

## **PaSiGala (Palu, Sigi, Donggala) Natural Disasters From A Family Law Perspective**

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### **Abstract**

In September 2018, Central Sulawesi Province, specifically Palu City, Sigi Regency and Donggala (collectively referred to as PaSiGala) was ravaged by a series of natural disasters, encompassing earthquakes tsunami, and liquefaction, affecting approximately 1.4 million individuals. This article delves into the repercussions of the PaSiGala natural disasters on family law. The upheaval caused by these calamities led to widespread displacement, profoundly influencing the domain of family law. Employing the empirical legal research method, this study scrutinizes the manifold impact of PaSiGala disasters on family law, notably in relation to matters such as child marriage and divorce. Although field data presented conflicting perspectives on the influence of the disasters on child marriage, it is concluded that while there is suggestive evidence of an increase post-PaSiGala. Such cases were not officially recorded by the Religious Affairs office.

**Keywords:** Natural disasters, family law, child marriage, divorce.

### **Introduction**

Natural disasters are natural phenomena that have a severe impact on human life. A series of natural disasters hit Central Sulawesi Province, Indonesia, especially Palu City, Sigi Regency and Donggala Regency (PaSiGala), in September 2018. The natural disasters comprise several earthquakes, and the strongest one was a 7.4 magnitude earthquake, which triggered a tsunami. The tsunami resulted in powerful waves reaching a height of approximately 20 feet. The earthquakes, tsunami and resulting liquefaction (when soil acts like fluids) and landslides caused significant loss of life and properties. It is estimated that as many as 1.4 million people were affected by the disasters, and the most severe impact was felt in Palu City, Sigi Regency and Donggala Regency.

Natural disasters have a tremendous negative impact on all aspects of human life. The results of various studies show that survivors of natural disasters face numerous problems due to the deplorable conditions they have to deal with. Among the many problems faced by natural disaster survivors in PaSiGala is family law problems. After a disaster, it is difficult for individuals to adapt after moving from the house they owned and lived in previously to refugee camps and shelters because the new environment causes changes in personal, interpersonal, social and economic life

As generally known, family law is the aspect of law that regulates marriage and all its legal consequences. The natural disasters that occurred in PaSiGala had an impact on family law, namely marriage and divorce. In Palu, Sigi and Donggala, which were the areas most impacted by the September 2018 earthquakes, tsunami and liquefaction, many cases of deaths and missing person were recorded, resulting in a great number of people losing their relatives.

Numerous victims whose whereabouts were unknown were considered missing, although many of their bodies were later found. These victims were relatives of the survivors of the PaSiGala disasters. As a result of the transfer of survivors to refugee camps and temporary shelters because of the destruction of their homes and due to the trauma faced by them, the survivors experienced life problems, including problems associated with marriage, especially child marriage and increased cases of divorce.

### **Formulation of the problem**

How did natural disasters impact family law in Palu, Sigi Donggala?

### **Research methodology**

The method used in this research is the empirical legal research method. This research uses primary data based on field studies, such as observations, interviews and surveys. The primary data are supported by secondary data (from the literature). Basically, the aim of empirical legal research is to be able to see the law in real terms and examine how it works in society (Irwansyah et al, 2020).

The research took place in various locations within district Dipalu, Sigi, and Donggala, situated in Palu City. Specifically, the focus was on KPKPST (Central Sulawesi Women's Equality Advocacy Group) which is deeply committed to advancing women's rights in Central Sulawesi. The data collection methods employed included documentation studies and interviews with multiple sources. In Sigi, interviews were conducted at the Bimais Religion Department office, Palu City, with Mr. Burhan Munawar Lc., the Head of Division. Additionally, at the Sigi Ministry of Religion, interviews were conducted with Mr. Azhar M Ag, Head of the BiMais Sigi Division, and Mr. Hayyun SHi., MH, Head of the Religious Affairs Office (KUA).

### **Discussion.**

Several research indicate that there is a significant negative relationship between loss of personal wealth, social support, physical health and increased psychological stress after a disaster. According to Gregor (in Nurfathiyah, 2013), the impact of disasters is felt by some people due to the loss of family and friends, loss of residence and possessions, loss of the meaning of life, displacement from one's position in life and feeling of uncertainty due to loss of future orientation and personal security.

For both children and adults, the impact of disasters varies from short term to long term. Short-term emotional impacts include acute fear and anxiety, chronic feeling of sadness and guilt, and feeling of emptiness. In some people, these feelings will subside over time. However, in others, the emotional impact of disasters can last longer in the form of trauma and problems associated with adjustment in personal, interpersonal, social and economic life after the disaster. In some cases, the emotional impact may even last a lifetime.

A group of women activists asserts that natural disasters and disasters caused by human behavior, among other things, have triggered an increase in child marriages because the families affected by these disasters can no longer support their children. According to Lakshmi Sundaram, executive director of Girls Not Bride, emergency situations are often the last straw for many families who are already living on the brink. This situation changes the situation and makes it difficult for parents to meet their daily needs and protect them. Marrying off daughters is the only option (Jakarta Globe, Nov.11, 2023). This independent organization passionately promotes the global cause of enabling girls to grow and thrive free from the constraints of forced marriages.

Child marriage deprives girls of opportunities and education. They also risk serious injury or death if they have children before their bodies are ready. Another risk is being vulnerable to domestic and sexual violence. Child marriage ultimately causes divorce at an early age, due to the immaturity. Accordingly, the natural disasters that occurred in PaSiGala in 2018 caused a sharp increase in poverty rate and the potential for child marriage.

During the natural disasters, casualties were unavoidable due to the collapse of buildings, the tsunami that hit the beaches and the liquefaction that

occurred in several areas, which resulted in thousands of people being swallowed by the earth and declared missing. Based on data from BPBD SulTeng in 2019 (KPKP-ST 2020) the missing victims were about 4,845 people in number. The large number of fatalities had an impact on the survivors because many people lost their brothers, sisters, friends, parents, children and relatives. The survivors were also affected by the loss of their place of residence, as they were moved to refugee camps and temporary shelters provided by the government. Due to the large scale of the displacement, refugee camps and shelters became overcrowded. Also, there was a lack of functioning support systems after the natural disasters, resulting in some women and children experiencing sexual violence and child marriage. Women and children are mostly at risk of such social vices.

According to data provided by the Central Sulawesi Women's Equality Struggle Group (KPKPST), there was an uptick in the incidence of child marriages following natural disasters at various refugee camps, attributed to instances of child pregnancy. The most recent data reveals a notable surge in child marriage cases in 2019, with 43 recorded instances, as reported by KPKPST.

Weak parental control and increased frequency of having sex may increase the rate of pregnancy in refugee camps. After getting married, pregnant girls usually drop out from school, while boys can continue their studies. Child marriage is an old practice that is widespread in various parts of the world. The forms of child marriage involves marrying a girl to an adult man or matching a boy and a girl when one or both of them are still children. Legally, the marriage age is stipulated by Law No. 16 Year 2019 on Amendments to Law No. 1 of 1974 on Marriage (Law No. 1 of 1974 on Marriage is hereafter known as Marriage Law). The law stipulates that "in this case, the minimum age limit for marriage for women is the same as the minimum age limit for marriage for men, namely 19 years.

Meanwhile, Article 26 of the Republic of Indonesia Law Number 23 of 2002 on Child Protection stipulates that parents are obliged to protect children from early marriage; however, these provisions have not reduced or prevented early marriage. The practice of child marriage violates the Convention on the Rights of the Child (CRC), which Indonesia has ratified through a Presidential Decree. Several laws adopt the CRC, including the Law on Juvenile Justice and the Law on Child Protection. The CRC also regulates child protection in emergency situations, like in refugee camps, considering that in emergency situations, including disaster situations, the practice of child marriage is more rampant due to the lack of social welfare.

The occurrence of a disaster is like resetting time because development has to start again from the beginning. When a disaster occurs, people should not dwell so much on what has been lost but should be courageous to start afresh. Central Sulawesi must be strong to weather this storm. Provision of basic amenities for refugee camp and shelter residents must remain a priority, which will of course have an impact on children's welfare, thereby reducing the number of child marriages, according to data revealed by the KPKPST. The Marriage Law is expected to make tremendous contributions as one of the supporting pillars of

development in Indonesia. The marriage institution is a gateway to carrying out a series of activities to ensure the guaranteed growth and development of the nation's generations from children to adults, physically, spiritually and socially.

Marriage is regulated by Law Number 1 of 1974. To ensure the wellbeing of the nation's children, the Marriage Law has gone through a long process, due to the push and pull of various group aspirations, religious and national interests. The sacredness of marriage and the religious influence on the Marriage Law can be found in Article 1 of the Marriage Law, which provides a definition of marriage: "marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a family (household) which is happy and eternal based on the Almighty God". This definition is expected to standardize the meaning of marriage, so that the society will understand the essence of marriage.

It is hoped that increasing the minimum age of marriage will be a means of reducing the consequences of early marriage. Child protection and child welfare rights are regulated by various provisions of law, starting from the 1945 Constitution of Indonesia, which stipulates that abandoned and poor children are cared for by the state.

Also, Law of the Republic of Indonesia Number 4 of 1979 on Child Welfare regulates children's rights as follows: "children have the right to welfare, care, upbringing and guidance based on love both within their families and in special care to grow and develop naturally". Further, the responsibilities of parents are given: "parents are responsible for the welfare of their children." Indonesia ratified the Convention on the Rights of the Child (CRC) through Presidential Decree 36 of 1990 on 25 August, 1990, and the core substance of the CRC covers the human rights of children and the responsibility of the state, community and parents. The above rights and responsibilities help to ensure the best interests of children and optimal implementation of child protection.

According to Laksmi Sundaram, child marriage causes children to lose the opportunity to pursue education; it also leads to domestic and sexual violence. Apart from that, child marriage will not achieve the goal of marriage, namely an eternal and happy family. This happens because children are immature in body and soul based on the principles of the Marriage Law. A child is every person who has not reached the age of 18 years or is under the authority of his/her parents, as long as their rights of authority are not revoked. Children have the right to protection and welfare; this means that from the time they are in the womb, their parents are obliged to provide them with adequate nutrition so that they can be born healthy and of sufficient weight. Everything that guarantees and protects the rights of children should be done so that they can live, grow, develop and participate optimally in societal activities in accordance with human dignity. In addition, children should receive protection against violence and discrimination.

Another research by Djamilah (2014) conclude that Child marriages primarily occur due to the absence of sexual and reproductive health education. It is imperative to provide comprehensive sexual and reproductive health education to adolescents, equipping them with the necessary understanding to make informed

choices. Similar with research by Sekarayu and Nurwati (2021), early marriage, typically involving individuals under the age of 19 who may not be adequately prepared for the various responsibilities of marriage, can significantly affect reproductive health for both women and men. To mitigate the adverse effects of early marriage on reproductive health, comprehensive preparation is essential. Implementing measures to minimize these negative impacts is crucial in ensuring the well-being of those involved in early marriages.

One source of personal development is culture. A person's cultural values have a great influence on their self-acceptance. In a cultural framework, culture influences the development of a person's personality, including how a person views and accepts himself (Dayakisni and Yuniardi, 2012). One of the reasons why child welfare is neglected is underage marriage, and a major factor that encourages underage marriage is underage pregnancy. The following factors make children vulnerable to underage pregnancy: (Andaringtyas, 2023)

1. Deplorable living conditions in a family.
2. Lack of good parenting skills.
3. Children do not have the ability to weigh the risks of pregnancy.
4. Young people see sex as a way to enjoy adolescence.

Further, as stated earlier, the minimum age for marriage is regulated by law. However, the law also allows deviations from the minimum age under "extremely pressing grounds". In other words, the parents/guardians of a male or female child can apply to the court on behalf of the child for exemption from the age limit. The exemption received is known as marriage dispensation. According to the Great Dictionary of Indonesian, dispensation is defined as "the avoidance of the common guideline for unique conditions, exclusion from a commitment or restriction". Data provided by the Supreme Court and the Religious Justice Agency showed that there were 13,880 requests for marriage dispensation in 2018 (Mustafa and Farhan, 2021). In 2019, this number increased significantly to 24,864 requests and was the fourth most frequently registered case in the Religious Courts. The increase in the number of marriage dispensation requests often lead to an increase in the number of child marriages. The high demand for marriage dispensation has undermined the interests of children, one of which is preventing child marriage, as mandated by Article 26 paragraph (1) letter c of Law Number 35 of 2014 on Amendments to Law Number 23 of 2002 on Child Protection.

To reduce the number of child marriages, the Constitutional Court issued decision number 22/PUU-XV/2017, which was followed by the necessary actions from the House of Representatives (DPR) and the President, leading to the revision of Law Number 1 of 1974. This revision is outlined in the form of Law Number 16 of 2019, which is only a response to the decision of the Constitutional Court, which changed the previous age limit for marriage (19 years for men and 16 years for women) to 19 years for both men and women. Marriages carried out by children under 19 years of age are categorized as child marriages.

As earlier stated by KPKPST, the number of child marriages tend to

increase among survivors inhabiting or residing in shelters and refugee camps. However, based on the data obtained from the Department of Religion in Sigi and Donggala, the PaSiGala natural disaster did not significantly affect child marriages. This means that child marriages did not increase significantly. Therefore, there is an indication that marriage applications for those who do not meet the minimum age requirement in accordance with the provisions of the Marriage Law will be rejected, unless there is a dispensation from the Court.

Based on the results of the interviews with Head of the Religious Affairs Office, this article finds that underage marriages do occur, but court dispensation must be received before they can go ahead. Applications for marriage submitted by minors to the Religious Affairs Office (KUA) will always be rejected, because it is hindered by the age limit for marriage. and the applicants will be asked to go to the Religious Court to seek for dispensation, but the court only grants dispensation under extremely pressing grounds. However, the possibility of underage marriages occurring without being recorded cannot be ruled out. People carry out marriages without going through KUA, so they do not have a marriage certificate. There was an increase in the number of child marriages after the disasters, but it was not significant, and based on data from the Donggala Ministry of Religion Office, in 2022 only 20 marriages of minors will be recorded.

### **Conclusions and recommendations**

There were differences in the data obtained from different sources. Field findings indicate that unrecorded marriages still often occur, especially among natural disaster survivors in PaSiGala. This is based on findings from KPKPST (Central Suawesi Women's Equality Struggle Group), which indicate that child marriages have increased very significantly. However, according to the Department of Religion in Sigi and Donggala, no significant increase in child marriages was recorded. Therefore, it can be concluded that what KPKPST discovered were child marriages that were not registered.

It is hoped that increasing the minimum age of marriage will be a means of reducing the consequences of early marriage. Child protection and child welfare rights are regulated by various laws, including the 1945 Constitution. The laws have many provisions that guarantee the healthy growth and development of children. The laws are related to the various rights enjoyed by children and the responsibilities of the state, community and parents to cater for and protect children.\*\*\*

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