



STATUS AND RIGHTS OF CHILDREN OF UNDERHAND MARRIAGE: STUDY OF MARRIAGE PRACTICES OF ACEHNESE WOMEN WORKERS WITH BANGLADESHI FOREIGNERS IN MALAYSIA

Januddin1

¹UIN North Sumatra (januddinyusuf@gmail.com)

Abstract: The writing of this journal aims to analyze and find clarity regarding the perspective of the marriage of TKW Aceh with Bangladesh on children's rights and to find out. This research is a field research, in qualitative form from the results of field interviews that marriages are not recorded, the status of children born from these marriages. Children are also not recognized by the State. such as birth and death. Recording only important events, not like marriages which are legal events, recording does not affect the validity of marriages, it is only an administrative requirement. The problem is that the marriage is from the perspective of the marriage of TKW Aceh which is a marriage with Bangladesh which has an impact on the status of the child and the legal protection of the rights of the child, which also involves his nationality.

Keywords: Children's Rights, Women Workers, Marriage

1. INTRODUCTION

The geographical location of Aceh which is very close to the territory of Malaysia allows for the mobility of the Acehese people who are looking for work in Malaysia, with the hope that economic changes will occur in their lives. The closeness of the distance and the weak supervision of the sea route has made many workers from Aceh, both men and women, go to Malaysia from the rear route. With relatives or acquaintances from the same village who had previously lived in Malaysia, they departed without official passports and using boats or sticks. Upon arriving in Malaysia, you will be accommodated by family or acquaintances, until you get a residence permit. The risks taken are quite large because of trips like this, not infrequently in Malaysia they are called illegal immigrants who will then be chased by the Malaysian police (Witanto, 2020, p. 76).

It is not clear how many female workers choose to work illegally. The Manpower Office records the number of TKW from Aceh working in Malaysia as follows:

Table: 1.1 Data of TKW Working in Malaysia

COUNTRY	2015	2016	2017	2018	2019
aceh	2,038	2,000	2,004	2,031	2,019

Data processed in 2022

Based on data from TKW registered at the Aceh Immigration Service Office, there has been a drastic decline where in 2019 it reached 2,019 people, a decrease from the previous year, in 2018 around 2,031 people, 2017 around 2,004 people and 2016 around 2,000 people, 2015 around 2,038 people (Djubaeda, 2019, p. 34)

Female workers looking for a life in Malaysia do not always have sweet stories, many of them experience an unpleasant life, and then choose to return to their hometowns. The situation of the Covid-19 pandemic which affected Malaysia as well as Indonesia including Aceh, forced many migrant workers to return to their hometowns. Among those who returned to their hometowns took part in bringing their children who were the result of marriages with Bangladeshi citizens. The husbands are immigrants who work in Malaysia. The TKW from Aceh returned with no bad life from before, coupled with the dependents of the children they brought (Hallet, 2019, p. 55).

The problem is not only economic, but the impact of social and religious law also affects their lives. The status of children in terms of citizenship is also a separate issue. Children born to fathers and mothers from different countries need a birth certificate when their mothers return



to their homeland (Harefa, 2019, p. 77). Marriages that are carried out must also be truly registered, and have legal force. Children who are born must have guardianship rights and rights to economic guarantees from their parents. Of course this is not easy to describe, children have many problems that arise if a child is born to a mother and father from different countries (Mansur, 2019, p. 86).

Based on data related to regulations regarding the right to obtain citizenship status according to Article 4 of Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, what is meant by Indonesian Citizens (WNI) are as follows:

- a. Child who was born from a legal marriage from a father and mother who are Indonesian citizens.
- a. Child who was born from a legal marriage to an Indonesian citizen father and a foreigner mother.
- c. Child who was born from a legal marriage to a father who is a foreign citizen and a mother who is an Indonesian citizen.
- d. Child born from a legal marriage to an Indonesian citizen mother, but the father does not have citizenship or the law of the father's country of origin does not grant citizenship to the child.
- e. Child who was born out of wedlock to a foreign mother who is recognized by an Indonesian citizen father as his child and the recognition was made before the child was 18 (eighteen) years old or unmarried.
- f. Child who was born in the territory of the Republic of Indonesia whose nationality status of the father and mother was not clear at the time of birth.
- g. Child newborn found in the territory of the Republic of Indonesia as long as the father and mother are unknown.
- h. Child who was born in the territory of the Republic of Indonesia if the father and mother do not have citizenship or their whereabouts are unknown.
- i. Child who was born outside the territory of the Republic of Indonesia from a father and mother who are Indonesian citizens who because of the provisions of the country where the child was born gives citizenship to the child concerned.

Based on the description above that This community service aims to provide education to Acehese in Malaysia so they can understand the forms of children's rights in the legal, economic, social and religious fields.

3. METHOD

In examining the problem of the marriage perspective of TKW Aceh and Bangladesh on children's rights, the author uses a qualitative research method. While the author's approach uses a phenomenological approach and a normative juridical approach, because it relates to people's understanding of the perspective of marriage between Aceh TKW and Bangladesh on children's rights. Meanwhile, juridical normative aims to find the validity of the marriage perspective of TKW Aceh and Bangladesh regarding children's rights and characteristics in this study is descriptive in nature because it describes the data as a whole and intact on the perspective of marriage of TKW Aceh.

The research data comes from library and field data. Library data was collected through documentation review, and field data was collected through interviews with various sources who knew about the issues being studied, such as community leaders and government elements, as well as by direct observation at the research location.

4. ANALYSIS OF STUDY FINDINGS

In the analysis of study findings regarding the perspective of marriage between Aceh TKW and Bangladesh on children's rights in Pidie Jaya there are conditions that must be met, administratively must complete files such as, Certificate of Marriage Permit from the embassy of the Applicant's country of origin, Applicant's identity letter, Proof of the Applicant reporting himself from the Indonesian Police, and Letter or Charter of the Applicant converting to Islam,



and so on (Greetings, 2020, p. 66). The judge considered, that because of the petition of the Petitioners, from this matter most TKW from aceh had many marriages outside the predetermined rules, as the results of the interview obtained from Ms. Mela that: marriages carried out in other countries follow religious rules but against the rules Country. (Mela, Personal Communication, 2022).

Based on the results of the interview above, it is explained that most TKW from Aceh carry out marriages outside their area of origin which do not conflict with religious rules but conflict with State regulations so that they affect children's rights. As was the result of an interview with Suryadi, it was difficult to make a child's birth certificate (Suryadi, Personal Communication, 2022), while Fadli also said that children who were victims of marriage without following state rules were due to overseas without being registered at the city immigrant office (Suryadi, Personal Communications, 2022).

It is very clear that the registration of marriages in Law Number 1 of 2007 is only regulated by one paragraph, but the issue of registration is very dominant, this will appear to be related to the procedures for the marriage itself, all of which are related to registration. There are some legal experts who place registration as an administrative requirement which also determines whether a marriage is valid or not.

Regarding mixed marriages in Indonesia, they are carried out according to the Marriage Law. Mixed marriages cannot take place before it is proven that the conditions for marriage determined by law are relatively complied with and therefore it is not necessary to carry out mixed marriages, then those who, according to the law applicable to each party, have the authority to register the marriage, are given a statement stating that the conditions conditions have been met (Hallet, 2008, p. 55).

From the above problems related to the perspective of the marriage of TKW Aceh and Bangladesh, it can be seen from the beginning of the trip without being registered at the Immigration office so that the marriages carried out are far from state regulations and give a negative impact on child protection. Child protection is an effort to provide conditions and situations that enable the implementation of children's rights and obligations in a positive humane manner which is also an embodiment of justice in a society. Thus, child protection must be endeavored in various fields of livelihood and life in the state, society and family based on law, for the sake of right, fair and welfare treatment

5. CONCLUSION

Based on the author's conclusion regarding the perspective of marriages of TKW Aceh and Bangladesh on children's rights, that the marriages carried out by many TKW violated the laws and regulations of the State so that children were not registered in the State, this was evident from an unclear journey for TKW.

BIBLIOGRAPHY

- Basyir, Ahmad Azhar. *Hukum Perkawinan Islam*. Yogyakarta: Fakultas Hukum UUI, 2017
- Beniharmoni Harefa. *Perlindungan Hukum Bagi Anak*. Jakarta: Cv Budi Utama. 2019
- Djubaidah, Neng. *Pencatatan perkawinan dan Perkawinan tidak dicatat menurut Hukum Tertulis di Indonesia dan Hukum Islam*. (Jakarta: Sinar Grafika, 2019
- Djubaidah, Neng. *Pencatatan perkawinan dan Perkawinan tidak dicatat menurut Hukum Tertulis di Indonesia dan Hukum Islam*. Jakarta: Sina Grafika, 2020
- Faisal Salam, Moch. *Hukum Acara Peradilan Anak di Indonesia*. (Bandung: Mandar Maju, 2020)hl.66
- Gautama, Sudargo. *Hukum Perdata Internasional Indonesia*. (Bandung: Alumni, 2019
- Hallet, Nuning. *Perempuan dan Kewarganegaraan Perempuan dan Hukum, Menuju Hukum yang Berspektif Kesetaraan dan Keadilan*. Jakarta: Yayasan Obor Indonesia, 2019
- Rahardjo, Satjipto. *Ilmu Hukum*. Bandung: Citra Aditya Bakti, 2019



Teuku Muttaqin Mansur, dkk. Ilmu Sosial Dan Budaya Dasar: .Banda Aceh : Syiah Kuala University Press.2019

Undang-undang Nomor 12 tahun 2006 tentang Kewarganegaraan Republik Indonesia.

Witanto, D.Y. Hukum Keluarga Hak dan Kedudukan Anak Luar kawin pasca keluarnya putusan MK tentang uji materiil UU Perkawinan. Jakarta: Prestasi Pustaka, 2020