (female) and their parents (MA's parents as PMA and NA's parents as PNA)
- b. The second case is XA (male) and DA (female) and their parents (XA's parents as PXA and DA's parents as PDA)
- c. The third case is WA (male) and LA (female) and their parents (WA's parents as PWA and LA's parents as PLA)

Analysis and Discussion

The Concept of Legal Pluralism John Griffiths

Legal pluralism according to Griffith is the enactment of several laws or more than one law that takes place in one social arena. Griffith further explains that the social arena presents several laws (or more than one law) practiced by the community (Griffiths, 1986). The practice of several laws in the social arena should not be viewed in the same situation. According to Griffith, this is because the study of legal pluralism considers that the law applies in society in various situations (Griffiths, 1986).

This concept was born as a context to straighten out the views of legal pluralism studies from the opinions of legal centralism (Rikardo Simamta, 2013). Legal centralism studies assume that State law applies to all subjects living in the same jurisdiction. However, the social reality of community culture forces the State to recognize customary law (Rikardo Simamta, 2013). Therefore, the concept of pluralism is often misinterpreted as State recognition of customary law so that customary law can also apply alongside State law (Griffiths, 1986).

Griffith argues that legal pluralism results from social analysis of social practices on diverse laws (Rikardo Simamta, 2013). Griffith's legal pluralism study focuses more on social practices in the position of several laws in one community arena, not on recognizing State law over community law (Griffiths, 1986). This is because legal pluralism is based on the work of social analysis of several laws in one community arena. This is different from the concept of centralism, which focuses on State law as absolute law and can provide opportunities for customary law through legality recognition (Griffiths, 1986).

Griffiths' legal pluralism thinking can be found in several of his studies. One is Griffiths' research on the Staphorst community and its dispute resolution model (Griffiths, 1984b). Griffiths managed to trace the existence of several norms that apply in the dispute resolution of the Staphorst community even though it is still dominated by the people's court. Griffiths' study (1980) proved that there was resistance to the acceptance of State norms in trying criminal cases. Griffiths (1980) managed to explore that folk law has a strong influence even though it depends on individual interests (to choose a resolution through the State (Griffiths, 1984b). However, the community of Staphorst still

wanted a folk court to try criminal offenders (Griffiths, 1984b).

The research is the basis for explaining social phenomena regarding the reality of the complex norms that exist in society. The complex relationship between legal resolution and legal choice is further explained by Griffiths in Four Laws of interaction in circumstances of legal pluralism (Griffiths, 1985). The study explains the form of social interaction in law as a starting point to explain the concept of legal pluralism. Griffiths explains that there are four rules when legal pluralism occurs (Griffiths, 1985). The four rules that explain the concept of legal pluralism are as follows (Griffiths, 1985):

- a. The first rule, Griffith explains, is that society tries to solve a problem internally and punishes external settlements. This is because a culture that allows the practice of external problem-solving will be threatened with disintegration. Society views that an issue is the problem of the social group itself and no other group should participate in solving it. Therefore, some societal models consider external laws that are irrelevant to their problem-solving as dirty linen as Griffiths (1985) explains. However, this applies to highly inclusive societies.
- b. The second rule, Griffith explains that a society sees problem solving in terms of its benefits. Competition between dispute resolution/litigation institutions lies in how people perceive the benefits of solving a problem in a litigation institution. Griffiths (1985) explains that this rule only views competition between litigation institutions to get their benefits through case handling.
- c. The third rule, Griffiths explains that some litigation institutions have an involvement in creating social control. According to Griffith, litigation institutions attempt to exercise social control, but sometimes, the social distance created by these institutions is too great. One example given by Griffiths (1985) is a litigation institution whose social control is weak due to the high cost and distance of the institution's relationship from the community.
- d. The fourth rule, Griffiths explains, is that norms can do convergence (merging) or divergence (differentiation). Several litigation institutions with the same substantive law will not compete for fear of losing influence. This results in norm convergence in a case settlement. Griffiths' (1985) concrete example of convergence is Catholic and State court divorce simultaneously.

Legal pluralism, according to Griffiths (1986), is divided into two, which are strong legal pluralism and weak legal pluralism. Both of these are explained in more detail as follows(Griffiths, 1986):

Strong legal pluralism, according to Griffiths, is a condition where there is more than one law practiced by the community, and all of these laws have the same position in society. The condition of strong legal pluralism based on Griffiths' thinking is a condition that does not limit the community to conduct legal taxonomy which results in legal stratification. The condition of strong legal pluralism indicates that there is an equal

position between several laws, even though they apply in several different situations.

Griffiths in this regard rejects the existence of a legal taxonomy that leans towards the ideology of legal centralism which forces the classification of law as a State authority as a State social control and non-law as a social control of society derived from social norms (Griffiths, 1984a). This causes Griffiths to consider that law is a form of social control even though it does not come from the State.

Griffiths' rejection of the legal taxonomy model is based on empirical facts of legal practice in society. Law in society is not only normative compliance with the State but as compliance with rules that give birth to existing sanctions (Griffiths, 1984a). Therefore, this view is relevant to the description of strong legal pluralism, where several forms of law are obeyed simultaneously, even in different conditions. This is because society does not taxonomize in empirical legal practice the norms it adheres to. However, people can make choices on several norms that have the same position even in different conditions (Griffiths, 2003).

Then, weak legal pluralism, according to Griffith, is when State law is considered a significant influence despite the plurality of legal orders in society (in the form of customary law/folk law). State recognition of customary/folk law or religious norms causes State law to have a stronger position. This position causes State law to become the primary interpretation of the validity of customary law or religious norms. This causes the absence of diverse legal practices in the community because the State has taken the legal interpretation of the community.

The Unregistered Child Marriage in Lumbang Society

The Lumbang community in this study refers to the people who live in Sub-District Lumbang. Administratively, Lumbang is one of the Sub-District areas included in the Pasuruan Regency (BPS Pasuruan, 2020). This Sub-District is directly adjacent to Probolinggo Regency (BPS Pasuruan, 2020). This Sub-District has a population of 35,174 people according to census data in 2020 (BPS Pasuruan, 2021). Then, the people of Lumbang who officially married numbered 317 people in 2019 (BPS Kabupaten Pasuruan, 2023). The number of families in this community was 10,499 families in 2020 (BPS Pasuruan, 2021).

Data on child marriage in the Lumbang community was extracted through the resource persons *Modin* or *penghulu* and the Lumbang Religious Affairs Office. In addition, this research explores several social actors in cases that occur regarding unregistered child marriage. The following is an explanation of how the legal practice of unregistered child marriage in the Lumbang community:

1. Unregistered child marriage cases in MA and NA

MA (male) married NA (female) in 2021 through *nikah siri* or unregistered marriage. MA explained that he married NA when he graduated from elementary school

(MA, 2024). NA explained that she got married when she was still in elementary school (NA, 2024). NA and MA explained that their marriage had been planned by their parents (NA, 2024).

Child marriage is common around MA and NA. This is evidenced by NA's explanation that she got married because many of her elementary school friends were already married (NA, 2024). NA's statement was affirmed by MA that child marriage has become a custom in their area (Lumbang) (MA, 2024). MA explained that a primary school child before the age of 17 who is not married is a burden on the family and is stigmatized as someone who is not marriageable (will not get married) (MA, 2024).

Nevertheless, MA did not want to marry NA, so MA got married based on following the orders of his parents and at the same time carrying out local customs (MA, 2024). MA explained that he had been dating someone before marriage (MA, 2024). However, MA's parents (PMA) forced MA to marry NA so that MA and NA's family relationship would be closer (MA, 2024).

MA and NA's marriage had been planned by their parents. PMA (MA's parent) explained that her son's marriage was done so that he would not be stigmatized (PMA, 2024). The stigma is that children who are not married before the age of 17 are a burden on the family (PMA, 2024). PMA married off her child with the aim that her child would not be a burden on PMA's family (PMA, 2024).

PMA explained that unregistered child marriages are common around the community. According to PMA, this is to prevent children from having sexual relations outside of marriage (PMA, 2024). This is because religious norms have legalized sexual relations through marriage. Therefore, these unregistered marriages are conducted through religious norms (known as *nikah siri*) (PMA, 2024).

PNA (as NA's parent) explained that the marriage between NA and MA was done due to PNA's closeness to MA's parents. According to PNA, the closeness with PMA helped her to get her daughter married to MA (PNA, 2024). This was so that PNA could carry out customs in the surrounding community. PNA explained that it is customary in the area to marry children before the age of 17 (PNA, 2024).

At the time of the interview, they (MA and NA) were planning to register their marriage with the State (MA, 2024) (NA, 2024). This is done by both of them so that they can take care of the birth certificate for their child later. MA and NA's statements were reinforced by PMA's explanation of State marriage. PMA explained that people who have married will register their marriage with the State to obtain a birth certificate to send their children to school. According to PMA, this is the custom of the community when marrying off their children before the age of 17 (PMA, 2024).

2. Unregistered child marriage cases on XA and DA

XA (male) married DA (female) in 2019. DA got married when she was still in elementary school and was 12 years old. XA married DA because he had been in a dating

relationship for 2 years. In addition, XA and DA got married because their friends had been married since before graduated from elementary school (XA, 2024). DA explained that her elementary school friends were married so she was embarrassed if she was not married (DA, 2024).

XA married DA and had various problems surrounding it. DA's parents (PDA) explained that XA could not provide for her. This is because XA is still unemployed as he graduated from primary school (PDA, 2024). Therefore, PDA as DA's parent explained to both of them that marriage is a binding relationship between the two families so the matter of maintenance must be discussed together (PDA, 2024). This is why, before the marriage of XA and DA, both families (PDA and PXA) held family meetings to determine the place of residence and maintenance of XA and DA after marriage (PDA, 2024).

PXA explained that XA and DA's marriage was based on the willingness of both partners (XA and DA) (PXA, 2024). PXA realized that her son was not working, so she could not guarantee DA's housing and livelihood (PXA, 2024). Therefore, PXA conducted a deliberation with PDA to determine where the two (XA and DA) would live after the marriage. However, PDA said that it was also up to XA and DA to decide where to live (at PDA's or PXA's house) (PXA, 2024).

PDA explained that the issue of where to live was left to the couple. PDA explained that the deliberation was conducted to find out how serious XA was about marrying his daughter (DA) (PDA, 2024). This was also done because both couples were still in elementary school. PDA was concerned that they were too young to get married although PDA realized that it (child marriage) was common around them (PDA, 2024).

Then, PDA explained that they wanted their children not to get married from elementary school age. However, PDA was worried that her child would commit sexual acts outside of marriage, resulting in pregnancy outside of marriage (PDA, 2024). This concern is also based on the thoughts of the surrounding community towards getting pregnant outside of marriage, which is a big sin. Nevertheless, PDA realized that XA and DA were not yet allowed to marry by the State, so they entered into an unregistered marriage (PDA, 2024).

After the marriage, PDA emphasized to both of them to immediately register their marriage with the State. This was because PDA was concerned that when her daughter (DA) divorced XA, DA would not receive her maintenance rights after the divorce (PDA, 2024). PDA explained that if DA later divorced while XA and DA's marriage was not registered, the child would not receive any property (PDA, 2024).

XA and DA eventually registered their marriage with the State. XA entered into a State marriage with DA in 2023 (DA, 2024) (XA, 2024). However, both had difficulty registering their marriage with the State (XA, 2024). They had to apply for marriage dispensation at the religious court. XA explained that he had to overcome this difficulty to get DA's parents' consent (DA, 2024).

3. Unregistered child marriage cases in WA and LA

WA (male) married LA (female) in an unregistered/*nikah siri*. The two were married unregistered in 2019. WA is an elementary school graduate, and LA is still in elementary school. WA explained the reason he married LA was because LA's personality was diligent and clean (WA, 2024). WA before marriage was close to LA's brother who was WA's coworker. LA's brother's explanation caused WA to want to marry LA. Therefore, WA tried to marry the LA immediately (WA, 2024).

This is inversely proportional to LA's explanation regarding his marriage to WA. LA explained that he did not want to get married first. LA wants to continue her studies until she graduates. However, LA was afraid of the community's stigma that unmarried elementary school children were a burden to her family (LA, 2024). LA explained that the teachings of her parents and the surrounding community show that women only have roles to cook, decorate, and have children (*masak, macak, manak*) (LA, 2024). Therefore, girls should not go to school too high because they only have to work in the kitchen.

WA's parent (PWA) explained that child marriage is normal in her neighborhood. PWA explained that elementary school children should be married (PWA, 2024). Nevertheless, PWA realized that child marriage could not be registered by the State. This is because registering a child marriage with the State requires very complicated procedures. Therefore, her child's marriage (WA) was carried out unregistered or by religious norms (PWA, 2024). This is done so that the child's marriage is religiously valid and does not cause destructive perceptions of neighbors (PWA, 2024).

This is reinforced by the explanation given by LA's parents. PLA, as LA's parent, explained that PLA married her child unregistered. This was because the community around PLA had married off their children since elementary school age (PLA, 2024). PLA explained that the local community considers child marriage an obligation to avoid bad things (PLA, 2024). This is because children's relationships are now very free, making it possible for them to become pregnant outside of marriage. Therefore, the PLA allowed WA to marry her daughter unregistered (PLA, 2024).

WA and LA will register their marriage with the State when they have children. PWA explained that the need to register WA and LA's marriage with the State was the need of WA and LA's children (PWA, 2024). PWA explained that child marriages in the area will be registered by the State when the woman/wife is pregnant or the child from the marriage is about to enter school (PWA, 2024). WA and LA eventually had their marriage registered by the State in 2021 (WA, 2024).

4. Unregistered child marriage cases based on State and non-state actor's

SA is one of the Modin (someone who marries a traditional headman) in the Lumbang community. SA explained that unregistered child marriage has become a custom in the Lumbang community. The Lumbang community marries their children

before the age of 17 in an unrecorded manner (SA, 2024). The Lumbang community considers a 17-year-old unmarried woman to be a burden on the family. SA said that the Lumbang community considers child marriage to be done so that there are no pregnancies outside of a religiously valid marriage. The Lumbang community considers religious norms necessary in marriage even though it is not registered by the State (SA, 2024).

SA explained that some Modin practiced unregistered child marriage. Some of these Modin cannot be prohibited even though there has been a notification of the prohibition of child marriage (SA, 2024). This is because the community has considered it a custom, so the Modin has no power to prevent it. In addition, some Modin considers that if they refuse to marry off a child, then the pillars and conditions of a valid marriage according to religion are not fulfilled (SA, 2024).

This is also supported by RF's explanation as one of the State actors in marriage/State Modin (religious affairs office). According to RF, the religious affairs office as one of the places of marriage administration has conducted various socializations regarding the prevention of child marriage (RF, 2024). The socialization collaborates with related parties such as the religious court and local government. However, the practice of unregistered child marriage is still a tradition practiced by the community (RF, 2024).

RF explained that unregistered child marriage in Lumbang is high. However, some perpetrators of these child marriages will be registered with the State (through the religious affairs office) when they have children. This causes them to apply for child marriage/ dispensation of marriage at the Religious Court (RF, 2024). Some are also used for marriage legalization at the Religious Court (RF, 2024).

RF explained that when they (the perpetrators of child marriage) have been approved for child marriage (RF, 2024). They will repeat the State marriage. This marriage makes their marriage valid by the State. In addition, by obtaining the validity of their marriage by the State, they can have a birth certificate for their child later (RF, 2024).

The Legal Pluralism on Unregistered Child Marriage: State Law, Religion Law and Folk Law of Lumbang Society Norm's

Unregistered child marriage has become a custom in the Lumbang community, even though the validity of the marriage is based on Islamic religious norms. This habit has become a rule or norm in the Lumbang community, as explained in several cases. Explanations from Modin as the traditional marriage authority, parents and children in the cases, and the religious affairs office show the same results. The result is a strong stigma of custom that has become a rule in Lumbang society. This is evidenced by the fact that someone who has not married by the age of 18 is a burden on the family (MA, 2024) (PMA, 2024). Therefore, Islamic legal norms become the basis for the validity of marriage in Lumbang even though it is unregistered (SA, 2024).

This is valid with PMA's statement that unregistered child marriage is a custom of the Lumbang community (PMA, 2024). PLA further explained that the Lumbang community has been marrying off their children since elementary school as a parental obligation (PLA, 2024). This information was reinforced by PDA that the reason for unregistered child marriage is the existence of a feeling of fear of sexual intercourse outside of marriage, which results in pregnancy outside of marriage (PDA, 2024).

These statements were reinforced by perpetrators of child marriage. MA explained that someone unmarried at 17 years old is a burden on the family (MA, 2024). In addition, the stigma of the domestication role of women legitimizes this custom. This legitimization is evidenced by the DA's powerlessness to reject this habit. This is because DA has internalized the dogma of "women's role in the family is to cook, have children and decorate (*masak, macak, and manak*) (DA, 2024). Furthermore, the legitimization of this custom is also based on the religious norm that marriage is a religious step to form a legal family. This is explained by PWA as the parent of the child marriage perpetrator that the urgency of this child marriage is its religious validity (PWA, 2024).

Marriage in Islamic law as believed by the religious norms of the Lumbang community does not recognize the concept of marriage registration (Rachman, Thalib, & Muhtar, 2020). However, social demands and legal certainty have created a new *ijtihad* regarding marriage registration (Mustika, 2011). The basic concept of marriage registration as an aspect of legal certainty has intrinsically existed in Islam through this *ijtihad* (Bariah, 2014). This is evidenced by the hadith of the prophet Muhammad's command to announce marriages (Wafa, 2018). Announcing marriage is the basis for new *ijtihad* regarding marriage registration in Islam (Wafa, 2018). However, marriage registration is not a valid requirement in Islamic marriage so marriage registration becomes a legal option for the community (Naily, Nadhifah, Rohman, & Amin, 2019).

The previous explanation shows that the Lumbang community has its norms, although implicitly derived from religious norms. This is evidenced by the stigma as a punishment for those who have not married at the age of 18 (MA, 2024). On the other hand, Islamic law does not recognize any sentence for people who are not married at a certain age except for permanent celibacy/*tabattul* (Hasibuan, 2021). In addition, the maximum age limit for marriage as the norm of the Lumbang community also does not exist in Islam (Asmuni & Khoiri, 2017). Therefore, the legal behavior of the community shown is a form of their own rules.

The custom of the Lumbang community as folk law coexists with State law (by registering marriage when they have children) (RF, 2024). The Lumbang community adheres to religious norms so they marry based on religious validity although with different arrangements (as explained earlier). However, administrative needs require that marriages be officially/State-registered (RF, 2024). Therefore, this unregistered child marriage shows the application of religious law, State law, and folk law in one arena of

Lumbang society.

The previous argument is proven in every statement that the researcher has collected. RF's statement as a State authority shows that some of the perpetrators of child marriage will be registered by the State when they have children (RF, 2024). RF explained that the marriage registration was carried out so that the child resulting from the marriage relationship could obtain citizenship rights through a birth certificate (RF, 2024). This reason was found in every case obtained, such as one of the following

Some of the previous descriptions of norm enactment in the Lumbang community show the existence of legal pluralism as thought by Griffiths (Griffiths, 1986). Griffiths explains that legal pluralism is the enactment of several laws or more than one law in one community arena (Rikardo Simamta, 2013). This is evidenced by the enactment of several laws within the scope of the Lumbang community. However, the influence of each law occurs in different conditions (Griffiths, 1986).

One form of law in legal pluralism in Lumbang society is the custom of child marriages not being registered. In Griffiths' perspective, the habit of child marriages not being registered is part of the law, even though it is considered folk law. This classification is because law, as Griffiths understands, is a form of social control in the form of norms even though it does not originate from the State (Griffiths, 2003). Then, the reason these habits become law is the existence of stigmas as a means of "punishment" for society. This shows a characteristic of law, as explained by Leopold Pospisil that the law must have certain sanctions (Griffiths, 1984a).

The Lumbang people place this folk law as the first step to marriage. This is because society considers the advantages of carrying out the legal practice of unregistered child marriages (RF, 2024). This advantage is in the form of preventing someone from having sexual relations outside of marriage (PLA, 2024). Then, access to this practice is easy because there are actors who support the practice of marriages not being registered (SA, 2024).

This follows Griffith's explanation regarding the rules of legal interaction in society (Griffiths, 1985). This rule is that a society looks at solving problems from the profit side. Competition between litigators lies in how society perceives the benefits of resolving a problem at a litigation institution (Griffiths, 1985). Then, the practice of child marriages not being registered based on these rules shows that society chooses laws according to cost benefits and support from actors close to society (as explained by the SA) (SA, 2024). This also shows that the religious affairs office as a state authority does not have access due to limited proximity to the community (RF, 2024).

The reality of the distance between state actors in the marriage legal culture of the Lumbang community was re-legitimized by the State—the Instruction Letter from the Directorate General of Islamic Community Guidance Number Dj.II/I of 2015 has reduced the authority of marriage registration assistants (Asnan, 2021). This is because the

instructions require an average of 50 marriages per year so that the Office of Religious Affairs can use the services of assistant marriage registration staff (Saputra, 2019). This requirement makes it difficult for State actors (Office of Religious Affairs) to recruit marriage registration assistants from traditional Modin in several villages (Andicha, 2022). This causes the religious affairs office to be unable to get closer to the community through assistant marriage registration officers (Andicha, 2022).

However, the existence of legal culture phenomena in Lumbang society correlates with Griffith's legal pluralism principles (Griffiths, 1985). Griffiths explains that norms can converge (merge) or diverge (differentiate) (Griffiths, 1985). Multiple litigation agencies that share substantive law will not compete for fear of losing influence (Griffiths, 1985). This legal convergence through reviewing Griffiths' rules occurs in Lumbang society because the authority of the State and traditional institutions (unofficially) have the same scope, namely marriage.

Pieces of information obtained by researchers prove this. PWA as one example of the three cases explains that people usually register marriages when the marriage produces children (PWA, 2024). This is reinforced by RF's explanation that several child marriage perpetrators will be registered by the State (through the religious affairs office) when they have children (RF, 2024). This information shows that there is convergence in child marriage when it produces offspring in 3 forms of law at once (State law, Islamic religious law, and folk law).

The practice of child marriage in the Lumbang community has seen a convergence or merging of folk law and State law. The cause of this norm convergence is that there is permission from the State to carry out child marriages. Community legal practices regarding child marriages in Lumbang are legitimized by the State through the dispensation of marriage. Law Number 19 of 2016 Article 7 paragraph (2) has regulated that marriage perpetrators under 19 years old can be legalized by applying for a marriage dispensation (Rachman et al., 2020). This is supported by Supreme Court Regulation Number 5 of 2019 as a guide for judges to decide marriage dispensation cases (Tasya & Winanti, 2021). Therefore, this merging of norms/convergence of norms occurs as a result of State institutions and societal institutions legalizing child marriage which ultimately legitimizes this practice (Griffiths, 1985).

The demand for citizenship rights regarding birth certificates is a strong reason for the convergence of folk law norms and State law in Lumbang. This is because a birth certificate is one of the rights of citizenship and is made based on State marriage (Adillah, 2016). A marriage that is not legally valid cannot be a reason to issue a birth certificate for a child (Khoiriyah, 2017). However, several legal dynamics through home ministry regulations and constitutional court decisions legalize the recording of birth certificates from unofficial marriages (Manurung & Sulastri, 2021).

Convergence of norms in the practice of child marriage in Lumbang society occurs

in folk law and Islamic law. This is because the practice of unregistered child marriages is carried out using a religious legitimacy mechanism as explained by the SA (SA, 2024). This is strengthened by the legitimization of the practice of unregistered child marriage through religious reasons as stated by the PMA (PMA, 2024). The religious proposition is to avoid committing adultery through a religiously valid marriage (Moniri & Naghibi, 2018). This is as explained in the Qur'an, surah Al Isra' verse 3 verse 3:

وَلَا تَقْرَبُوا الزَّوْجَ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

Meaning: "Do not approach the act of adultery, because indeed adultery is a vile act and a bad way".

The convergence of norms that occurs in child marriage in the Lumbang community is accompanied by a divergence of customary norms and State norms as explained by Griffiths' rule of legal pluralism (Rikardo Simamta, 2013). This difference in norms is because child marriages are not registered in Lumbang society. This is because society believes that marriages must be legalized religiously to avoid pregnancies outside of marriage (because this is considered adultery) (PNA, 2024). On the other hand, the Marriage Law regulates State registration of marriages. Marriage registration as required by State law is too difficult for the public to reach (as previous researchers argued regarding the choice of law through profit) (Griffiths, 1985). Therefore, customary norms become exclusive and differentiate themselves from State regulations regarding the practice of child marriage in Lumbang society (Griffiths, 1984a).

The simultaneous convergence of norms and divergence of norms in the practice of unregistered marriages in Lumbang shows that there is strong legal pluralism (Rikardo Simamta, 2013). Griffith explains strong legal pluralism as the condition that there is more than one law practiced by society and all of these laws have the same position in society (Griffiths, 1986). The application of each law in cases of child marriage in the Lumbang community occurs in the same position even though the conditions are different (Griffiths, 1986).

The practice of child marriage in the Lumbang community is carried out in a convergence of religious and customary norms. This convergence is a difference/divergence with State norms because child marriages are not registered in the Lumbang community. Then, when the marriage has children, it becomes a requirement to register the marriage (RF, 2024). Therefore, the enforcement of these laws shows that the position of several laws is equal even in different conditions (Griffiths, 1986).

Conclusion

The Lumbang community practices unregistered child marriage as a custom/folk law. However, folk law as a product of legal culture does not stand as a single norm practiced by the community. Islamic Law and Positive Law are still practiced by the Lumbang community in child marriage. The existence of the three laws that apply in

marriage in the Lumbang community is a form of legal pluralism according to Griffiths. The pluralism that occurs in this case is based on the convergence of religious-customary norms, convergence of customary-state norms, and divergence of customary norms with the State. The community conducts unregistered child marriage as a convergence of customary-religious norms as well as a divergence of norms due to the limitation of the minimum age of marriage by the State. Then, the marriage will be registered by the State when they have children as a form of convergence of state-customary norms. These three dynamics show a strong legal pluralism because all forms of law apply in social practice. This research as a result of its reflection highlights the State legitimization of child marriage that is utilized by the community. In addition, this practice shows the strength of traditional authority and the weakness of the State.

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