

IMPLEMENTING THE SDGS: IMPLICATIONS FOR REGULATING MARRIAGE AGE IN INDONESIA

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Abstract

The amendment to Marriage Law No. 16 of 2019 sets a minimum age limit to protect children, particularly by reducing maternal and infant mortality rates. In reality, before and after the revision, the existence of marriage dispensations that have been granted continues to impact maternal and child health, as outlined in the Sustainable Development Goals (SDGs) under Goal 3. Therefore, this study aims to analyze the implementation of the marriage age limit and the impact of marriage dispensations on achieving the Sustainable Development Goals (SDGs). The research method used is a legal analysis (normative) approach and a legislative and historical approach based on literature reviews. The research findings reveal that challenges to achieving the SDGs still exist, particularly due to the high number of marriage dispensations granted and the increase in maternal and infant mortality rates. This study shows that there are still differences in the interpretation of urgent reasons because judges consider legal, social, and religious aspects in marriage dispensations, resulting in inconsistencies with the objectives of the law revision. Further study is needed regarding urgent reasons to consistently implement Marriage Law No. 16 of 2019 and Perma No. 5 of 2019. Preventive efforts through education on the negative impacts of early marriage, through inter-institutional collaboration, are also essential to enhance legal understanding and public awareness.

Keywords: Marriage Age Limit; Marriage Dispensation; Sustainable Development Goals.

INTRODUCTION

In 2015, member United Nations (UN) member states agreed on 17 Sustainable Development Goals (SDGs) as a framework for addressing global challenges until 2030. These goals encompass various dimensions of life, with the primary objective of ending poverty, protecting the environment, and ensuring well-being for all segments of society. SDG 3 emphasizes explicitly the importance of fulfilling human rights. SDG 3 focuses on “Ensuring Healthy Lives and Promoting Well-being for All at All Ages,” highlighting the importance of overall health and well-being for the community. This goal encompasses various aspects, including maternal health, reproductive health, child and adolescent health, and

universal health coverage. (National Development Planning Agency, 2024)

UNICEF plays a crucial role in Indonesia in monitoring SDG 3 indicators, particularly those related to child well-being. UNICEF focuses on reducing infant and neonatal mortality rates and increasing child vaccination coverage. Despite progress, Indonesia still faces significant challenges in achieving these targets, particularly regarding the high prevalence of child marriage. Data released by the Central Statistics Agency (BPS) and UNICEF indicate that approximately 14% of women in Indonesia marry before reaching the age of 18. This suggests that, although there has been a decline in child marriage rates over the past few decades,



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the percentage remains relatively high. (Palulungan Lusia, 2019)

Article 1 of Law No. 16 of 2019, amending Law No. 1 of 1974, defines marriage as a physical and spiritual bond between a man and a woman, to establish a harmonious, eternal, and based on the principle of the One Supreme God. Meanwhile, child marriage, or what is often referred to as early marriage, refers to a situation where one or both individuals involved in the marriage have not reached the age of 18 or have not met the minimum age requirement set by law to enter into a valid marriage.

Women who marry before the age of 18 are at higher risk of experiencing sexual, physical, and psychological violence throughout their lives. The practice of child marriage not only threatens the rights of girls but also hurts their health and education. Women who marry at a young age are at higher risk of domestic violence, health problems related to early pregnancy, and limited access to education (Sarmin & Setyowati, 2023). Marriage is often influenced by various factors, including pressure from families facing financial constraints, who view child marriage as a solution (Elasia Essing et al., 2020). Parents also often worry that their children are involved in relationships without formal ties, so they marry them early.

As part of efforts to protect children from early marriage, Indonesia has made several changes to its legal system, including revising the Marriage Law No. 1 of 1974, which was later amended to Law No. 16 of 2019, setting the minimum marriage age at 19 years for males and 16 years for females. The purpose of this change is to prevent marriage practices that

could potentially threaten the health of mothers and children. (Kushidayati, 2021)

Furthermore, in the explanation of the articles, particularly Article 7 paragraph (1), the importance of setting a minimum age for marriage to protect the health of husbands, wives, and their offspring is emphasized. However, after the amendment through Law No. 16 of 2019, an equal minimum age for marriage was set for men and women, namely 19 years. Nevertheless, an exception remains in effect: individuals under 19 may apply for a dispensation from a court judge. This indicates that the state still allows marriages below the established age, provided that the court judge approves the dispensation request submitted by the parents or guardians of the prospective bride and groom.

This change, which faces various challenges, aims primarily to protect children and adolescents from the various negative impacts that may arise from early marriage practices. As observed in some cases of marriage dispensation requests studied by the author, there remains an inconsistency in the interpretation of urgent reasons by judges, resulting in the potential for underage marriages despite changes to the age limit. This contradicts implementing the Sustainable Development Goals (SDGs), particularly Goal 3: Good Health and Well-being. The contributing factors include poverty, high maternal mortality rates (MMR) and infant mortality rates (IMR), low school participation rates (SPR), high unemployment rates, and negative impacts on their health, such as giving birth at a young age, which carries the risk of death and physical and mental health issues, the risk of giving birth to stunted children due

to malnutrition, and sexual and reproductive health problems. Therefore, a more comprehensive strategy is needed to achieve this Sustainable Development Goal. (Judiasih et al., 2019)

There are policy recommendations related to child marriage, such as ensuring access to quality education and health services for all children and strengthening the social welfare system to protect children from poverty. (Kusumaningrum et al., 2023)

Additionally, strengthening executive institutions such as the Ministry of Religion and its subordinate agency, the Religious Affairs Office, is essential for preventive efforts through public awareness campaigns about the minimum marriage age. Similarly, collaboration with the Ministry of Health or the Social Affairs Department is needed to strengthen health-related education, such as the impacts of underage marriage on the physical health of mothers, infant health, reproductive health, and the consequences that may arise.

Based on this background, this study aims to analyze the implications of implementing a new minimum marriage age in reducing underage marriage in Indonesia, linking it to the implementation of the SDGs, as underage marriage is closely related to the minimum marriage age. This study is expected to provide broad insights into the factors influencing the high number of marriage dispensation requests and the impact of child marriage on the well-being of girls. Therefore, the problem to be examined is how the implementation of the SDGs relates to the marriage age limit based on Law No. 16 of 2019, as well as the implications of regulations on requests for underage

marriage regarding the SDGs on healthy and prosperous lives. Previous research titled “The Implications of Changes in Marriage Age Regulations on Marriage Dispensation Applications” (Hanifah & Ashfiyatul Chusna, 2023) has identified issues regarding the importance of amending the relevant provisions to reduce underage marriage. This study also highlights the need for marriage registration by submitting marriage dispensations. The latest research cited by the authors indicates that, in addition to reducing underage marriage, the implications of the age limit must also consider the health-related impacts as part of the Sustainable Development Goals. This study emphasizes the importance of considering other aspects of the judge's deliberations when handling marriage dispensations.

RESEARCH METHOD

The type of research applied in this study is normative legal research. This doctrinal legal approach analyzes law as a set of norms or rules that govern society. (Muhaimin, 2020)

This research method relies on primary legal materials with a legislative approach that examines the substance of the age limit for marriage in Article 7 paragraphs (1) and (2) of the Marriage Law and a historical approach that explores the background of legislative developments compared between before and after the revision, as well as a case approach from court decisions related to marriage dispensations. Secondary legal materials also support it through library research, including legal books, journals, news articles, statistical reports, draft legislation, legal expert opinions (doctrine), and other materials

related to underage marriage. (Armia, 2022)

Data analysis techniques use qualitative methods, including descriptive analytical discussion and elaboration of existing facts, then concluding from general to specific facts. (Ibrahim Jonaedi Effendi & Johnny, 2018)

RESULTS AND DISCUSSION

1. Application of Sustainable Development Goals (Goal 3) to Marriage Age Restrictions Based on Law No. 16 of 2019

The age of adulthood stipulated in various regulations in Indonesia reflects legal pluralism. Each regulation sets different criteria for defining a person's legal age (Harahap, 2020).

This legal aspect plays a crucial role in determining the capacity of a legal subject to perform legal actions. Legal actions performed by individuals who have not reached the legal age have specific legal consequences. The requirements for maturity to perform legal acts are varied, with each type of legal act setting different criteria for a person to be considered capable of acting legally before the law. (Harahap, 2020)

Regarding the age limit, Marriage Law No. 16 of 2019 is one of the laws that contains provisions on the age limit. Based on demands raised at the Women's Congress, which aimed to eliminate various forms of injustice, including the plight of women in the institution of marriage, particularly in the context of child marriage, Marriage Law No. 1 of 1974 was finally enacted. This law sets the minimum age for marriage at 19 years for men and 16 years for women, as stipulated in Article 7(1). This age limit is

based on the assumption that at this age, prospective brides and grooms are considered to have reached the necessary level of maturity and adulthood. However, even though the government has implemented various strategies to prevent child marriage by setting a minimum age for marriage, in reality, the desire and pressure to marry early are still common in society (Fadhli et al., 2022).

This situation served as the basis for re-evaluating the provisions outlined in Article 7(1) of the Marriage Law through a judicial review mechanism before the Constitutional Court. Ultimately, the Constitutional Court revised these provisions through Decision No. 22/PUU-XV/2017, which was subsequently implemented in Law No. 16 of 2019. The primary consideration in this decision emphasizes that the state is responsible for ensuring the fulfillment of every citizen's right to establish a family and continue the next generation through a valid marriage bond. The state is also obligated to protect children's rights to live, grow, develop, and be protected from violence and discrimination, as stipulated in the 1945 Constitution. Additionally, early marriage is considered to hurt children's physical, mental, and social development. This can potentially hinder the fulfillment of children's fundamental rights, including the right to be protected from violence and discrimination, civil rights, access to health care, opportunities for education, and the right to participate in social life. (Sugiarto & Sulistiyono, 2024)

The amended age limit in Article 7, Paragraph 1 of Law No. 16 of 2019 includes an exception in situations where there is non-compliance with the age limit

rules; the parties concerned may apply for a marriage dispensation to the court by providing sufficient evidence. This exemption clause allows individuals who have not reached the specified age or are not yet adults to marry, provided they obtain approval through the applicable legal process. (Aristias et al., 2024)

Indonesia is listed as one of the countries with a significant prevalence of child marriage. According to a statistical report by UNICEF in 2023, approximately 25.53 million women in Indonesia were married before age 18.

This fact places Indonesia in fourth place in the world with the highest number of cases of early marriage, after India, Bangladesh, and China. Despite ranking fourth, the data shows that child marriage rates decreased to 6.92 percent in 2023, as illustrated in the graph below. (Figure 1). This figure exceeds the target set in the National Medium-Term Development Plan (RPJMN) 2020-2024, which aims to reach 8.74 percent by 2024. (Ministry of Women's Empowerment and Child Protection, 2024)

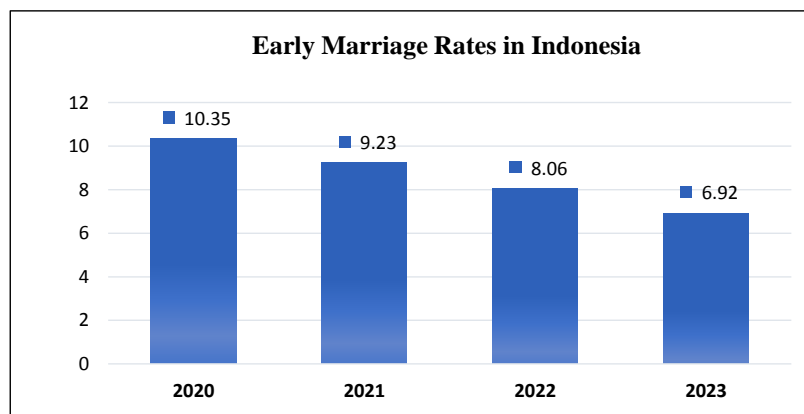


Figure 1. Graph of Child Marriage in Indonesia.

Source: The Ministry of Women's Empowerment and Child Protection data was processed.

According to the author, the change in the age limit has an indirect impact on the achievement of the Sustainable Development Goals (SDGs), specifically Goal 3 on Good Health and Well-being, which includes the indicators of Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR). Based on the aspirations outlined in the Marriage Law No. 16 of 2019, Perma No. 5 of 2019, and the Constitutional Court Decision No. 22/PUU-XV/2017, all three, whether implicitly or explicitly, all three regulations share the vision of preventing child marriage with considerations for the protection and health of mothers and

children, which must be prioritized as it remains a serious issue to this day.

The Sustainable Development Goals (SDGs) Framework, Goal 3, represents a great hope in the effort to “ensure healthy lives and promote well-being for all at all ages.” The current global reality shows a concerning situation regarding the high maternal and child mortality rates. Every two minutes, one woman loses her life due to complications during childbirth, with the majority of cases occurring in low- and middle-income countries. This situation is one of the main reasons why reducing the Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR)

must be a priority target in achieving SDG 3 (UNICEF, 2025).

Globally, according to UNICEF, the adolescent birth rate for girls aged 10–14 years in 2023 is estimated to be 1.5 per 1,000 girls. Many girls experience childbirth during adolescence, a transitional period from childhood to adulthood. This situation leaves adolescent girls, particularly those in the early stages of adolescence, vulnerable to the impacts of pregnancy and childbirth. This is due to their physical and psychological unpreparedness to undergo the reproductive process.

As a result, various health issues may arise, where mothers aged 10–19 years, or adolescents in this context, face higher risks of eclampsia, puerperal endometritis, and systemic infections compared to women aged 20–24 years. Additionally, babies born to adolescent mothers face a higher risk of low birth weight, preterm birth, malnutrition or stunting, and poor neonatal outcomes (WHO, 2024).

In this context, the age at first marriage is a crucial determinant influencing fertility rates and the success of children's growth and development. Discrepancies in this aspect may lead to growth disorders or stunting. Conceptually, the age at first marriage refers to the age at which an individual enters a marital union, marking the beginning of the reproductive period. Thus, the age at first marriage is an essential indicator of fertility dynamics and future child health. Although some studies indicate that marriage at a young age or early pregnancy is not a direct cause of stunting and does not always have a significant association with stunting incidents, some implications

need to be considered. Mothers who marry at a young age generally tend to have suboptimal parenting patterns. These inadequate parenting patterns can negatively impact children's nutritional status, ultimately contributing to the risk of stunting. (Mustajab, 2023)

This is also related to the Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR), which are affected by child marriage or marriage under the legal age. Pregnancy at a young age can lead to pregnancy-related deaths because the intensity is higher in the too-young age group, as also included in the BKKBN program, namely 4T (too young, too old, too close, too many). Approximately 75% of all maternal deaths are caused by significant complications, including severe bleeding (particularly postpartum hemorrhage), infections that commonly occur after childbirth, hypertension during pregnancy (such as preeclampsia and eclampsia), complications arising during birth, and unsafe abortion practices. (Central Statistics Agency & UNFPA, 2023)

Indonesia is among the top ten countries with the highest neonatal mortality rates in the world, with 56,000 deaths in 2020. This figure represents an average of six newborn deaths every hour in Indonesia. Neonatal deaths are the primary contributor to the Infant Mortality Rate (IMR), accounting for about 55 percent of total infant deaths. Furthermore, the IMR itself contributes 85 percent to the overall mortality rate in the under-five age group. (Central Statistics Agency, 2023)

Thus, in 2023, the maternal mortality rate (MMR) across Indonesia remained at over 100 deaths per 100,000 live births,

while the infant mortality rate (IMR) was recorded at over 15 deaths per 1,000 live births (Central Statistics Agency, 2024). According to data from the Maternal Perinatal Death Notification (MPDN) system, which the Ministry of Health

operates, there was a significant increase in the number of maternal deaths and infant deaths from 2022 to 2023, as shown in this graph. (Figure 2). (Ministry of Health, 2024)

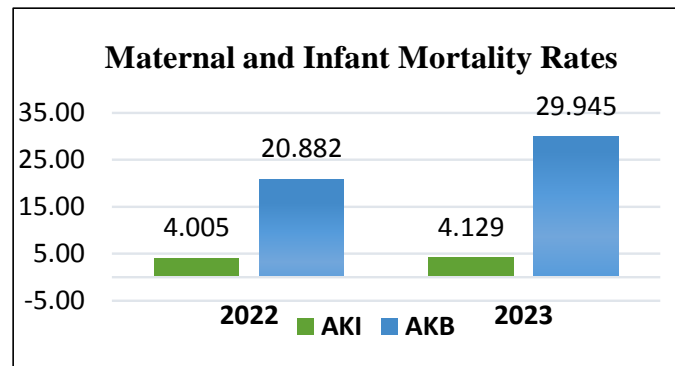


Figure 2. AKI & AKB graphs in Indonesia Source: Ministry of Health data processed

As the nation's future generation, children's health is formed during pregnancy and is greatly influenced by the mother's health during that period. Therefore, efforts to improve the health of mothers and children are a crucial aspect that must receive serious attention from the state. This aligns with the provisions of the Law of the Republic of Indonesia No. 17 of 2023 on Health, particularly Article 40, which states that maternal health services aim to give birth to healthy, intelligent, and high-quality children and reduce the maternal mortality rate (MMR). (Central Bureau of Statistics, 2024) This is also related to adolescent fertility rates. In monitoring birth rates among adolescents, the SDGs include the teenage fertility rate (AFR) for females aged 10–14 and 15–19 as an evaluation indicator for development (Central Statistics Agency, 2023)

Based on data from the Long Form of the 2020 Population Census, the adolescent fertility rate has decreased significantly over the past fifty years,

reaching 26.64 births per 1,000 women in 2020. However, to achieve the target teenage birth rate in the 2020-2024 National Medium-Term Development Plan (RPJMN) of 18 births per 1,000 women aged 15-19, sustained and intensive efforts are still required (Central Statistics Agency & UNFPA, 2023)

The steps taken by the government in revising the age limit through legislation are very appropriate in reducing adolescent fertility and improving reproductive health in Indonesia. However, the enforcement of the Marriage Law faces various complexities that do not completely stop child marriage.

This is because judges still have discretion regarding underage marriages, as stipulated in Article 7(2) regarding court dispensations, which allows for loopholes that enable child marriages to occur. The revision of this law aims to integrate child protection norms, such as protection from violence and discrimination, and to guarantee the

fulfillment of children's rights in health, social welfare, education, and civil rights. However, this does not align with the current implementation (Dedy et al., 2021).

Discriminatory provisions are widespread and persistent in laws that disadvantage girls, in addition to legal exceptions to minimum age requirements based on parental consent and customary/religious laws that create loopholes that lower the minimum legal age for marriage below 18 years. Although it is difficult to identify effective policies to prevent or reduce early marriage, this remains a top priority for academics and policymakers concerned with improving the status of children and women by increasing their human and social capital opportunities (Batyra & Pesando, 2021).

The implementation of this legal system is based on three fundamental pillars, namely legal structure (institutions or agencies responsible for enforcing the law), legal substance (norms or regulations applied to enforce the law), and legal culture (attitudes and beliefs of the community towards the law). Meanwhile, the effectiveness of the law can be assessed by examining the gap between the law as implemented and its theoretical concept. This means that observing how the law is applied can regulate society to comply with the law (Soekanto Soerjono, 1985). In this regard, several key factors can influence the new Marriage Law.

According to Soerjono Soekanto's understanding (Ubaidila & Melinda, 2024), five factors form the basis for law enforcement: legal substance, law enforcement, society, facilities and

infrastructure (legal facilities), and culture.

According to the author, further efforts are needed to ensure that society complies with these rules and achieves these goals regarding the goal of Good Health and Well-being in the SDGs. Therefore, the role of laws as binding regulations that govern and protect society must be effectively implemented, as they aim to establish order and balance other aspects of life, including philosophical, sociological, and legal dimensions. Consequently, support for the SDGs here is also needed from a regulatory perspective as a commitment to fostering a law-abiding society while considering other aspects of life.

The enforcement of Law No. 16 of 2019 is slowly contributing to the achievement of SDG Goal 3, but further action is still needed to achieve the goal optimally, so that it can be realized not only as a means to minimize the impact that occurs. Although the exemption clause provides flexibility under certain conditions, implementing this law must remain consistent with its primary objectives, namely protecting children's rights and preventing early marriage.

This law can be implemented effectively without compromising its essence and objectives by tightening the conditions for exemptions, enhancing the role of law enforcement agencies, and conducting intensive public awareness campaigns. Collaboration between institutions and regular monitoring are also necessary so the entire community can evenly feel the law's positive impacts. Thus, this law protects children's rights and supports sustainable development in

health and welfare so that these goals can be achieved by 2030.

2. Implications of Regulations on Marriage Applications for Minors about the Sustainable Development Goals on Good Health and Well-Being

The significance of this change is inseparable from Constitutional Court Decision No. 22/PUU-XV/2017, which states that Marriage Law No. 1 of 1974 is not in line with Child Protection Law No. 35 of 2014, which defines a child as a person under the age of 18. Meanwhile, under the Marriage Law, the minimum age for women is 16 years and for men 19 years. This is inconsistent with the principles of child protection, and such inconsistency may lead to child marriage that violates aspects of education, health, and even violence against children. The Constitutional Court judges stated that the lower age limit for women compared to men has the potential to infringe upon women's rights and accelerate their entry into family formation. Building on the Constitutional Court's ruling, the high maternal mortality rate in Indonesia—which is partly due to inadequate reproductive health, pregnancy, and childbirth preparedness—has prompted changes to the age requirement (National Legal Development Agency, 2019).

The amendment to the Marriage Law is also supported by the issuance of Supreme Court Regulation (Perma) No. 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Requests. The revision to Article 7 essentially does not restrict individuals who have not reached the minimum age from submitting a marriage dispensation request. However,

such requests must be accompanied by compelling reasons. Additionally, applicants are required to meet formal requirements, ensuring that the child and their family meet the criteria for eligibility and readiness to obtain marriage dispensation approval (Damanik, 2023)

Referring to these changes, which influence the judge's determination to issue a marriage dispensation ruling, after the age requirement is amended, judges will be more cautious in determining whether to grant or reject the request. According to data from the Religious Court, there were 65,000 cases of marriage dispensation for minors in 2021 and 52,000 cases in 2022, with 34,000 of these cases attributed to parental pressure due to the child already having a close friend or boyfriend/girlfriend. A total of 13,547 applicants sought marriage permission because they were already pregnant, and 1,132 applicants admitted to having had sexual relations. Additionally, data compiled by the Judicial Research Society (IIRS) shows that between 2019 and 2023, approximately 95% of marriage dispensation requests submitted were approved by both Religious Courts and District Courts (Rahayu, 2024).

These data indicate that many marriage dispensation applications are still being submitted, despite modifications to the Marriage Law aimed at minimizing marriage dispensation to prevent child marriage or marriage under the legal age. As in the example of marriage dispensation applications from several provinces in Indonesia that the author studied, as follows:

a. Decision Number 23/Pdt.P/2024/PA East Jakarta

The petitioner filed a petition as the mother of a 17-year-old woman whose prospective husband is 19 years old, as the Duren Sawit Religious Affairs Office had rejected the marriage. The petition was filed because the couple had been in a close relationship for four months, and the woman was pregnant, prompting the petitioner to assert this as an urgent matter and request approval. In his consideration, the judge noted that both parties were ready to marry and expressed concern that refusing the request could lead to harm, so the judge granted the request based on the fiqh principle: "Avoiding harm is more important than seeking benefit." The judge deemed the request reasonable and not contrary to the law, and by the applicable regulations, Article 7 paragraphs 1 and 2 of Marriage Law Number 16 of 2019.

b. Decision Number 83/Pdt.P/2023/PA Manna

The petitioner filed the petition as a 16-year-old woman, and the prospective husband was also 16. Hence, the Seginim Subdistrict KUA refused to marry them because they had not reached the minimum age for marriage. The petitioner filed because the two were close, and the woman was three months pregnant. Based on these reasons, the judge deemed the matter urgent and evaluated the evidence and statements from the petitioner and the petitioner's child. The judge concluded that if the marriage were not immediately granted, it could have negative consequences, particularly for the child's lineage, and thus granted the petition.

c. Decision No. 1661/Pdt.P/2022/PA.Jember

The petitioner submitted a request for her 16-year-old daughter, while the prospective husband of the petitioner's daughter is 25. The petitioner's daughter has not reached the legal age, so the Religious Affairs Office (KUA) rejected the request. The petitioner submitted the request because the two are already very close and have been engaged for one month, so there is concern that they may engage in unwanted behavior if they are not married. The judge considered that the petitioner's daughter and her prospective husband were ready to marry, their relationship was based on mutual love, and they were difficult to separate. Therefore, the judge granted the request, referring to fiqh principles, hadith, and the words of Allah.

d. Decision No. 394/Pdt.P/2024/PA.Bojonegoro

The Petitioners submitted a request for their 18-year-old daughter, whose prospective husband is 32. Since the Petitioner's daughter has not reached the legal age, the Religious Affairs Office (KUA) rejected the request. The request was submitted because the two have been very close for one year, have lived together, and have engaged in intimate relations akin to married couples, although she is not pregnant. Therefore, to prevent such situations from recurring, the Petitioner wishes to marry off her daughter. The judge granted the request based on the principle of avoiding "other negative consequences that would arise if the marriage is not immediately conducted," as it is feared that "the unrestricted relationship before marriage,

as previously done, will recur” if the child is not immediately married. Based on these considerations, “deviating from the ideal age limit of 19 years” was deemed less harmful than maintaining the age limit.

e. Decision No. 102/Pdt.P/2024/PA.Pasarwajo

The petitioner filed a request because the KUA refused to marry the petitioner's 17-year-old child, while the prospective husband was 27 years old. The request was because the two had been dating for two years and engaged for one year and three months, so the petitioner was concerned about unwanted actions. The judge assessed the interpretation of “urgent reasons” in Article 7(2) of the Marriage Law No. 16 of 2019, which refers to a situation where there is no other option but to proceed with the marriage. However, the judge determined that this situation did not constitute an urgent reason, and the petitioner's child was not pregnant. The judge assessed the high health risks, both physical and mental, to the mother and child if they marry at a young age. The judge deemed the dangers and risks far greater than the benefits, thus rejecting the request.

f. Decision Number 181/Pdt.P/2020/PA Tais.

The Petitioner filed a petition for her 14-year-old child. At the same time, the Petitioner II, as the parent of the prospective husband who is 18 years old, wanted to marry off her child, but was rejected by the KUA because the minimum age for marriage had not been met. The petition was filed because the petitioner's child and her prospective husband are very close and have even had

a relationship like husband and wife. However, she is not pregnant, so the petitioner is concerned that undesirable things may happen if she is unmarried. In its consideration, the judge assessed that although both parties are willing to marry, the judge looked at the educational aspect, where both parties do not yet have sufficient knowledge.

Additionally, the judge referred to data from Seluma District, which has a high rate of early marriage in Bengkulu, and the Regent's Regulation No. 27 of 2018 on the Prevention of Marriage at a Young Age, as a follow-up to the Governor of Bengkulu's Regulation No. 33 of 2018 on the Prevention of Child Marriage. Thus, the judge deemed it imperative to enforce this regulation as part of the state's role in educating and protecting children. Therefore, the judge found no urgent circumstances for the petitioners' children and rejected the request.

g. Decision No. 412/Pdt.P/2024/PA.Sambas

The Petitioner filed the petition because the Religious Affairs Office refused to marry the Petitioner's child, who is 15 years old, while the prospective husband is 20. The petition was because the two had been dating for 1 year and 3 months and lived together as husband and wife. However, the Petitioner was concerned about the possibility of unwanted repeated acts.

The judge considered the parents' responsibility to educate, care for, and protect their children as stipulated in the Child Protection Law No. 35 of 2014. The judge ruled that the reasons presented by the petitioner were not urgent enough to

override the petitioners' obligation as responsible parents to guarantee their child's rights. Referring to fiqh principles, the judge deemed the Petitioner's child too young to marry, fearing she would be unable to fulfill her obligations as a wife and that this would cause significant harm; thus, the request must be denied.

h. Decision No. 0052/Pdt.P/2023/PA.Boyolali

The Petitioners submitted a request for their 17-year-old daughter to marry her 18-year-old fiancé, but the KUA rejected the request as she had not yet reached the required age. The couple had been in a close relationship for six months, and the Petitioners' daughter was four months pregnant. The Petitioners argued that the situation was urgent and feared it would dishonor their family and lead to undesirable consequences. The judge's consideration did not recognize the urgency of the applicants' daughter's situation.

According to the judge, six months is too short to get to know each other, even though the applicant's daughter is pregnant. The judge solely determines the situation's urgency, so pregnancy is not a criterion for the judge to grant the request in the marriage dispensation hearing. The judge ruled that the prospective husband must first complete his education; thus, the judge determined that the “extremely urgent reason” was not met, as stipulated in Article 7(2) of the Marriage Law No. 16 of 2019. (Muliati, 2023)

From the above rulings on marriage dispensation requests, it can be seen that in deciding a case, the judge not only considers the material truth but must also examine the implied truth in the case

presented. After reviewing the implied truth, the judge then assesses whether that truth is relevant to the applicable law (Fadhli et al., 2022)

Examining marriage dispensation requests should be directed toward achieving the greater good. Judges often prioritize avoiding harm over seeking the greater good based on fiqh principles. In some of the cases mentioned above, requests submitted to the Religious Court are typically motivated by concerns about potential violations of legal norms or acts of adultery. Therefore, judges generally grant requests based on considerations to protect and realize the parties' welfare to avoid greater negative impacts (Ashari, 2024). However, this creates a gap in legal certainty. This is because, with only one compelling reason, such as concerns about adultery, inconsistencies in decisions may arise; one case may be granted while another is rejected. In addition, being pregnant outside of marriage is usually also associated with social views that consider it a disgrace.

In such situations, judges may grant approval based on public interest considerations, both for the unborn child and the parents (Ramdhani Helmi, 2022). However, in the case example, this situation is not interpreted as an urgent circumstance for the judge.

In this regard, there are still gaps or inconsistencies in interpreting facts, evidence, or statements supporting the phrase “urgent.” Inconsistent interpretation of legal provisions creates ambiguity that leads to legal uncertainty. Ideally, every individual who intends to marry should be able to understand and predict the outcome of their application based on applicable legal provisions.

However, differences in interpretation between regions cause confusion and uncertainty regarding fulfilling the “urgent reasons” criteria. This condition has the potential to cause injustice, where in one region an application for marriage may be approved, while individuals with similar conditions in another area may not. This inconsistency in legal interpretation can lead to discriminatory practices. For example, suppose judges in a specific region tend to accept reasons related to a particular social or economic status. In that case, individuals from specific social backgrounds may receive more favorable treatment than others. This phenomenon contradicts the principle of justice, which should be the primary foundation for applying the law. (Hikmah et al., 2025).

In the context of substantive law, judges are given the “freedom” to apply rules, interpret them, or even deviate from them. In handling marriage dispensation cases, judges face legal norms allowing such freedom. This judicial discretion is reflected in Article 17(1) and (2) of the Supreme Court Regulation (Perma) No. 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Applications, which essentially states that marriage dispensation applications must consider the “best interests of the child” based on regulations related to child protection. Thus, this freedom remains necessary within the boundaries of enforcement aspects (Syarkowi A, 2024).

This situation highlights the gap between the expected normative conditions (*das sollen*) and the empirical reality (*das sein*), which requires serious attention. In this context, judges-the authority responsible for making final

decisions-often face dilemmas in balancing philosophical, sociological, and legal considerations. Therefore, a more in-depth study is needed to examine this issue comprehensively (Ramdhani Helmi, 2022).

Regarding the judge's considerations, based on the author's interview with Judge Drs. Ifdal S.H., who handled one of the cases described above at one of the Religious Courts in Jakarta, he explained that the number of cases continues to increase because many petitions are granted by considering sociological perspectives or social responsibility towards women. Many petitions are filed when women are pregnant out of wedlock, which is regarded as an “urgent situation,” forcing judges to consider the social aspects of women and their unborn children. The judge emphasized that in decisions, not only is justice considered, but also the benefits of the law that align with the social situation in society. According to Mr. Drs. Ifdal S.H., requests for dispensation that are rejected generally occur when the reasons presented do not demonstrate urgency or clear benefits from the legal risks taken.

The increase in the number of requests for marriage dispensations and underage marriages indirectly impacts efforts to achieve global goals in ending child marriage in Indonesia, as outlined in the Sustainable Development Goals (SDGs) program, particularly in achieving gender equality and empowering women and girls. With this upward trend, Indonesia will face significant challenges in reaching the target of eliminating underage marriage, especially for girls. The changes made to the Marriage Law are fundamentally positive in their intent.

However, their implementation on the ground has not aligned with expectations. As a result, revising the law setting the minimum marriage age has not significantly reduced the rate of early marriage in Indonesia. On the other hand, the role of the courts as the final authority in efforts to curb the practice of early marriage has also not had a significant impact. Almost all requests for marriage dispensations submitted have been approved by the courts.

The publication by the Center for Research and Advocacy on Child Protection and Quality of Life (PUSKAPA), which is part of the implementation of the National Strategy for the Prevention of Child Marriage (Stranas PPA) 2020-2024, compiles policies developed through collaboration between the Ministry of Women's Empowerment and Child Protection (KemenPPPA) of the Republic of Indonesia and PUSKAPA. There are policy recommendations related to child marriage, such as ensuring access to quality education and health services for all children and strengthening the social welfare system to protect children from poverty. (Kusumaningrum et al., 2023)

According to Mr. Hakim, Drs. Ifdal, S.H., based on the interview results, strengthening executive institutions such as the Ministry of Religion and its subordinate agencies, such as the Religious Affairs Office, is essential to undertake preventive efforts through awareness campaigns regarding the minimum marriage age for the public. Additionally, collaboration with the Ministry of Health or the Social Affairs Department is needed to strengthen health-related education, such as the

physical health impacts on mothers, infant health, reproductive health, and the consequences that may arise.

Furthermore, judges must be able to verify that the promises or guarantees submitted by the petitioner, typically the parents or guardians, are truly implemented. The documents used as the basis for the judge's decision should also include reports on the health condition and reproductive readiness of the girl based on recommendations from supporting parties, such as psychologists, professional social workers, social welfare workers, or the Integrated Service Center for the Protection of Women and Children (P2TP2A). (Fajriyah et al., 2023)

CONCLUSION

1. The age of adulthood in Indonesia is pluralistic, with each law having its standards. Marriage Law No. 16 of 2019 sets the minimum age for marriage at 19 years to protect children's rights and prevent negative impacts such as health, education, and social problems. Although there has been progress in reducing child marriage rates, data shows that there is still an increase in the Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR). In revising the law to reduce child marriage rates, there are still challenges to be faced, such as the frequent granting of marriage dispensations and socio-economic factors that continue to hinder prevention efforts.
2. Effective implementation requires intensive socialization, increased role of law enforcement, and inter-agency collaboration. Judges consider legal,

social, and religious aspects in deciding marriage dispensations, but the high number of dispensations indicates that efforts in revising the law have not been optimal. To achieve the SDG targets, education on the negative impacts of early marriage is needed, preferably through inter-agency collaboration, such as between the Ministry of Religion, the Religious Affairs Office (KUA), the Ministry of Health, and the Social Affairs Office. It is also important to undertake preventive efforts to improve access to education and health services and strengthen the social welfare system. Additionally, the community should also enhance legal awareness to support efforts to prevent child marriage.

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