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CRIMINOGENIC FACTORS OF DATA FRAUD IN EARLY MARRIAGE TRADITION

ST. Sariroh¹, Mohammad Ali², Rumawi³, Abd. Syakur⁴

¹Kiai Haji Achmad Shiddiq State Islamic University of Jember (st.sariroh@iain-jember.ac.id)

² Doctoral Candidate Universitas Brawijaya (alialwahid07@gmail.com)

³ Kiai Haji Achmad Shiddiq State Islamic University of Jember (rumawirumawi@gmail.com)

⁴ Doctoral Candidate Sultas Agung Islamic University Semarang (syakurabdmpd@gmail.com)

Abstract Early marriage tradition of Madurese community is one of the criminogenic factors of identity fraud as had been done by (A.N and I.M) the initials of the couple who are still under 19 years old. The marriage law stipulates that marriage can be carried out after the bride turns 19 years old. However, they tend to fake their identities without applying for a marriage dispensation. This action is a form of crime that is mostly done in early marriage cases. This research is *field research* in presenting the data using descriptive qualitative with a criminogenic approach which aims to analyze the criminogenic factors of identity fraud in early marriage tradition. The results showed that the criminogenic of identity fraud in early marriage was caused by 2 factors; the first, *Internal factors*: Individuals, there is an own desire that being the basis of the action. Education, education level greatly affects a person's knowledge of the applicable legal rules. *External factors*: Environment and culture influence the act of identity falsification, especially criminogenic factors of *Marriage by Accident*, in addition to the community's habit of marrying at a young age. This incident also encouraged the family to get married even though they were under 19 years old. Economy, the low level of the economy is also the cause of committing identity falsification to reduce the family's burden and improve the economy, as well as because the cost of applying for dispensation is considered burdensome.

Keywords: Criminogenic Factor, Data Fraud, Early Marriage

1. INTRODUCTION

Madura is one area that is still thick with the tradition of early marriage. Many of the residents there are forced to marry at a young age because of cultural demands. This marriage practice has been performed since a long time. In Sumenep, the tradition about early marriage for children who are not old enough (baligh) has happened. Most of women married between 9-15 years old and men between 12-20 years old.¹ based on data of Youth Reproductive Counselling Information Program that Early marriage rate (under 16 years old) increased in Madura. Traditions that exist in the community are also one of the causes of early marriage. This habit makes parents force their children to get married immediately. Because unmarried adult women are a disgrace to their parents and family. In Indonesia, early marriage ranks 37th in the world and ranks 2nd after Cambodia in ASEAN (14.18%). According to the BKKBN, Indonesian teenagers married at the age of less than 18 years in 2018 became 15.66% or 375 teenagers married at an early age every day in all provinces in Indonesia.²

Early marriage, which has been passed down from generation to generation in Madura, is clearly contradict to the Government's Marriage Law. The impression is that people live with their own wisdom and on the other hand the state with its formal laws. Explicitly the provision explains that marriage can performed if the bridegroom is 19 years old.³ In the provision also explained

¹ St Sariroh, "Data Forgery Dalam Perkawinan Dini Perspektif Fungsionalisme Struktural," *An-Nisa': Jurnal Kajian Perempuan Dan Keislaman* 14, no. 2 (November 19, 2021): 155-170, .

² Kemenkes Republik Indonesia, "Profil Kesehatan Indonesia Tahun 2017," December 1, 2019, <http://r2kn.litbang.kemkes.go.id:8080/handle>.

³ "UU No. 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan [JDH BPK RI]," 2019, <https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019>.



that for the bride who are not age enough, should asked marriage dispensation to religious court.⁴ This marriage dispensation is filed when one of the brides has not age enough to marry. Nevertheless, to cover their age status who were not yet eligible for marriage, it is not uncommon for to add the age in the identity card and the marriage certificate. This case occurred in Madura where they prefer to add the age for the bride who has not been eligible for marriage without asking marriage dispensation to the Religious Court.

In this case, such as the case of early marriage done by A.N (the groom) is less than 18 years old, with I.M (the bride) is 14 years old. They married by falsifying the card identity and the marriage certificate by adding the age in order to speed up the implementation process. This action has been approved by an agreement between *mudin* and Office of Religious Affairs. It is to accelerate the process of marriage implementation, even though they unwittingly commit crimes of identity fraud. The data fraud action is a form of crime that is often committed in early marriage. Article 263 of the Criminal Code explains that anyone who makes a fake letter that can give rise to a right as if the letter is genuine and is used as a statement in an act will be sentenced to 6 years.

In social reality, Criminal behaviour can be studied in various ways, one of which is in the social environment. To study the influencing factors in criminal acts. The author uses the theory of criminology which was first coined by Edwin H. Sutherland. This theory will analyse patterns or factors regarding the causes of law violations such as falsification of data in early marriages.

2. METHODOLOGY

This research used qualitative approach method that included in field research. The data collection method a writer used semi-structured interview technique. This interview is free, the author did not use a systematic and complete list of interview but used the main problem guidelines. In additions, the author used observation and documentation method by describing all the things happened in the environment related to the early marriage practice.

The data analyse by using Criminogenic theory approach which aims to analyse the causes of identity falsification crime in the early marriage practice in Madura. It is one of the social phenomena that is not easily understood based on speech or action. Then it takes certain theory to look deeper about the phenomenon both in terms of the structure of society itself, culture, external and internal factors that the cause of identity falsification. The main data source in this research is the parties related to early marriage practice including bride and they parent, religious leader, Employee's Office of Religious Affairs, and *mudin*.

3. CRIMINOGENIC FACTORS OF DATA FRAUD IN EARLY MARRIAGE TRADITION

Criminology is a theory introduced by Edwin H. Sutherland.⁵ This theory studies crime as a social phenomenon so that as perpetrators of crime cannot be separated from social interaction, This means that crime attracts attention because of the influence of the act that is felt in human relationships.⁶ Human crimes are studied and analysed through information, patterns and causal factors related to crime.

In criminological theory, criminal action could be observed through multiple sequences of actions committed by parties who violate social norms, including legal norms. The observation process not only analyses related techniques in the process of committing a crime, but also the motives, impulses, attitudes and satisfaction in carrying out these actions.

In analysing the crime of data fraud in marriage by using a criminological approach firstly it must be understood that the crime is society incidents, the incident related to crime and perpetrators of crime. In this case, it is the bride and groom and their families who are the main actors in committing the data fraud in marriage. In addition, there are also supporting parties including the village head, *mudin* and employees of the religious affairs office (KUA) who support

⁴ "UU No. 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan [JDIH BPK RI]."

⁵ Edwin H. Sutherland ,dkk., "*Prinsip- Prinsip Dasar Kriminologi*" (Jakarta: Prenadamedia Group, 2018), 10.

⁶ Topo Santoso dan Eva Achjani Zulfa, "*Kriminologi*" (Jakarta: Penerbit PT Raja Grafindo Persada, 2004), 74.



and assist in carrying out the act of falsifying the data. The second is to analyse the causal factor data fraud crime in early marriage. As well as the public's reaction to the crime, either by the local government or public.

The tradition of early marriage according to some Madurese people is an ordinary act, even a new tradition that needs to be maintained and preserved, because the tradition has become something that had been done by ancestors from generation to generation. The majority of community leaders and *Kiai* in Madura allow the implementation of marriage when the bride is of age even though she is not yet 19 years old.⁷ Early marriage in Madura stems from the habit of people who match their children at a young age. This matchmaking is usually carried out by the majority of underprivileged families.⁸ This engagement is carried out by a girl who is still in school, when a boy applies for marriage, it must be accepted because the rejection of the first application will cause the child to be *ta' pajuh lakeh*.⁹

After experiencing the development of community behaviour, the practice of early marriage is not only caused by tradition and the economy but also there are several factors of social change, namely modernism which affects the behaviour of teenagers these days. The prominent behaviour of teenagers has a negative impact that causes them to be trapped in prohibited acts such as adultery, this act clearly violates social, religious and legal norms. This behaviour makes the family dignity become bad and fall among the community.¹⁰ So there is no other way but to marry off their children even though they are not yet eligible for marriage according to legal regulations. This is done in order to maintain the child status to be born by the young couple and to eliminate feelings of *maloh* or *tade" aajhinah*. Therefore, the parties committed a criminal act, namely falsifying identities such as making fake of Resident Identity Cards in which the age of the bride and groom is written as 19 years old. This action has been approved by the Village head and Mudin who are authorized to issue the letter. In addition, the Office of Religious Affairs did not prohibit this act because they felt sorry for the condition of the bride's family.

In conducting data fraud of early marriage tradition there are some criminogenic factors which effect the action i.e. internal factors and external factors. As follows:

a. Internal Factors

1) Individual

There is a desire in the perpetrator which is the cause of the data fraud action in early marriage practice. parents or families want to immediately marry off their children so that family members can increase.

2) Education

In education Context, low level of education of parents, children and society, causes a tendency to marry their children at a young age ¹¹ by falsifying marriage data. This level of education also affects their knowledge of the applicable legal rules. They do not understand the actions that are prohibited or allowed in state law. In addition, they do not understand the negative impact of the act of falsifying data on marriage of their young child.

b. External Factors

1) Culture

The culture in the Madurese community also greatly influences the occurrence data falsification in early marriage. Especially in rural areas where the majority are still

⁷ Saiful Bahri, "Peran Kyai Dalam Mediasi Untuk Penyelesaian Konflik Pasca Pernikahan Dini Di Madura | Al-Manhaj: Journal of Indonesian Islamic Family Law," August 1, 2020, 3.

⁸ Iwan Kuswandi and Lilik Fadilatin Azizah, "Tradisi Mitos Sangkal Dalam Pertunangan Dini Perspektif Kiai Di Madura," *Indonesian Journal of Islamic Literature and Muslim Society* 3, no. 2 (2019): 157.

⁹ Suyono Suyono, "Kredibilitas Pemuka Pendapat Dalam Tradisi Pernikahan Di Bawah Umur (Pernikahan Dini) Di Madura," *MEDIAKOM* 1, no. 2 (February 20, 2018): 204.

¹⁰ Sariroh, "Data Forgery Dalam Perkawinan Dini Perspektif Fungsionalisme Struktural.": 155-170

¹¹ Elisabeth Putri Lahitani Tampubolon, "Permasalahan Perkawinan Dini di Indonesia," *Jurnal Indonesia Sosial Sains* 2, no. 5 (May 21, 2021): 738-46.



underprivileged families. Many parents consider teenagers who are already “*baligh*” ta ‘*pajuh lakeh* or *paraben toah* if they are not married, causing family disgrace and ridicule from neighbours.

2) Environment

Social changes such as modernism that affect the behaviour and relationships of teenagers these days. Teenagers' actions that have a negative impact make them trapped in forbidden actions such as adultery which eventually becomes pregnant before marriage, this act clearly violates social, religious and legal norms. This act causes the dignity of the family to be ugly among the community. The moral burden borne by the family can cause a sense of *maloh* or *tade 'ajhinah* because it gets bad satire from the community even from their own relatives. So that parents take data falsification actions to immediately marry off their young children because they do not want their children to give birth without a husband.

3) Economy

Economic factors are also very influential in the act of falsifying early marriage data. In addition to the cost of applying for dispensation is considered burdensome. Difficult economic conditions or increased economic needs because there are many family members, parents are unable to continue their children's education. In this condition, young marriage is a mechanism that aims to lighten or reduce the family's economic burden. Marrying children as soon as possible can reduce the family's economic burden, because there will be financial assistance from the daughter-in-law who works to help meet the needs of the woman's family.

In article 7 paragraph (1) of the Law on marriage no. 16 of 2019 amendment from law no. 1 of 1974 concerning the age of marriage which states that; "Marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years old."¹² The regulation requires that the bride and groom who will carry out the marriage must be 19 years old, if they do not meet the age limit requirements for marriage, they must apply for a marriage dispensation to the Religious Court of course with several strong reasons. But in reality, these early marriage actors prefer to falsify the identity data of the bride and groom such as the Identity Card by stating the age of 19 years old, so that the bride and groom can get a valid marriage card even though in reality they do not meet the age requirements.

The act of falsifying identity data in marriage is a form of crime, if carried out, it will get a prison sentence of approximately 6 years. This is explained in article 263 of the Criminal Code that:

“Whoever makes a forged letter or falsifies a letter, which can issue a right, an agreement (obligation) or a debt relief, or which may be used as a statement for an act, with the intention of using or ordering other people to use the documents as if the letter is original and not falsified, then if using it can result in something loss, it is punished for falsification of the letter, with a maximum imprisonment of six years.”¹³

In the article is clearly regulated that making false data to be used as information in an act is prohibited. Such as making a false identity (KTP) by including an age that does not match with actual situation of the bride and groom in the early marriage application, this is a criminal offense that can be subject to criminal sanctions. Indeed, in the marriage implementation when the bride and groom do not meet the age requirement of 19 years old. The government provides a solution for applying a marriage dispensation to the religious court as stated in article 7 paragraph (2) that:

“Parents of men and women can ask the Court for dispensation with urgent reasons accompanied by sufficient supporting evidence.”¹⁴

¹² “UU No. 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan [JDIH BPK RI].”

¹³ Kitab Undang-Undang Hukum Pidana,” *HUKUM KUHP*. 66

¹⁴ “UU No. 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan [JDIH BPK RI].”



Marriage Dispensation application is not an allowance that can be done by all underage couples. However, the submission must be accompanied by several urgent reasons or circumstances for which there is no other solution so that it requires forced marriage and of course also accompanied by valid evidence and certificates related to the bride and groom. However, in this marriage tradition, the perpetrators tend to commit criminal acts such as falsifying the bride and groom identity. This is done so that the marriage implementation can be carried out as soon as possible. Because if you are still going through a marriage dispensation application, besides requiring a lot of money, it also takes a lot of time.

The bride's family in falsifying this data has received approval from the *mudin* and the village head. Because the authorities in making identity cards process is *Mudin* and the village officials. The family submits all related to the files and documents for marriage application to village officials and *Mudin* because most of Madura's people, especially in the village, do not understand and reluctant to carry out the procedures and requirements needed to submit marriage application.

4. CONCLUSION

The criminogenic factors of identity falsification in early marriage are caused by 2 important factors, namely internal factors and external factors. Internal factors include individual factors, such as the desire in the perpetrator which is the basis for carrying out the action. Education, education level greatly affects a person's knowledge of the applicable legal rules. While external factors include: The environment affects the act of identity fraud, especially criminogenic factors of *Marriage by Accident*, in addition to the habit of people marrying young. This incident also encouraged the family to get married even though they were not yet 19 years old. Culture, hereditary habits to marry young. The low economic status of the family is also the cause of identity falsification, apart from the fact that the cost of applying for dispensation is considered burdensome as well as to relieve or reduce their economic burden.

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