

## LEGAL COUNSELING ON TA'ARUF AND EARLY MARRIAGE IN DAARUL MUTTAQIEN 1 ISLAMIC BOARDING SCHOOL IN TANGERANG REGENCY

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### ABSTRACT

*This paper explores the challenges and legal implications of Ta'aruf and early marriage, with a focus on the role of legal counseling. Ta'aruf, the process of getting to know a potential spouse for the purpose of marriage, is a core Islamic principle that has gained popularity in recent years. However, early marriage, which often occurs as a result of Ta'aruf, can raise a number of legal and ethical concerns. These include issues of consent, child protection, and gender equality. Through an analysis of relevant laws, policies, and case studies, this article discusses the legal landscape surrounding Ta'aruf and early marriage, and offers guidance to legal practitioners on how to navigate these issues while ensuring the protection and empowerment of all parties involved. The article also highlights the importance of legal counseling in providing individuals and families with the information and support they need to make informed decisions about Ta'aruf and early marriage, while upholding their rights and responsibilities under the law.*

**Keywords:** Legal and ethical concerns, protection, consent, islamic principal

### 1. PREFACE

Desnita in her opinion stated that marriage that is needed in life. Marriage has the same meaning in any culture and tribe, which is something sacred and holy (Marni, 2018). On the way to entering marriage, known as the courtship phase. Dating is often seen as a process of maturity because it is synonymous with marriage. However, not all dating teenagers have decided to get married. Some of them just follow the trend of the times so as not to be labeled as outdated (Munawarah, 2018). This is evidenced by the 2017 data from the Indonesian Demographic and Health Survey which states that 81% of girls have dated and 84% of boys have dated from the age of 10 to 17 years (Ansori, 2020).

Indonesia is a country with the largest Muslim population in the world. This is based on data from the World Population Review in 2021 which states that there are around 231 million Indonesians who embrace Islam (Zulfikar, 2023). The arrival of Islam in Indonesia is known to have been brought by Arabs and Indians whose history is known for various theories regarding the arrival of Islam in Indonesia, including Arabic theories, Gujarati theories, Persian theories, and others (Nasution, 2020). The development of Islam in the world cannot be separated from the toughness of the vision and mission of the Islamic community (Jasman, 2018). Islam itself comes from the word “*aslama*” means submission to self-surrender, Islam has its legal roots in the revelations of Allah SWT as contained in the Al-Qur'an and the sunnah of the Prophet (Amir, 2018). In its development, the mindset of people who are Muslim will certainly understand the teachings of Islam and implement Islamic law. Islam itself has the main teaching concepts in the

form of Aqidah, Worship, and Morals which are the opening principles in practicing Islamic teachings (Amir, 2018).

Therefore, of course it cannot be denied that there are many Islamic teachings that are applied by Indonesian people, one of which is ta'aruf. Ta'aruf is a syar'i concept towards marriage. (Karim & Dinie, 2015) In Islam, ta'aruf is a concept that prevents unwanted affairs before marriage, such as free sex and pregnancies outside of marriage (Ilhami, 2019). During the ta'aruf process, both men and women are prohibited from having physical contact in any form so that feelings of love before marriage do not arise, so as to avoid immoral acts (Akbar, 2015). The development of ta'aruf in Indonesia can be seen from the availability of online ta'aruf, there is even a special ta'aruf application that acts as an intermediary for men and women who want to do ta'aruf. The purpose of marriage itself in the Compilation of Islamic Law explains that to create a household life that is *sakinah*, *mawaddah*, and *rahmah*, namely a household that is peaceful, full of love, and happy both physically and mentally (Badrudin, 2018). Therefore, the ta'aruf process is often seen as a way to minimize households that have the potential to be unhappy.

As the country with the 4th most populous population in the world after America, Indonesia has 273,879,750 people based on Data from the Directorate General of Dukcapil of the Ministry of Home Affairs in 2021 semester II. This figure has increased by 2,529,861 compared to 2020 (Ningtias, 2022). Data from the Central Bureau of Statistics in 2018 shows that as many as 30.1% of the population in Indonesia, 79.55 million of whom are children aged 0-17 years. So it can be said that one in three Indonesian residents are children. Thus, with the high population of children (Windiarto, 2019). No wonder early marriage is still common in Indonesia. In the period 2001 to 2009, it was recorded that 29% of women gave birth at the age of 15 to 19 years in urban areas. While there are as many as 58% of women in rural areas who give birth at the age of 15 to 19 years (Ali, 2015).

Marriage is not only a place to channel lust (Latifiani, 2022). There is a minimum age limit for marriage in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage which applies to both men and women, which is 19 years. However, the reality is that there are still many child marriages in Indonesia. The Ministry of Women's Empowerment and Child Protection in 2021 even targets a reduction in the number of child marriages by 2024 by 8.74%. Factors that adorn child marriage include educational, economic and social factors, as well as cultural factors. This was validated by the Head of the Semarang City Women's Empowerment and Child Protection Service (DP3A), Muhamad Khadik, who stated that parenting parents who were not optimal were one of the causes of child marriage in Indonesia, especially during the recent pandemic.

Therefore, an effort to educate the public is needed, which is one of the obligations of law enforcers. This is in accordance with Article 1 paragraph (9) of Law Number 12 of 2012 concerning Higher Education where it is written that it is the obligation of Higher Education to organize Education and Teaching, Research, and Community Service. Thus, the Law Faculty of Tarumanagara University tried to carry out this obligation by holding legal counseling at the Daarul Muttaqien 1 Islamic Boarding School, Tangerang Regency, Sepatan District, Tangerang Regency. Legal counseling is carried out to increase legal knowledge related to ta'aruf and early marriage for men and women. Based on this background, the problem is as follows: (a) There is still a lack of understanding regarding national marriage law rules, especially regarding the age limit for marriage; and (b) There is still not enough legal counseling in the Sepatan District, Tangerang Regency.

In addition, the objective of legal counseling is to increase public understanding of ta'aruf and the rules of marriage law that apply nationally, especially regarding the age of marriage.

## 2. RESEARCH METHOD

In order to solve problems that have previously been studied and formulated, a method is needed which will later become a means of extension activities. The methods used in counseling activities are as follows: (a) Lecture; (b) The lecture was chosen for the reason that it could be easily understood by all counseling participants at the Daarul Muttaqien 1 Islamic Boarding School, Tangerang Regency, Sepatan District, Tangerang Regency. The lecture method is carried out by displaying a power point presentation containing pictures and explanations in the form of solid material that is easily understood by the participants; and (c) Questions and Answers.

In addition to the lecture method, the question and answer method is also used as a means for counseling participants at the Daarul Muttaqien 1 Islamic Boarding School, Tangerang Regency, Sepatan District, Tangerang Regency in examining each material that has been presented.

## 3. RESULT AND DISCUSSION

Marriage is explained in Article 1 paragraph (1) of Law Number 1 of 1974 concerning marriage as an inner and outer bond between a man and a woman who become husband and wife by forming a happy and eternal family based on Belief in One Almighty God. Whether or not a marriage is valid is determined according to the religion and belief of each prospective partner who will marry, where this is stated clearly in Article 2 of Law Number 1 of 1974 which states that marriage can be valid if it is carried out according to law rather than religion or belief. adopted by the prospective partner and must be recorded according to applicable regulations.

Marriage registration after the marriage takes place is an important thing that is often overlooked. Couples who are married and do further registration will get a Marriage Certificate which is legal proof of their marriage. Marriage registration is a requirement for administrative completeness of a marriage. (Usman, 2017) Society in general still thinks that a legal marriage is only enough to marry according to each religion and belief, so they tend to be negligent in arranging a marriage certificate. This is evidenced by data from a province in Indonesia, namely Gorontalo in 2014. In this data, it was recorded that 9,626 married couples did not register their marriage.

**Table 1**

*Numbers of Marriage Based on Regency/City in Gorontalo, Indonesia*

No	Regency/City	Numbers of Marriage
1	Kota Gorontalo	440
2	Kab. Gorontalo	641
3	Boalemo	1.539
4	Pohuwalo	1.978
5	Bone Bolango	4.305
6	Gorontalo Utara	723
<b>Total</b>		<b>9.626</b>

Marriages that are not recorded are known as unregistered marriages (*nikah siri*). Unregistered Marriage are marriages carried out without any notification (recording) to the Office of Religious Affairs. In accordance with its meaning, *siri* comes from Arabic, namely "*sirr*" which has a

secret meaning.. Unregistered Marriage is known as a marriage that is only valid according to religion, especially Islam because it fulfills the pillars of marriage in Islam which include 1) two brides, 2) two witnesses, 3) there is a guardian, 4) *ijab-qabul*, 5) dowry . (Gunawan, 2013) Unregistered marriages do not have legal force because they are not recorded at the Office of Religious Affairs so that if the unregistered marriage partner has problems in their marriage, such as domestic violence, custody disputes, etc., legal defense cannot be carried out. (Lestari, 2017)

Based on Law Number 1 of 1974 concerning Marriage, the principles that adorn marriage in Indonesia are visible, namely:

(a) Marriage Purpose

Based on Article 1 of Law Number 1 of 1974, marriage has the aim of forming a happy and lasting family or household based on the Tuhan Yang Maha Esa.

(b) Legal Marriage

In carrying out a marriage, of course there are conditions that must be met so that the marriage can be said to be valid. These conditions are contained in Article 6 to Article 12 of Law Number 1 of 1974 concerning marriage as follows: (a) There is agreement from both the bride and groom; (b) There is permission from both parents or guardians (applies to prospective brides who are not yet 21 years old); (c) The age of the prospective groom is 19 years old and the prospective bride is 16 years old; (d) There is no blood or family relationship between the groom and the bride; (e) Not in a marital bond with another party; (f) For a husband and wife who are divorced and wish to remarry three times, they must ensure that their religion and beliefs do not prohibit them from remarrying three times; and (g) Not in the waiting time for prospective brides for widowed women (Munawar, 2015).

(c) The Principle of Monogamy

The principle of monogamy is a principle whereby in marriage a man is only allowed to have one wife. The principle of monogamy is clearly stated in Article 3 paragraph (1) of Law Number 1 of 1974 concerning Marriage which says that in marriage, a man can only have one wife and vice versa. (Pratomo, 2016)

(d) Minimum Age for both Male and Female

Based on Law Number 1 of 1974 concerning Marriage, it is regulated that the minimum age for men to enter into marriage is 19 years and for women is 16 years. However, this limitation has been updated with the passing of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. In Law Number 16 of 2019 Article 7 paragraph (1) explains that the minimum age for men and women is 19 years.

(e) Rights and Status of Husband and Wife are Balanced

Based on Article 31 of Law Number 1 of 1974 concerning Marriage, it states that in marriage, the rights and position of husband and wife are balanced. By the means of balance here is that both husband and wife have their respective obligations and roles in the household and must support each other.

However, in practice, parents can apply for “dispensation” to a court that will issue legal permission for underage girls and boys to marry. The revised law also imposes stricter penalties on those who violate the age limit, with imprisonment of up to five years and a fine of up to Rp 60 million (approximately USD 4,000) for anyone who marries a child under the legal age.

In addition to the Marriage Law, there are other regulations in Indonesia that address early marriage. The Child Protection Law No. 23 of 2002 prohibits child marriage and provides protection for children from violence, exploitation, and abuse. The Education Law No. 20 of

2003 also stipulates that every child has the right to education, including access to quality primary and secondary education.

Despite the existence of these laws, early marriage remains a prevalent issue in Indonesia, particularly in rural areas. This is due to various factors such as poverty, cultural and traditional values, and religious beliefs. The Indonesian government and NGOs have been making efforts to address this issue through education campaigns, providing support for young girls, and stricter enforcement of the laws on early marriage.

Early marriage is marriage between a man and a woman who is under the age of 17, where the age has not yet reached maturity or is still under the productive age. Cases of early marriages granted dispensation by the court were recorded in the National Commission on Women that in 2019 there were 23,126 early marriages, in 2020 there were 64,211 cases and in 2021 there were 59,709 cases. Marriage dispensation is given because the prospective bride and groom have not reached the age stipulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974. One of the main causes of early marriage in Indonesia is poverty. Many families cannot afford to provide their children with proper education, and as a result, their daughters are often married off at a young age to alleviate the family's financial burden. Additionally, cultural and traditional values play a significant role in early marriage. In many communities, it is considered normal and desirable for girls to get married as soon as possible after reaching puberty. Religious beliefs also play a part in early marriage, with some people believing that it is necessary to protect the chastity of young girls.

According to applicable laws, the guardians/parents of each party of the prospective bride and groom can request dispensation from the court for urgent reasons that accompanied by sufficient evidence and support. Factors that cause early marriage, namely:

- (a) Urgent circumstances such as the occurrence of pregnancies outside of marriage so that early marriage is forced to be carried out for the sake of the status of the child that has been conceived and forcing the role of husband and wife and becoming parents. In addition, because of parents' fear of having a child out of wedlock causes parents to marry off their children at a young age in order to avoid rumors that their child has committed adultery. (Mubasyaroh, 2016)
- (b) Economic difficulties, early marriage is expected by parents to be a family economic solution by marrying off daughters to husbands who are more affluent to bear on the women's family economy. Parents marry off their underage children because they cannot provide for the child's needs, such as paying school fees and so on, hoping to let go of responsibility and get a better life.
- (c) Low Education of Youth and Parents  
Education also has a big influence on early marriage because the lower the education, the greater the chance of getting married/marrying children at an early age.

"In a study by Landuk et al., it was explained that the low education of parents led to a tendency to marry off their children who were underage. This is related to the low level of understanding and knowledge of parents regarding the concept of young girls."  
(Syahrani, 2014)

The reasons for parents to marry off their children at an early age also vary, ranging from fears that their children may fall into promiscuity, setting up their children with

relatives/business associates so that the assets they own do not change hands to the wrong person.

(d) Local Traditions and Customs

The percentage of marriage at an early age certainly has an impact on local traditions and customs, for example in the Madura area there are many women aged 15 who already have children. Beginning with an arranged marriage agreement from the parents of the bride and groom due to the tradition of marrying off their children to bind distant families as repayment of a debt of gratitude.

Early marriage can have serious consequences for both the individuals involved and society as a whole. One of the most significant consequences of early marriage is the high rate of maternal mortality. Girls who get married at a young age are more likely to have complications during pregnancy and childbirth, which can result in death. Additionally, early marriage often leads to a lack of education for girls, which can limit their opportunities and economic independence. This can result in a cycle of poverty, where the children of these marriages are also unable to access education and are forced to marry young.

The impact of early marriage has a negative impact on young couples who do early marriage, namely :

- (a) Mentally and psychologically, couples who marry underage are still immature in age because they still want to be free to make friends, do not have the knowledge to solve problems and feel they do not have responsibilities in the household so that conflicts can occur as a result of unstable thinking and unable to control emotions and behavior that can lead to divorce.
- (b) Financially, early marriage couples have low levels of education which results in being unable to have a job and are not financially able to meet household needs and often rely on help from their parents. As a result, parents have multiple dependents so that similar incidents will be hereditary so that a pattern and mentality of poverty will be formed. (Kartikawati, 2014)
- (c) In terms of health, marrying young has a greater risk for women who are physically (womb) still not ready to conceive a child which poses a risk of miscarriage and death for both mother and child. If they are not ready to give birth and raise children, women who marry young have the potential to have illegal abortions or become depressed which can result in death.

The Indonesian government has taken steps to address the issue of early marriage in Indonesia. In 2019, President Joko Widodo signed a new law that raised the minimum age for marriage to 19 for both men and women. Additionally, the government has launched campaigns to promote education and discourage early marriage, particularly in rural areas. NGOs such as Plan International and UNICEF are also working to address this issue, providing education and support for young girls and their families.

In addition, early marriage in Indonesia is often related to marriage through the Ta'aruf process to avoid adultery. *QS.Al-Isra* verse 32 says that : *“Do not approach adultery, in fact adultery is an abomination. And a bad way” where Allah SWT prohibits dating relationships because they are close to adultery.* (Khairiyah & Aulia, 2017)

Marriage through Ta'aruf is a marriage that is carried out as a result of the process of recognition between men and women according to what is stipulated in Islamic law. Ta'aruf is an effort to prevent negative impacts that arise when men and women are dating. However, in their journey,

both men and women who choose ta'aruf as a process towards marriage must understand correctly every process that must be carried out. The process of understanding of course includes how to understand the character of a man or woman who will become a partner later (Karim & Dinie, 2015). The process of uniting husband and wife through the Ta'aruf process cannot be done haphazardly but has passed the terms and conditions that apply in Islam.

In Islam, women and men are not allowed to perform *ikhtilat* (men and women mingle together) and *khalwat* (men and women who are not muhrim together) (Umar, 2020). In addition, there are restrictions that both men and women need to comply with, namely :

(a) Abstain from *khalwat* (alone)

*Khalwat* is a situation where a man and a woman who are not husband or wife are alone in the sense of being alone. *Khalwat* is prohibited because it can trigger the birth of feelings that end up being bad for both men and women.

(b) Looking at the opposite sex with feeling (lust partner)

Looking at men or women who are not muhrim with feelings is strictly forbidden in Islam. This is related to *gharizah* where both men and women who look at the opposite sex with feelings will lead to slander or even adultery, because the eyes are the key to the heart that must always be guarded.

(c) Lower your gaze when you see the opposite sex

This is one of the efforts to prevent unwanted acts between the opposite sex who are not muhrim.

(d) Do not dress up excessively (*tabarruj*)

*Tabarruj* is a pattern that has been known for a long time as an indication of slander and adultery. Therefore, in Islam women are forbidden to decorate themselves excessively and avoid being greedy which shows wealth through physical appearance alone.

The stages of Ta'aruf before heading to marriage, namely :

(a) Preparation for the Ta'aruf process

Ta'aruf is carried out during the introduction process to exchange information which will then be carried out in the first meeting forum by discussing through questions and answers from each prospective bride and groom, who usually have a mediator as an intermediary who facilitates the meeting to break the ice. If you want to get married, you must know completely and clearly and what are the things that each prospective bride and groom must know, starting from the way of thinking, patterns and outlook on life as well as personality.

(b) Intermediary/Mediator Ta'aruf

The Ta'aruf mediator is the guardian/closest person to the prospective bride and groom and the best is someone who can describe the identity of the bride and groom. Usually, Ta'aruf Intermediaries are people who often interact directly with the bride and groom, for example, siblings or parents. If the Ta'aruf process is carried out from a recitation group, then it must be led by a male reciter teacher (*murobbi*) and a female reciter teacher (*murabbiyah*), *Murobbi/Murobbiyah* must be someone who can maintain religious views and understand.

(c) Prepare Mentally and Spiritually

Each prospective bride and groom who wish to continue Ta'aruf should have the courage to answer honestly if asked and dare to accept the final answer to the Ta'aruf process. Prepare mentally and spiritually before holding a Ta'aruf wedding so that it is mentally and physically stable by getting closer to Allah SWT, doing recitations of the Qur'an and performing prayers to ask for guidance and accept Allah SWT's decisions.

(d) Ta'aruf/Ta'aruf's marriage failed

If both the bride and groom believe that the candidate has the same vision, mission and way of thinking then the marriage will proceed. If one party feels unsuitable, then he can decide whether to marry or not (Donna, 2009).

In its development, especially in Indonesia ta'aruf has 3 (three) types, namely :

(a) Ta'aruf

This type of ta'aruf is ta'aruf which has always been carried out by Muslims who choose partners to marry through ta'aruf. The process begins with the male's desire to find a potential partner, who then asks relatives or a third party to find a partner. During this process, which is called mediation, men and women will exchange information through the closest people and their respective observations, until it ends in a match where the man will immediately perform khitbah to his candidate.

(b) Online Ta'aruf

The development of the times has made ta'aruf increasingly attractive among teenagers. Online ta'aruf is carried out by installing an application or through the website, where men or women who want to do ta'aruf will exchange information via online messages. There are several online ta'aruf applications, one of which is ta'aruf ID. In addition, there are many Instagram accounts that provide online ta'aruf services for men or women who want to get married through ta'aruf. However, even though the ta'aruf process is carried out online, the process will not violate the rules of the Islamic religion.

(c) Ta'aruf between Organizations

This type of Ta'aruf takes place within the scope of Islamic organizations, as explained by Marzuki Umar in his thesis entitled Implementation of Premarital Ta'aruf and Its Implications for Family Resilience (Study on Wahdah Islamiyah Ormas) in 2020. Where he examines a community organization called Wahdah Islamiyah which conducts ta'aruf between organizations. This type of Ta'aruf is more formal and closed because each organization certainly has its own rules.

Ta'aruf marriage is not prohibited under Indonesian law, and those who choose to enter into this type of marriage are not breaking any laws. Despite the fact that ta'aruf marriage is not recognized as a legal marriage under Indonesian law, those who enter into this type of marriage still have certain rights and protections. For example, under Islamic law, a ta'aruf marriage is considered a valid and binding contract between the two parties. As such, the parties have legal obligations to each other and may be entitled to certain rights and protections.

In addition, the Indonesian government has taken steps to protect the rights of those who enter into ta'aruf marriages. The 2019 revision of the Marriage Law includes provisions that require couples who wish to enter into a ta'aruf marriage to undergo a premarital counseling session. This counseling session is intended to help ensure that both parties fully understand the implications of a ta'aruf marriage and are entering into the relationship willingly and with full knowledge of the consequences.

Early Marriage and Taaruf Counseling activities for students at the Daarul Muttaqien 1 Islamic Boarding School are an agenda carried out by Lecturers and Students of the Tarumanagara University Law Study Program, which in this case is part of the Community Service program (PKM). The reason for choosing the activity location at the Daarul Muttaqien 1 Islamic Boarding School is because the majority of people in the boarding school environment practice a lot of Early Marriage and Taaruf.



The series of community service activities are carried out for one day starting at 8:00 WIB until 13:00 WIB, namely on February 27 2023. The implementation of the activity begins with an explanation of what Early Marriage and Taaruf are. Participants who participated in counseling were 140 students.

Counseling was then followed by an interactive discussion session between the resource person and the participants regarding the rules of marriage according to what the participants understood. The activity was closed by symbolically handing over reading books to the caretakers of Daarul Muttaqien 1 Islamic Boarding School followed by a group photo session.

#### 4. CONCLUSIONS AND RECOMMENDATIONS

Based on the activities carried out at the Daarul Muttaqien 1 Islamic Boarding School, it can be concluded that the effort is to provide students with an understanding of the negative impacts of early marriage and ta'aruf for those who have not reached the minimum age for marriage. This effort must be made continuously to help them see the meaning of marriage in another sense or perspective. The high rate of early marriage in Indonesia is also high enough to affect the views of students in terms of early marriage and ta'aruf.

It is hoped that the legal counseling that has been carried out can add to the understanding of students at the Daarul Muttaqien 1 Islamic Boarding School in particular, regarding the legal consequences arising from early marriage and ta'aruf. In this case, the involvement of local community leaders or leaders is needed to participate in raising public awareness about the negative impacts that arise for women from early marriage and ta'aruf.

Suggestion, I hope this article is useful for readers in particular and for most of us in general, to help find a sakinah, mawaddah and rahmah family, for research subjects to be able to immediately complete the targets they want to achieve before marriage and continue to choose the ta'aruf path to get married. As well as for further research, it is suggested that this research can be developed using a qualitative method approach but with subjects who have experienced ta'aruf, for example interpersonal interest in couples who go through the ta'aruf process.

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