

Girls Should Be Wearing School Uniforms, Not Wedding Dresses: A Child Marriage and Polygamy Case in Indonesia

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Back in 2008, Indonesia was shocked at the news of the marriage of a 43 year old businessman with a 12 year old girl in a small town of Bedono, Semarang, in the central part of Java, the busiest and by far the most populated island in Indonesia. The young girl was married off as the second wife of Syekh Puji, a wealthy businessman, with an Islamic wedding ceremony which is popularly known as 'Nikah Siri'. Syekh Puji was then brought into question by the authority and sentenced to 4 years in jail and a fine of 60 million rupiah as his act of marrying an underage girl was proven felony for violating the Law on Child Protection. This case drew the country's attention to two of the most appalling realities of women's lives: child marriage and polygamy.

Although the Convention on the Rights of the Child (CRC) still acknowledges the fact that there could be laws of a particular country that set a younger legal age of adulthood, in general it defines a 'child' as a person below the age of 18. UNICEF further defines child marriage as a formal marriage or informal union before age 18. Child marriage is a daunting reality that happens to both boys and girls. However, in many parts of the world, girls are evidently the ones who are mostly affected. According to the International Center for Research on Women (ICRW), one third of girls in the developing world are married before the age of 18, and 1 in 9 are married before the age of 15. In 2010, there were roughly 67 million women aged 20-24 years old around the world that had been married before the age of 18. UNICEF explains that while it is a global phenomenon, the rates of child marriage are highest in South Asia, where nearly half of girls get married before their 18th birthday. Moreover, girls who are poor with low level of education particularly in rural areas are more likely to be married before the age of 18.

A similar trend is seen in Indonesia. Most of child marriage cases in the country happen in rural areas and urged by economic reasons, with the proportions of women who get married before the ages of 15 and 18 were twice as high among the poorest quintile as compared to the richest quintile. This reveals a disturbing fact that how poverty is actually driving these girls to be handed over as brides too soon. Low level of education is also said to be one of the most important determinants as majority of women in child marriages attain primary and junior high school education only. According to secondary analysis of the 2010 Indonesia National Socio-Economic Survey (Survei Sosial Ekonomi Nasional/SUSENAS), the prevalence of child marriage in Indonesia is 13.5 per

cent. Meanwhile, another survey conducted by UNFPA in almost the same time span has even revealed a more disturbing figure; 22% of women aged 20-24 in Indonesia got married/in union before reaching the age of 18 . Data from the 2010 Indonesia Basic Health Research (Riset Kesehatan Dasar/RISKESDAS) further shows that around 7.4 per cent of girls aged 10–14 and around 15.8 per cent of girls aged 15–19 were pregnant at the time of the survey in 2010.

Polygamy, on the other hand, is a practice or custom of having more than one spouse at the same time. In Indonesia, however, polygamy is generally understood as a husband having more than one wife. Despite that Islam, the belief of the majority of the population in the country, allows a man to have up to four wives, the law in fact encourages men to practice monogamy. Law No.1/1974 on Marriage outlines the material and non-material requirements that men need to fulfill before practicing polygamy, which include an approval from the first wife and assurance that the husband will be able to provide financially stable environment and equal treatment for all of his wives and children. The law also specifically stipulates that a husband can only be granted the right to marry again on the condition that his wife is (1) unable to perform her marital duty, (2) physically disabled or infected with disease or illness that cannot be cured, and (3) unable to bear a child. Notwithstanding that the provision contains a highly-biased depiction of a woman's total subjugation to her husband and her function in a marriage as merely to produce an heir, it is still considered as a positive gesture from the government in controlling incidences of polygamy.

However, there's a catch; the law has no strict and legally binding implications should a man choose to have another wife without complying with the prerequisites above. To avoid the meticulous procedures, men usually would go for a shortcut of having a 'Nikah Siri', or widely known as unregistered marriage to marry their second, third or even fourth wives especially when those are underage. The wedding is performed and acknowledged by a local clergy but not registered at the Civil Registry Office that is given authorization to record marriages and issue marriage licenses. Hence, the marriage is held valid in the eye of Islamic Law but not before the State Law. Men and women who tied the knot under Nikah Siri therefore cannot be held accountable before the court and are not subject to the rights and obligations of husbands and wives under the law. Consequently, the wife then cannot report her husband or file a case in the court should injustice or even violence occurs during the marriage. The practice is clearly an abuse of women's marital rights.

In a study conducted in 2012 by Women Headed Household Empowerment (Perempuan Kepala Keluarga/PEKKA), a non-profit organization specialized in

empowering women heads of households, in 111 villages in 17 provinces in Indonesia, it was found that 25% of the surveyed targets have performed unregistered weddings or Nikah Siri, and 2 out of 100 marriages are indicated as polygamous marriages. As quoted by the National Population and Family Planning Agency (Badan Kependudukan dan Keluarga Berencana Nasional/BKKBN) in 2009, there were at least 2.5 million unregistered marriages. Of which, approximately 34.5% or 600 thousand couples were considered child marriages (Ministry of Religious Affairs, 2009).

Responding to the alarming trend, Indonesia has established the Law on Child Protection No. 23 in 2002. The law distinctly considers child marriage as the deprivation of children's rights to have adequate rest and leisure time to play with their peers for recreation and nurturing creativity in accordance with their interests, talents and capacities as specified in the Article 11, due to the marital responsibility and increased risk of early pregnancy that may occur during marriage. However, it becomes problematic when it comes to defining a 'child' and what is construed as 'child marriage'. While the Law on Child Protection is in line with the CRC in defining a child as a person below the age of 18, Indonesia's Law on Marriage says otherwise. According to the Marriage Law which was passed in 1974, the minimum legal age for a woman to enter a marriage is as young as 16 years old, while for a man it is set at 19. Shockingly, Indonesian Law can be used to legalize child marriages. It is conflicting not only with the Law on Child Protection that came into being 28 years later but also with the CRC which was ratified by the Government of Indonesia in 1990. This issue has been a never-ending loophole for Indonesia in combating child marriage for so many years with no final solution in sight.

Women's and children's rights activists nationwide are now aiming for a full amendment of the Marriage Law. Women's organizations and movements such as Komnas Perempuan (Indonesia National Commission on Violence against Women), Indonesian Women's Association for Justice and Legal Aid Institute/Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan (LBH-APIK), Women's Research Institute (WRI) and Coalition 18+ are strongly urging the government to take real actions and accordingly issue a formal decree to amend the law as some of the provisions are outdated and in need for revisions, especially those concerning the legal age of consent and polygamy. Girls who are married under the age of 18 are vulnerable to problems such as school dropout, domestic violence and sexual and reproductive health diseases, and at the same time are at high risk for early pregnancy which may lead to maternal and infant mortality. Complications related to pregnancy and child birth are among the leading causes of death worldwide for adolescent girls between the ages of 15 and 19 in

developing countries, and babies born to mothers under 20 years of age reportedly face a 50% higher risk of being stillborn or dying in the first few weeks compared to those born to older mothers aged 20-29. Becoming a mother at a very young age will also give impacts to the upbringing and care of the children as these young mothers are usually unprepared both physically and mentally for raising a child. Polygamy is not without its effects either. In the PEKKA survey in 2012, it appears that the adverse effects of polygamy are felt more strongly by women. The type of effects can be either psychological, physical, or financial. In a recent survey in Abu Dhabi, it was found that women in polygamous marriages suffer from negative emotions such as stress, feelings of neglect and jealousy. Nikah Siri, as the direct effect of unregulated practice of polygamy, inhibits a woman from obtaining the legal protection of her marital rights, which can put her at greater risk of domestic violence and financial deprivation.

It is time to put an end to child marriage. A bold move also needs to be taken to revisit and regulate, if not completely ban, the practice of polygamy in Indonesia. The two have profoundly affected the lives of young girls and need to be taken seriously. These girls are half of the world's future. They should be wearing school uniforms, not wedding dresses. And the only thing they should be worried about is their homework, not their babies.

¹ UNFPA. 2012. *Marrying Too Young: End Child Marriage*. New York, UNFPA.

¹ SMERU Research Institute. 2013. *Prevalence of Child Marriage and Its Determinants among Young Women in Indonesia*. Jakarta, SMERU Research Institute.

¹ Indonesia National Development Planning Agency, SMERU, and UNICEF. 2012. *Child Poverty and Disparities in Indonesia: Challenges for Inclusive Growth*. Jakarta, National Development Planning Agency/SMERU Research Institute/UNICEF Indonesia.

¹ SMERU Research Institute. 2013. *Prevalence of Child Marriage and Its Determinants among Young Women in Indonesia*. Jakarta, SMERU Research Institute.

¹ Ibid.

¹ UNFPA. 2012. *Marrying Too Young: End Child Marriage*. New York, UNFPA.

¹ The term 'Nikah Siri' literally translates to Hush Hush Marriage or Secret Wedding.

¹ PEKKA & SMERU. 2014. *Menguak Keberadaan dan Kehidupan Perempuan Kepala Keluarga: Laporan Hasil Sistem Pemantauan Kesejahteraan Berbasis Komunitas (Revealing the Existence and Life of Women Headed Households: Report of the Community-Based Monitoring System)*. Jakarta, SMERU Research Institute.

¹ <http://www.merdeka.com/peristiwa/25-persen-masyarakat-indonesia-melakukan-nikah-siri.html>

¹ <http://www.who.int/mediacentre/factsheets/fs364/en/>

¹ PEKKA & SMERU. 2014. *Menguak Keberadaan dan Kehidupan Perempuan Kepala Keluarga: Laporan Hasil Sistem Pemantauan Kesejahteraan Berbasis Komunitas (Revealing the Existence and Life of Women Headed Households: Report of the Community-Based Monitoring System)*. Jakarta, SMERU Research Institute.

¹ <http://www.thenational.ae/uae/polygamy-can-negatively-affect-women-study-finds>