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# **Dynamics Of Legal Politics Regarding Marriage Age Limits In Indonesia: Between Religious Norms And Social Change**

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## **Abstract**

The change in regulations regarding the age limit for marriage in Indonesia is a response to the high rate of child marriage, which still faces various challenges in its implementation. This study examines the debate between tradition and modernity in child marriage practice, the legislative process, and the challenges faced in changing the age limit norms for marriage and marriage dispensation as a legal loophole in enforcing the age limit norms



for marriage. The research method employs a normative juridical with statutory and conceptual approaches. The study results show that changes in the age limit norms for marriage aimed to protect children's rights. However, religious norms and social pressure influence its implementation through marriage dispensation in the Religious Court, resulting in inconsistencies in its law enforcement. This condition poses a challenge to harmonize religious norms with social change. This study emphasizes the need for a more transparent and strict marriage dispensation mechanism. In addition, increasing public legal awareness is the key to encouraging social changes that support child protection. Strengthening public awareness and consistent regulations is expected to minimize and suppress the number of child marriages.

**Keywords:** *Child Protection, Dispensation, Marriage Age Limit, Religious Norms, Social Change*

## **Abstrak**

*Perubahan peraturan mengenai batasan usia menikah di Indonesia merupakan respon terhadap tingginya angka perkawinan anak, yang dalam pelaksanaannya masih menghadapi berbagai tantangan. Penelitian ini mengkaji perdebatan antara tradisi dan modernitas dalam praktik perkawinan anak, proses legislasi dan tantangan yang dihadapi dalam perubahan norma batas usia perkawinan dan dispensasi nikah sebagai celah hukum dalam penegakan norma batas usia perkawinan. Metode penelitian menggunakan yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa perubahan norma batas usia perkawinan bertujuan untuk melindungi hak-hak anak. Namun pelaksanaannya melalui dispensasi perkawinan di Pengadilan Agama dipengaruhi oleh norma agama dan tekanan sosial, sehingga menimbulkan inkonsistensi dalam penegakan hukumnya. Kondisi ini menjadi tantangan untuk mengharmonisasikan norma agama dengan perubahan sosial. Penelitian ini menegaskan perlunya mekanisme dispensasi perkawinan yang lebih transparan dan ketat. Peningkatan kesadaran hukum masyarakat, menjadi kunci untuk mendorong perubahan sosial yang mendukung perlindungan anak. Dengan memperkuat kesadaran masyarakat dan regulasi yang konsisten, diharapkan dapat meminimalisir dan menekan angka perkawinan anak.*

**Kata Kunci:** *Batas Usia Perkawinan, Dispensasi, Norma Agama, Perlindungan Anak, Perubahan Sosial.*

## Introduction

The age limit for marriage in Indonesia has become a complex issue and has attracted the attention of various parties, both from legal, religious, and social aspects.<sup>1</sup> In Law Number 16 of 2019, the result of an amendment to Law Number 1 of 1974, the minimum age limit for marriage for men and women is set the same, namely 19 years old.<sup>2</sup> This change aims to provide child protection and efforts to align with the Convention on the Rights of the Child (CRC), which demands maximum protection for individuals under the age of 18 from forced or child marriage.<sup>3</sup>

However, the challenges in implementing the marriage age limit remain substantial. One of the main issues is the marriage dispensation granted by the religious court based on economic or customary considerations, even though the marriage age limit has been legally determined.<sup>4</sup> The increasing number of dispensations after the change in the marriage age limit indicates that this regulation is not yet fully effective.<sup>5</sup>

Research related to the age limit for marriage has grown rapidly. Saud (2024) revealed that early marriage in Nepal is affected by poverty and lack of education. Poor families perceive early marriage as an economic solution, while educated families prioritize children's education.<sup>6</sup> Joaquim et al. (2024) added that sociocultural factors, poverty, and geographical

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<sup>1</sup> Ahmad Dakhoir and Sri Lumatus Sa'adah, "Meta-Juridical Analysis on the Legal Arguments beyond Changes in Indonesian's Marriage Age Rule," *AL-IHKAM: Journal of Law & Social Institutions* 18, no. 1 (June 1, 2023): 80–101, <https://doi.org/10.19105/al-lhkam.v18i1.7162>.

<sup>2</sup> Joaquim M. Nhampoca dan Jeanette E. Maritz, "Early Marriage, Education and Mental Health: Experiences of Adolescent Girls in Mozambique," *Frontiers in Global Women's Health* 5 (June 12, 2024): 1278934, <https://doi.org/10.3389/fgwh.2024.1278934>.

<sup>3</sup> Madeleine Roberts, "Legal Marriage Age," T.T. <https://mostpolicyinitiative.org/science-note/legal-marriage-age/>

<sup>4</sup> Rudyanti Dorotea Tobing, "Prevention of Child Marriage Age in the Perspective of Human Rights," *Sriwijaya Law Review* 2, no. 1 (January 31, 2018): 1, <https://doi.org/10.28946/slrev.Vol2.Iss1.107.pp1-17>.

<sup>5</sup> Udin Pasondong et al., "Legitimacy of Marriage Dispensation in Religious Courts Based on The Law, Judges' Considerations, and Case Decisions," *Al-Bayyinah* 7, no. 2 (December 3, 2023): 204–25, <https://doi.org/10.30863/al-bayyinah.v7i2.4239>.

<sup>6</sup> Padam Saud, "Child Marriage Practices in Nepal: A Case of Kailali District," *KMC Journal* 6, no. 2 (August 27, 2024): 226–42, <https://doi.org/10.3126/kmcj.v6i2.68903>.

challenges encourage teenage girls to drop out of school and choose early marriage as a solution.<sup>7</sup> Yuningsih et al. (2023) noted a policy revision in Indonesia that raises the minimum age of marriage to 19 years old. However, cultural factors, poverty, and legal inconsistencies remain obstacles to its effective implementation.<sup>8</sup> Dewi et al. (2022) also highlighted that although legal frameworks already exist, cultural and economic challenges continue to complicate efforts to protect children's rights.<sup>9</sup> Abdurohman et al. (2022) showed that social norms and religious expectations influence early marriage practices, particularly in rural areas of Eastern Ethiopia.<sup>10</sup> Similar findings were also made by Niam (2021), who stated that religious norms in rural areas such as the Reban reinforce the normalization of early marriage despite the high risk of divorce and maternal death.<sup>11</sup> Taufiq and Fahrudin (2023) emphasized the importance of harmonizing religious norms with modern law for successful marriage-age policy implementation.<sup>12</sup> Ismail et al. (2024) also support this view, highlighting that Law No. 16 of 2019 seeks to fulfill *maqāsid al-Sharia* while promoting gender equality.<sup>13</sup> Putra and Fitriyah (2024) emphasize legal

<sup>7</sup> Joaquim M. Nhampoca dan Jeanette E. Maritz, "Early Marriage, Education and Mental Health: Experiences of Adolescent Girls in Mozambique," *Frontiers in Global Women's Health* 5 (June 12, 2024): 1278934, <https://doi.org/10.3389/fgwh.2024.1278934>.

<sup>8</sup> Deity Yuningsih et al., "Improving Girls' Rights in Early Marriage in the Indonesian Legal System," *Halu Oleo Law Review* 7, no. 2 (24 September 2023): 198–213, <https://doi.org/10.33561/holrev.v7i2.27>.

<sup>9</sup> Anak Agung Istri Ari Atu Dewi et al., "The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia," *Sriwijaya Law Review* 6, no. 2 (July 19, 2022): 268, <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.

<sup>10</sup> Dureti Abdurahman, Nega Assefa, and Yemane Berhane, "Parents' Intention toward Early Marriage of Their Adolescent Girls in Eastern Ethiopia: A Community-Based Cross-Sectional Study from a Social Norms Perspective," *Frontiers in Global Women's Health* 3 (October 5, 2022): 911648, <https://doi.org/10.3389/fgwh.2022.911648>.

<sup>11</sup> M Khusnun Niam, "EARLY MARRIAGE CONSTRUCTION AND PERPETUITY FACTORS IN DISCOURSE OF POWER AND RELIGION," *BUANA GENDER : Journal of Gender and Child Studies* 6, no. 1 (June 5, 2021), <https://doi.org/10.22515/bg.v6i1.3595>.

<sup>12</sup> Muhammad Shofwan Taufiq and M. Fahrudin, "The Hermeneutics of Islamic Law in Reviewing Changes to the Minimum Age for Marriage," *Muhammadiyah Law Review* 7, no. 2 (August 7, 2023): 1, <https://doi.org/10.24127/mlr.v7i2.2765>.

<sup>13</sup> Ismail Ismail et al., "Legal Age Equality in Marriage According to Indonesian Positive Law in the Studies of Gender and Maqāsid Al-Sharia," *De Jure: Journal of Law and Sharia* 15, no. 1 (July 6, 2023): 67–81, <https://doi.org/10.18860/j-fsh.v15i1.17696>.

loopholes in marriage dispensation, such as procedures that involve only one parent, making regulations difficult to implement.<sup>14</sup> Samuri et al. (2022) added that in Malaysia, legal loopholes in Sharia courts hinder child marriage regulation, with the absence of uniform standard procedures.<sup>15</sup>

Although various studies have addressed the negative impact of child marriage and the importance of regulations revision, there is still a gap in understanding the effectiveness of these regulations from the perspective of implementation on the ground. This study seeks to fill this gap by analyzing how religious norms, social changes, and laws influence each other in the context of the marriage age limit in Indonesia. In addition, this study also examines the role of marriage dispensation as a frequently utilized loophole, which has not been discussed thoroughly in the previous literature.

This study discusses the dynamics of legal politics related to the age limit for marriage in Indonesia by highlighting the conflict between religious norms, social changes, and their challenges in the legislative process. The discussion scheme in this study is: first, the debate between tradition and modernity in the practice of child marriage; second, the legislation process and its challenges in changing the marriage age limit regulations; third, the interaction between religious norms and human rights in determining the age limit for marriage; and lastly, the practice of marriage dispensation as a legal loophole in enforcing the age limit for marriage.

## Methods

This study employs a normative legal method with statutory and conceptual approaches. Data collection techniques use literature and

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<sup>14</sup> Sandio Abid Aurian Putra dan Mas Anienda Tien Fitriyah, "Implementation of the Marriage Dispensation: Exploring the Legal and Social Complexities in Preventing Early Marriage," *Al-Adalah: Journal of Islamic Law and Politics* 9, no. 1 (January 28, 2024): 24–39, <https://doi.org/10.30863/ajmpi.v9i1.4592>.

<sup>15</sup> Mohd Al Adib Samuri, Noor Aziah Mohd Awal, and Muhamad Abral Abu Bakar, "CURBING CHILD MARRIAGE AMONGST MUSLIMS IN MALAYSIA: TOWARDS LEGAL REFORM," *UUM Journal of Legal Studies* 13 (2022), <https://doi.org/10.32890/uumjls2022.13.1.1>.



document studies with the process of legal material inventory, legal material systematization, and legal material classification. Sources of legal materials include Law Number 1 of 1974 concerning Marriage, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, laws and regulations relating to marriage, and Religious Court Decisions concerning Marriage Dispensation. Secondary legal materials include scientific articles, books, research reports, and other literature related to the research objectives. The analysis technique uses prescriptive analysis with deductive legal reasoning.

## **Discussion**

### **Marriage Age Regulation in Indonesia: How Do Religious Norms Influence It?**

The history of legislation related to the age limit for marriage in Indonesia reflects a long and dynamic journey, dating back from Law No. 1 of 1974 to its revision through Law No. 16 of 2019. Initially, Law No. 1 of 1974 set the minimum age limit for marriage to be 16 years for women and 19 years for men. This provision reflected the social and cultural norms of the time, where women were considered ready for marriage at a younger age compared to men. However, with the increasing awareness of women's and children's rights, the age limit began to be seen as problematic and irrelevant to the evolving conditions of the times.<sup>16</sup>

Reactions to the minimum age limit in Law No. 1 of 1974 began to emerge from various circles, particularly child and women's rights activists. They consider that the age of 16 for women is too young and has the potential to cause adverse effects on physical and mental health, as well as hinder their chances of obtaining a proper education. UNICEF reports show that child marriage globally, including in Indonesia, has serious

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<sup>16</sup> Billah, Qohar, "Legal Politics Of Determining The Age Limit For Marriage In Marriage Law No. 16 Of 2019."

consequences for girls' reproductive health and quality of life.<sup>17</sup> It has led to an increase in advocacy for raising the minimum age limit for marriage.

Over time, many cases of child marriage in Indonesia have come under public scrutiny and sparked debate about the need to revise the Marriage Law. One of the cases that attracts attention is the high rate of child marriage in rural areas, driven by economic and social factors. Studies show that child marriage is often related to family efforts to reduce the economic burden of marrying girls at a young age.<sup>18</sup> In addition, there are also cultural and customary pressures that reinforce this practice in some regions.

In 2019, a major change occurred with the enactment of Law No. 16 of 2019, which revised the provisions on the age limit for marriage. One of the most significant changes was the equalization of the minimum age of marriage for women and men to 19 years old. This revision was the outcome of the Constitutional Court's decision, which states that the difference in the marriage age limit between men and women is discriminatory and contrary to the principle of gender equality regulated in the 1945 Constitution.<sup>19</sup>

Advocacy campaigns from international institutions and civil society organizations drove this revision by highlighting the negative impacts of child marriage. They stressed the importance of raising the minimum age of marriage to protect children from health and social hazards. A study conducted by UNICEF emphasized that child marriage not only harms reproductive health but also increases the likelihood of intergenerational poverty because girls who marry young are less likely to complete their education.

Furthermore, the changes in Law No. 16 of 2019 reflect a change in the legal paradigm in Indonesia that is increasingly concerned with children's and women's rights protection. These changes are in line with various

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<sup>17</sup> Suhaili and Aziz, "Political Law Stipulates The Age Limit For Marriage In The Law. No. 01 Of 1974 Concerning Marriage."

<sup>18</sup> Thoyib and Bukhori, "The Politics of Law on the Minimum Age of Marriage in Indonesia."

<sup>19</sup> Winarno and Sulatri, "The Politics Of Early Marriage Law As A Breakthrough Of Marriage Law."

international conventions, such as the Convention on the Rights of the Child, which emphasizes the importance of protecting children from early marriage practice.<sup>20</sup> Indonesia, as one of the countries that ratified this convention, is committed to adjusting its national laws to comply with international standards.

Although the revision of the Marriage Law is seen as a step forward, the implementation challenges in the field are still considerable. Many regions in Indonesia, especially in rural areas, still practice child marriage for customary or traditional reasons. Lack of socialization and lack of access to education are some factors that hinder the implementation of this law equally.<sup>21</sup> Therefore, cooperation between the government, religious leaders, and the community is needed to ensure these legal changes are truly implemented and complied with throughout Indonesia.

Historically, the revision of Law No. 16 of 2019 was also driven by the development of Islamic legal thought in Indonesia. Some Islamic scholars and intellectuals support this revision because *maqasid al-shariah* (sharia purposes) emphasizes the protection of the soul, intellect, and heredity. They consider that child marriage is not in line with the principles of *maqasid al-shariah*, especially in terms of the protection of women's lives and welfare.<sup>22</sup> The support of these scholars is crucial in strengthening the legitimacy of this legal change among the Muslim community.

Sociological and anthropological studies have also shown that child marriage impacts not only married individuals but also society as a whole. Child marriage is often an obstacle to human development, especially in the fields of education and health. Studies show that girls who marry young are more likely to drop out of school and are more prone to domestic violence.<sup>23</sup>

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<sup>20</sup> Amrin Nurfiyeni, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap," *Indonesian Journal of Law and Islamic Law (IJLIL)* 5, no. 2 (December 24, 2023): 50–61, <https://doi.org/10.35719/ijlil.v5i2.330>.

<sup>21</sup> Roberts, "Legal Marriage Age."

<sup>22</sup> Arthur et al., "Child Marriage Laws around the World."

<sup>23</sup> Sania, Simabura, and Andriani, "Legal Politics of the Minimum Marriage Age Limit After the Constitutional Court Decision Number 22/PUU-XV/2017."

Therefore, raising the minimum age limit for marriage is also seen as an effort to improve the quality of life of the younger generation and support sustainable development.

In the global context, many countries have raised the minimum age for marriage to protect children from early marriage practice. For example, in the United States, although laws on the age limit for marriage vary from state to state, there is an increasing trend to raise the minimum age limit to 18 years old.<sup>24</sup> This development is in line with international efforts to abolish child marriage as part of the sustainable development goals (SDGs) adopted by the United Nations.<sup>25</sup>

In conclusion, the revision of the marriage age limit in Law No. 16 of 2019 is a significant milestone in the history of Indonesian legislation. These changes not only reflect the government's commitment to protecting children's and women's rights but also show that Indonesia is increasingly ready to adapt to the times and global challenges. While implementation challenges persist, particularly in areas with strong indigenous traditions, these revisions are a solid foundation for creating a more just and equitable society.<sup>26</sup>

The role of religious norms in shaping legal regulations across various countries, including Indonesia, cannot be overlooked. One of the key issues that shows the strong influence of religious values, particularly Islam, on regulation is the age limit for marriage. The law on the age limit for marriage in Indonesia was originally regulated in Law No. 1 of 1974, and it was later revised through Law No. 16 of 2019, reflecting a shift in the interpretation

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<sup>24</sup> Syahrudin Hidayat, Abdul Ghofur, dan Ummul Baroroh, "The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities," *Journal of Islamic Law* 21, no. 1 (June 10, 2023): 55–82, [https://doi.org/10.28918/jhi\\_v21i1\\_03](https://doi.org/10.28918/jhi_v21i1_03).

<sup>25</sup> Robiatul Adawiyah dan Esmi Warassih Pudjirahayu, "Policy Of Limitation Of Marriage Minimum Age On Marriage Law Revision Based On Sociological And Anthropological Approaches," *Diponegoro Law Review* 6, no. 1 (30 April 2021): 123–38, <https://doi.org/10.14710/dilrev.6.1.2021.123-138>.

<sup>26</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | *Samarah: Journal of Family Law and Islamic Law*," accessed October 14, 2024, <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/10570>.

of religious values, particularly in the context of protecting the rights of children and women. In the Islamic tradition, although there is no explicit provision regarding the age of marriage, religious norms and fatwas of various religious institutions play an important role in influencing public policy on this issue.<sup>27</sup>

In Islam, marriage is considered a form of worship and devotion to Allah. However, Islamic law also emphasizes the importance of benefits and protection for the individuals involved. The concept of \*maqasid al-shariah\* or sharia purpose, particularly in terms of life, offspring, and intellect protection, is often the basis for scholars to provide guidance regarding the age limit for marriage. Although there is no clear consensus regarding the minimum age for marriage in religious texts, the principle of protection of individual well-being is a major focus in modern Islamic legal discourse.<sup>28</sup>

Fatwas from religious institutions such as the Indonesian Ulema Council (MUI) also play a role in influencing public policy. The MUI has issued several fatwas supporting the government's efforts to raise the marriage age limit to prevent early marriage and protect women's rights. These fatwas are also seen as a reflection of the recognition of the negative impact of child marriage, both in terms of physical and psychological health.<sup>29</sup> The influence of these fatwas shows how religious values can adapt to social developments and the needs of modern society.

One of the main arguments for setting a higher age limit for marriage is to prevent child marriage, which is directly related to the protection of girls' rights. In this context, religious views that support postponing marriage until adulthood are in line with various scientific studies that show the risks of early marriage. Research shows that child marriage, especially

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<sup>27</sup> Billah, Qohar, "Legal Politics Of Determining The Age Limit For Marriage In Marriage Law No. 16 OF 2019."

<sup>28</sup> suhaili And Aziz, "Political Law Stipulates The Age Limit For Marriage In The Law. No. 01 Of 1974 Concerning Marriage."

<sup>29</sup> Rosdalina Bukido dkk., "Muslim Society's Response to the New Rule of Marriage Age," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (16 Mei 2023): 135, <https://doi.org/10.29240/jhi.v8i1.5521>.

for women, can lead to a variety of reproductive health problems and increase the risk of school dropout, thus hindering their socio-economic development.<sup>30</sup>

On the other hand, there are still those who use religious texts to support early marriage, referring to the marriage of the Prophet Muhammad to Aisha, which is often used as an argument to allow marriage at a young age. However, many contemporary scholars assert that the historical and social context of that time is different from the conditions of modern society today, so marriage laws need to be adapted to the needs of protecting children and women.<sup>31</sup> Thus, a more moderate and contextual interpretation of religious texts is important in formulating policies related to the age of marriage.

Changes in public policy regarding the age limit for marriage are also influenced by pressure from civil society and the international community. As a country that has ratified the Convention on the Rights of the Child, Indonesia needs to adjust its national laws to international standards, which set the minimum age for marriage at 18 years old. Religious norms that support child protection and the elimination of early marriage, along with these international standards, provide a solid foundation for revising marriage laws in Indonesia.<sup>32</sup>

The implementation of Law No. 16 of 2019, which raises the age limit for marriage for women from 16 years to 19 years, is also a form of recognition that the previous regulation is no longer relevant to social conditions and public health. In addition to being supported by health and human rights arguments, this decision also receives backing from scholars who consider child protection an integral part of Islamic teachings.<sup>33</sup>

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<sup>30</sup> Winarno and Sulatri, "The Politics Of Early Marriage Law As A Breakthrough Of Marriage Law."

<sup>31</sup> Nurfiendi, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap."

<sup>32</sup> Roberts, "Legal Marriage Age."

<sup>33</sup> Holijah Holijah dan Jariyah Binti Abd Manaf, "The Importance of Increasing Minimum Age For Marriage In Indonesian Marriage Law," *AL-'ADALAH* 16, no. 2 (30 Desember 2019): 411–32, <https://doi.org/10.24042/adalah.v16i2.4546>.

Therefore, fatwas and religious guidelines not only serve as a moral foundation but also as an instrument to support child protection policies in the modern context.

In this case, Islamic law is dynamic and can adapt to changing social conditions. Muslim scholars and scholars who support raising the age of marriage argue that the protection of the rights of women and children is in line with the values of *maqasid al-shariah*, which emphasizes justice, protection of the soul, and welfare of the family.<sup>34</sup> Thus, religious law is not only a tool to maintain traditions but also a tool to improve social conditions.

Meanwhile, in various regions of Indonesia, child marriage still occurs frequently, especially in communities that have strong customs. This poses challenges in the new law implementation regarding the age limit for marriage. Here, religious leaders play a crucial role in providing a deeper understanding of the importance of obeying laws that have been adapted to Islamic values and modern social needs.<sup>35</sup> Thus, the socialization approach involving religious leaders is expected to be more effective in reducing the practice of early marriage in the community.

On the other hand, challenges in the law implementation also often clash with conservative views in some regions. Child marriage is considered a part of the culture that must be preserved in societies that still uphold customs and traditions. Therefore, a comprehensive approach involving religious leaders and indigenous peoples is needed to introduce changes in regulations related to the age of marriage.<sup>36</sup> With their involvement, religious values can be used as a tool to promote positive change.

The description above indicates that the influence of religious norms on the law of the age limit for marriage in Indonesia is very strong,

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<sup>34</sup> Arthur et al., "Child Marriage Laws around the World."

<sup>35</sup> Sania, Simabura, and Andriani, "Legal Politics of the Minimum Marriage Age Limit After the Constitutional Court Decision Number 22/PUU-XV/2017."

<sup>36</sup> Hidayat, Ghofur, dan Baroroh, "The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities."

particularly in the context of Islamic law. Religious fatwas and Islamic values that emphasize the protection of life, welfare, and justice are the foundation for decision-making in establishing regulations that protect children and women from early marriage. Despite the challenges in implementation, the involvement of clerics and religious leaders in supporting this policy is key to reducing early marriage in Indonesia.<sup>37</sup>

With the increasing awareness of the importance of protecting children's rights in religious teachings, it is hoped that the new marriage age law can be effectively implemented throughout Indonesia. The combination of religious norms, scholarly fatwas, and public policies shows that religious values can serve as a driving force for more just and equitable social change.

### **Social Change and the Revision of the Age Limit for Marriage Regulation**

In recent decades, significant social changes have prompted the revision of the marriage age limit in various countries, including Indonesia. This change is greatly influenced by increased access to education, especially for women, as well as a growing awareness of children's rights. The amendment aims to protect girls from the negative effects of early marriage, including health, education, and human rights issues. One of the most famous amendments is Law No. 1 of 1974, later replaced by Law No. 16 of 2019, which raised the marriage age to 19 years for women and men in Indonesia.<sup>38</sup>

Improving women's education is one of the main factors driving this social change. The increasing number of women pursuing higher education has a direct impact on their views on marriage and marriage age.<sup>39</sup>

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<sup>37</sup> Adawiyah and Pudjirahayu, "Policy Of Limitation Of Marriage Minimum Age On Marriage Law Revision Based On Sociological And Anthropological Approaches," April 30, 2021.

<sup>38</sup> Billah, Qohar, and Lampung, "LEGAL POLITICS OF DETERMINING THE AGE LIMIT FOR MARRIAGE IN MARRIAGE LAW NO. 16 OF 2019"

<sup>39</sup> Suhaili and Aziz, "POLITICAL LAW STIPULATES THE AGE LIMIT FOR MARRIAGE IN THE LAW. NO. 01 OF 1974 CONCERNING MARRIAGE"



Education also provides women with better access to information about reproductive health, which is especially important in the context of marriage. A better educational environment offers more opportunities for women to understand their rights, including the right to postpone marriage until they reach a more mature age.<sup>40</sup>

Along with education, awareness of children's rights also plays a key role in the demand to revise the marriage age limit. According to various studies, child marriage can lead to a range of negative impacts on girls, including reproductive health issues, school dropout, and limited economic opportunities.<sup>41</sup> Increased awareness of children's rights among Indonesians, supported by national and international campaigns, is one of the main drivers of this policy change. Many organizations working to protect children's rights urged the government to set a higher age limit as a measure to prevent child marriage.<sup>42</sup>

From a legal perspective, Law No. 16 of 2019 is a response to various social, political, and legal pressures calling for change. The revision is based on health and human rights considerations, as well as sociological and anthropological studies indicating that early marriage has a long-term impact on girls' well-being.<sup>43</sup> Sociological studies confirm that early marriage often occurs in socio-economically underdeveloped communities, where access to education and health information is severely limited.<sup>44</sup>

Pressure to revise the marriage age limit also stems from Indonesia's commitment to various international conventions, such as the Convention on the Rights of the Child, which recommends a minimum age of marriage of 18 years. This revision is an essential step in aligning national laws with international standards aimed at protecting the rights of children and

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<sup>40</sup> Thoyib and Bukhaari, "Politics and Law of Setting the Minimum Age Limit for Marriage in Indonesia"

<sup>41</sup> Suhaili and Aziz, "POLITICAL LAW STIPULATES THE AGE LIMIT FOR MARRIAGE IN THE LAW. NO. 01 OF 1974 CONCERNING MARRIAGE"

<sup>42</sup> Nurfienni, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap"

<sup>43</sup> Roberts, "Legal Marriage Age"

<sup>44</sup> Kusmayanti et al., "Protection of Children's Rights," June 30, 2024.

women from exploitation and violence.<sup>45</sup> In addition, many other countries around the world have also revised their marriage age limits, following the global trend of enhancing the protection of girls.<sup>46</sup>

The positive impact of raising the age of marriage can be seen in several aspects. Studies show that women who marry in adulthood are more likely to complete their education, have stable careers, and actively engage in society.<sup>47</sup> In addition, they also have a lower risk of pregnancy and childbirth complications, which are generally higher in women who marry at an early age.<sup>48</sup> Therefore, this revision not only affects legal protection but also women's health and socio-economic well-being.

However, this revision also faces various challenges, particularly in communities that still uphold strong traditions of early marriage. In some regions of Indonesia, child marriage is considered a part of the customs that must be preserved. Therefore, the implementation of this new law requires a culturally sensitive approach involving religious and customary leaders in efforts to socialize and educate the community.<sup>49</sup> This law can be effectively implemented and accepted only through a comprehensive approach involving the broader community.

The religious approach also plays a crucial role in the public's acceptance of these revisions. Although Islam does not set a specific age limit for marriage, many contemporary scholars advocate postponing marriage until adulthood as a means of protection for women's rights.<sup>50</sup>

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<sup>45</sup> Arthur et al., "Child Marriage Laws around the World"

<sup>46</sup> Alissa Koski and Jody Heymann, "Child Marriage in the United States: How Common Is the Practice, And Which Children Are at Greatest Risk?," *Perspectives on Sexual and Reproductive Health* 50, no. 2 (June 2018): 59–65, <https://doi.org/10.1363/psrh.12055>. Sania, Simabura, and Andriani, "Politics and Law of the Minimum Age of Marriage After the Constitutional Court Decision Number 22/PUU-XV/2017"

<sup>47</sup> Hidayat, Ghofur, and Baroroh, "The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities"

<sup>48</sup> Billah, Qohar, and Lampung, "LEGAL POLITICS OF DETERMINING THE AGE LIMIT FOR MARRIAGE IN MARRIAGE LAW NO. 16 OF 2019"

<sup>49</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | Samarah: Journal of Family Law and Islamic Law"

<sup>50</sup> Imelda Martinelli, F X Joko Priyono, and Yunanto Yunanto, "THE CONCEPT OF

Religious fatwas supporting this revision are one of the key instruments in strengthening the legitimacy of the new law in the eyes of religious communities.<sup>51</sup>

In addition, the role of social media and technology also affects changes in public perception regarding marriage. Through online campaigns and broader dissemination of information, many individuals, especially young people, gained access to progressive views on the importance of delaying marriage until a more mature age. Social media is also a platform for various organizations to advocate the importance of protecting the rights of children and women in the context of marriage.<sup>52</sup>

In the global context, the revision of the marriage age limit in Indonesia is in line with the trend in other countries that have also increased their marriage age limit. Countries such as India, Bangladesh, and Egypt have taken similar steps to protect girls from early marriage.<sup>53</sup> This condition shows that social changes triggered by increased education and human rights awareness are not a phenomenon limited to a single country but a global movement to enhance women's and children's welfare.

Thus, the revision of the marriage age limit in Indonesia reflects the dynamics of social change triggered by increased education, awareness of children's rights, and pressure from international standards. However, the success of these revisions in protecting girls from early marriage will depend heavily on their implementation at the local level, which requires collaboration between governments, communities, and religious leaders.

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LEGAL SUBJECT COMPETENCE IN THE AUTHORITY TO ACT ON MARRIAGE LAW IN INDONESIA," *INDONESIA Law Review* 13, no. 3 (2023).

<sup>51</sup> "FT\_Marriage\_Age\_Appendix\_2016\_09\_08.pdf", accessed October 14, 2024, [https://assets.pewresearch.org/wp-content/uploads/sites/12/2016/09/FT\\_Marriage\\_Age\\_Appendix\\_2016\\_09\\_08.pdf](https://assets.pewresearch.org/wp-content/uploads/sites/12/2016/09/FT_Marriage_Age_Appendix_2016_09_08.pdf).

<sup>52</sup> Abdul Wahab and Akhmad Khisni, "The Community Law Compliance with Marriage Age Limitation Provisions," *Law Development Journal* 3, no. 4 (December 31, 2021): 799–807, <https://doi.org/10.30659/l dj.3.4.799-807>.

<sup>53</sup> Sonny Dewi Judiasih et al., "WOMEN, LAW AND POLICY: CHILD MARRIAGE PRACTICES IN INDONESIA," *Notary Journal Notary* 3, no. 1 (6 July 2018): 47–55, <https://doi.org/10.22225/jn.3.1.647.47-55>.

## The Debate Between Tradition and Modernity in the Practice of Child Marriage

Early marriage, particularly in Indonesia, is a hotly debated topic between two camps: those who uphold tradition and those who advocate modernization and the protection of children's rights. On the one hand, some people still strongly adhere to the tradition of early marriage, viewing it as an integral part of the customs that have been practiced for generations. On the other hand, the groups advocating modernization argue that young marriage is detrimental to children's development, especially for women, and violates their fundamental rights as individuals.<sup>54</sup> This debate arises in the context of dynamic social change, particularly with the revision of the marriage age limit, which is now adjusted to international standards.<sup>55</sup>

Traditional groups tend to view early marriage as a social and economic solution for families. In many communities, early marriage is seen as a way to maintain family honor, prevent promiscuity, and ensure the economic sustainability of the family.<sup>56</sup> This tradition is often considered part of a cultural identity that needs to be preserved. However, as modernization develops, concerns arise about the negative impact of early marriage on girls' health and education.<sup>57</sup>

Modernization brings a different perspective regarding marriage. Groups advocating for the protection of children's rights argue that marriage at a young age can limit educational opportunities, especially for women. Education often ceases after marriage, hindering children from reaching their full potential.<sup>58</sup> Research shows that women who marry at a

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<sup>54</sup> Billah, Qohar, "Legal Politics Of Determining The Age Limit For Marriage In Marriage Law No. 16 of 2019."

<sup>55</sup> Suhaili and Aziz, "Political Law Stipulates The Age Limit For Marriage In The Law. No. 01 Of 1974 Concerning Marriage."

<sup>56</sup> Gandi Liyorba Indra, M. Yasin Al Arif, dan Abdul Qodir Zaelani, "The Ideal Age For Marriage in The Compilation of Islamic Law (KHI) and Psychology," *Al-'Adalah* 20, no. 1 (20 Juni 2023): 1, <https://doi.org/10.24042/adalah.v20i1.11598>.

<sup>57</sup> Kusmayanti et al., "Protection of Children's Rights," June 30, 2024.

<sup>58</sup> Nurfiyeni, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap."

young age tend to have lower levels of education, which ultimately impacts their quality of life in the future.<sup>59</sup>

In terms of health, early marriage carries a high risk for girls. Pregnancy at a young age increases the likelihood of medical complications, both for mother and child.<sup>60</sup> The World Health Organization (WHO) has shown that the health risks for pregnant women under the age of 18 are much greater than those who marry in adulthood.<sup>61</sup> It is one of the strong arguments from groups that support modernization to raise the age limit for marriage to protect women's reproductive health.<sup>62</sup>

The revision of the marriage age limit in Indonesia through Law No. 16 of 2019 is a response to international and national pressure for better protection of children. By raising the minimum age limit for marriage to 19 years old, the government aims to reduce the rate of child marriage, which is still high in many regions.<sup>63</sup> This revision is in line with Indonesia's commitment to various international conventions, such as the Convention on the Rights of the Child, which recommends a minimum age of 18 years of marriage.<sup>64</sup>

However, the implementation of this law is not easy. Although the law has been revised, many people in rural areas still consider early marriage to be part of the social norm. In some cases, families even manipulate children's age data so that they are still be able to carry out early marriage.<sup>65</sup> It shows that changing the law alone is not enough to overcome the issue of

<sup>59</sup> Roberts, "Legal Marriage Age."

<sup>60</sup> Arthur dkk., "Child Marriage Laws around the World."

<sup>61</sup> Sania, Simabura, dan Andriani, "Politik Hukum Batas Minimum Usia Perkawinan Pasca Putusan Mahkamah Konstitusi Nomor 22/PUU-XV/2017."

<sup>62</sup> Hidayat, Ghofur, dan Baroroh, "The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities."

<sup>63</sup> Adawiyah and Pudjirahayu, "Policy Of Limitation Of Marriage Minimum Age On Marriage Law Revision Based On Sociological And Anthropological Approaches," April 30, 2021.

<sup>64</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | *Samarah: Journal of Family Law and Islamic Law*."

<sup>65</sup> martinelli, Priyono, And Yunanto, "The Concept Of Legal Subject Competence In The Authority To Act On Marriage Law In Indonesia."

early marriage. Cultural change and community understanding are also greatly needed.<sup>66</sup>

The debate between groups that maintain tradition and those that encourage modernization can also be seen from a religious perspective. Some traditional religious groups still argue that early marriage is in accordance with religious teachings, especially since there is no strict age limit for marriage in some scriptures.<sup>67</sup> However, many contemporary scholars support postponing marriage until adulthood, arguing that it is more in line with the principles of justice and welfare for girls.<sup>68</sup>

The pressures of modernization and globalization have also shown that early marriage is contrary to children's fundamental rights, including the right to education and health protection.<sup>69</sup> Children's rights advocacy groups, both national and international, continue to encourage efforts to abolish the practice of early marriage through legal education and advocacy campaigns.<sup>70</sup> In Indonesia, many non-governmental organizations are working hard to raise public awareness of the adverse effects of early marriage.

Amid this debate, there is also an argument that modernization does not have to go against tradition but can coexist. Some communities have begun to adjust their wedding traditions, such as postponing marriages until children reach a more mature age, without having to abandon the cultural values that are firmly held.<sup>71</sup> This inclusive approach allows social transformation to occur gradually without provoking too much resistance from society.

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<sup>66</sup> "FT\_Marriage\_Age\_Appendix\_2016\_09\_08.pdf."

<sup>67</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | Samarah: Journal of Family Law and Islamic Law."

<sup>68</sup> Wahab and Khisni, "The Community Law Compliance with Marriage Age Limitation Provisions."

<sup>69</sup> Judiasih et al., "Women, Law And Policy."

<sup>70</sup> Koski and Heymann, "Child Marriage in the United States."

<sup>71</sup> Kusmayanti dkk., "Protection of Children's Rights."

A comprehensive approach is needed to address this debate. Legal and regulatory approaches must be complemented by intensive public education. Governments, civil society organizations, and religious leaders need to collaborate to change public perceptions of early marriage and promote awareness of the importance of protecting children's rights.<sup>72</sup> This kind of approach is expected to bring more significant and sustainable changes.

Thus, the debate between tradition and modernity in the practice of early marriage reflects complex social dynamics. On the one hand, tradition seeks to be preserved because it is considered part of cultural identity, while on the other hand, modernization brings the need to protect children's fundamental rights and give them a better chance for the future. Although this debate is still ongoing, the direction of legal changes in Indonesia shows that the protection of children's rights is increasingly a priority in the context of societal modernization.

### **Legislation Politics: Process and Challenges in the Revision of Marriage Law**

The legislative process in Indonesia often serves as a forum that involves various political, economic, and social interests. The revision of the Marriage Law No. 16 of 2019, which increases the minimum age of marriage for women, is also not spared from it. The process requires the participation of various parties, including the government, parliament, religious institutions, and civil society. The main objective of this revision is to align domestic regulations with international standards related to children's rights and women's protection.<sup>73</sup>

One of the central issues in this revision is to raise the minimum age limit for marriage from 16 years to 19 years. This debate is not only related to health and education issues but also touches on the dimension of human

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<sup>72</sup> Arthur dkk., "Child Marriage Laws around the World."

<sup>73</sup> Billah, Qohar, "Legal Politics Of Determining The Age Limit For Marriage In Marriage Law No. 16 of 2019."

rights, particularly the right of children to enjoy childhood and get a proper education.<sup>74</sup> In various regions of Indonesia, child marriage is still considered a social and economic solution, so resistance to this revision is quite strong.<sup>75</sup>

The legislative process of Law No. 16 of 2019 began with pressure from various community organizations engaged in the protection of children and women. One of the important organizations that played a role is the 18+ Coalition, which has been active in advocating for an increase in the marriage age limit from the outset. Their argument is based on research highlighting the negative impact of child marriage on girls' physical and mental health.<sup>76</sup> In addition, pressure also comes from international organizations that consider Indonesia to strengthen regulations related to children's rights in accordance with the ratified Convention on the Rights of the Child.<sup>77</sup>

In the legislation process, there is a fairly intensive debate among pro and con groups. Pro-revisionist groups, such as civil society organizations and academics, argue that child marriage negatively impacts child development, particularly in terms of education and reproductive health. In contrast, conservative groups, often composed of religious groups, argue that child marriage remains acceptable in particular social and cultural contexts in Indonesia.<sup>78</sup>

The lobbying of the pro-revision group is focused on aspects of reproductive health and child education. Data from the WHO shows that pregnancy at a young age is a high risk to maternal and child health.<sup>79</sup> On

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<sup>74</sup> Suhaili and Aziz, "Political Law Stipulates The Age Limit For Marriage In The Law. No. 01 Of 1974 Concerning Marriage."

<sup>75</sup> Thoyib and Bukhori, "The Politics of Law on the Minimum Age of Marriage in Indonesia."

<sup>76</sup> Ali Mutakin, Ahmad Yani, dan Siti Muslikaturrohmah, "Implementation of Sadd Dzari'ah in The Decision of Religious Courts Class I.B Blora Concerning Marriage Dispensation," *Al-'Adalah* 18, no. 2 (23 Desember 2021): 323-44, <https://doi.org/10.24042/adalah.v18i2.9515>.

<sup>77</sup> Nurfienni, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap."

<sup>78</sup> Roberts, "Legal Marriage Age."

<sup>79</sup> Kusmayanti dkk., "Protection of Children's Rights."



the other hand, conservative groups argue that the age limit for marriage in Islam is not explicitly regulated, so there is no obligation to follow international standards on the age of marriage. It is one of the reasons why some people reject the revision of the law.<sup>80</sup>

The main challenge in this revision is finding a balance between modernizing the law and respecting local traditions. In some areas, child marriage is considered as part of a long-standing culture that is not easily changed. In some cases, even though the law has been revised, many people still choose not to follow the rules on the grounds of maintaining customs.<sup>81</sup> It shows that the legislation process involves not only changing the law but also changing social perceptions.<sup>82</sup>

During the discussion process in parliament, the debate between pro and con groups was very tight. Some lawmakers argue that the revision of the law will help Indonesia in its efforts to reduce the rate of child marriage, which is still quite high in various regions. However, some members feel that changing the age limit for marriage is contrary to the traditional and religious norms embraced by much of Indonesian society.<sup>83</sup>

One of the key arguments put forward by conservative groups is that religious law does not establish a specific age limit for marriage. They refer to hadith and traditions that permit marriage at an early age, provided other requirements are met. However, pro-revision groups refute this argument by stating that early marriage is often driven by economic factors rather than by the psychological or physical readiness of the child.<sup>84</sup>

The lobbying of pro-revision groups became even stronger after the Constitutional Court ruled that the lower minimum age of marriage for

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<sup>80</sup> Koski dan Heymann, "Child Marriage in the United States."

<sup>81</sup> Sania, Simabura, and Andriani, "Legal Politics of the Minimum Marriage Age Limit After the Constitutional Court Decision Number 22/PUU-XV/2017."

<sup>82</sup> Hidayat, Ghofur, dan Baroroh, "The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities."

<sup>83</sup> Billah, Qohar, and Lampung, "Legal Politics Of Determining The Age Limit For Marriage In Marriage Law No. 16 of 2019."

<sup>84</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | Samarah: Journal of Family Law and Islamic Law."

women violated the principle of gender equality. The ruling is a strong push for legislators to immediately revise the law, although the challenge from conservative groups is still considerable.<sup>85</sup>

In addition, international factors also play an important role in this revision process. Several international organizations, such as UNICEF and UN Women, have exerted pressure on the Indonesian government to immediately update regulations related to the marriage age, considering the negative impact of child marriage, both in terms of education and health.<sup>86</sup>

In the end, the revision of Law No. 16 of 2019 was enacted, although this legislation process took quite a long time. The main challenge faced during this process was convincing the public that these legal changes do not conflict with existing religious and cultural values. Most of these challenges come from rural areas, where customs still have a strong influence on social practices.<sup>87</sup>

After the enactment of this law, the next challenge is how to ensure its implementation runs well. Laws alone are not enough to change deep-rooted social practices. Collaborative efforts from the government, society, and religious leaders are needed to educate the public about the importance of postponing marriage until a more mature age.<sup>88</sup> It is not only aimed at protecting girls but also to ensure that they can access education and enjoy a proper childhood.<sup>89</sup>

In addition, this revision also opens up opportunities for strengthening policies related to child protection in other sectors, such as education and reproductive health. The government can take advantage of this momentum to enhance regulations and programs aimed at improving

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<sup>85</sup> martinelli, Priyono, And Yunanto, "The Concept Of Legal Subject Competence In The Authority To Act On Marriage Law In Indonesia."

<sup>86</sup> "FT\_Marriage\_Age\_Appendix\_2016\_09\_08.pdf."

<sup>87</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | Samarah: Journal of Family Law and Islamic Law."

<sup>88</sup> Wahab and Khisni, "The Community Law Compliance with Marriage Age Limitation Provisions."

<sup>89</sup> judiasih dkk., "Women, Law And Policy."

children's welfare, especially in areas where the rate of child marriage is still high.<sup>90</sup>

Thus, the legislative process of Law No. 16 of 2019 illustrates the complexity of legal politics in Indonesia. The debate between pro and con groups reflects how tradition, religion, and modernization often clash in the legislative process. However, the success of this revision indicates that Indonesia is moving towards better protection of children's rights, although implementation challenges remain.

### **Marriage Dispensation: A Loopholes in the Enforcement of the Law on the Age of Marriage**

The phenomenon of marriage dispensation in Indonesia is in the spotlight because it is often considered a legal loophole in the enforcement of Law Number 16 of 2019, which sets the age limit for marriage. The law raises the minimum age for marriage for women from 16 to 19 years old, on par with men. However, the practice of marriage dispensation granted by the courts is often perceived as reducing the effectiveness of this rule in protecting children's rights and reducing the number of early marriages. In this context, dispensation is one of the legal loopholes that pave the way for underage marriages that the law should restrict.<sup>91</sup>

Marriage dispensation is a decision granted by a religious or state court to allow marriage under a predetermined age limit. Although this dispensation is legally valid, its practice often raises questions about the state's commitment to upholding the protection of vulnerable children. Several studies indicate that this dispensation is frequently approved based on economic reasons or the family's inability to maintain the honor of girls, thus creating a cycle of injustice for girls who are victims of early marriage.<sup>92</sup>

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<sup>90</sup> Nurfienni, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap."

<sup>91</sup> Billah, Qohar, "Legal Politics Of Determining The Age Limit For Marriage In Marriage Law No. 16 of 2019."

<sup>92</sup> Suhaili and Aziz, "Political Law Stipulates The Age Limit For Marriage In The Law. No. 01 Of 1974 Concerning Marriage."

Juridically, the marriage dispensation is based on the provisions in Article 7 paragraph (2) of Law Number 16 of 2019, which states that marriage can only be carried out if the bride and groom have reached the age of 19. However, paragraph (3) states that the court can grant a dispensation if there are urgent reasons. This statement raises several questions, what constitutes "urgent reason" and how does law enforcement interpret this provision? Studies show that economic, honor, and premarital pregnancy reasons are often cited as justifications for applying for a dispensation.<sup>93</sup>

From the perspective of child protection, this practice of marriage dispensation ignores the adverse impact of early marriage on child development, both physically and psychologically. Early marriage increases the risk of school dropout, domestic violence, and maternal and child deaths due to childbirth complications. Data shows that girls who marry at a young age tend to experience limited access to education and economic opportunities, which negatively impacts their future well-being.<sup>94</sup>

The practice of marriage dispensation also shows inconsistencies in the implementation of the law. Courts that grant dispensations often face a dilemma between enforcing the rules and considering the situation of the applicant's family. In many cases, the courts seem to focus more on the family interests without considering the long-term impact on the child to be married. In this context, religious courts play a key role in determining the fate of the girls seeking dispensation.<sup>95</sup>

One of the factors that exacerbate this situation is the lack of public understanding of the dangers of early marriage. Some people still view early marriage as a solution to avoid disgrace or maintain family honor. In areas with strong cultural traditions, social pressure often leads parents to apply

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<sup>93</sup> Thoyib and Bukhori, "The Politics of Law on the Minimum Age of Marriage in Indonesia."

<sup>94</sup> Suhaili And Aziz, "Political Law Stipulates The Age Limit For Marriage In The Law. No. 01 Of 1974 Concerning Marriage."

<sup>95</sup> Nurfienni, "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap."

for dispensation without considering the child's rights. It contradicts global efforts to reduce the number of child marriages as part of the Sustainable Development Goals (SDGs) targets.<sup>96</sup>

It is important to note that the granting of marriage dispensations is also often influenced by economic factors. Families experiencing financial difficulties tend to view child marriage as a burden that can be avoided by marrying children at a young age. In some cases, early marriage is seen as a way to ease the family's economic burden, although it plunges the child into a deeper cycle of poverty.<sup>97</sup>

In addition, the lack of supervision over the implementation of marriage dispensation is also a serious issue. Although religious courts have the authority to grant dispensations, there is no strict mechanism to oversee whether the dispensations granted are by the law provisions. Some studies show that the reasons presented in a dispensation application are often not properly examined by the judge.<sup>98</sup>

On the other hand, this marriage dispensation has caused debate among legal experts. Some argue that dispensations should be abolished or at least tightened so that the purpose of the Marriage Age Limit Law can be achieved. Others contend that in some specific cases, dispensation is still necessary, for example, in emergencies such as premarital pregnancy.<sup>99</sup>

Several reform measures need to be considered to address this issue. First, there needs to be stricter supervision of dispensation applications. Judges should be given clear guidelines on what situations could be considered "urgent reasons" for granting a dispensation. Second, there needs to be a broader public education about the dangers of early marriage and the importance of maintaining children's rights to grow and develop properly.<sup>100</sup>

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<sup>96</sup> Roberts, "Legal Marriage Age."

<sup>97</sup> Kusmayanti et al., "Protection of Children's Rights," June 30, 2024.

<sup>98</sup> Arthur et al., "Child Marriage Laws around the World."

<sup>99</sup> Sania, Simabura, and Andriani, "Legal Politics of the Minimum Marriage Age Limit After the Constitutional Court Decision Number 22/PUU-XV/2017."

<sup>100</sup> Hidayat, Ghofur, dan Baroroh, "The Norm of Marriage Age Limit and Cultural

In addition, law reforms involving the government and civil society are also needed to strengthen the protection of children from early marriage. The government must take a more proactive approach to implementing policies that protect girls, such as expanding access to education and economic empowerment to impoverished families, who often advocate for dispensation.<sup>101</sup>

By reviewing and tightening the practice of marriage dispensation, Indonesia can ensure that the laws implemented to protect children's rights are effectively enforced. It will not only improve the quality of girls' lives but also contribute positively to the country's social and economic development in the long term.<sup>102</sup>

## Conclusion

Increasing the minimum age for marriage from 16 years for women and 19 years for men to 19 years for women and men through Law Number 16 of 2019 is a progressive step to protect children's rights and gender equality. However, its implementation faces challenges due to legal loopholes in handling marriage dispensation cases in Religious Courts, so the practice of child marriage continues. Research findings show that social changes, including increasing awareness of human rights and child protection, have consistently raised the age limit for marriage. Religious norms still have a significant influence in shaping public perceptions of the regulation of the minimum age limit for marriage. Therefore, for its implementation to be more effective, a holistic approach is needed that aligns religious norms with the principles of child protection and social

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Contestation of Child Marriage Law in Rural Communities.”

<sup>101</sup> Robiatul Adawiyah dan Esmi Warassih Pudjirahayu, “Policy Of Limitation Of Marriage Minimum Age On Marriage Law Revision Based On Sociological And Anthropological Approaches,” *Diponegoro Law Review* 6, no. 1 (30 April 2021): 123–38, <https://doi.org/10.14710/dilrev.6.1.2021.123-138>.

<sup>102</sup> Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho, "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | Samarah: Journal of Family Law and Islamic Law."

change. The implication of this study is the importance of collaboration between lawmakers, law enforcers, religious leaders, and the community to create regulations that are adaptive to religious norms and responsive to the needs of protecting children. This study recommends the development of stricter legal procedures related to marriage dispensation, more inclusive legal education, and social campaigns to raise awareness of the negative impacts of child marriage.

## References

- Abdurahman, Dureti, Nega Assefa, dan Yemane Berhane. "Parents' Intention toward Early Marriage of Their Adolescent Girls in Eastern Ethiopia: A Community-Based Cross-Sectional Study from a Social Norms Perspective." *Frontiers in Global Women's Health* 3 (5 Oktober 2022): 911648. <https://doi.org/10.3389/fgwh.2022.911648>.
- Adawiyah, Robiatul, dan Esmi Warassih Pudjirahayu. "POLICY OF LIMITATION OF MARRIAGE MINIMUM AGE ON MARRIAGE LAW REVISION BASED ON SOCIOLOGICAL AND ANTHROPOLOGICAL APPROACHES." *Diponegoro Law Review* 6, no. 1 (30 April 2021): 123–38. <https://doi.org/10.14710/dilrev.6.1.2021.123-138>.
- Ahmad Dakhoir, dan Sri Lumatus Sa'adah. "Meta-Juridical Analysis on the Legal Arguments beyond Changes in Indonesian's Marriage Age Rule." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 1 (1 Juni 2023): 80–101. <https://doi.org/10.19105/al-lhkam.v18i1.7162>.
- Amin, Ibnu, Lendrawati Lendrawati, Faisal Efendi, dan Hertasmaldi Hertasmaldi. "The Concept of Baligh Perspective of Fiqh and Positive Law." *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November (1 Desember 2022): 441–66. <https://doi.org/10.29240/jhi.v7i2.5268>.
- Arthur, Megan, Alison Earle, Amy Raub, Ilona Vincent, Efe Atabay, Isabel Latz, Gabriella Kranz, Arijit Nandi, dan Jody Heymann. "Child Marriage Laws around the World: Minimum Marriage Age, Legal Exceptions, and Gender Disparities." *Journal of Women, Politics & Policy* 39, no. 1 (2 Januari 2018): 51–74. <https://doi.org/10.1080/1554477X.2017.1375786>.
- Benuf, Kornelius, and Muhamad Azhar. "Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer." *Gema Keadilan* 7, no. 1 (2020): 20–33.
- Billah, Yusuf Ridho, dan Abd Qohar. "POLITIK HUKUM PENETAPAN BATAS USIA PERKAWINAN DALAM UU PERKAWINAN NO. 16 TAHUN 2019" 4, no. 2 (2021).
- Bukido, Rosdalina, Nurlaila Harun, Muhammad Alwi, dan Fahri Fijrin Kamaru. "Muslim Society's Response to the New Rule of Marriage Age." *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (16 Mei 2023):

135. <https://doi.org/10.29240/jhi.v8i1.5521>.
- Dewi, Anak Agung Istri Ari Atu, Ni Ketut Supasti Dharmawan, Anak Agung Istri Eka Krisnayanti, Putu Aras Samsithawrati, dan I Gede Agus Kurniawan. "The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia." *Sriwijaya Law Review* 6, no. 2 (19 Juli 2022): 268. <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.
- Diantha, I. Made Pasek, and M.S. *Metodologi penelitian hukum normatif dalam justifikasi teori hukum*. Prenada Media, 2016.
- Dimiyati, Khudzaifah, dan Kelik Wardiono. *Metodologi Penelitian Hukum*. Surakarta: Fakultas Hukum UMS, 2024.
- "FT\_Marriage\_Age\_Appendix\_2016\_09\_08.pdf." Diakses 14 Oktober 2024. [https://assets.pewresearch.org/wp-content/uploads/sites/12/2016/09/FT\\_Marriage\\_Age\\_Appendix\\_2016\\_09\\_08.pdf](https://assets.pewresearch.org/wp-content/uploads/sites/12/2016/09/FT_Marriage_Age_Appendix_2016_09_08.pdf).
- Hidayat, Syahrudin, Abdul Ghofur, dan Ummul Baroroh. "The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities." *Jurnal Hukum Islam* 21, no. 1 (10 Juni 2023): 55–82. [https://doi.org/10.28918/jhi\\_v21i1\\_03](https://doi.org/10.28918/jhi_v21i1_03).
- Holijah, Holijah, dan Jariyah Binti Abd Manaf. "The Importance of Increasing Minimum Age For Marriage In Indonesian Marriage Law." *AL-'ADALAH* 16, no. 2 (30 Desember 2019): 411–32. <https://doi.org/10.24042/adalah.v16i2.4546>.
- Imam Subchi, Qosim Arsadani, Muhammad Ishar Helmi, Efin Faridho. "Legal Policy of Child Marriage In the Covid-19 Pandemic Period | Subchi | Samarah: Jurnal Hukum Keluarga dan Hukum Islam." Diakses 14 Oktober 2024. <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/10570>.
- Indra, Gandi Liyorba, M. Yasin Al Arif, dan Abdul Qodir Zaelani. "The Ideal Age For Marriage in The Compilation of Islamic Law (KHI) and Psychology." *Al-'Adalah* 20, no. 1 (20 Juni 2023): 1. <https://doi.org/10.24042/adalah.v20i1.11598>.
- Ismail, Ismail, Busyro Busyro, Endri Yenti, Saiful Amin, dan Hanif Aidhil Alwana. "Legal Age Equality in Marriage According to Indonesian Positive Law in the Studies of Gender and Maqāsid Al-Sharia." *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (6 Juli 2023): 67–81. <https://doi.org/10.18860/j-fsh.v15i1.17696>.
- Jahroh, Siti. "NOT NINE BUT EIGHTEEN: Husein Muhammad on Aisha's Marriage Age." *Al-Ahwal: Jurnal Hukum Keluarga Islam* 15, no. 1 (30 Juni 2022): 61–82. <https://doi.org/10.14421/ahwal.2022.15104>.
- Judiasih, Sonny Dewi, Susilowati Suparto, Anita Afriana, dan Deviana Yuanitasari. "WOMEN, LAW AND POLICY: CHILD MARRIAGE PRACTICES IN INDONESIA." *NOTARIIL Jurnal Kenotariatan* 3, no. 1 (6 Juli 2018): 47–55. <https://doi.org/10.22225/jn.3.1.647.47-55>.
- Koski, Alissa, dan Jody Heymann. "Child Marriage in the United States: How Common Is the Practice, And Which Children Are at Greatest Risk?" *Perspectives on Sexual and Reproductive Health* 50, no. 2



- (Juni 2018): 59–65. <https://doi.org/10.1363/psrh.12055>.
- Kusmayanti, Hazar, Sonny Dewi Judiasih, Deviana Yunitasari, dan Ramalinggam Rajamanicham. "Protection of Children's Rights: A Review of Child Marriage Policies in Indonesia, Malaysia, and India." *SASI* 30, no. 2 (30 Juni 2024): 234–48. <https://doi.org/10.47268/sasi.v30i2.2044>.
- Martinelli, Imelda, F X Joko Priyono, dan Yunanto Yunanto. "THE CONCEPT OF LEGAL SUBJECT COMPETENCE IN THE AUTHORITY TO ACT ON MARRIAGE LAW IN INDONESIA." *INDONESIA Law Review* 13, no. 3 (2023).
- Mutakin, Ali, Ahmad Yani, dan Siti Muslikaturohmah. "Implementation of Sadd Dzari'ah in The Decision of Religious Courts Class I.B Blora Concerning Marriage Dispensation." *Al-'Adalah* 18, no. 2 (23 Desember 2021): 323–44. <https://doi.org/10.24042/adalah.v18i2.9515>.
- Nhampoca, Joaquim M., dan Jeanette E. Maritz. "Early Marriage, Education and Mental Health: Experiences of Adolescent Girls in Mozambique." *Frontiers in Global Women's Health* 5 (12 Juni 2024): 1278934. <https://doi.org/10.3389/fgwh.2024.1278934>.
- Niam, M Khusnun. "EARLY MARRIAGE CONSTRUCTION AND PERPETUITY FACTORS IN DISCOURSE OF POWER AND RELIGION." *BUANA GENDER : Jurnal Studi Gender Dan Anak* 6, no. 1 (5 Juni 2021). <https://doi.org/10.22515/bg.v6i1.3595>.
- Nurfieni, Amrin. "The Impact Law Number 16 of 2019 about Marriage Age Dispensation on The Child Marriage Gap." *Indonesian Journal of Law and Islamic Law (IJLIL)* 5, no. 2 (24 Desember 2023): 50–61. <https://doi.org/10.35719/ijlil.v5i2.330>.
- Pasondong, Udin, Muhammad Fachrurrazy, Muammar Arafat Yusmad, dan Rahmawati Beddu. "Legitimacy of Marriage Dispensation in Religious Courts Based on The Law, Judges' Considerations, and Case Decisions." *Al-Bayyinah* 7, no. 2 (3 Desember 2023): 204–25. <https://doi.org/10.30863/al-bayyinah.v7i2.4239>.
- Putra, Sandio Abid Aurian, dan Mas Anienda Tien Fitriyah. "Implementation of the Marriage Dispensation: Exploring the Legal and Social Complexities in Preventing Early Marriage." *Al-Adalah: Jurnal Hukum Dan Politik Islam* 9, no. 1 (28 Januari 2024): 24–39. <https://doi.org/10.30863/ajmpi.v9i1.4592>.
- Rizki, Darlin, Frina Oktalita, dan Ali Sodikin. "Maqasid Sharia Perspective in Changes the Marriage Age Limits for Women According to Law Number 16 of 2019." *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November (1 Desember 2022): 487–508. <https://doi.org/10.29240/jhi.v7i2.4016>.
- Roberts, Madeleine. "Legal Marriage Age," t.t.
- Samuri, Mohd Al Adib, Noor Aziah Mohd Awal, dan Muhamad Abral Abu Bakar. "CURBING CHILD MARRIAGE AMONGST MUSLIMS IN MALAYSIA: TOWARDS LEGAL REFORM." *UUM Journal of Legal Studies* 13 (2022). <https://doi.org/10.32890/uumjls2022.13.1.1>.

- Sania, Yori, Charles Simabura, dan Henny Andriani. "Politik Hukum Batas Minimum Usia Perkawinan Pasca Putusan Mahkamah Konstitusi Nomor 22/PUU-XV/2017." *Lareh Law Review* 2, no. 1 (17 Juli 2024): 58–72. <https://doi.org/10.25077/llr.2.1.58-72.2024>.
- Saud, Padam. "Child Marriage Practices in Nepal: A Case of Kailali District." *KMC Journal* 6, no. 2 (27 Agustus 2024): 226–42. <https://doi.org/10.3126/kmcj.v6i2.68903>.
- Suhaili, Achmad, dan Abd Aziz. "POLITIK HUKUM KETENTUAN BATAS USIA PERKAWINAN DALAM UU. NO 01 TAHUN 1974 TENTANG PERKAWINAN." *As-Syifa: Journal of Islamic Studies and History* 2, no. 2 (5 Juli 2023): 124–43. <https://doi.org/10.35132/assyifa.v2i2.522>.
- Taufiq, Muhammad Shofwan, dan M. Fahrudin. "The Hermeneutics of Islamic Law in Reviewing Changes to the Minimum Age for Marriage." *Muhammadiyah Law Review* 7, no. 2 (7 Agustus 2023): 1. <https://doi.org/10.24127/mlr.v7i2.2765>.
- Thoyib, Abdurrasyid, dan K. A. Bukhori. "Politik Hukum Pengaturan Batas Usia Minimal Perkawinan Di Indonesia." *Jurnal Intelektualita: Keislaman, Sosial Dan Sains* 11, no. 1 (20 Juli 2022): 155–67. <https://doi.org/10.19109/intelektualita.v11i1.10594>.
- Tobing, Rudyanti Dorotea. "Prevention of Child Marriage Age in the Perspective of Human Rights." *Sriwijaya Law Review* 2, no. 1 (31 Januari 2018): 1. <https://doi.org/10.28946/slrev.Vol2.Iss1.107.pp1-17>.
- Wahab, Abdul, dan Akhmad Khisni. "The Community Law Compliance with Marriage Age Limitation Provisions." *Law Development Journal* 3, no. 4 (31 Desember 2021): 799–807. <https://doi.org/10.30659/l dj.3.4.799-807>.
- Winarno, Ronny, dan Kristina Sulatri. "POLITIK HUKUM NIKAH DINI SEBAGAI PENEROBOSAN HUKUM PERKAWINAN." *Yurijaya: Jurnal Ilmiah Hukum* 2, no. 1 (13 September 2019). <https://doi.org/10.51213/yurijaya.v2i1.8>.
- Yuningsih, Deity, Sukring, St. Muslimah Suciati, dan Ruliah. "Improving Girls' Rights in Early Marriage in the Indonesian Legal System." *Halu Oleo Law Review* 7, no. 2 (24 September 2023): 198–213. <https://doi.org/10.33561/holrev.v7i2.27>.

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