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**Criminal Acts in Completing Early Marriage Requirements:
Tuku Umur Practices in Islamic Communities in Central Java, Indonesia**

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Abstract: The goal of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 Concerning Marriage is to reduce the high rate of early marriage because it violates the rights and development of children. In fact, the rate of child marriage in Indonesia is rising. This circumstance raises the question of whether or not the current regulations are effective. This study seeks to determine the extent to which the Islamic community in Central Java understands the significance of the age limit for marriage. This study also determines why the Islamic community in Central Java prefers "*Tuku umur*" to fulfill the requirements for early marriage and to determine whether "*Tuku umur*" constitutes a criminal act. This research employed a juridical-sociological approach with complementary data, namely the distribution of information through interviews with informants in response to several question indicators indicated in the discussion. According to the findings of this study, the Islamic community of Central Java has not fully grasped the significance of the age limit for marriage; hence they tend to disregard these regulations. This study reveals that some Muslim communities in Central Java prefer to practice the "*Tuku umur*" to fulfill the conditions for early marriage since it is simpler than seeking a marriage dispensation. In addition, the findings of this study imply that "*Tuku umur*" is a criminal act because it contains falsified data. Additionally, *Tuku umur* is a bribery offense, one of the sorts of corruption.

Keywords: Criminal, requirements for marriage, *Tuku umur*

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Abstrak: Tujuan ditetapkannya Undang-Undang Nomor 16 tahun 2019 tentang Perubahan Undang-Undang Nomor 1 tahun 1974 tentang Perkawinan adalah untuk menekan tingginya angka perkawinan dini, karena perkawinan dini merupakan salah satu bentuk pelanggaran hak anak dan tumbuh kembangnya. Pada kenyataannya perkawinan dini di masyarakat Indonesia semakin meningkat. Kondisi tersebut menimbulkan pertanyaan, apakah regulasi yang ada tidak efektif. Bertolak pada hal tersebut maka penelitian ini bertujuan untuk mengetahui sejauh mana pemahaman masyarakat Islam Jawa Tengah tentang pentingnya batas usia pernikahan, untuk mengetahui mengapa masyarakat Islam Jawa Tengah lebih memilih "Beli Umur" dalam pemenuhan persyaratan perkawinan dini, dan untuk mengkaji apakah Beli Umur merupakan tindak pidana. Metodologi analisis yang digunakan dalam penelitian ini adalah yuridis-sosiologis dengan pelengkap data yang merupakan sebaran informasi melalui hasil wawancara dengan informan melalui beberapa indikator pertanyaan yang diuraikan dalam pembahasan. Hasil penelitian ini menunjukkan bahwa masyarakat Islam Jawa Tengah belum memahami secara penuh pentingnya batas usia pernikahan sehingga cenderung melanggar ketentuan tersebut. Hasil penelitian ini juga menunjukkan sebagian masyarakat Islam di Jawa Tengah lebih memilih menggunakan praktek "Beli Umur" dalam pemenuhan syarat pernikahan dini jika dibandingkan mengajukan permohonan dispensasi nikah karena lebih mudah ditempuh. Selanjutnya hasil penelitian ini menunjukkan bahwa "Beli Umur" merupakan bentuk tindak pidana karena mengandung unsur pemalsuan data kependudukan. Di samping itu Beli Umur juga merupakan tindak pidana suap yang merupakan salah satu dari bentuk tindak pidana korupsi.

Kata Kunci: pidana, syarat perkawinan, Tuku umur

Introduction

International forums have agreed that early marriage has a destructive impact.¹ Early marriage has an impact on both physical and psychological health.² Physical impacts occur because, medically, the reproductive organs of young women are not yet ready for pregnancy.³ While the psychological impact occurs because, mentally, both girls and boys are still at the age where they can grow,

¹ Astuti Nurmala, "Surrounding the Reason for Women to Continue the Tradition of Child Marriage," *Utopia y Praxis Latinoamericana* 25, No.2 (2020), p. 24.

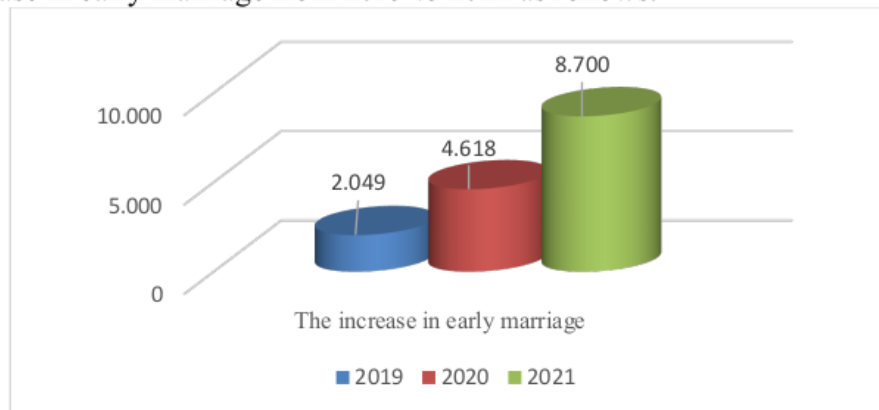
² Winengan, "Politik Hukum Keluarga Islam di Aras Lokal: Analisis Terhadap Kebijakan Pendewasaan Usia Pernikahan di Nusa Tenggara Barat," *Ahwal: Jurnal Hukum Keluarga Islam* 11, No. 1 (2018), p. 12.

³ Kazi Md Mukitil Islam and Zaki Wahhaj M. Niaz Asadullah, "Child Marriage, Climate Vulnerability and Natural Disasters in Coastal Bangladesh," *Journal of Biosocial Science* 53, No. 2 (2021), p. 948.



develop, and explore their potential.⁴ However, the practice of early marriage is relatively high; Indonesia was ranked second in ASEAN in 2020.⁵

As for the scope of Indonesia, Central Java is a province with a relatively high rate of early marriage. Based on the data, it can be seen that there is an increase in early marriage from 2019 to 2021 as follows:⁶



Source of data: [Jatengprov.go.id](http://jatengprov.go.id)

The data above shows that the government's efforts to reduce child marriages have been unsuccessful. It appears that the protection of minors through the renewal of the Marriage Law No. 1 of 1974 and the Marriage Law No. 16 of 2019 has not been as effective as anticipated in reducing the number of child marriages. Changes to the Marriage Law in 2021 show that the number of early marriages has increased almost two times compared to the previous year.

The implementation of Law Number 16 of 2019 concerning marriage aims to prevent child marriage, tighten administrative requirements and educate the public about the adverse effects of early marriage. Early marriage can be legally recognized if one party has applied for a marriage dispensation at the Religious Court. Article 7 paragraph 2 of the Marriage Law stipulates that child marriage is

⁴ Hoko Horii And Mies Grijns, "Child Marriage in a Village in West Java (Indonesia): Compromises between Legal Obligations and Religious Concerns," *Asian Journal of Law and Society* 5, (2018), p. 453 <<https://doi.org/doi:10.1017/als.2018.9>>.

⁵ Ellyvon Pranita, 'Peringkat Dua Di ASEAN, Perkawinan Anak Di Indonesia', *Kompas*, 2021 <<https://www.kompas.com/sains/read/2021/05/20/190300123/peringkat-ke-2-di-asean-begini-situasi-perkawinan-anak-di-indonesia?page=all>> [accessed 23 February 2022].

⁶ Setyo Puji Santoso, 'Faktor Tradisi Dan Ekonomi Jadi Penyebab Pernikahan Anak', *Bisnis.Com*, 2021 <<https://news.detik.com/berita-jawa-tengah/d-5875801/8700-pernikahan-dini-di-jateng-selama-2021>> [accessed 9 February 2022] Ragil Ajiyanto, '8.700 Pernikahan Dini di Jateng Selama 2021', <<https://news.detik.com/berita-jawa-tengah/d-5875801/8700-pernikahan-dini-di-jateng-selama-2021>> [accessed 9 February 2022].

¹ <http://jurnal.arraniry.ac.id/index.php/samarah>

permissible with the approval of the local Religious Court.⁷ From the issue of an application for a marriage dispensation through the judge's decision in the Religious Courts, at least five document requirements and seven procedures must be completed before a marriage dispensation can be granted.⁸

A relatively complicated and lengthy process of marriage dispensation causes people to look for other alternatives. Another alternative taken by the Islamic community of Central Java is "*Tuku umur*." "*Tuku umur*" is a transaction carried out by the prospective bride or groom/guardian to increase the children's age so they can meet the requirements of a legal marriage. This method is easier compared to submitting a marriage dispensation application. The *Tuku umur* practice occurs in various areas of Central Java, including Grobogan, Jepara, Rembang, Pati, Kudus, Semarang, Solo, and Wonogiri.

Based on the data above, this study aims to determine the understanding of the Islamic community in Central Java about the purpose of limiting the age of marriage and to find out the background of why the Javanese Muslim community prefers to fulfill the marriage requirements through "*Tuku umur*." In addition, this study intends to examine whether the practice of "*Tuku umur*" is a criminal act.

Previous research related to this topic was conducted by Lina Kushidayati.⁹ The focus of this research was on the definition of *Tuku umur* which was similar to marriage dispensation at the Grobogan Religious Court, Central Java. Furthermore, research conducted by Fadli Andi Natsif entitled Child Marriage Problems (Perspective of Islamic Law and Positive Law).¹⁰ This study described the problems of child marriage based on differences in understanding of Islamic law and Positive Law. Islamic law in this study was *fiqh* or the opinion of scholars. While the positive law in this study was the Child Protection Act.

Previous research shows that this study provides a different definition of *Tuku Umur*. In addition, this study examines the practice of *Tuku umur* that occurs among the Islamic community of Central Java, which contains elements of criminal activity. The results of this study are expected to contribute to all levels of society and the local government authorities in responding to the fact that *Tuku Umur* is practiced to complete the requirements for early marriage. It is

⁷ Yahya Julianto Rayhani, Suriyadi, "Prosedur/Landasan Hukum Penetapan Anak Di Bawah Umur Yang Ingin Melangsungkan Pernikahan Di Pengadilan Agama," *Sagacious Jurnal Ilmiah Pendidikan Dan Sosial* 6, No. 1 (2019), p. 65.

⁸ Muhajir, "Prosedur Dan Penyelesaian Dispensasi Nikah Dibawah Umur Di Pengadilan Agama," *Madinah: Jurnal Studi Islam*, 6.2 (2019), p. 59.

⁹ Lina Kushidati, "*Tuku Umur* (Analisis Faktor Perkawinan Anak Di Panunggalan Grobogan Jawa Tengah)," *Palastren: Jurnal Studi Gender* 14, No.2 (2021).

¹⁰ Fadli Andi Natsif, "Problematika Perkawinan Anak (Perspektif Hukum Islam Dan Hukum Positif)," *Jurnal Al-Qadau: Peradilan Dan Hikm Keluarga Islam* 5, No. 2 (20018), p. 143.

crucial to consider the harmful effects of early marriage, which cannot be ignored or underestimated.

The research method employed in this study is juridical-sociological. It is a form of research that links actual situations to the law as a gateway to societal events.¹¹ Sources of data in this study consisted of primary sources and secondary sources. Primary sources were obtained through interviews with local community informants who were related to issues under investigation. While secondary sources were a collection of literacy such as books, articles, laws and regulations, and others. The validity test in this study was a credibility test that consisted of extending observations, increasing persistence, and triangulation for source triangulation, method/technical triangulation, and member checks. The data analysis technique used was descriptive qualitative, which is describing quality data in the form of regular, coherent, logical, and non-overlapping sentences to facilitate the implementation of the data and understanding of the results of the analysis.¹²

The Islamic Community of Central Java in Responding to the Marriage Age Limit

In the Marriage Law, the minimum age for marriage is essential since it is part of an effort to equip individuals to perform legal activities competently. When two people are going to enter into a legally binding marriage, it is necessary for them to prepare physically and mentally. For this reason, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage was enacted.

The marriage age limit, which was previously different for men and women, is renewed by Law 16 of 2019. The issuance of Constitutional Court Decision Number. 22/Perma-XV/2017 served as the impetus for the enactment of the law. The Constitutional Court considered that the differential treatment of men and women constitutes discrimination. It affects the fundamental or constitutional rights of citizens,¹³ including civil, economic, educational, social, and cultural rights, which should not be distinguished primarily on the basis of gender.¹⁴ Different minimum marriage ages for men and women not only creates discrimination in the context of implementing the right to form a family as

¹¹Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana, 2014.

¹² Lexy J. Moleong, *Metodologi Penelitian Kualitatif*. Bandung: PT. Remaja Rosda Karya, 2006.

¹³ Sastro Mustafa Wantu, et.al., "Early Child Marriage: Customary Law, Support System, and Unwed Pregnancy in Gorontalo,": *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, No. 2 (2021), p. 784 <<https://doi.org/DOI: 10.22373/sjhc.v5i2.9573>>.

¹⁴ Karen Austrian Erica Soler-Hampejsek, et.al., "Education, Child Marriage, and Work Outcomes Among Young People in Rural Malawi," *Journal of Adolescent Health* 69, (2021), p. 558 <<https://doi.org/https://doi.org/10.1016/j.jadohealth.2021.09.011>>.

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guaranteed in Article 28 B paragraph (1) of the 1945 Constitution, but also creates discrimination with regard to the protection and fulfillment of children's rights as guaranteed in Article 28B paragraph (2).

Regarding the minimum age for marriage, the minimal age for women is lower than that for men, so women can legally begin a family earlier.¹⁵ It indicates that women are more likely than men to be denied their rights. Ironically, the state caused this injustice. Based on this background, the Constitutional Court, in its decision, ordered the legislators to make changes to Law Number 1 of 1974 concerning marriage within a maximum period of 3 (three) years. Thus, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage was enacted.

In principle, a limitation on the age of marriage is regulated because early marriage can hinder the growth and development of children, both biologically and psychologically.¹⁶ In early marriage, children's rights are deprived because they are forced to be adults instantly.¹⁷

The goal of marriage is to form eternal life, so it requires mental, physical, financial, and a strong determination to continue living with a spouse.¹⁸ Therefore, it takes mental and physical maturity in achieving this.¹⁹ In the explanation of Law No. 16 of 2019, it is also mentioned that the reason for increasing the age limit for marriage in Article 7 paragraph (1) was to ensure that the married couple is physically and mentally mature in order to prevent divorce and produce healthy offspring.²⁰ The increase in the minimum age for marriage is also anticipated to reduce the birth rate, the risk of maternal and infant mortality, and to fulfill children's rights so that their growth and development can be more optimal with

¹⁵ Meti Kebede Guday Emirie, Nicola Jones, "The School Was Closed, So When They Brought Me A Husband I Couldn't Say No": Exploring the Gendered Experiences of Child Marriage Amongst Adolescent Girls and Boys in Ethiopia," *The European Journal of Development Research*, 33 (2021) <<https://doi.org/https://doi.org/10.1057/s41287-021-00418-9>>.

¹⁶Abdi Fauji Hadiono, "Pernikahan Dini Dalam Perspektif Psikologi Komunikasi," *Jurnal Darussalam; Jurnal Pendidikan, Komunikasi Dan Pemikiran Hukum Islam* 9, No. 2 (2018), p. 385.

¹⁷ Mayadina Rohmi Musfiroh, "Pernikahan Dini Dan Upaya Perlindungan Anak Di Indonesia," *De Jure : Jurnal Hukum Dan Syari'ah* 8, No. 2 (2018), p. 65.

¹⁸ Widya Hary Cahyati, et.al., 'Pengetahuan Risiko Pernikahan Dini Pada Remaja Umur 13-19 Tahun', *Higeia Journal Of Public Health Research And Development* 2, No. 2 (2018), p. 239.

¹⁹ Mughniatul, 'Regulasi Dispensasi Dalam Penguatan Aturan Batas Usia Kawin Bagi Anak Pasca Lahirnya Undang-Undang Nomor 16 Tahun 2019', *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam*, 2.2 (2020).

²⁰ Lilik Andar Yuni, "Analysis of The Emergency Reasons in The Application of Marriage Dispensation at The Tenggarong Religious Court," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, No. 2 (2021), p. 976 <<https://doi.org/DOI: 10.22373/sjkh.v5i2.9135>>.



the full support of their parents and provide them with the greatest educational opportunities possible.²¹

Basically, the age limit for marriage is primarily established to mitigate the harmful effects of early marriage. The resulting impacts cover broad aspects of life, including the impact on children's education, biological, health problems, psychological, economic, and social.

Based on the impact of early marriage, the age limit for marriage is meant for the legal protection of children's rights. According to Ahmad Kamil, Child Protection is the responsibility of parents, families, communities, governments, and the state in the form of a series of continuous activities to protect children's rights.²²

It is vital to establish regulations as the basis for intense monitoring of children, both as individuals and as parents, and as members of society, in order to prevent them from early marriage. Through this legislation, the rights of children can be safeguarded, ensuring their healthy growth and development. In Indonesia, the existence of a law protecting children's rights and guaranteeing children's growth and development is a necessity because children's rights are part of human rights stated in the 1945 Constitution and the United Nations Convention on the Rights of the Child.²³

It is mentioned in the Child Protection Act that the Unitary State of the Republic of Indonesia ensures the welfare of each of its people, including the protection of children's rights, which are one of the human rights. As stated in Article 1 Number 2 of the Child Protection Act, legal protection for children encompasses all activities that guarantee and protect children and their rights so they can live, grow, develop, and participate optimally in accordance with human dignity, as well as protection from violence and discrimination. It is the responsibility of parents, families, communities, and the government to ensure that children's rights to life, education, and protection from anything that could jeopardize them are fully met. Therefore, by limiting the age of marriage, the state provides optimal growth and development possibilities for children.

Although the regulation does not allow early marriage because the impact is very detrimental to the development of children, the community does not understand the purpose of the regulation. It can be seen from the high number of

²¹ Mughniatul Ilma, "Regulasi Dispensasi Dalam Penguatan Aturan Batas Usia Kawin Bagi Anak Pasca Lahirnya Undang-Undang Nomor 16 Tahun 2019," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 2, No. 2 (2020), p. 133–66 <<https://doi.org/10.37680/almanhaj.v2i2.478>>.

²² Ahmad Kamil and Fauzan, *Hukum Perlindungan Dan Peningkatan Anak Di Indonesia* (Jakarta: PT Grafindo Persada, 2008).

²³ M. Abdussalam Hizbullah, "Eksistensi Dispensasi Perkawinan Terhadap Pelaksanaan Perlindungan Anak di Indonesia," *Jurnal Hawa* 1, No. 2 (2019).

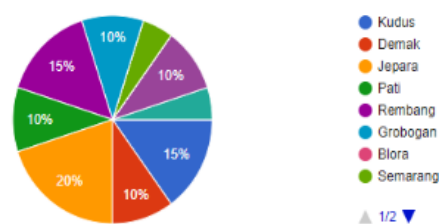
¹ <http://jurnal.arraniry.ac.id/index.php/samarah>

early marriages as well as the various efforts made to breach or circumvent regulations limiting the age of marriage. Several dominant factors affect the community's condition, so they ignore the negative impact of early marriage. These factors include local customary norms such as unregistered marriage (*siri*), the honor of family and relatives, uneducated parents, family economic burden, and inconsistency in law enforcement.

Judging from Friedmen's legal system, which states that the effectiveness of a rule can be parsed from substance, structure, and culture, then the disobedience of the Islamic community in Central Java to the regulation of the age limit for marriage is more due to cultural factors. Most people still believe that marrying at a young age is more honorable.²⁴ This results in people ignoring the rules for the sake of family honor, so that the effectiveness of the regulations is influenced or depends on the prevailing culture in the community. Culture dramatically influences people's attitudes towards obeying the rules because people tend to follow a culture that they believe is true.

Similarly, the Islamic community of Central Java does not understand the purpose of the law limiting the age for marriage. Cultural factors are the primary cause of indifference and ignorance concerning the negative effects of early marriage. People tend to disregard the negative impacts of early marriage and continue to violate the marriage age restriction. "*Tuku umur*" signifies an attempt to disregard the law's regulations regarding the minimum age for marriage. "*Tuku umur*" also suggests that there is an issue, thus it is necessary to rush into marriage at such a young age. The high number of "*Tuku umur*" exemplifies their ignorance of the fact that underage marriage violates their rights and causes numerous problems.

The *Tuku Umur* Practice in the Islamic community of Central Java



Informant data based on region

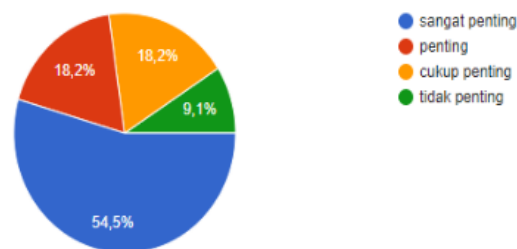
²⁴ Ridwan Arifin et.al., 'Pernikahan Dini Di Indonesia: Faktor Dan Peran Pemerintah (Perspektif Penegakan Dan Perlindungan Hukum Bagi Anak)', *Widya Yuridika Jurnal Hukum* 2, No. 1 (2019), p. 3.

¹ <http://jurnal.arraniry.ac.id/index.php/samarah>

There were 20 informants in this study who came from various districts in Central Java. Based on research, the majority of informants were from Jepara (20% or 4 informants), Kudus (15%) or as many as 3 informants, Rembang (15%) or as many as 3 informants, Pati (10%) or as many as 2 informants, Soloraya (10%) or as many as 2 informants, Grobogan (10%) or as many as 2 informants, Wonogiri (5% or as many as 1 informant), and Semarang (5% or as many as 1 informant).

The 8 regencies where twenty informants reside are spread from north to south in Central Java. Jepara is the northernmost city in the research region of Central Java. The Solo region is the most southern region in Central Java. So that the arrangement of cities as study places is sufficient to accommodate one Central Java province.

Data on Marriage Age Limit in Central Java

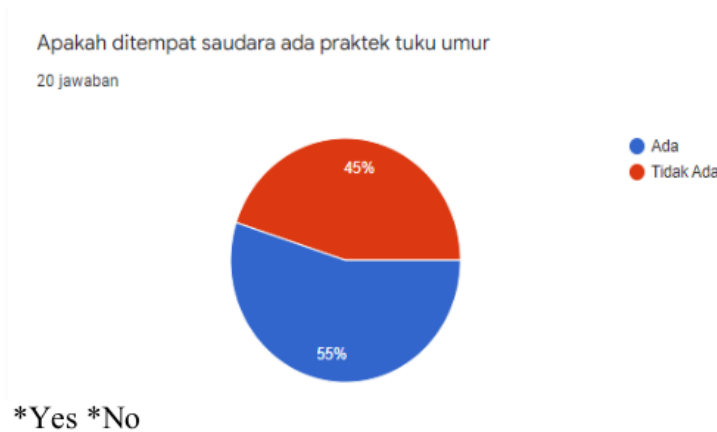


*Very important, important, somewhat important, not important

In Indonesia, there is a minimum age requirement for marriage. The chart reveals that in Central Java, the area of the study, 54.5 percent of respondents, or as many as six individuals, believe that the minimum age for marriage is crucial. 18.2 percent or two respondents indicated that the minimum age for marriage is significant. 18.2 percent, or two respondents, stated that the minimum age for marriage is somewhat essential. One respondent (9.1%) stated that the minimum age requirement for marriage is not needed.

Based on the research data above, it can be seen that there are still people in Central Java who believe that the age of marriage is not important. It demonstrates that the age limit for marriage stipulated in Law No. 16 of 2019 regarding marriage has not been fully accepted by some people. The community believes that the marriage age restriction is merely an administrative requirement. It means that the Islamic community in Central Java has not fully understood the purpose of the regulation on the stipulation of the age limit for marriage.

Distribution of *Tuku umur* practices in Central Java



Based on the data, 55% or 11 informants said there is a *Tuku umur* practice in their area. The informants came from the areas of Kudus, Jepara, Solo, Wonogiri, Pati, Rembang and Grobogan. The details are 3 informants from Kudus, 3 informants from Jepara, 1 informant from Solo, 1 informant from Wonogiri, 1 informant from Pati, 1 informant from Rembang, and 1 informant from Grobogan. They said that there is a *Tuku umur* practice in their areas. Meanwhile, 45% or 9 other informants said they do not know or do not practice *Tuku umur* in their area. Although the selection of informants was done randomly, based on the results of interviews, half of the informants said that there is *Tuku umur* practice in their area. It can be interpreted that the practice of *Tuku umur* in the Central Java region is relatively high.²⁵

Data of *Tuku umur* practice for people of Central Java.



*Public secret, personal and close family information, involvement of local officer, none

²⁵ Interview with NHO, People who Practice Tuku Umur in Kudus, February 2020.

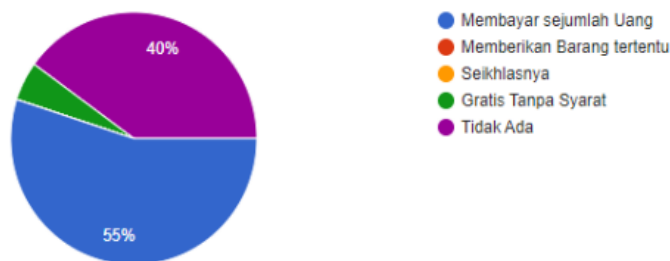
¹ <http://jurnal.arraniry.ac.id/index.php/samarah>

According to the results of the interviews, the practice of *Tuku umur* in the Central Java region occurs under several circumstances. The first condition, the practice of *Tuku umur* is a public secret for the people of Central Java.²⁶ It means that the *Tuku Umur* practice in Central Java is becoming common, although it is not openly done. It came from 7 informants, or 35%. The second condition, the practice of *Tuku umur* is based on personal information. Personal information comes from close friends, family, and relatives. This information came from 3 informants, or 15%. The third condition, the practice of *Tuku umur* occurs because of the involvement of local government officers. This information came from 2 informants, or 10%.

Technical data for the *Tuku umur* practice

Bagaimana Teknis pelaksanaan Tuku Umur di tempat Saudara

20 Jawaban



* Paying money, giving certain gift, accepting whatever given, for free, none

Based on the interview results, it can be seen that the practice of the *Tuku umur* is carried out in various ways. The first way is to pay some amount of money. Money is paid to certain parties with various nominal. The amount of money is based on how many years of age should be added to meet the requirements. The more it takes to meet the age requirement for marriage, the more money someone has to pay.²⁷ The data obtained from the study showed that 55% or 11 informants said that the implementation of *Tuku umur* was done by paying a certain amount of money. The 11 informants are all informants who said that there is a *Tuku umur* practice in their area. It means that the practice of *Tuku umur* is generally done by paying money given to certain parties.

The second way is free or without conditions. This information comes from 1 informant or 5%. The practice of *Tuku umur* that is carried out free of charge or

²⁶Interview with INR, People who Practice Tuku Umur in Kudus, February 2020.

²⁷Interview with DYG, People who Practice Tuku Umur in Kudus, February 2020.

unconditionally occurs only with a small probability. It is because one informant is a small number compared to the previous informant. Meanwhile, 40% or as many as 8 informants consistently said there is no *Tuku umur* practice in their region.

Other information provided by the informant is that *Tuku umur* occurs when a girl who wants to get married is not old enough based on the law. The practice of *Tuku umur* also happens because the girl is pregnant, so the marriage must be carried out immediately by paying a certain amount of money under the terms and conditions. Pregnancy-related *Tuku umur* practices are the most common. Another informant also stated that the practice of *Tuku umur* occurs at the age of 15 to 18 years. The *Tuku umur* practice is usually done by teenagers who have just graduated from school, do not work, and do not go to college. In addition, their parent is also involved in marrying them immediately.

Elements of Crime in *Tuku Umur*

The function of the law is to serve as a guide for governing the lives of the community, while the desired outcome is for the community to prosper.²⁸ Similarly, the purpose of marriage law is to establish order in the marriage process in order to foster a prosperous family.²⁹ It indicates that if a person starts a marriage in accordance with existing regulations, the union will be valid in both religion and state. The family will then prosper physically and mentally.

For some individuals, the law becomes an impediment; therefore, they break it in various ways. It also applies to marriage legislation, particularly with the minimum age requirement. The minimum age requirement of 19 years for both men and women to marry is an impediment for those who wish to marry before the age of 19.³⁰ Therefore, numerous attempts have been made to ensure that individuals under the age of 19 can continue to marry.

There are various ways to circumvent the marriage age restriction. In the Islamic community of Central Java, in addition to requesting a marriage dispensation, they choose to do *Tuku umur*. "*Tuku umur*" is the process of modifying age to accomplish a marriage at a younger age than 19 years. "*Tuku umur*" means paying a particular amount of money to the officer to modify age so someone can marry.

²⁸ Abid Zamzami, 'Pelaksanaan Fungsi Hukum Administrasi Negara Dalam Mewujudkan Pemerintahan Yang Baik', *Yurisprudensi* 3, No. 2 (2020), p. 203.

²⁹ Nazaruddin Lathif, 'Teori Hukum Sebagai Sarana Alat Untuk Memperbaharui Atau Merekayasa Masyarakat', *Palar: Pakuan Law Review* 3, No.1 (2017), p. 73–94.

³⁰ Mohammad Kamil Ardiansyah, 'Pembaruan Hukum Oleh Mahkamah Agung Dalam Mengisi Kekosongan Hukum Acara Perdata Di Indonesia', *Jurnal Ilmiah Kebijakan Hukum* 14, No.2 (2020), p. 361 <<https://doi.org/10.30641/kebijakan.2020.v14.361-384>>.

To determine whether "*Tuku umur*" is a crime, it can be broken down according to the elements of a criminal act. In criminal law, an act or deed is considered criminal if it fulfills the components of a criminal act. These elements include:³¹

First, the act is illegal under the law. It signifies that there are restrictions prohibiting certain actions, and if they are violated, there will be consequences. In other words, the rule of law prohibits this behavior, and individuals who violate the law face threats (sanctions) for committing specific crimes.

Second, the act is committed in a way that is against the law. It means that the action is carried out by violating the law/regulation. It includes acts committed outside their power or authority as well as acts that violate general principles in the legal field.

Third, the act was committed with error. Errors are reproaches directed by society adhering to ethical standards applied at a specific time to those who commit deviant behavior that could have been avoided.

Fourth, the perpetrator is capable of taking responsibility. According to Van Hamel, the capacity for responsibility is a level of psychological normality and maturity (intelligence) that confers the following three capabilities:

- a. Capable to understand the value of the consequences of one's own actions
- b. Capable of recognizing that his acts are prohibited from a community standpoint
- c. Capable to determine his motivations for his actions

Some expert opinions formulate criminal acts as follows:³² Simons who formulated that *strafbaar feit*/criminal acts (delicts) are:

First, the act is a behavior that is punishable by a criminal offence. Therefore, there must be a rule prohibiting the act and imposing punishment for those who violate it.

Second, the act is against the law. According to Simons, the act is against the law in general. In criminal law, it is a wrongful act that authorizes the victim to file a lawsuit against the perpetrator.

Third, related to error. D. Simons defined error as the psychological condition of the perpetrator and its relationship to the perpetrator's actions, such that the perpetrator can be held accountable for his actions based on his psychological state.

Fourth, carried out by people who are able to be responsible. Simons argued that the ability to be responsible can be interpreted as a psychological state that

³¹ Indah Sari, 'Unsur-Unsur Delik Materiel Dan Delik Formil Dalam Hukum Pidana Lingkungan', *Jurnal Ilmiah Hukum Dirgantara* 10, No. 1 (2019).

³² Andi Hamzah, *Asas-Asas Hukum Pidana* (Jakarta: Sinar Grafika, 2014).

justifies the implementation of a criminal effort, both from a general point of view and from the person's point of view.

Meanwhile, Jonkers and Utrecht asserted that Simons' formulation is a complete formulation, because it is considered a criminal act if it includes: the act is punishable by law, is contrary to the law, is committed by a guilty person, and the person is considered responsible for his actions.

Second, the act is committed in a way that is against the law. It means that the action is carried out by violating the law or regulation. It includes acts committed outside their power or authority as well as acts that violate general principles in the legal field. In line with the elements of the crime mentioned above, in Article 11 paragraph (2) of the Draft Criminal Code (RUU-KUHP), it is determined that an action is declared a criminal act if, in addition to being prohibited and punishable by criminal law and legislation, it is also contrary to the law that lives in society. As for Article 11 paragraph (3) of the Draft Criminal Code (RUU-KUHP), it is also determined that every criminal act is always considered to be against the law unless there is a justification.³³

When there is an action that fulfills the elements mentioned above, it is categorized as an act, criminal act, or delict. It is classified as an act, criminal act, or delict. In other words, if these conditions are met, the perpetrator of the act has committed a crime and can be punished.

Based on the elements in determining the existence of a crime, it can be analyzed whether "*Tuku umur*" is a criminal act or not. Concretely, "*Tuku umur*" is the act of modifying or increasing someone's age to be older by giving a certain amount of money to officers or employees in the relevant agencies. Altering age is changing population data, and this action is prohibited by law.

The prohibition on changing population data is regulated in the provisions on population administration in Law of the Republic of Indonesia Number 24 of 2013, amendments to Law Number 23 of 2006 concerning Population Administration, hereinafter referred to as the Law on Population Administration. In the Population Administration Law, it is stated that the population document includes, among others, the National Identity Number (NIK), Family Card (KK), Electronic Identity Card (KTP-el), Marriage Certificate/Divorce Certificate, Birth Certificate/Death, Child Legalization Deed, Adoption of Child, Change of Name, and Change of Citizenship Status.

Meanwhile, the prohibition on changing data is stated in Article 93: "Every resident who intentionally falsifies letters and/or documents to the Implementing Agency in reporting Population Events and Important Events shall be punished

³³ Ruslan Renggong, *Hukum Pidana Lingkungan*, Prenada Grup (Jakarta: Prenadamedia Group, 2018).



<http://jurnal.arraniry.ac.id/index.php/samarah>

with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of Rp. 50,000. 0000.00 (fifty million rupiah)."

Based on the article, it can be seen that the "*Tuku umur*" concretely changes the data contained in the ID card and the family card, and this is one of the acts/actions that violates the Population Administration Law with severe sanctions. If it is associated with the elements of a criminal act, then "*Tuku umur*" can be categorized as an act that is prohibited by law.

As formulated in the law, changing population data by giving a certain amount of money to certain people is an action that is prohibited by law. It can be seen in Article 94 "Everyone who does not have rights, intentionally, changes, adds, or reduces the contents of data elements in the Population Document as referred to in Article 77 shall be sentenced to a maximum imprisonment of 2 (two) years and/or a maximum fine of Rp. 25,000,000.00 (twenty five million rupiah)".

In addition, "*Tuku umur*" is a criminal act of "bribery" which is included in the category of criminal acts of corruption because there are certain parties who receive compensation for the abuse of authority by changing population data. As regulated in Law No. 31 of 1999, Jo. Law Number 20 of 2001 concerning Corruption Crimes. One of the elements of a criminal act of corruption is the abuse of authority, opportunity, or facility, as stipulated in Article 5:

- (1) Sentenced to a minimum imprisonment of 1 (one) year and a maximum of 5 (five) years and or a minimum fine of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 250,000,000.00 (two hundred and five tens of millions of rupiah) for any person who:
 - a. gives or promises something to a civil servant or state apparatus with the aim of persuading him/her to perform an action or not to perform an action because of his/her position in violation of his/her obligation;
or
 - b. gives something to a civil servant or state apparatus because of or in relation to something in violation of his/her obligation whether or not it is done because of his/her position.
- (2) The civil servant or state apparatus who receives a payment or promise as referred to in paragraph (1) letter a or b shall be sentenced to the same jail term as that referred to in paragraph (1).

Based on Article 5 of Law Number 20 of 2001 concerning the Crime of Corruption, the party who changes the age data can be categorized as committing a crime. So, the perpetrator can be subject to sanction under the Population Administration Law and also be threatened with the Corruption Crime Act.

"*Tuku umur*" is an act that is against the law. The elements of an unlawful act in criminal law are that the act is expressly declared to have violated the law,

and then the act is carried out without authority and power. This act violates general principles in the legal field.³⁴

In imposing criminal sanctions, the act must be done wrongly, or the perpetrator made an error. In addition, the perpetrator must have the ability to be responsible. In relation to the element of error in a crime, it is an essential element because, in criminal law, there is a theory that says that there is no crime without errors or *geen straf zonder schuld*. The existence of an error in a criminal act can be identified based on the form of the error. The error includes intentional and negligence.

In the case of "*Tuku umur*" the error can be categorized as intentional. Finding out whether someone commits a crime intentionally can be based on two theories, the theory of will and the theory of knowledge. In the will theory, it is said to be intentional if the actor wants the consequences of the act. Meanwhile, the theory of knowledge is said to be intentional if the perpetrator knows the possible consequences arising from his actions. Based on these two theories, the "*Tuku umur*" is carried out intentionally by the perpetrator, which means that there is an element of error in *Tuku umur* actions.³⁵

The next element that must exist in order to be able to impose a crime on the perpetrator is the ability to be responsible. Based on the theory, someone is said to have the ability to be responsible if he meets the following elements:³⁶

1. The state of that person's mind is such that he can understand or know the value of his actions, so that he can also understand the consequences of his actions;
2. The condition of that person's mind is such that he can determine his will for the act he has done;
3. The person must be aware, realized, that the act he has committed is an act that is prohibited or cannot be justified, both from the legal point of view and society or from the point of view of morality.

If these three elements are related to the condition of the "*Tuku umur*" perpetrator, it can be said that the perpetrator has the ability to be responsible. People who commit *Tuku umur* are in a healthy mental condition, so they know the value of their actions. In addition, the perpetrators of "*Tuku umur*" are mostly parents of the prospective bride and groom, and it is usually the parents who want

³⁴ Indah Sari, 'Perbuatan Melawan Hukum (PMH) Dalam Hukum Pidana Dan Hukum Perdata', *Jurnal Ilmiah Hukum Dirgantara* 11, No. 1 (2020), p. 33.

³⁵ Rusmin Marsudi Utoyo, Kinaria Afriani, 'Sengaja Dan Tidak Sengaja Dalam Hukum Pidana Indonesia', *Lex Librum: Jurnal Ilmu Hukum*, 7, No. 1 (2020), p. 75 <<http://lexlibrum.id/index.php/lexlibrum/article/view/298/pdf>>.

³⁶ Ni Made Raditya Pawani Peraba Sugama Suatra Putrawan, 'Analisis Yuridis Mengenai Kemampuan Pertanggungjawaban Pidana Dalam Pasal 44 KUHP', *Jurnal Kertha Wicara* 4, No. 3 (2018).

¹ <http://jurnal.arraniry.ac.id/index.php/samarah>

to marry off their sons and daughters, so when the parents of the prospective bride are committing "*Tuku umur*", it happens because they want it. The perpetrator of *Tuku umur* is very aware that his actions are wrong and violate the law. Therefore, the perpetrator does it secretly by giving rewards to people who can and are willing to help them change the age as intended.

Based on this explanation, it can be understood that *Tuku umur* is a crime and the perpetrator can be sentenced as stipulated in the existing provisions, both those who provide something to change or those who change the age.

Conclusion

The practice of "*Tuku umur*" among the Islamic community in the Central Java region is due to the low understanding of the people of Central Java regarding the purpose and meaning of the age limit for marriage, so they tend to violate these provisions. The low level of public understanding is the reason why some Muslim communities in Central Java practice "*Tuku umur*" in fulfilling the requirements for early marriage. In "*Tuku umur*," it indirectly involves parties who have the authority to arrange marriage requirements. The greater the change in age to meet the marriage requirements, the higher the amount to be paid to the related party. Based on the elements of a crime, it can be explained that "*Tuku umur*" is a form of a criminal act of forgery because it contains elements of falsification of population data. In addition, based on the elements of the crime of bribery, "*Tuku umur*" is included in the category of bribery, which is one of the forms of corruption.

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