

## Paradoxical Implications of Article 7 Paragraph 1 of the Marriage Law in Indonesia

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### ABSTRACT

This study aims to identify the paradoxical and anomalous factors in the marriage law in Indonesia, which are specifically described in Article 7 paragraph 1; which is then based on factual data regarding the marriage law and then strives to be able to produce more effective solutions in overcoming the implications of the paradox, especially in the marriage law. This study uses a normative legal research approach derived from the laws or regulations in the marriage that apply in Indonesia. This study has comprehensively described the fundamental factors of changes to the marriage law, which gave birth to conclusions regarding socially occurring facts, which are described in detail in the discussion and conclusion sections.

**Keywords:** *Indonesian Marriage Law; Revision of Legal Substance; Underage-Marriage*

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### INTRODUCTION

Amendments to Article 7 paragraph (1) of the Marriage Law can cause problems in increasing the practice of child marriage. The current minimum age limit of 19 years for women is a new problem for suppressing the number of early marriages in Indonesia.<sup>1</sup> The practice of child marriage is heavily influenced by the two main sectors of the function of the competent authority, structurally and the legal culture of the community towards the marriage law so that the practice of underage marriage continues.<sup>2</sup> Failure to accommodate data on underage marriages in each year changes to Law Number 16 of 2019 will harm the controlling early marriage.<sup>3</sup>

The revision of the Marriage Law (UUP) is inseparable from the decision of the Constitutional Court, which states that everyone must be given fundamental rights and constitutional rights. It can be seen that the position of the decision is strongly motivated by

<sup>1</sup> Mayadina Rohmi Musfiroh, "Pernikahan Dini Dan Upaya Perlindungan Anak Di Indonesia," *De Jure: Jurnal Hukum dan Syariah* 8, no. 2 (2016): 64–73.

<sup>2</sup> Via Syihabul Millah, "Peran Dan Upaya KUA Dalam Menanggulangi Pernikahan Di Bawah Umur (Studi Kasus Di KUA Kec. Cikande Tahun 2016-2018)," *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689–1699.

<sup>3</sup> Widihartati Setiasih, "Analisis Putusan Dispensasi Nikah Dibawah Umur Dalam Perspektif Perlindungan Perempuan," *Jurnal PPKM* (2017): 235–245.



Human Rights (HAM) and the health of a child by getting married at a young age.<sup>4</sup> Likewise, with the drafting process, the stipulation in parliament is the same pretext that women must have equal political, economic, and social positions so that the ages of women and men are equalized for the equal rights of a person. The revitalization of the Marriage Law (UUP) creates a burden on measures to minimize the practice of underage marriage. The minimum age for women is too high, so it is a new burden for the Office of Religious Affairs (KUA) to face the pressure of early marriage practices.<sup>5</sup> In addition, religious courts will still be an exceptional alternative and provide space for applicants to obtain legality and recognition before the law<sup>6</sup>; <sup>7</sup>. Although for example, the court (judge) is forced to give a decision as a legal umbrella because the behavior of women and men and the role of the family are not very functional.

According to Yunus, the portrait of the practice of underage marriage in the last three years has increased based on 2017-2019 data.<sup>8</sup> The increase in the number of marriages is due to several supporting factors, namely a low level of understanding, the economy, free association, and the will of family members.<sup>9</sup> The factor causing young marriage is the reality of changes to Article 7 paragraph (1) of the UUP experiencing social issues in a judicial review in the Constitutional Court and a revision in the DPR RI. Minimum age-specific changes cannot solve the problem of young marriage practice because the changes are not based on the actual root cause.

Law as a social control solves a problem not based on changes (revisions) to legal products from a selfish perspective and existing minority cases. The modification of the marriage law is a phenomenon that can have a negative impact on the existence of underage marriages. The factor that causes the practice of easy marriage is the failure of institutions and agencies in providing education and counseling to the maximum. The steps to resolve underage marriage must be based on the real root of the problem. The legal policy led to a polemic against implementing the revised marriage law, still prioritizing normative steps as the leading force without looking at other facts as the main factor. The practice of early marriage continues to increase. The neglected sociological facts are about structural functions that are in direct contact with the field as a form of implementation, socialization of the marriage law from the

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<sup>4</sup> Inna Noor Inayati, "Perkawinan Anak Di Bawah Umur Dalam Perspektif Hukum, Ham Dan Kesehatan," *Jurnal Bidan* Vol. 1 No., no. 1 (2015): 46–53.

<sup>5</sup> Eka Radiani Oktavia et al., "Pengetahuan Risiko Pernikahan Dini Pada Remaja Umur 13-19 Tahun," *Higeia Journal of Public Health Research And Development* Vol. 2 No., no. 186 (2018): 239–248.

<sup>6</sup> Miftakhul Janah, "Dispensasi Nikah Di Bawah Umur Dalam Hukum Islam Pernikahan Adalah Hal Kesepakatan Sosial Antara Seorang Laki- Dapat Tumbuh, Kuat, Berkembang Dan Maju. Jadi Pernikahan Bukan Berdasarkan Pasal 1 Undang-Undang Nomor 1 Tahun 1974 Lahir Batin Antara Seoran," *Jurnal Hukum Keluarga Islam* Vol. 5 No., no. April (2020).

<sup>7</sup> Anggit Kurniawan, "Naskah Publikasi Tinjauan Yuridis Dispensasi Permohonan Nikah Bagi Anak Di Bawah Umur (Studi Kasus Penetapan Pengadilan Agama Wonogiri)" (Universitas Muhammadiyah Surakarta, 2014).

<sup>8</sup> dan Mukhoyyah Yunus, Muh. Idris, "Pernikahan Di Bawah Umur Pada Masyarakat Pesisir Malangke," *Al-Ahwal Al-Syakhshiyah, IAI Al-Qolam* 3, no. 2 (2020): 43–51.

<sup>9</sup> Maria Kabang, Eli Trisnowati, and Tri Mega Ralasari S, "Pemahaman Tentang Akibat Pernikahan Di Bawah Umur Melalui Layanan Informasi Dengan Teknik Diskusi," *Jurnal Bimbingan Dan Konseling Ar-Rahman* 4, no. 2 (2018): 55.

level of secondary education to above, and the legal culture of the community, as well as the role of parents and families in anticipating unlawful practices.

## **METHOD**

This is a normative legal system with secondary data collection which is carried out by tracing legal principles, examining the synchronization and systematics of legal products whose existence is categorized as valid data. This writing uses statute approach, associated with a conceptual approach that focuses on legal concepts and legal principles relevant to implementation in Indonesia.

## **ANALYSIS AND DISCUSSION**

### **A. Factors Affecting Changes in Marriage Law**

#### *1. The Decision of the Constitutional Court (MK) as an Instrument*

The reconstruction of the minimum age limit for marriage is motivated by legal protection for women. The argument is apparent in the decision of the Constitutional Court (MK) register 22/PUU-XV/2017 that every child has the right to have their constitutional rights as citizens, including the right to health insurance (mental and physical, as well as women's welfare. Along with the times that encourage the development of women's productivity and education, the minimum age limit for women has caused debate, On the other hand; the Constitutional Court has rejected the Judicial Review Article 7 paragraph because it will generate new problems in the practice of marriage and this is in line with the increase in the divorce rate which is still high.<sup>10</sup>

On the other hand, in the 2017 Article 7 Paragraph 1 the Year 2017 of the Marriage Law, several people again sued and demanded justice as a form of legal equality between women and men (equality before the law) by citing Article 27 paragraph of the 1945 NRI Constitution <sup>11</sup>. Equality before the law that the child's age has implications for the practice of early marriage in the community. This aspect of change cannot be separated from the factual arguments put forward by community groups, namely the issue of Human Rights (HAM), health, justice for women.<sup>12</sup>

Indeed, marriage is a constitutional right mandated by the constitution that every child has the right to form a family and give birth to offspring. Then there should not be a single prohibition

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<sup>10</sup> Xavier Nugraha, Risdiana Izzaty, and Annida Aqjila Putri, "Rekonstruksi Batas Usia Minimal Perkawinan Sebagai Bentuk Perlindungan Hukum Terhadap Perempuan (Analisa Putusan MK No. 22/PUU-XV/2017)," *Lex Scientia Law Review* 3, no. 1 (2019): 40–54.

<sup>11</sup> *Ibid.*

<sup>12</sup> S Indrawati and A B Santoso, "Perspektif Undang-Undang Nomor 16 Tahun 2019 Tentang Perkawinan Terhadap Batas Usia Melakukan Perkawinan," *Amnesti Jurnal Hukum* 2 (2020): 2–5.

for a person to be able to get married as long as the provisions regarding legal marriages are fulfilled based on the Marriage Law but related to child marriage, it is only natural that the age limit for marriage conditions are regulated as a means of control for the state.<sup>13</sup> Likewise, the Constitutional Court (MK) position is only given the authority to examine a normative provision vertically so that the Court cannot provide a legal logic to the law that is equivalent to the one it is testing, causing polemics against other laws. The mandate of legislation has full authority to adapt to different regulations. Still, the changes are made following interests without seeing and considering priority facts as the basis for these changes.

## 2. *Marriage Law Legislation Process*

One of the main factors as a legal basis is based on the decision of the Constitutional Court (MK) as an instrument for changing the law mandated by Law Number 12 of 2011 concerning the Establishment of Legislation. Therefore, the gap in forming a normative-horizontal marriage law is not fully accommodated, including civil law for children aged at least 18 years, civil registration for children aged 18 years, and the health side is at least 21 years old. Of the several age choices regulated by law, there are inconsistencies in the size of a child's youth so that the change is floating because of the many age variants as a provision for a child's maturity.

Changes in the marriage law that the government's basis for a child to marry at the age of 16 years, a child is not mentally sufficient, fulfilling education, and health after pregnancy. In addition, the age of 16 is not yet closely related to the right to get 12 years of schooling<sup>14</sup>. However, changes to the age limit were made by legislators beyond the age of child protection which set the standard 18 years. Tirmizi that the community's paradigm that understands the size of maturity is different from the perspective of health and law. Community parameters regarding the scope of maturity are when a child has met financial needs, physical changes have matured, pregnant out of wedlock, and mindset society's own<sup>15</sup>.

Therefore, lawmakers' change in the minimum age is a phenomenon that can be realized as the basis that the practice of underage marriage should not be resolved by changing the substance of the law. Instead, the implementation of resource utilization from the central and regional levels to remote areas is used as an instrument to overcome community practices, especially young marriage. Andi Yaqub said that inequality occurred in the community, not because of regulatory factors. Still, the involvement of extension workers was not maximal in

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<sup>13</sup> Jihan Anjania Aldi, Elma Putri Tanbun, and Xavier Nugraha, "Tinjauan Yuridis Kewenangan Dewan Kehormatan Penyelenggara Pemilu (Dkpp) Dalam Menciptakan Pemilu Yang Demokratis Di Indonesia," *Jurnal Hukum De'rechtsstaat* 5, no. 2 (2019): 137–147.

<sup>14</sup> Kumparan, *Alasan Pemerintah Ubah Usia Minimal Perempuan Menikah Jadi 19 Tahun* (Jakarta, 2019).

<sup>15</sup> Tirmidzi, "Kajian Analisis Undang-Undang No. 16 Tahun 2019 ...," *Usrah, Volume 1, No. 1 Tahun 2020* 1, no. 16 (2019): 38–48.

contacting the community to provide assistance and special education related to families and children <sup>16</sup>.

**B. Implications of Law No. 16 of 2019 on Marriage Practices**

Data from UNICEF that the practice of child marriage that among 24 provinces there are 11 provinces has increased every 2015-2018 against the practice of child marriage is still young <sup>17</sup> illustrated as in table 1:

**Table 1. Increase in Child Marriage in Indonesia According to UNICEF**

Province	Before	Enhancement
North Maluku	10,01%	13,36%
Sulawesi	Average 14%	Average 19%
West Sulawesi	14 %	19,43%
Central and East Kalimantan	11,54%	19,13%
NTB, Jawa, Bali	-	14,48%

From the presentation of the practice of child marriage, the average age of those who practice this practice is in the age group > 15, > 16, > 18 years, the majority is practiced by the female gender group <sup>18</sup>. Considering the factor of the average age of child marriage, the change in the legal substance of the latest Article 7 paragraph 1 marriage law was carried out without looking at field data as a sociological basis for changes to the law. So that the change in legal substance is a negative discourse regarding the practice of marriage. According to waqiah, the child's legal position difference before and after the change is still postulated with strict provisions. However, this basis is still put forward in urgent conditions to ascertain whether it is acute or not; this is rarely done by law enforcement officials and can even be played by law enforcement officials to legalize early marriage on the basis of court decisions <sup>19</sup>.

Then the amendments to Article 7, paragraph 1 of the marriage law based on data on the age of children who apply for a marriage dispensation based on data the average age is 14.5 years for girls and 16.5 years for boys. Then the divorce rate is decided to reach 500,000 or about 24% of the total divorce. decisions are known to be married at the age of children and indicate a high divorce rate for women who are married under the age of 18 (eighteen) years. So that public awareness is needed as a basis for reducing the entity of marriage at an early age, including the legal culture of the community <sup>20</sup>.

<sup>16</sup> Andi Yaqub, Iswandi, and Jabal Nur, "Reconstruction of the Sakinah Family Criteria During the Covid-19 Period" 31, no. 1 (2021): 1–24.

<sup>17</sup> Gaib Hakiki et al., *Pencegahan Perkawinan Anak Percepatan Yang Tidak Bisa Ditunda*, Badan Pusat Statistik, 2020.

<sup>18</sup> Ibid.

<sup>19</sup> Siti Qomariatul Waqiah, "Diskursus Perlindungan Anak Perempuan Di Bawah Umur Pasca Perubahan Undang-Undang Perkawinan," *An-Nawazil* 1, no. 2 (2019): 65–79.

<sup>20</sup> Nahdiyanti, Yunus Ahyuni, and Qamal Nurul, "Implementasi Perubahan Kebijakan Batas Usia Perkawinan Terhadap Perkawinan Di Bawah Umur," *Journal of Lex Theory* 2, no. 1 (2020): 116–128.

The problem with the legislation explicitly regulating this latest marriage is that such changes will pose new problems in overcoming the age of marriage. Amri and Khalidi said the difference in the age limit for marriage rather than lawmakers did not formulate the impact if there was a violation such as criminal sanctions as a form of emphasis so that the practice of early marriage remains a trend among children. The horizontal relationship in the law-making marriage law is only based on Law Number 23 of 2014 on Child Protection<sup>21</sup>. Therefore, on this basis, the legislators only negate the normative horizontal and vertical provisions as the main components without studying the social impacts that will be caused. Apart from that, sociological facts are also only based on minority cases in the community without looking at the factors driving the practice of early marriage.

The implication of changing the age limit of Article 7, paragraph 1 of the marriage law is that the Ngamprah Religious Court has impacted changing the minimum age limit, increasing the application for marriage dispensation from 2019-2020 significantly. The representation of marriage dispensation applications in 2019 recorded 81 cases of early marriage, and in 2020, there were 44 cases at the beginning of the year. Therefore, the Ngamprah religious court stated that changing the minimum age limit for a child has a significant impact on increasing the practice of early marriage<sup>22</sup>. Looking at the data on the practice of underage marriage since the age limit of 16 years and 19 years after these changes has a negative impact on the course of marriage at an early age.

### **C. Inefficient Participation of the Office of Religious Affairs (KUA)**

Minimizing the practices of early marriage that KUA's participation has a central role in suppressing the number of underage marriages because KUA is a line that has direct contact with the community and has tools such as extension workers to educate the public. But this contrasts with what Oktavia said that public knowledge about the risks of marriage at a young age is still below average<sup>23</sup>. Thus, fieldwork such as counseling, socialization of the marriage law, and integration with other agencies as supporting factors are also not appropriately utilized.

Likewise, according to Daryus, the KUA has a role in increasing the socialization of the law to the community. Because not all levels of society understand and even know about the position of the marriage law and similarly in anticipating the practice of underage marriage if only looking at the administrative completeness of a child who wants to marry. These factors

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<sup>21</sup> Aulil Amri and Muhadi Khalidi, "Efektivitas Undang-Undang Nomor 16 Tahun 2019 Terhadap Pernikahan," *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial* 6, no. (1) (2021): 85–101.

<sup>22</sup> Pengadilan agama Ngamprah, *Pengaruh Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Terhadap Jumlah Perkara Dispensasi Nikah Di Pengadilan Agama Ngamprah* (Ngamprah, 2020).

<sup>23</sup> Oktavia et al., "Pengetahuan Risiko Pernikahan Dini Pada Remaja Umur 13-19 Tahun."



have no effect and impact on the prevention because there is still a way to legalize the practice by applying for a marriage dispensation to the court <sup>24</sup>.

Najib said that overcoming the practice and minimizing it needed to be integrated from various components, namely health workers, religious leaders, community leaders, government, and families. This integration process can be created as a form of education so that the law can be implemented following the purpose of its formation <sup>25</sup>. This integration process is not found as a form of unity in overcoming the impact of underage marriage so that the gap increases and takes place among the community.

Likewise, data from the Ministry of Religion related to the effectiveness of the Office of Religious Affairs (KUA) throughout Indonesia does not run optimally because of the total number of KUA only about 10% are functioning optimally to provide counseling. So that the public's understanding of the basics of marriage is based on the law, both in terms of the consequences of marrying a child young and the boundaries are not well known. This understanding occurred because of the lack of socialization of the previous law, and the legislators made changes <sup>26</sup>.

The role of KUA and its instruments is a factor or main in minimizing the practice of marriage at an early age. Kareema and Garfes said that the phenomenon in the field regarding the exercise of underage marriage has a variety of motives, including 1) the age range of children and parents are not far apart, 2) there is a third person 3) they are considered to know nothing about the law, 3) impact of underage marriage and 4) changing locations <sup>27</sup>. From the factors behind that, the executive officers who are domiciled in the regions do not understand the series of laws regarding the impact and legal position in the force so that underage marriage occurs and is significant.

Based on these data, explain that the main factor is not influenced by the age limit of 16 years, which is more problematic than before. Still, the implementation of the law and explaining the substance to understand a factor is one of the main factors. Especially the existence of the KUA, which always relies on the judicial function as the last step to get the legal umbrella of a child as to legal standing. The two components that the KUA and the Court integrate are that, of course, the final solution is to give a decision to carry out the practice of underage marriage, because of course, each applicant will provide concrete testimony and the negative impact of a child so that the goal of underage marriage continues.

<sup>24</sup> Erlin El Daryus, "Peranan Pegawai Pencatat Nikah (Ppn) Dalam Menanggulangi Perkawinan Di Bawah Umur (Studi Di Kantor Urusan Agama (Kua) Kecamatan Tanjung Raja Kabupaten Lampung Utara)" (Universitas Islam Negeri Raden Intan Lampung 1439H, 2017).

<sup>25</sup> Najib Najib, "Beberapa Aspek Kependudukan Yang Mempengaruhi Pernikahan Di Bawah Umur," *Pro Health Jurnal Ilmiah Kesehatan* Vol. 1 1 N, no. 1 (2019): 19–24.

<sup>26</sup> Supianto Supianto and Nanang Tri Budiman, "Pemahaman Masyarakat Terhadap Pembatasan Usia Minimal Untuk Melangsungkan Perkawinan," *Jurnal Rechtsens* 9, no. 1 (2020): 77–90.

<sup>27</sup> Tsania Kareema and Harry Pribadi Garfes, "Peran KUA Dalam Meniminalisir Kasus Pernikahan Dini Di Kecamatan SUmajaya Kota Depok," *Dirasat* 15, no. 1 (2020): 62–71.

#### **D. Marriage Law: Negative Impact on Emphasizing Young Marriage Rates**

Data on underage marriage was still significant before the minimum age limit was changed to 19. It continued to increase every year and the projected average divorce rate for a child who married at a young age. The form of revision carried out by lawmakers does not look at the influencing factors so that the practice continues to increase. According to Pratiwi, early marriage is carried out because of internal and external impulses that affect a child. Internal factors are the encouragement of family and parents because they think marriage is a match and an opportunity for children, and internal factors are influenced by colleagues because they see their friends getting married and even things that a child does not want because they are pregnant out of wedlock<sup>28</sup>. These factors can basically be used as benchmarks before changes to the law itself are made to decide whether the problematic marriage law is the legal substance, legal structure, and/or legal culture.

#### **CONCLUSION**

Therefore, it can be traced that the problems that occurred in Law No. 16 of 2019 concerning particular Marriage Article 7 paragraph 1, borrowing from Friedman the Legal System theory, which is divided into three indicators, namely legal substance, legal structure, and legal cultural<sup>29</sup>. So these three indicators are as follows:

##### *1. Revision of Legal Substance of Marriage Law Article 7 paragraph 1*

The revision of Article 7 paragraph 1 regarding the age limit of children is not a concrete solution to minimize the practice of underage marriage. Still, it will have a negative impact on the number of young marriage entities because it has standardization that exceeds the limits of the child protection law and the category of adolescent age in the regulations. According to Talli, changing the substance of the law will make it easier for institutions or law enforcement to carry out legal processes following the rules<sup>30</sup>. However, looking at the position of the material and formal legal substance of the marriage law, it can be seen that in material direction. Changes were made significantly and exceeded the age limits of adolescence and ignored a component of data about factors that influence the increase in the volume of underage marriages. Likewise, formally, the legal position is only based on the will and participation from below to the obstacles faced by law enforcement as well as the components of the agency in direct contact with the community. One of the participations that can be used as a basis is that the increase in underage marriage every year always experiences a significant boost as well as various studies

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<sup>28</sup> Bintang Agustina Pratiwi et al., "Analisis Pernikahan Usia Dini Di Kabupaten Bengkulu Tengah Tahun 2017," *Jurnal Kesmas Asclepius* 8, no. 5 (2019): 55.

<sup>29</sup> Lawrence M. Friedman, *The Legal System A Social Science Perspective* (New York: Russell Sage Foundation, 1987).

<sup>30</sup> Abdul Halim Talli, "Dosen Fakultas Syariah Dan Hukum UIN Alauddin Makassar Dalam Bidang Hukum Acara Peradilan Agama. *Jurnal Al-Qadāu* Volume 2 Nomor 1/2015 |," *Journal Al-Qadāu* Vol. 2, no. 2 (2015): 76–93.



which state that underage marriage is based on association, parental will, and the economy, as well as a lack of understanding of the components of the marriage law. Therefore, this basis is not a change in a substance as the primary reference for solving problems in the community even though the child protection law regulates the ideal age of 18 years. Instead, activate human resources and integrate with other agencies. Together, provide education to the public on the negative impact of underage marriage.

## 2. *Problems with Institutional Structures*

Changes in the substance of Article 7 paragraph 1 regarding the minimum age limit of 19 years for children are a failure of lawmakers to understand other factors as a form of consideration of sociological facts as a basis so that the structural function is not a significant problem in preventing underage marriages, Yaqub state that one of the factors in the ongoing gap in the field for the existence of family harmonization was the involvement of KUA and extension workers providing education for the future of the family <sup>31</sup>. Therefore, with the less than optimal involvement of the KUA and its tools, most of the practices are not following the law. The structural function is the way to print underage marriages. Basically, the legality lies in the horizontal position of the agency, namely between the KUA and the Religious Courts as the printers of underage marriages. Because a child is based on a recommendation from the KUA, and then the court gives a legal decision as to legal standing <sup>32</sup>. So structurally, regulations and arrangements and sanctions should be the main point, not the minimum age to be increased because it will have an impact on dispensation for marriage in court.

## 3. *The culture of the people is less aware of the marriage law*

Changes in the minimum age limit to 19 years Law Number 16 of 2016 concerning marriage that sociological facts are only based on human rights such as the fulfillment of fundamental rights without looking at other facts as the basis for the legal logic of the marriage law. Friedman said that the legal culture is not as long as it is realized in written law but is realized as a form of treatment to the community by utilizing human resources in those who have a role in the field. Asnawi said that the positivistic flow of law could not as long as it can create justice and legal benefits for the community because this is done following the political will of the legislators <sup>33</sup>. So observing the change in the age limit is based on the political interests of gender without considering the negative impacts with the age limit of 19 years. The

<sup>31</sup> Yaqub, Iswandi, and Nur, "Reconstruction of the Sakinah Family Criteria During the Covid-19 Period."

<sup>32</sup> Janah, "Dispensasi Nikah Di Bawah Umur Dalam Hukum Islam Pernikahan Adalah Hal Kesepakatan Sosial Antara Seorang Laki- Dapat Tumbuh , Kuat , Berkembang Dan Maju . Jadi Pernikahan Bukan Berdasarkan Pasal 1 Undang-Undang Nomor 1 Tahun 1974 Lahir Batin Antara Seorang."

<sup>33</sup> Habib Shulton Asnawi, "Politik Hukum Putusan Tentang Status Anak Di Luar Nikah: Upaya Membongkar Positivisme Hukum Menuju Perlindungan HAM," *Jurnal Konstitusi* Vol. 10 No, no. 2 (2013): 244.

ongoing positivistic culture and its enormous influence on this marriage law's existence is that problem solving must be based on binding rules.

In terms of the upstream issue of the practice of underage marriage, many researchers have revealed that early marriage is based on the legal culture of the people who do not understand the substance and its impact. So that the reform should take place by increasing community capacity and implementing the law with creativity, starting from the primary education sector to the primary education sector. follow-up and sustainable family education as the main program <sup>34</sup>. Likewise, the implication of changing the minimum age of 19 years to get married will impact increasing the practice of underage marriage with the legal standing of court decisions. Thus, the marriage law cannot provide an answer and instead becomes an alternative or a way for children to practice marriage <sup>35</sup>. So that child protection efforts will be in vain and do not affect having a permanent legal umbrella. Even though Muhajir state, the protection procedure was initiated as a form of fulfilling the necessities of life, it is human nature <sup>36</sup>. However, it will not have a positive impact on minimizing the practice of underage marriage because it requires integration and synergy across institutions as an instrument in prevention based on community education (non-formal). Similarly, Solomon's narrative and similar research regarding the age limit of a child, the majority think that it has reached the point of benefit <sup>37</sup>; <sup>38</sup>. But forgetting the impact of a minimum age of 19 years will have implications for law enforcement agencies (the judiciary) and the community. Likewise, Wijaya and Thai state that law number 16 of 2019 has been adequate and is supported by dispensation tools <sup>39</sup>. The built paradigm is that there is a failure to understand a legal, cultural substance in the community with the support of essential data related to underage marriage.

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<sup>34</sup> Ana Latifatul Muntamah, Dian Latifiani, and Ridwan Arifin, "Pernikahan Dini Di Indonesia : Faktor Dan Peran Pemerintah ( Perspektif Penegakan Dan Perlindungan Hukum Bagi Anak )" 21, no. 1 (2016): 1–12.

<sup>35</sup> Muhajir, "Prosedur Dan Penyelesaian Dispensasi Nikah Dibawah Umur Di Pengadilan Agama," *Jurnal Studi Islam* Vol 6 No 2 (2019): 133–150.

<sup>36</sup> Ibid.

<sup>37</sup> Rian Rosita Sulaeman, "Hak Pendidikan Anak Dan Kesadaran Hukum Masyarakat Mengenai Larangan Pernikahan Di Bawah Umur," *DIKTUM: Jurnal Syariah dan Hukum* Vol. 17 No, no. 2 (2019): 211–222.

<sup>38</sup> Iwan Romadhan Sitorus, "Usia Perkawinan Dalam UU No. 16 Tahun 2019 Perspektif Masalah Mursalah," *Jurnal Nuasa* XIII, no. 2 (2019): 190–199.

<sup>39</sup> Himawan Tatura Wijaya and Erwin Jusuf Thaib, "Efektivitas Pelaksanaan Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Di Kabupaten Pohuwato," *As-Syams: Journal Hukum Islam* 1, no. 1 (2020): 38.

## REFERENCE

- Aldi, Jihan Anjanita, Elma Putri Tanbun, and Xavier Nugraha. "Tinjauan Yuridis Kewenangan Dewan Kehormatan Penyelenggara Pemilu (Dkpp) Dalam Menciptakan Pemilu Yang Demokratis Di Indonesia." *Jurnal Hukum De'rechtsstaat* 5, no. 2 (2019): 137–147.
- Amri, Aulil, and Muhadi Khalidi. "Efektivitas Undang-Undang Nomor 16 Tahun 2019 Terhadap Pernikahan." *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial* 6, no. (1) (2021): 85–101.
- Asnawi, Habib Shulton. "Politik Hukum Putusan Tentang Status Anak Di Luar Nikah: Upaya Membongkar Positivisme Hukum Menuju Perlindungan HAM." *Jurnal Konstitusi* Vol. 10 No, no. 2 (2013): 244.
- Daryus, Erlin El. "Peranan Pegawai Pencatat Nikah (Ppn) Dalam Menanggulangi Perkawinan Di Bawah Umur (Studi Di Kantor Urusan Agama (Kua) Kecamatan Tanjung Raja Kabupaten Lampung Utara)." Universitas Islam Negeri Raden Intan Lampung 1439H, 2017.
- Friedman, Lawrence M. *The Legal System A Social Science Perspective*. New York: Russell Sage Foundation, 1987.
- Hakiki, Gaib, Asnita Ulfah, Maarif Ibnu Khoer, Sugeng Sipriyanto, Muhammad Basoruding, Widya Larasati, Dwi Prastiwi, et al. *Pencegahan Perkawinan Anak Percepatan Yang Tidak Bisa Ditunda*. Badan Pusat Statistik, 2020.
- Inayati, Inna Noor. "Perkawinan Anak Di Bawah Umur Dalam Perspektif Hukum, Ham Dan Kesehatan." *Jurnal Bidan* Vol. 1 No., no. 1 (2015): 46–53.
- Indrawati, S, and A B Santoso. "Perspektif Undang-Undang Nomor 16 Tahun 2019 Tentang Perkawinan Terhadap Batas Usia Melakukan Perkawinan." *Amnesti Jurnal Hukum* 2 (2020): 2–5.
- Janah, Miftakhul. "Dispensasi Nikah Di Bawah Umur Dalam Hukum Islam Pernikahan Adalah Hal Kesepakatan Sosial Antara Seorang Laki- Dapat Tumbuh , Kuat , Berkembang Dan Maju . Jadi Pernikahan Bukan Berdasarkan Pasal 1 Undang-Undang Nomor 1 Tahun 1974 Lahir Batin Antara Seoran." *Jurnal Hukum Keluarga Islam* Vol. 5 No., no. April (2020).
- Kabang, Maria, Eli Trisnowati, and Tri Mega Ralasari S. "Pemahaman Tentang Akibat Pernikahan Di Bawah Umur Melalui Layanan Informasi Dengan Teknik Diskusi." *Jurnal Bimbingan Dan Konseling Ar-Rahman* 4, no. 2 (2018): 55.
- Kareema, Tsania, and Harry Pribadi Garfes. "Peran KUA Dalam Meniminalisir Kasus Pernikahan Dini Di Kecamatan SUMajaya Kota Depok." *Dirasat* 15, no. 1 (2020): 62–71.
- Kumparan. *Alasan Pemerintah Ubah Usia Minimal Perempuan Menikah Jadi 19 Tahun*. Jakarta, 2019.
- Kurniawan, Anggit. "Naskah Publikasi Tinjauan Yuridis Dispensasi Permohonan Nikah Bagi Anak Di Bawah Umur (Studi Kasus Penetapan Pengadilan Agama Wonogiri)." Universitas

- Muhammadiyah Surakarta, 2014.
- Millah, Via Syihabul. "Peran Dan Upaya KUA Dalam Menanggulangi Pernikahan Di Bawah Umur (Studi Kasus Di KUA Kec. Cikande Tahun 2016-2018)." *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689–1699.
- Muhajir. "Prosedur Dan Penyelesaian Dispensasi Nikah Dibawah Umur Di Pengadilan Agama." *Jurnal Studi Islam* Vol 6 No 2 (2019): 133–150.
- Muntamah, Ana Latifatul, Dian Latifiani, and Ridwan Arifin. "Pernikahan Dini Di Indonesia: Faktor Dan Peran Pemerintah ( Perspektif Penegakan Dan Perlindungan Hukum Bagi Anak )" 21, no. 1 (2016): 1–12.
- Musfiroh, Mayadina Rohmi. "Pernikahan Dini Dan Upaya Perlindungan Anak Di Indonesia." *De Jure: Jurnal Hukum dan Syariah* 8, no. 2 (2016): 64–73.
- Nahdiyanti, Yunus Ahyuni, and Qamal Nurul. "Implementasi Perubahan Kebijakan Batas Usia Perkawinan Terhadap Perkawinan Di Bawah Umur." *Journal of Lex Theory* 2, no. 1 (2020): 116–128.
- Najib, Najib. "Beberapa Aspek Kependudukan Yang Mempengaruhi Pernikahan Di Bawah Umur." *Pro Health Jurnal Ilmiah Kesehatan* Vol. 1 1 N, no. 1 (2019): 19–24.
- Ngamprah, Pengadilan agama. Pengaruh Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Terhadap Jumlah Perkara Dispensasi Nikah Di Pengadilan Agama Ngamprah. Ngamprah, 2020.
- Nugraha, Xavier, Risdiana Izzaty, and Annida Aqiila Putri. "Rekonstruksi Batas Usia Minimal Perkawinan Sebagai Bentuk Perlindungan Hukum Terhadap Perempuan (Analisa Putusan MK No. 22/Puu-Xv/2017)." *Lex Scientia Law Review* 3, no. 1 (2019): 40–54.
- Oktavia, Eka Radiyani, Fatehah Rahma Agustin, Nandito Mapian Magai, Sigit Ambar, and Widya Hary Cahyati. "Pengetahuan Risiko Pernikahan Dini Pada Remaja Umur 13-19 Tahun." *HIGEIA JOURNAL OF PUBLIC HEALTH RESEARCH AND DEVELOPMENT* Vol. 2 No., no. 186 (2018): 239–248.
- Pratiwi, Bintang Agustina, Wulan Angraini, Padila, Nopiawati, and Yandrizal. "Analisis Pernikahan Usia Dini Di Kabupaten Bengkulu Tengah Tahun 2017." *Jurnal Kesmas Asclepius* 8, no. 5 (2019): 55.
- Setiasih, Widihartati. "Analisis Putusan Dispensasi Nikah Dibawah Umur Dalam Perspektif Perlindungan Perempuan." *Jurnal PPKM* (2017): 235–245.
- Sitorus, Iwan Romadhan. "Usia Perkawinan Dalam UU No. 16 Tahun 2019 Perspektif Masalah Mursalah." *Jurnal Nuasa* XIII, no. 2 (2019): 190–199.
- Sulaeman, Rian Rosita. "Hak Pendidikan Anak Dan Kesadaran Hukum Masyarakat Mengenai Larangan Pernikahan Di Bawah Umur." *DIKTUM: Jurnal Syariah dan Hukum* Vol. 17 No, no. 2 (2019): 211–222.
- Supianto, Supianto, and Nanang Tri Budiman. "Pemahaman Masyarakat Terhadap

- Pembatasan Usia Minimal Untuk Melangsungkan Perkawinan.” *Jurnal Rechtens* 9, no. 1 (2020): 77–90.
- Talli, Abdul Halim. “Dosen Fakultas Syariah Dan Hukum UIN Alauddin Makassar Dalam Bidang Hukum Acara Peradilan Agama. Jurnal Al-Qadāu Volume 2 Nomor 1/2015 |.” *Journal Al-Qadāu* Vol. 2, no. 2 (2015): 76–93.
- Tirmidzi. “Kajian Analisis Undang-Undang No. 16 Tahun 2019 ....” *Usrah, Volume 1, No, 1 Tahun 2020* 1, no. 16 (2019): 38–48.
- Waqiah, Siti Qomariatul. “Diskursus Perlindungan Anak Perempuan Di Bawah Umur Pasca Perubahan Undang-Undang Perkawinan.” *An-Nawazil* 1, no. 2 (2019): 65–79.
- Wijaya, Himawan Tatura, and Erwin Jusuf Thaib. “Efektivitas Pelaksanaan Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Di Kabupaten Pohuwato.” *As-Syams: Journal Hukum Islam* 1, no. 1 (2020): 38.
- Yaqub, Andi, Iswandi, and Jabal Nur. “Reconstruction of the Sakīnah Family Criteria During the Covid-19 Period” 31, no. 1 (2021): 1–24.
- Yunus, Muh. Idris, dan Mukhoyyah. “Pernikahan Di Bawah Umur Pada Masyarakat Pesisir Malangke.” *Al-Ahwal Al-Syakhsiyah, IAI Al-Qolam* 3, no. 2 (2020): 43–51.