



INTERGRATION OF THE MINIMUM AGE LIMIT FOR MARRIAGE IN A CHILD PROTECTION PERSPECTIVE IN INDONESIA

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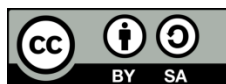
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ABSTRACT

This study examines the regulation of the minimum marriage age in Indonesia from the perspectives of child protection and Islamic law. The issue is grounded in the persistence of child marriage despite the enactment of Law Number 16 of 2019, which equalizes the minimum marriage age for men and women at 19 years as a follow-up to Constitutional Court Decision Number 22/PUU-XV/2017. This research employs a normative juridical method using statutory, conceptual, and Islamic law approaches. The findings show that the minimum marriage age regulation is normatively aligned with the principles of child protection, gender equality, and maqashid sharia, particularly through the concepts of baligh, rusyid, and maslahah. However, its implementation remains ineffective due to the frequent use of marriage dispensation, strong cultural and economic pressures, and low public legal awareness. The novelty of this study lies in its integrative analysis of state law and Islamic legal principles in assessing the effectiveness of minimum marriage age regulation as an instrument for preventing child marriage. This study emphasizes the need for stricter judicial supervision, stronger legal literacy, and community-based prevention strategies to ensure comprehensive child protection.

Keywords: child protection, marriage dispensation, minimum marriage age, maqashid sharia, Islamic law

1. INTRODUCTION

Child marriage remains a serious legal and social issue in Indonesia, directly related to the protection of children's rights, gender equality, reproductive health, education, and the quality of human development. Although the government has strengthened regulations through Law Number 16 of 2019, which sets the minimum age for marriage at 19 for both men and women, the practice of child marriage continues to occur in various social contexts. This phenomenon demonstrates the gap between legal norms and social reality, particularly when child marriage is still perceived as a solution to economic and cultural pressures, out-of-wedlock pregnancies, or to maintain family honor. In the context of child protection, child marriage cannot be understood as a purely private family matter, but

rather as a form of structural vulnerability that can hinder a child's physical, psychological, social, and economic development (Mahayogi et al., 2025; Suryati, 2025). Normatively, the change in the minimum marriage age is the state's response to Constitutional Court Decision No. 22/PUU-XV/2017, which deemed the difference in the marriage age limit for men and women in Law No. 1 of 1974 to contain elements of gender discrimination. Prior to this change, women were permitted to marry at age 16, while men were permitted at age 19. This provision was deemed inconsistent with the principles of equality before the law, child protection, and citizens' constitutional rights. Through Law No. 16 of 2019, the marriage age limit was then raised to 19 in an effort to strengthen legal protection for children and prevent the practice of early marriage. However, the effectiveness of this regulation remains problematic because Article 7 paragraph (2) still allows for marriage dispensation through the courts, provided there is urgency and sufficient supporting evidence (Hanum, 2019; Rahman et al., 2024).

Marriage dispensation is a weak point in the implementation of the minimum marriage age limit because in practice it is often used as a legal means to legitimize child marriage. Ideally, marriage dispensations are legal exceptions that should be strictly enforced, taking into account the best interests of the child. However, social reality shows that requests for dispensations are often filed due to cultural pressures, economic reasons, low education, unplanned pregnancies, and family pressure to avoid social stigma. This situation means that the minimum age for marriage norm does not fully function as a tool for preventing child marriage. In fact, if judges' considerations are not based on a rigorous child protection assessment, marriage dispensations can become a legitimizing mechanism for child marriage, contradicting the very purpose of marriage law reform (Choirina, 2023; Muhari, 2025).

The impact of child marriage is multidimensional and impacts the future of children, especially girls. Children who marry at an early age are more likely to drop out of school, miss out on opportunities for a proper education, and enter married life without psychological or economic preparation. In terms of reproductive health, child marriage increases the risk of pregnancy complications, anemia, premature birth, low birth weight, mental health disorders, and stunting in children. Furthermore, child marriage also increases the risk of domestic violence, economic exploitation, social marginalization, and gender inequality because girls are placed in a weak social position within the household. Therefore, child marriage is a child protection issue that impacts the quality of future generations, family well-being, and sustainable human development (Findayani et al., 2024; Listya et al., 2025; Friska et al., 2025).

From an Islamic legal perspective, discussions regarding the minimum age for marriage cannot be simplified to the concept of puberty as a sign of biological maturity. Marriage in Islam aims to achieve public welfare, preserve offspring, protect human dignity, and build a harmonious family. Therefore, readiness for marriage needs to be understood more comprehensively through the concept of *rusyd*, namely intellectual, psychological, and social maturity, and the ability to take responsibility in married life. Within the framework of the *maqasid sharia* (Islamic principles), limiting the age of marriage can be viewed as a form of legal *ijtihad* aimed at preventing harm and maintaining public welfare, particularly the protection of the child's life, mind, offspring, and dignity. Therefore, the minimum age limit of 19 years in Law Number 16 of 2019 can

be understood as a legal policy that aligns with the values of protection in Islam, as long as it is directed at preventing social harm and protecting the best interests of children (Hesasy & Triana, 2025; Mauliq et al., 2025).

Several previous studies have discussed child marriage from the perspectives of positive law, child protection, reproductive health, and the maqasid sharia. However, some studies are still partial, focusing only on regulatory aspects, social impacts, or marriage dispensations. Integrative studies linking the minimum age for marriage, child protection, the effectiveness of marriage dispensations, and Islamic legal perspectives still need to be strengthened. Based on this gap, this study aims to analyze the integration of minimum age for marriage regulations from the perspective of child protection and Islamic law in Indonesia. The novelty of this research lies in its attempt to examine the minimum age for marriage as a legal instrument that is oriented not only toward normative certainty but also toward child protection, gender equality, and the welfare of the people within the maqashid sharia. Therefore, this research is expected to provide theoretical contributions to the development of Islamic family law and practical contributions to strengthening child marriage prevention policies in Indonesia.

2. RESEARCH METHOD

This study uses normative legal research with a normative juridical approach to analyze the minimum age for marriage from the perspective of child protection and Islamic law. Normative legal research was chosen because the study focuses on examining legal norms, legal principles, court decisions, and legal doctrines related to the prevention of child marriage in Indonesia. The approaches used include a legislative approach, a conceptual approach, a case approach, and an Islamic legal approach. The legislative approach is used to examine Law Number 16 of 2019, the Child Protection Law, and Constitutional Court Decision Number 22/PUU-XV/2017. The conceptual approach is used to understand the concepts of child protection, the best interests of children, gender equality, and legal effectiveness. Meanwhile, an Islamic legal approach is used to analyze the minimum age for marriage through the concepts of baligh (baligh), rusyid (compulsory maturity), masalahah (masalahah), and maqashid sharia (the principle of sharia) as the basis for protecting the soul, mind, offspring, and human dignity (Hanum, 2019; Rahman et al., 2024; Hesasy & Triana, 2025).

The sources of legal materials in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations related to marriage, child protection, and children's constitutional rights, especially Law Number 16 of 2019 and Constitutional Court Decision Number 22/PUU-XV/2017. Secondary legal materials were obtained from scientific journals, law books, research results, and academic literature discussing child marriage, marriage dispensation, child protection, reproductive health, gender equality, and maqashid sharia. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting sources used to clarify important concepts in the study. The technique of collecting legal materials was carried out through literature study by tracing, reading, classifying, and reviewing relevant legal documents and scientific literature. The use of literature review is crucial because this research does not aim to directly measure empirical societal behavior, but rather to assess the coherence, normative effectiveness,

and integration of positive law with child protection principles and Islamic law (Sitorus & Tamsil, 2020; Karomah, 2025; Mauliq et al., 2025).

The analysis of legal materials was conducted qualitatively and descriptively using a deductive approach. The analysis phase began by identifying legal norms regarding the minimum age for marriage, then interpreting these norms in relation to the principles of child protection, gender equality, and the maqasid of sharia. Next, this study analyzed the effectiveness of legal implementation through issues of marriage dispensation, cultural pressures, economic factors, and low public legal awareness. The analysis was conducted by comparing the normative objectives of limiting the age for marriage with the legal reality that still allows for child marriage through dispensation mechanisms. Thus, this study not only describes the applicable legal provisions but also assesses the extent to which the minimum age for marriage serves as a child protection instrument. The results of the analysis are then systematically compiled to show the relationship between state law, Islamic legal principles, and the need to strengthen child marriage prevention policies in Indonesia (Choirina, 2023; Muhari, 2025; Syahputra et al., 2025).

3. RESULT AND ANALYSIS

Minimum Age Regulations for Marriage in Indonesia

Constitutional Court Decision No. 22/PUU-XV/2017 represents a significant milestone in marriage law reform in Indonesia, as it affirmed that the difference in the minimum age for marriage between men and women violates the principles of equality before the law, child protection, and the guarantee of citizens' constitutional rights as stipulated in the 1945 Constitution. In its legal reasoning, the Constitutional Court concluded that the 16-year-old age requirement for girls in Law No. 1 of 1974 has opened the door to the legalization of child marriage, resulting in the loss of educational rights, increased reproductive health risks, child exploitation, gender discrimination, and increased social vulnerability for women. The Court emphasized that the state is obligated to guarantee comprehensive child protection, including protecting girls from early marriage practices that can hinder their physical and mental development. Therefore, the Court ordered legislators to amend the minimum age for marriage to harmonize national law with the principles of human rights and child protection. This decision demonstrates that the law serves not only as a tool of social legitimacy but also as an instrument for correcting norms that give rise to gender-based discrimination. This ruling subsequently became the basis for Law No. 16 of 2019, which equalized the minimum age for marriage for men and women at 19 years. Constitutional Court Decision No. 22/PUU-XV/2017 is strategically important in strengthening child protection, realizing gender equality, and establishing a marriage legal system that is more oriented toward human rights and the best interests of children. (Hanum, 2019)

Law No. 16 of 2019 stipulates that marriage can only be performed if both men and women are 19 years old. Therefore, the minimum age for marriage was equalized, and the previous provisions that differentiated the age of women were corrected, as a way to strengthen child protection and gender equality. This amendment also followed up on Constitutional Court Decision No. 22/PUU-XV/2017, which deemed the previous difference in age limits discriminatory. This law still provides for dispensation through

the courts if there are urgent reasons and sufficient evidence, but this should be read as a strict exception, not the normal course, as consideration must return to the best interests of the child. From a human rights perspective, this age restriction is seen as relevant to safeguarding children's rights to education, health, and proper development, while simultaneously strengthening women's dignity within equal marital relationships. Therefore, the provisions of Law No. 16 of 2019 are not merely age-specific regulations, but rather legal protection instruments that position children and women as subjects of rights, not objects of harmful social practices. (Rahman et al., 2024)

Child protection in early marriage is a constitutional obligation of the state aimed at ensuring the fulfillment of the right to life, the right to growth and development, the right to education, and the protection of children from discrimination and violence. Normatively, the principle of child protection in Indonesia is affirmed in Law No. 35 of 2014 concerning Child Protection, which positions children as legal subjects whose best interests must be protected by the state, family, and society. In practice, child marriage actually demonstrates a dysfunctional legal protection because children are positioned in social relationships that do not align with their physical and psychological maturity. Underage marriage leads to loss of access to education, an increased risk of domestic violence, economic exploitation, and threats to girls' reproductive health. Furthermore, the weak implementation of legal regulations and the high rate of marriage exemptions demonstrate that child protection is not yet optimally implemented in practice. Therefore, child protection cannot be understood solely as written norms but must be realized through strengthened state policies, court oversight, and increased public awareness of children's rights so that the practice of early marriage can be systematically prevented. (Karomah, 2025).

Marriage is basically aimed at realizing the welfare, preserving offspring, and creating a harmonious family life, so its implementation must pay attention to the physical and mental readiness and responsibility of the parties to the marriage. The concept of *baligh* in classical *fiqh* is often used as a measure of biological maturity, but the development of contemporary Islamic law places *rusyd* as an important element that indicates intellectual maturity, social maturity, and readiness to carry out household responsibilities. Therefore, limiting the age of marriage as a valid form of *ijtihad* to protect the soul, mind, offspring, and human dignity. Preventing child marriage is in line with the objectives of *maqashid sharia* because this practice often causes harm in the form of dropping out of school, domestic violence, poverty, and reproductive health problems for women and children. Islamic law is not only understood textually, but also substantively through a *maslahah* approach that is oriented towards the protection of children's rights and gender equality. The minimum age for marriage in national law can be seen as aligned with the principles of *maqasid sharia* because it aims to safeguard individual well-being and prevent broader social harm (Hesasy & Triana, 2025).

Impact of Child Marriage on Child Protection

Child protection places the state with a primary obligation to prevent marriages taking place before children reach adequate physical, psychological, and social readiness. This practice not only contradicts the objectives of the minimum age for marriage reform in Law No. 16 of 2019, but also demonstrates that marriage exemptions remain a loophole that can weaken legal protections if not accompanied by strict oversight and a thorough

assessment of the child's best interests. In social reality, the most obvious impact of child marriage is seen in school dropouts, as children who marry during primary or secondary school age often permanently lose their right to education due to having to fulfill household roles, endure social pressure, or face environmental stigma, thus diminishing their educational future and the quality of their human resources. Early marriage is directly linked to increased school dropout rates and weakened fulfillment of children's educational rights, while schools are often unaware of students' marriages until the children actually drop out of school. (Findayani et al., 2024)

From a reproductive health perspective, child marriage also carries a high risk because adolescents' reproductive organs are not yet mature enough for pregnancy, childbirth, and breastfeeding. This can lead to complications such as anemia, premature birth, low birth weight, mental health disorders, and difficulty accessing contraceptive knowledge and maternal-child health services. Women who marry early are more susceptible to reproductive disorders, stress, depression, and obstetric complications. Therefore, child marriage cannot be understood as a purely private decision, but rather a public health issue with intergenerational impacts. (Listya et al., 2025)

These impacts then lead to stunting, as pregnancy at an immature age is often accompanied by poor maternal nutritional status, suboptimal biological readiness, and limited parenting knowledge, making the resulting babies more susceptible to growth disorders. Early marriage is a contributing factor to high rates of stunting in children, particularly in rural areas. This link is reinforced by findings in legal education in schools that view stunting as a direct consequence of immature female reproductive organs and low readiness for parenthood. (Yussuli et al., 2023)

Child marriage opens up opportunities for violence and exploitation, as power relations within the household become unequal, girls are often placed in subordinate positions, and protections against violence and discrimination are weakened. Children who marry early are more vulnerable to domestic violence, sexual violence, and domestic exploitation. More broadly, child marriage is also linked to vulnerability to human trafficking, as children are in a vulnerable position, easily manipulated by economic pressures, power relations, and minimal institutional protection. Therefore, from the perspective of child protection and gender equality, child marriage must be interpreted as a structural violation of children's rights to education, health, security, and normal development, not simply a violation of administrative age. (Friska et al., 2025)

Effectiveness of the Implementation of the Minimum Age for Marriage

The effectiveness of the implementation of the minimum age for marriage in Law No. 16 of 2019 should be interpreted as the state's effort to close the gap between child marriage by affirming the minimum age of 19 for both men and women, while marriage dispensations are only considered a very strict exception, not a routine mechanism. However, in practice, this policy has not been optimally implemented because there remains a gap between written norms and social values that continue to support early marriage. Structural, cultural, and customary factors contribute to weakening the binding power of the regulation. The marriage age regulation is not fully effective because the written law is not aligned with the social reality that still allows for early marriage. The urgent reasons for dispensation requests are often unclearly understood by the public,

ultimately leading to many requests being submitted without a clear sense of urgency that truly meets child protection standards.

Therefore, dispensation requests should be positioned as a last resort, with the primary criteria being the best interests of the child, the child's development, and a rigorous examination of supporting evidence, rather than merely a formal justification for legalizing a marriage that is not yet suitable for the age of consent. The implementation of Law No. 16 of 2019 is understood through Article 7 paragraphs (1) and (2) as a scheme that permits marriage at the age of 19, while marriage below that age must be subject to a court dispensation for urgent reasons. Judges will tend to weigh aspects of public welfare, including religious, social, and psychological readiness reasons. However, this is precisely where the effectiveness of the law is tested, because the more lenient the dispensation considerations, the greater the chance that the minimum age limit will lose its preventative effect. The effectiveness of implementing the minimum age limit for marriage depends heavily on the judge's consistency in interpreting "urgent reasons," the court's firmness in rejecting applications that do not meet child protection standards, and the synergy of social education to ensure that the dispensation does not become a backdoor for child marriage (Muhari, 2025).

The rise in child marriage demonstrates that the minimum age limit for marriage is not yet fully effective as a preventative measure when cultural and economic factors remain strong at the family and community level. Family financial pressures often push adolescents to marry early as an effort to ease the household's economic burden, while cultural norms that view early marriage as a reasonable choice reinforce this decision. The practice of child marriage does not exist in isolation, but is shaped by local traditions, economic pressures, patriarchal culture, and unequal gender relations, often leaving girls without a strong bargaining position in determining their future. In situations like this, early marriage is not simply the result of individual choice, but rather a product of social structures that limit access to education, skills, and decent work, thus dragging young couples into a cycle of poverty that is difficult to break. Therefore, the effectiveness of the law is not solely measured by the existence of the 19-year-old age rule, but by the state's ability to correct the social factors that cause families to continue viewing early marriage as an economic solution and a culturally accepted practice. (Alves & Safei, 2024)

Low legal awareness is also a major obstacle to the implementation of the minimum age for marriage, as many people do not yet understand that the minimum age for marriage is not merely an administrative formality but rather a mechanism for protecting children and safeguarding the future of families. Obstacles to the implementation of policies to prevent early marriage are still related to the public's lack of understanding of the minimum age for marriage and low interest in participating in marriage counseling at the Office of Religious Affairs (KUA), resulting in the legal regulations not being fully understood as norms that bind social behavior. Before the Marriage Guidance was conducted, the majority of participants did not understand the marriage dispensation procedure and tended to view early marriage as a social or religious solution. The practice of child marriage is influenced by poverty, social pressure, low education, and lack of awareness of its impact, while legal socialization has been proven to increase knowledge about the risks of child marriage and applicable legal protections. The biggest weakness in the implementation of the minimum age norm for marriage is not only in the text of the law, but also in the level of social acceptance, legal literacy, and the effectiveness of

counseling that must be able to change public perception from cultural justification to compliance with child protection laws. (Syahputra et al., 2025)

4. CONCLUSION

The regulation of the minimum age for marriage in Indonesia, as reinforced by Constitutional Court Decision No. 22/PUU-XV/2017 and Law No. 16 of 2019, is an important normative step to protect children and achieve gender equality. However, its effectiveness still faces many obstacles in practice. Child protection has not been optimal because early marriage still leads to school dropouts, reproductive health problems, stunting, violence, and exploitation, thus contradicting the best interests of children. From an Islamic legal perspective, limiting the age for marriage is also in line with the principles of baligh (age of puberty), rasyid (age of maturity), and maqashid sharia (lawful means of sharia) because it aims to prevent harm and maintain public welfare. However, the implementation of these provisions remains weak due to the high number of marriage exemptions, strong cultural and economic factors, and low public legal awareness. Therefore, preventing child marriage is not sufficient through normative changes alone; it also requires strict legal oversight, public education, and more active social policies to ensure comprehensive child protection.

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