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**MARRIAGE AGE LIMIT PROVISIONS REVIEWED  
FROM THE LAW LAW NUMBER 16 YEAR 2019 ABOUT  
THE CHANGES TO LAW NUMBER 1 YEAR 1974  
CONCERNING MARRIAGE AND LAW TRADITION**

**Desi Robiatul Adawiyah Siregar, Rosnidar Sembiring, Idha  
Apriliyana, Yefrizawati**

**Faculty of Law, Universitas Sumatera Utara**

**E-mail : [desirobiatul1@gmail.com](mailto:desirobiatul1@gmail.com)**

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**ABSTRACT**

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*The stipulation of the age limit for marriage is one of the very important pillars in the legal protection of underage marriages. Underage marriage is a marriage or contract that can guarantee that a man and a woman have each other and can have husband and wife relations, and the marriage is carried out by someone (prospective husband/prospective wife) whose age has not yet reached the age determined by law. currently in force in Indonesia that has been determined by the government. UU no. 16 of 2019 amendments to Law No. 1 of 1974 concerning marriage Article 7, namely "Marriage is only permitted if a man and a woman have reached the age of 19 (Nineteen) years. The method use in this research is normative legal research. The issues discussed are about how the pluralism of the marriage age limit according to positive law and customary law, regarding how to implement Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage, regarding how legal protection is related to age. marriage in which the parties contain Law Number 16 of 2019 amendments to Law Number 1 of 1974 concerning Marriage and customary law.*

**Keywords:** *Age Limit, Marriage.*

**Journal History**

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**INTRODUCTION**

Humans are the most perfect creatures of Allah created in the form of the best. Besides that, humans are social beings who have dignity and value higher dignity (perfect) compared to other creatures. Therefore, the nature possessed by humans since birth is to live in a social environment, integrate with group social other in society. wrong one form needs life man is needs biological in association husband wife, at the same time aiming to fulfill expectations in order to obtain

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healthy offspring physical and spiritual. <sup>1</sup>Marriage is an inner and outer bond between a man with a woman as husband wife destination shape family (house ladder ) which is happy and eternal based on the One Godhead. <sup>2</sup>Marriage no for necessity moment but for lifetime life because marriage contains noble values. With the inner and outer bond between men and women whobuilt on sacred values because it is based on God Almighty who is please first Pancasila. What do you mean? is that marriage no enough only with inner and outer ties , but it must be both, there is an outer bond inner is deep foundation form a family happy and eternal.<sup>3</sup>

The age limit for getting married is an important part in in law, specifically law marriage because somebody which marriage is considered as an adult physically and mentally, able to be responsible in married life, namely in give living by born and mind.Besides that maturity in To do marriage by knowledge law also no free from skills somebody forcarry out legal actions that cause legal consequences adults are seen as subjects who have not been able to act alone in front of the law must be represented by people parent or guardian.<sup>4</sup>

On year 2017, constitution court through Decision Number 22/PUU/XV/2017 state that difference limit age marriage Among manand women in Article 7 paragraph (1) of the Marriage Law is considered contrary to the 1945 Constitution which states that every citizen has position same in front law.mahkmah constitution in Decision the states that Article 7 paragraph (1) as long as the age phrase "16 (sixteen) years" Marriage contrary with Constitution Base Country Republic of Indonesia.

In addition, the Court of constitution instruct shaper Constitution in period time most long3 (three) years since the decision made changes to the Marriage Law. In consideration decision Court constitution Number 22/PUU-XV/2017state that law Protection child arrange that child is somebody whichnot yet aged 18 year.Meanwhile that, refer Chapter 7 paragraph (1) law Marriage, limitMinimum age of marriage for women is 16 years. When put in context The asynchronous child protection in question actually has an impact on guarantees andconstitutional protection of children's rights as regulated in Article 28B paragraph (2) constitution 1945 which set more carry on through law Protection child. Court The constitution also lays out a number of adverse effects of underage marriage, related

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<sup>1</sup> Lili Rasjidi & I.Bwyasa Putra , *Hukum Sebagai Suatu Sistem*, PT. RemajaRosda karaya, Bandung, 1993, p. 17.

<sup>2</sup> Law Number 1 year 1974 About Marriage

<sup>3</sup> K.Wantjik Saleh , *Hukum Perkawinan Indonesia*, Hall Pustaka, Jakarta, 1996, p.15.

<sup>4</sup> Ghuftron. *Makna Kedewasaan Dalam Perkawinan*, Al-Hukama :The Indonesia Journal ofIslamic Family La,Faculty Sharia and Law University Country Islam Sunan Ampel Surabaya.

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aspect health and education. If placed in context more widespread, underage marriage is very threatening and has a negative impact on health child because not yet achievement limit maturity ideal reproduction. The Constitutional Court issued a decision explaining the distinction age in men and women is a form of discrimination against women, for that conducted change about limit age marriage.<sup>5</sup>

Court Constitution ordered the DPR to make changes to Law no. 1 1974 and finally became law No. 16 of 2019 changes conducted in Chapter 7 which in provision new this arrange limit age minimum Marriage is established between men and women of the same age 19 years old, with the minimum age for marriage, it is hoped that it has matured soul body, considered more mature for carry on marriage so that In the future, we can realize the goals of marriage well, and it is hoped that can hinder rate birth child which low. Besides that child could fulfilled right-the right to complete their education before marriage. All that is the purpose of amending the provisions of this new marriage law. With thereby, based on provision the so marriage which carried out before meeting the requirements referred to as being categorized as marriage under age or marriage age young, where marriage parahi party is still very young, in which the marriage of the parties is still very young and not yet Fulfill requirements which has determined do marriage. In customary law, there is no age limit for adults or minors and not known as fiction in civil law. Customary law is only about by incidental just is somebody that relate with age and development his soul deserve considered competent or no, nor no capable To do deed law certain in connection law certain also. Not yet competent it means not yet capable take into account and maintain the interest alone.

## METHOD

Ibrahim in Eka NAM Sihombing, Cynthia Hadita, and Muhammad Yusrizal Adi Syaputra, The method used in this study is the normative juridical law research method. The normative research, must use a statutory approach (statute Approach), this is because what will be researched are various rules of law. Taking the term Dworkin, this kind of research is also referred to as doctrinal research.<sup>6</sup>

The type of research conducted in this research is legal research normative by researching library materials or secondary data materials cover books as well as norms law which there is in regulation legislation, principles law, the rules law and systematic law as well as study provision legislation and ingredient law other as well as relevant with research formulation. Study this character descriptive analytical.

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<sup>5</sup> Law Number 16 Year 2019 About Top Change Constitution Number 1 of 1974 About Marriage.

<sup>6</sup> Eka N.A.M Sihombing, Cynthia Hadita and Muhammad Yusrizal Adi Syaputra, "Legal Securities Against Covid-19 Patient Privacy Data in Indonesia" 4, no. 1 (2019): 275–282.

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character descriptive it means study this expected obtained description by detail and systematic about problem which researched.

## DISCUSSION

### **Pluralism Of The Age Limit For Marriage In The Positive Law And Law Custom**

Marriage according to Article 1 of Law Number 1 of 1974 concerning marriage, what is meant by marriage is the inner and outer bond between a man with a woman as husband wife with destination shape family (housestairs) who are happy and eternal based on Deity The Almighty. With Thus , marriage is a contract which in its entirety is contained in the word marriage or tazwijj dan is speech ceremonial which sacred.<sup>7</sup>

Abdurahman Al-Jaziri said that marriage is an agreement between a man and a woman to form a family that happy. This definition clarifies the notion that marriage is an agreement. As an agreement, it means that there is free will between two parties who promise each other, based on likes and dislikes. So, he is far from everything could interpreted as conceive something coercion. By because that, good party man as well as the woman who binds the promise in marriage has validity full to state, whether willing or not. The agreement is stated in form consent and Granted which must be spoken in one assembly, good immediately by those concerned, namely the prospective husband and wife, if both are fully entitled on herself according to law or by they which empowered for that. If not so, for example in a state of insane or still under age , for they could Act guardians they which legal. Subekti, argues that marriage is a legal relationship between a man and a woman for time which long.

In Islam the terms "Baliqh" and "Ar Rusyd" Baliqh are words that means "adult". Someone who has grown up is called Baliqh. Said baligh In fiqh courses, most of them mean physical maturity, for example wet dreams for men and menstruation for women. Automatically considered speak in law. Whereas "Ar Rusyd" is the level of perfection in think. In fact, ar rusyd can be achieved at the same time as the baliqh period if in process welcome baliqh get education which good and Correct.

Adult symbolizes all mature organisms that normally refer on man which no again children and has Becomes Men or women. Currently, the term adult can be defined from the biological aspect that isakil baligh, the law is 16 years old and over or married, according to The marriage law is 19 years for men and 16 years for women and personal character that is maturity and responsibilities. Law of the Republic of Indonesia Indonesia in determining the criteria for adults who are

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<sup>7</sup> Aulia, Nuansa, Kompilasi Hukum Islam, Hukum Perkawinan, Hukum Kewarisan, Hukum Perwakafan, Bandung, 2008.

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competent in law is different. Thing that could seen from a number of Constitution which define limit age child and mature.

Law custom on generally no arrange limit age for marry. Which means that customary law allows all age. According to customary law, to determine whether a child is an adult or an adult no age limit. In customary law it is not physically known as in law civil. Law custom determine by incidental just is a person due to his age and mental development is considered worthy of respect competent or not legal.

According to Ter Haar, the definition of adulthood according to customary law is when Men and woman has marry and separate self from his parents, for home ladder as husband wife, as family which stand up alone. Soepomo, say someone is an adult when someone is an adult according to the law custom, if somebody already strong work (capable work self alone), competent look after treasure object as well as the need alone, as well as competent for doing all system method association life society including take responsibility answer all his actions.

### **Implementation of Law No. 16 of 2019 concerning Amendment to Law Number 1 of 1974 About Marriage**

The basis for determining the age of marriage in Law Number 1 of 1974 based on Article 7 paragraph (1) which states "marriage is only permitted if" men's side has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years." The Constitutional Court has Article 7 paragraph (1) of Law Number 1 of 1974, namely decision number 30-74/PUU-XII/2014, dated 18 June 2015. In decision that, the Court The Constitution rejected the application and stated Article 7 paragraph (1) of the Law Invite Marriage is policy law which open which no contrary with constitution 1945. Next, on date 20 April 2017 submitted again judicial review to the Constitutional Court, by three applicants who filed application the same one namely the change in the age limit for marriage in Indonesian and In the end, in this second attempt, it turned out that the Panel of Judges of the Constitutional Court accept application for To do update limit age marriage in Indonesia. In this regard, the Court is of the opinion that the petition Number 22/PUU-XV/2017 different with application Number 30-74/PUU-XII/2014.

On year 2017, Court constitution through decision Number 22/PUU-XV/2017 states that difference limit age marriage between men and women in Article 7 paragraph (1) of the Marriage Law are considered contradictory with Constitution Base 1945 which mention that every inhabitant country have position same in front of law. the Court constitution in decision it states that Article 7 paragraph (1) along the phrase "16 (sixteen) years" Constitution Marriage contrary



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with Constitution Base Country Republic of Indonesia in 1945 and has no binding legal force. In addition, the Constitutional Court ordered legislators to a maximum period of 3 (three) years from the decision to carry out change against the law Marriage.

In consideration of the decision of the Constitutional Court Number 22/PUU-XV/2017 state Constitution Protection Child. Act Protection Child stipulates that a child is someone who is not yet 18 years of age. Temporary that, referring to Chapter 7 paragraph (1) Constitution Marriage, boundaries age minimum marriage woman determined 16 year. When placed in context protection of children, the asynchronous dikmasud actually has an impact on guarantees and constitutional protection of children's rights as regulated in Article 28B paragraph (2) The 1945 Constitution which is further regulated through Child Protection. Change norm Constitution Number 1 Year 1974 about marriage this reach limit age for To do marriage, repair norm reach limit age for To do marriage for woman equated with marriage well without ending in divorce and there are healthy and quality.

Setting the age limit in marriage with the same age between men and women woman will give impact positive to psychology each candidate. Because at the age of 19 years, he has entered the stage of maturity in the level of mature someone, so more ready for face various challenge and problems that will be faced when building a household. This means that this will be also a way for married couples in realizing the main goal of a marriage.

### **Influence Change Limit Age Marriage In Constitution Number 16 2019 To Law Marriage in Indonesia.**

As for factors which influence change limit age marriage in Indonesia, in accordance Script Academic design Constitution limit age marriage there is 3 runway that is, Base Philosophical is consideration or reason which describe that regulation which formed consider view life, awareness, and wish law which cover atmosphere mysticism as well as philosophy nation Indonesia which sourced from Pancasila and opening Constitution Base Country Republic of Indonesia. By Philosophical change limit age marry for woman from 16 year Becomes 19 years old so that it's the same as men, is the commitment of the state in realizing the life of the nation and state which is far from treatment discriminatory against child woman as inhabitant country and protect children's rights from the fulfillment of health rights and education rights. So that by ensuring these rights they can grow and develop well and maximize their potential and become quality children and it is hoped that they will become the successors of a better nation and can realize ambition nation Indonesia.<sup>8</sup>

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<sup>8</sup> Sudarsono, *Hukum Perkawinan di Nasional*, (Jakarta: Rineka Cipta, 2005).

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Base sociological is consideration or reason which describe that regulation which formed for Fulfill needs Public in various aspect. Base sociological actually concerning fact empirical about development problem and needs Public and country. By sociological determination Constitution Number 16 Year 2019 is effort government in preventing underage marriage, lack of this determination no accompanied with change rule about dispensation Marry so that the more increase number application dispensation Marry in Court Religion, Thing this caused because no existence limitation which clear on moment when under what circumstances grant dispensation by the court and instant which authorized.<sup>9</sup>

Base juridical is consideration or reason which describe that regulation which formed for resolve problem law or fill in emptiness law with taking into account existing rules, which will be changed, or which will revoked To use ensure certainty law and flavor justice Public. Base juridical concerning problem law which related with regulated substances or materials so that regulations need to be established new legislation. Several legal issues, including: regulation which is out of date, rules which is not harmonious or overlapping, the type of regulation is lower than the Law so that the force is weak, existing regulations but not adequate, or regulation which same very not yet there is. By juridical the change in the age limit for marriage is a revision of the previous regulation which considered already no relevant with condition Public which now good from side health biological, psychological, economy, education and culture. Article 7 paragraph 1 of Law Number 1 of 1974 overlaps or is out of sync with the Protection Act Child and constitution NRI, so that rule about limit age marriage now there is in Law Number 16 Year 2019, that is Marriage is only permitted if the man and woman have reached the age of 19 (Nineteen) year. And this is existence legal certainty.

### **Implementation of Law No. 16 of 2019 concerning Change On Constitution Number 1 year 1974 About Marriage**

Existence restrictions age minimum marriage is as form legal protection for children. Health, well-being and future children must awake, Thing this marriage in lower age still many happen. Remember marriage early susceptible will happening violence in house stairs, violence sexual and household.<sup>10</sup>

The revision of the marriage age limit carried out by the government is a It is a good thing to overcome the impact of underage marriage, however in Thing implementation of course needed understanding which good in society, the

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<sup>9</sup> Haris Hidayatulloh, Miftakhul Janah, "Dispensasi Nikah di Bawah Umur Dalam Hukum Islam". *Jurnal Hukum Keluarga Islam*, Vol.5.No.1, April 2020.

<sup>10</sup> Bedner, Adriaan & Huis, Stijn van, "Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia: A Plea for Pragmatism". *Utrecht Law Review*, Vol. 6, No. 2, Juni 2010.

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community can accept if this has been carried out of course people will obey these rules. Moreover, cultural factors, customs, which there are still people in the village who still support marriage in lower age. As for effort prevention marriage under age is as following Give Advice and View to Parent and Child related consequence marriage. Effort give advice and views related with family life, reproductive health and high mortality rates for mother if the one who married was young. This advice is intended so that the child no carry on desire to go to level marriage

Identify Basic Want Marry, Efforts are being made to prevent underage marriages by ensure that the desire for marriage comes from the child. Not exactly person old which most active in put forward his wish so that avoid from responsibility answer maintain child until independent. Must call children to court is an order from the Supreme Court regulations Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Dispensation Marriage. The philosophy of perma is to reduce the number of child marriages so that really should showed that child which requested dispensation have intentions to carry out marriage.

### **Protection Law In Marriage In Lower Age**

The definition of underage marriage is a marriage or contract that can ensure a man and woman each other have and can To do connection husband wife and wedding that held by somebody (candidate husband/wife) whose age has not reached the age determined by law. law which currently applies in Indonesia which has set by the government.<sup>11</sup>

Legal protection is an effort to protect everyone's right to get treatment and protection which same by law and law- Invite. Protection is all efforts aimed at providing a sense of safe for victims carried out by families, advocates, social institutions, police, prosecutors, courts. Temporary Protection is protection that directly given by the police and/or social institutions or other parties, before issued an order of protection from the court. Legal Protection for marriage below age according to Indonesian positive law.<sup>12</sup>

Protection Women in Constitution Republic Indonesia Year 1945 which has amended with provisions that take into account the principles of non-discrimination and more equal gender.

Law No.7 of 1984 concerning Convention Concerning the Elimination All

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<sup>11</sup> Imron, Ali. 2013. Perlindungan Dan Kesejahteraan Anak Dalam Perkawinan Dibawah Umur, *Jurnal Fakultas Syariah dan Ekonomi Islam IAIN Walisongo Semarang*, Vol.13 No.2.

<sup>12</sup> Khoiruddin Manaha Siregar, "Paradoks Penetapan Usia Perkawinan Dalam Undang- Undang Perkawinan Secara Hukum Normatif," *Jurnal Hukum Ekonomi*, Vol.5. No. 2, Padangsidimpuan.



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Forms of Discrimination Against Women; Support of the government of the Republic of Indonesia for the objectives of the convention on deletion all form discrimination to woman (Convention women), which was put forward in a government essay at the DPR, Jakarta, in date 27 February 1984.

Arrangement protection to right health woman in skeleton HAMnational and international in Indonesia is the protection of women in reproductive health rights. Health is a state of well-being of body and soul and social activities that enable everyone to live socially productive and economical. This definition is in accordance with WHO, health is not only related with physical health , but also mental and social health, so that every person will be able to live productively, both physically and economic and social.

Protection of women according to the Human Rights Law Number 39 1999 In discuss about protection law no could free from understanding about Right basic Man (HAM). Because HAM is a set of rights inherent in the nature and existence of human beings as creature Lord Which Almighty and is his grace which Requiredrespected, upheld tall and protected by Country, Law, Government, andevery person for the sake of honor as well protection dignity and dignity man.

Right basic woman is right which owned somebody good girl becausehe as a man as well as a woman, in law Human rights (HAM) can be found in various systems human rights law. In that sense, the regulation regarding recognition of the rights of a woman exists in various legal systems about HAM.System law about human rights that meant is system lawHuman rights, both in the international and national realms, apply inIndonesia which has been set by the government .

## CONCLUSION

The pluralism of the provisions on the marriage age limit is regulated in Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning Marriage. The minimum age limit for marriage is regulated in Article 7 paragraph (1) Law Number 1 of 1974 for women is no longer relevant, if actualized on moment this. Chapter 7 paragraph (1) Constitution Number .1 1974 states "Marriage is only permitted if the husband is 19".(Nineteen) years and the woman has reached the age of 16 (six) mercy) year". Chapter 7 paragraph (1) Constitution Number 16 year 2019 "Marriage is only permitted if the man and woman have reached the age of 19 (Nineteen) years. However, the adult age limit is influenced by the rules Laws in Indonesia , while customary law does not recognize age limit for adults or minors and no known fiction such as in civil law. Customary law only recognizes incidentally whether a person is related to his age and mental development deserve considered competent or no, capable or no capable To do deed law certain in connection law certain also. Not yet competentit means not yet

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DOI: <http://dx.doi.org/10.30596%2Fnomoi.v3i2.12221>capable take into account and keep interest alone.<sup>13</sup>

Implementation of Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning Marriage, namely by realizing to the public through the government, Civil Registry and KUA that changes to the marriage law are to provide legal certainty and legal protection for the parties who carry out the marriage. marriage. The existence of a minimum age limit for marriage is a form of legal protection for children. The health, welfare and future of children must be maintained, in this case underage marriages are still common , considering that early marriages are vulnerable to sexual and domestic violence.

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<sup>13</sup> Sri Karyati “Kebijakan Pencegahan Pernikahan Anak di Provinsi NTB Pasca Berlakunya UU No.16 Tahun 2019 Tentang Perubahan UU Nomor 1 Tahun 1974 Tentang Perkawinan“, *Unizar Law Review*, Vol.2, No.2, Desember 2019, h.139-140.

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