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Reform on The Marriage Age Limit by Jakarta Women's Health Organizations in *Maqāṣid al-Syarī'ah* Perspective

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Abstract: This study aimed to determine the factors of child marriage and the age limit for marriage in the legislation and to analyze the arguments of Yayasan Kesehatan Perempuan in opposing and preventing child marriage cases through a judicial review of the Marriage Law at the Constitutional Court in terms of *maqāṣid al-syarī'ah*. The research method used in this research is normative legal research, which aims to examine legal principles and written legal sources. The primary data source was obtained from the arguments of Women's Health organizations in the trial process at the Constitutional Court Number 30-74/PUU-XII/2014. Data which was analyzed in the study was collected through observation and interviews. The results of this study proved that the factors causing child marriage in Indonesia are mostly due to poverty, low level of education, conflict in the household, community traditions and religious understanding such as efforts to avoid adultery as well as unfavored environmental factors. Prevention of child marriage carried out by the Women's Health Foundation is in accordance with the objectives of *maqāṣid al-syarī'ah* which include religious maintenance, offspring maintenance, soul maintenance, mind maintenance and property maintenance.

Keywords: Child marriage, marriage law, marriage age limit, *maqāṣid al-syarī'ah*.

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Abstrak: Penelitian ini bertujuan untuk mengetahui faktor-faktor perkawinan anak di bawah umur serta batas usia perkawinan dalam peraturan perundang-undangan dan menganalisis argumen organisasi Kesehatan Perempuan dalam menentang dan mencegah kasus perkawinan anak melalui judicial review Undang-Undang Perkawinan di Mahkamah Konstitusi ditinjau dari aspek *maqāṣid al-syarī'ah*. Metode penelitian yang digunakan dalam penelitian ini adalah penelitian hukum normatif, yang bertujuan untuk mengkaji asas-asas hukum dan sumber hukum tertulis. Sumber data primer diperoleh dari argumen organisasi Kesehatan perempuan dalam proses persidangan di Mahkamah Konstitusi Nomor 30-74/PUU-XII/2014. Adapun dalam teknik pengumpulan data penelitian ini dilakukan dengan cara observasi (pengamatan) dan interview (wawancara). Kemudian seluruh data hasil pengamatan dan wawancara yang diteliti tersebut dikumpulkan dan dianalisa. Hasil penelitian ini membuktikan bahwa faktor penyebab pernikahan anak di Indonesia sebagian besar disebabkan oleh kemiskinan, Pendidikan, konflik dalam rumah tangga, tradisi masyarakat dan pemahaman agama seperti upaya menghindari perzinahan juga faktor lingkungan. Pencegahan perkawinan anak yang dilakukan oleh Yayasan Kesehatan Perempuan sudah sesuai dengan tujuan *maqāṣid syari'ah* meliputi pemeliharaan agama pemeliharaan keturunan pemeliharaan jiwa pemeliharaan akal dan pemeliharaan harta.

Kata Kunci: Perkawinan anak, batas usia pernikahan, undang-undang perkawinan, *maqāṣid al-syarī'ah*.

Introduction

Child marriage in Indonesia¹ is still at a high rate with one in four girls marrying before reaching adulthood.² According to the National Social and Economic Survey (Susana's) conducted by the Central Statistics Agency (BPS) in 2012 showed that 25 percent of ever-married women aged 20-24 years were married before the age of 18.³ Children in Indonesia are very high (with more

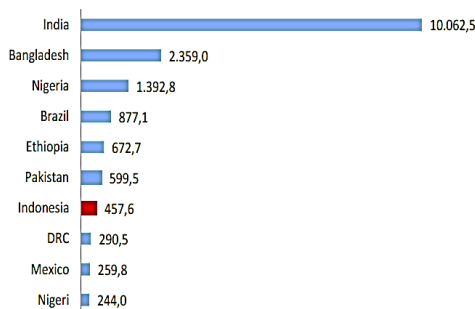
¹ Rizky Irfano Aditya, and Lisa Waddington, "The Legal Protection Against Child Marriage in Indonesia," *BESTUUR* 9, no. 2 (2021), p. 126–34. Marshan et al., "Prevalence of Child Marriage and Its Determinants among Young Women in Indonesia" (Child Poverty and Social Protection Conference, SMERU Research Institute, 2013). Lauren Rumble, "An Empirical Exploration of Female Child Marriage Determinants in Indonesia," *BMC Public Health* 18, no. 1 (2018), p. 1–13.

² Djamilah and Reni Kartikawati, "Dampak Perkawinan Anak Di Indonesia," *Jurnal Studi Pemuda* 3, no. 1 (2014). Nur Fadhilah and Khairiyati Rahmah, "Rekonstruksi Batas Usia Perkawinan Anak Dalam Hukum Nasional Indonesia," *Journal de Jure* 4, no. 1 (2012). Marshan et al., "Prevalence of Child Marriage and Its Determinants among Young Women in Indonesia."

³ Badan Pusat Statistik (BPS), *Survei Sosial Ekonomi Nasional* (Jakarta: BPS, 2018), 23.

than one-sixth of girls marrying before reaching adulthood (age 18 years) or around 340000 girls annually).⁴

The number of child marriages in Indonesia continues to increase⁵ until 2013. Based on a report by UNICEF, it was ranked 7th in the world, there are 4576 thousand women aged 20-24 years who married before the age of fifteen. This can be seen in the data below:⁶



Underage marriage is recognized widely as a harmful socio-cultural practice that is both a cause and a result of human rights violations⁷. Marriage under the age of 18 or child marriage also undermines a girl's autonomous right to live free from violence and coercion. To talk about marriage is to talk about life. Because with the marriage that makes humans sustainable and maintained for their offspring.⁸

According to Article 1 of Law Number 1 of 1974, marriage is a bond between a man and a woman physically and mentally to create a happy and lasting family based on the One Almighty God. Regardless of the diversity of

⁴ Badan Pusat Statistik (BPS), *Kemajuan Yang Tertunda: Analisis Data Perkawinan Usia Anak Di Indonesia Berdasarkan Hasil Susenas 2008-2012 Dan Sensus 2012*, Jakarta: BPS & UNICEF, 2012, p. 4.

⁵ Inna Noor Inayati, "Perkawinan Anak Di Bawah Umur Dalam Perspektif Hukum, Ham Dan Kesehatan," *Jurnal Bidan* 1, no. 1 (2015), p. 46–53.

⁶ UNICEF, *Statistics and Monitoring Section Division of Policy and Strategy*, New York: UNICEF, 2013, p. 10.

⁷ Babatunde Ahonsi, "Child Marriage in Ghana: Evidence from a Multi-Method Study," *BMC Women's Health* 19, no. 1 (2019), p. 1–15. Ellen Gruenbaum, "Socio-cultural Dynamics of Female Genital Cutting: Research Findings, Gaps, and Directions," *Culture, Health, & Sexuality* 7, no. 5 (2005), p. 429–41. Jennifer Parsons, "Economic Impacts of Child Marriage: A Review of the Literature," *The Review of Faith & International Affairs* 13, no. 3 (2015), p. 12–22. Taufik H Simatupang, "Adultage In Marriage In Indonesia," *Jurnal Penelitian Hukum de Jure* 21, no. 2 (2021).

⁸ Mukti Ali et.al., *Fikih Kawin Anak Membaca Ulang Teks Keagamaan Perkawinan Usia Anak* (Jakarta: Tim Penulis Rumah Kitab, 2015), 22.

schools, the Scholars generally agree that the purpose of marriage is to create a happy family, *sakinah, mawaddah, and rahmah*.⁹

To realize this, the *fiqh* experts formulate the requirements and pillars of marriage according to their respective schools of thought. However, there is no agreement in classical *fiqh* and clarity about the minimum age for marriage. The question is, if the requirements for the ability to marry a child is not age, then what are the parameters used by the classical *fuqaha*? They state that the requirement is the readiness of the girl to engage in sexual activity (*wath'iy*) and all the consequences such as giving birth and breastfeeding.

Islamic countries and countries with Muslim-majority populations have different policies in terms of limiting the age of marriage¹⁰ but the average ranges from 15-21 years. And generally, these countries distinguish the age of marriage between the prospective groom and the prospective bride. For men, the average age of marriage is limited to 16 to 21 years, while the average marriage age for women is 15-18 years. The difference in the age limit for marriage is because the Qur'an and the Hadith do not explicitly stipulate the age of marriage.¹¹ The following is a table comparing the age of marriage written by Rangkuti in the journal *Restriction of Marriage Age and Approval of Candidates from the Perspective of Islamic Law*:¹²

No	Countries	Age of Male	Age of Female
1	Al Jazair	21	18
2	Bangladesh	21	18
3	Mesir	18	16
4	Irak	18	18
5	Jordania	16	15
6	Libanon	18	17
7	Libya	18	16
8	Malaysia	18	16
9	Maroko	18	15

⁹ "Pasal 3 Inpres No. 1 Tahun 1991 Tentang Kompilasi Hukum Islam," 1991.

¹⁰ Ahmad Asrori, "Batas Usia Perkawinan Menurut Fukaha Dan Penerapannya Dalam Undang-Undang Perkawinan Di Dunia Muslim," *Al-Adalah* 12, no. 2 (2015), p. 807–26. Yulia Fatma, "Batasan Usia Perkawinan Dalam Hukum Keluarga Islam (Perbandingan Antar Negara Muslim: Turki, Pakistan, Maroko Dan Indonesia)," *JURIS (Jurnal Ilmiah Syariah)* 18, no. 2 (2019), p. 117–35. Agus Hermanto, "Penerapan Batas Usia Pernikahan di Dunia Islam: Review Literature," *At-Tahdzib: Jurnal Studi Islam Dan Muamalah* 9, no. 2 (2021), p. 23–33.

¹¹ Muhammad Amin Suma, *Hukum Keluarga Islam Di Dunia Islam*, Jakarta: Raja Grafindo Persada, 2004, p. 184.

¹² Ramlan Yusuf Rangkuti, "Pembatasan Usia Kawin Dan Persetujuan Calon Mempelai Perspektif Hukum Islam," *Jurnal Ay-Syir'ah* 43, (2009), p. 43.

10	Yaman Utara	15	15
11	Yaman Selatan	18	16
12	Pakistan	18	16
13	Somalia	18	18
14	Suriah	18	17
15	Tunisia	19	17
16	Turki	17	15

This difference of opinion makes the age limit in marriage, an issue that continues to be discussed today with the complexity of the problems that continue to grow, especially related to protecting children's rights. At the international level, all specialized agencies of the United Nations including UNICEF (United Nations Children Fund) and UNESCO (United Nations Educational Scientific and Cultural Organization) are recommended to contribute through campaigns against child marriage.¹³

Child marriage referred to here is a marriage in which the age of one of the bride and groom is either husband or wife - or both are under 18 years of age.¹⁴ Article 1 Paragraph (1) of Law Number 23 of 2002 concerning Child Protection stated that "A child is someone who is not yet 18 (eighteen) years old or who is still in the womb".¹⁵ In practice, child marriage can not be separated from the socio-economic, cultural, and religious conditions that develop in society.¹⁶ Child marriage at a young age which involves children in the matchmaking process is a manifestation of tradition or custom as a result of a combination of socio-cultural factors, economics, and religious influences.¹⁷

Five provinces in Indonesia with the highest prevalence of child marriage, respectively, are South Kalimantan (22%) Central Kalimantan (20%) Central Sulawesi (18%) West Kalimantan (17%) and North Kalimantan (17%)¹⁸. Most

¹³ Yusuf Hanafi, *Kontroversi Perkawinan Anak Di Bawah Umur (Child Marriage)*, Bandung: Mandar Maju, 2011, p. 101.

¹⁴ In the 1989 International Convention on the Rights of the Child and has been ratified by the government through Presidential Decree Number 36 of 1990, it is stated that what is called a child is those who are under 18 years old, which means that the age of maturity is set at 18 years.

¹⁵ "Pasal 1 Ayat (1) Undang-Undang Nomor 23 Tahun 2002," 2002.

¹⁶ H. Ahsanul Halik, "Pernikahan Di Bawah Umur: Studi Kasus Terhadap Praktik Pernikahan Di Kota Mataram," *Schemata: Jurnal Pasca Sarjana IAIN Mataram* 6, no. 2 (2017), p. 185–210.

¹⁷ Biswait Ghosh, "Child Marriage Society and The Law," *International Journal of Law Policy and the Family* 25, no. 2 (2011), p. 205.

¹⁸ Achmat Hilmi et.al., *Mendobrak Kawin Anak: Membangun Kesadaran Kritis Pencegahan Kawin Anak*, Jakarta: Rumah Kitab, 2018, p. 6.

of these areas are experiencing an ecological crisis that taken away people's living spaces. As a result, girls are 'forced' to get married immediately for various reasons, including being additional labor for the family, reducing the family's economic burden and replacing the role of mothers at home.¹⁹

The perpetrators of child marriage do not understand the impact of child marriage, including the risks to children born to mothers who are still underage. Where the development of children will increase at the age of 0-5 years or better known as the golden age. At this time, parents' role is very important to encourage children to achieve optimal development.²⁰ An UNICEF study in 2011 stated that 21% of children in Indonesia experienced emotional symptoms of behavioral problems and hyperactivity. When crossed with the ages of their parents, they are children born to mothers who had children at the age of children.

Pregnancy at the age of a child can interfere with the development of the motor system in children. When mothers experience the process of pregnancy and growth in adolescence, there will be competition for nutrients with the fetus they contain. So there is a nutritional deficiency in the mother and the fetus it contains. Lack of nutrition for the fetus will have an impact on the risk of delayed development of growth and development.²¹

The spirit of protecting children's rights continues to be echoed considering the very dangerous impact of child marriage. This spirit reached the House of Representatives of the Republic of Indonesia (DPR RI) and the government of the Republic of Indonesia who formulated a law that guarantees children's rights. Among these are Law Number 23 of 2002 concerning Child Protection which was renewed by Law Number 35 of 2014.²² This Child Protection Act implies that Indonesian law guarantees the protection of children's rights and upholds children's rights. However, it turns out that there is still disharmony between the Child Protection Act and Law Number 1 of 1974 concerning Marriage in terms of the age of marriage before the 2019 revision.²³

¹⁹ Ahmad Tholabi Kharlie and Achmad Cholil, "Pre-Marriage Course in Indonesia and Malaysia in The Perspective of Maslahah and Human Right Theory," *Ahkam: Jurnal Ilmu Syariah* 20, No 1 (2020), p. 99-114.

²⁰ Hanum Marimbi, *Tumbuh Kembang Status Gizi Dan Imunisasi Dasar Pada Balita*, Yogyakarta: Nuha Medika, 2010, p. 112.

²¹ Imfatul Iria, "Pernikahan Dini," *Jurnal Sari Pediatri* 11, no. 2 (2010), p. 27.

²² "Naskah Akademik Rancangan Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," 2019, p. 53.

²³ Isnawati Rais, "Marriage Dispensation due to Extramarital Pregnancy: The Study on the Decision by the Religious Court of South Jakarta (2010-2011)," *Ahkam: Jurnal Ilmu Syariah* 18, No 1 (2018), p. 155-177.

The Child Protection Act explains that a child is someone who is under 18 years of age.²⁴ Meanwhile, the 1974 Marriage Law provides regulations regarding the age limit for marriage as follows: First, 21 years of age is determined as the ideal age for marriage.²⁵ At this age, according to the Marriage Law, a person is allowed to marry without the consent of his parents. The two provisions of the minimum age limit for marriage that differ between women and men are 16 years for women and 19 years for men.²⁶

The difference in the age of children, especially in the provisions of legislation that specifically provide protection to children, is known to be the needs of children who are still vulnerable. So that the minimum age for marriage should be determined appropriately and wisely, especially considering the needs and health of the community, especially for children. Thus, it is necessary to discuss the factors of underage marriage and the arguments for women's health in the Constitutional Court regarding the age limit for marriage and a review of *maqāṣid al-syarī'ah* related to the age limit for child marriage.

The research method used in this research is normative legal research, which aims to examine legal principles and written legal sources.²⁷ This research uses an exploratory research method, which is a method that deepens knowledge about a particular problem. The research approach used in this study is a statutory approach and a conceptual approach. The primary data source of this research was obtained from qualitative data of interviews with the management of the Women's Health Foundation (YKP) in opposing child marriage cases.

Child Marriage Problems

Child marriage is not a new problem in Indonesia and even in the world.²⁸ It's an old problem that has yet to be found a solution. Some of the causes of child marriage in the world include poverty, limited education, insecurity due to

²⁴ "Pasal 1 Ayat (1) Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," 2002.

²⁵ "Pasal 6 Ayat (2)," n.d.

²⁶ "Pasal 7 Ayat (1)," n.d.

²⁷ Munir Fuady, *Metode Riset Hukum: Pendekatan Teori dan Konsep*, Jakarta: Rajawali, 2018, p. 129-170. Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif dan Empiris*, Jakarta: Kencana, 2016, p. 123-146.

²⁸ Fadhilah and Rahmah, "Rekonstruksi Batas Usia Perkawinan Anak Dalam Hukum Nasional Indonesia"; Eddy Fadlyana and Shinta Larasaty, "Pernikahan Usia Dini Dan Permasalahannya," *Sari Pediatri* 11, no. 2 (2016), p. 136-41. KOMNAS PEREMPUAN, "Perempuan dalam Himpitan Pandemi: Lonjakan Kekerasan Seksual, Kekerasan Siber, Perkawinan Anak Dan Keterbatasan Penanganan Di Tengah Covid-19, Catatan Tahunan," 2021.

conflict, tradition, and religion.²⁹ In a rural community tradition it was found that the assumption of child marriage to be one of the right solutions to the problem to avoid the sin of adultery and unwanted pregnancy.³⁰ On the other hand, women and girls are seen as a group that has a lower status than men. Where the responsibilities and burdens of women are only in the domestic domain as wives and mothers. This reflects the patriarchal structure of families and their influence on gender views which reinforces the assumption that marriage is the only way to ensure a girl's future will be faster and better.³¹

Data from the 2016 National Socio-Economic Survey (Susenas) shows that the number of child marriages in Indonesia is very alarming, 1 of 9 girls in Indonesia are married under the age of 18 years or equivalent to 375 girls getting married every day with a prevalence of 11%. This makes Indonesia the second highest country in ASEAN in the prevalence of child marriage after Cambodia.³²

The main cause of child marriage is because they do not understand reproductive health. The reasons found were teenagers who tried to engage in sexual activity while dating their partners. However, due to the lack of openness of reproductive health education, which is still considered a taboo discussion, teenagers are then trapped in a circle that is difficult for them to escape. When it is too late, what happens then is like a domino effect, namely an unwanted pregnancy, dropping out of school because of shame or being 'forced' to resign by the school for violating the applicable school rules.³³

Throughout 2018, the prevalence of women aged 20–24 years in rural areas whose first marriage was before the age of 18 was still higher than in urban areas. The percentage of child marriages in rural areas is 1687 percent while in urban areas it is only 715 percent. In total there are more than one million women aged 20-24 years whose first marriage occurred at the age of less than 18 years (12 million people). Meanwhile, women aged 20-24 years who had their first marriage before the age of 15 were recorded as many as 613,000

²⁹ Anju Maltora, "The Causes Consequences and Solutions to Forced Child Marriage in the Developing World Testimony Submitted to U.S. House of Representative" (Human Right Comission ICRW International Center for research on Women, 2010), p. 5.

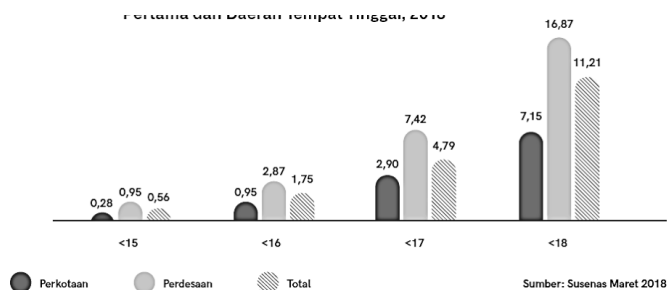
³⁰ Djamilah and Kartikawati, "Dampak Perkawinan Anak Di Indonesia," 12.

³¹ Inter Parliamentary Union (IPU) and World Health Organization (WHO), *Child Early and Forced Marriage Legislation in 37 Asia-Pasific Countries* (Angola: Inter Parliamentary Union (IPU) dan World Health Organization (WHO), 2016), p. 8.

³² Hilmi et.al., *Mendobrak Kawin Anak: Membangun Kesadaran Kritis Pencegahan Kawin Anak*, 5.

³³ Djamilah and Kartikawati, "Dampak Perkawinan Anak Di Indonesia," p. 9.

women.³⁴ Below is a table of the percentage of female marriages by age and region (rural and urban):³⁵



Child marriage has a huge impact on children.³⁶ Indonesian law considers that when a child is married, he or she is no longer considered a child.³⁷ Although there is still a Child Protection Act which guarantees that children's rights are protected regardless of their marital status. But in reality this affects the loss of their rights, including the right to education. Because once a child gets married it is almost certain that he will drop out of school. This affects the loss of opportunities to develop their potential and contribute optimally and tend to get jobs in the informal sector compared to jobs in the non-formal sector. Girls who marry under age are also vulnerable to experiencing domestic violence³⁸.

³⁴ United Nations Children's Fund (UNICEF), BPS, Bappenas, Pusat Kajian dan Advokasi Perlindungan dan Kualitas Hidup Anak Universitas Indonesia (PUSKAPA), *Pencegahan Perkawinan Anak: Percepatan Yang Tidak Bisa Ditunda*, Jakarta: UNICEF, BPS, Bappenas, dan PUSKAPA, 2020, p. 15.

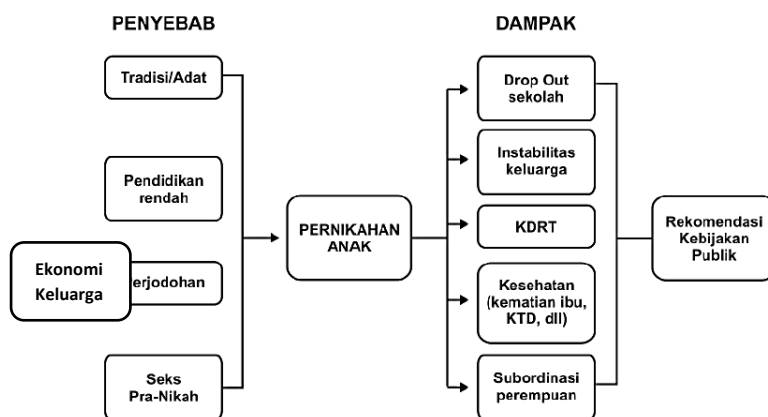
³⁵ Badan Pusat Statistik (BPS), *Survei Sosial Ekonomi Nasional*, p. 5.

³⁶ R.G Bhandarkar, "History of Child-Marriage," *Zeitschrift Der Deutschen Morgenländischen Gesellschaft* 47, no. 1 (1893), p. 143–56. Dyan Mazurana, Anastasia Marshak, and Kinsey Spears, "Child Marriage in Armed Conflict," *International Review of the Red Cross* 101, no. 911 (2019), p. 575–601. Jamie O'Quinn, "Mapping the Literature on Child Marriage: A Critical Engagement," *Sociology Compass* 15, no. 1 (2021). E. O Osakinle and Olufunmilayo Tayo-Olajubutu, "Child Marriage and Health Consequences in Nigeria," *American Academic Scientific Research Journal for Engineering, Technology, and Sciences* 30, no. 1 (2017), p. 351–56.

³⁷ Among the laws in Indonesia that no longer consider a married child as a child is the Notary Law of 2004 which states the requirement to make a legal contract a person must be at least 18 years of age or have been married (article 39 paragraph 1). Civil law in Indonesia also stipulates that adults are those who are over 21 years of age or have been married then Law Number 7 of 2017 concerning General Elections states that someone who chooses the right to vote is those who are 17 years old or more already married or been married.

³⁸ Rachel Kidman, "Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries," *International Journal of Epidemiology*, no. 12 (2016), p. 14.

Another impact of child marriage is the high maternal mortality rate because women who become pregnant during their teenage years are also at risk of dying in childbirth 5 times greater than adult women, which is why pregnancy and birth are the main causes of death for adolescents aged 15-19 years globally. And in terms of reproductive health, adolescents under 19 years of age are still in the process of development, in fact they are not yet ready to have sexual relations, let alone to get pregnant and give birth. Their psychology is still developing³⁹. Below is an illustration of the causal flow of child marriage which led to the need for changes in public policies that support activities to reduce the number of child marriages.



Campaigns from the government, community organizations and community leaders about the impact of child marriage are also very much needed so that every individual is aware that marriage is actually an important event in a person's life because he will step on a new world to form a family as the smallest unit of the Indonesian nation's family and in accordance with the personality traits of the Indonesian nation who are religious and familial, it is necessary for the participation of the family to carry out several considerations before condoning the marriage of their child if he is still a minor.⁴⁰

With some considerations in the family, benefits will be realized for both the prospective wife and the husband of the child and all their descendants later if both parties are married at adulthood and equipped with mature thoughts that will make a happy family.⁴¹

³⁹ Sri Rahmawati, "Batas Usia Minimal Pernikahan (Studi Komparatif Hukum Islam Dan Hukum Positif)," *Syakhshia: Jurnal Hukum Perdata Islam* 21, no. 1 (2020), p. 99.

⁴⁰ Arso Sosroatmodjo and Wasit Aulawi, *Hukum Perkawinan Di Indonesia* (Jakarta: Bulan Bintang, 1975), 32.

⁴¹ Ahmad Mukri Aji, *Urgensi Masalah Mursalat Dalam Dialektika Pemikiran Hukum Islam*, Bogor: Pustaka Pena Ilahi, 2011, p. 196.

1. Inconsistency of the Age Limit for Marriage in Laws and Regulations

The struggle to change the provisions on the age limit for marriage in Law Number 1 of 1974 concerning marriage, which still determined the age of 16 as the minimum age limit for women wanting to marry, was carried out by various organizations by submitting a judicial review to the Constitutional Court. This is based on the inconsistency of the contents of Law Number 1 of 1974 concerning Marriage with the Law on Child Protection.

Furthermore, the Convention on the Elimination of all forms of Discrimination Against Women which Indonesia has ratified through Law Number 7 of 1984 specifically regulates women's rights. In particular, the countries participating in the convention agreed to improve legal policies and take steps deemed necessary to improve the condition of women⁴².

In order to achieve this, the government initiated several programs to reduce maternal mortality such as the Alert Husband program,⁴³ Childbirth Guarantee (Jampersal)^{44,45}, and the 4K program (4 times check during pregnancy). However, the essential cause of maternal mortality risk in child marriage is not handled comprehensively. The government does not anticipate and provide information to these children before they choose to marry at a child's age.

As for the regulations in Indonesia regarding the age limit for marriage in Article 7 paragraph (1) of Law Number 1 of 1974 concerning Marriage which states that "Marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years". The age of 16 years as stated in the article is the legal basis and basis for recognizing the marriage of girls.

This can be seen in Law Number 23 of 2002 concerning Child Protection which states that a child is someone who is not yet 18 years old, including a child who is still in the womb.⁴⁶ Some of the things above have made the community through the Women's Health Foundation more confident to submit a

⁴² Rini Maryam, "Menerjemahkan Konvensi Penghapusan Segala Bentuk Diskriminasi Terhadap Perempuan (CEDAW) Ke Dalam Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 91, no. 1 (2012), p. 102.

⁴³ Anna Kurniati et.al., "Suami SIAGA: Male Engagement In Maternal Health In Indonesia," *Health Policy Amd Planning* 32, no. 8 (2017), p. 1203–11.

⁴⁴ Maternity insurance is intended to eliminate financial barriers for pregnant women to obtain delivery insurance, which includes antenatal care, postpartum services, including post-delivery family planning and newborn services. For details, see the Ministry of Health, R.I. "Technical instructions for maternity insurance."

⁴⁵ Kemenkes, "Petunjuk Teknis Jaminan Persalinan," 2011, p. 28.

⁴⁶ Pasal 1 Ayat (1) Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak.

judicial review as a form of anticipation and prevention of child marriage in order to protect children's rights in obtaining a better life in terms of education, health, economy, and other factors.

As for the rights of Indonesian citizens including children in several articles of the 1945 Constitution which must be protected because they are contrary to Article 7 paragraph (1) of Law Number 1 of 1974, including: Article 28A;⁴⁷ Article 28B paragraph (1) and paragraph (2)⁴⁸ Article 28C paragraph (1);⁴⁹ Article 28D paragraph (1); Article 28G paragraph (1);⁵⁰ Article 28H paragraph (1) and paragraph (2)⁵¹; and Article 28I paragraph (1) and paragraph (2) of the 1945 Constitution.⁵²

Based on the description above, it is clear that the Women's Health Foundation has legal standing in the review of Article 7 paragraph (1) of Law Number 1 of 1974 concerning Marriage as long as the phrase "16 (sixteen) years" is contrary to several articles above. The Women's Health Foundation had several other arguments put forward in the trial, including:

a. Creating Many Practices of Child Marriage

The Convention on the Rights of the Child (CRC)⁵³ defines child marriage as marriage that occurs under the age of 18. The provisions of Article 7 paragraph (1) of the Marriage Law as long as the phrase "16 (sixteen) years" indicates that there is a legal basis for justifying marriage for girls.

Furthermore, the Indonesian Population Data Survey (IDHS) in 2007 showed that 22% of women married before the age of 18 in some areas found that a third of the number of marriages recorded were carried out by couples under 16 years of age.

b. Creating Legal Uncertainty

The provisions of Article 7 paragraph (1) of the Marriage Law along the phrase "16 (sixteen) years" have created a situation of legal uncertainty so that it is contrary to Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution which states: "(1) Everyone has the right to recognition of guarantees of protection and fair legal certainty and equal treatment before the law.

⁴⁷ Pasal 28A Undang-Undang Dasar Tahun 1945," 1945.

⁴⁸ Pasal 28B Ayat (1) Undang-Undang Dasar Tahun 1945," 1945.

⁴⁹ Pasal 28C Ayat (1) Undang-Undang Dasar Tahun 1945," 1945.

⁵⁰ Pasal 28G Ayat (1) Undang-Undang Dasar Tahun 1945," 1945.

⁵¹ Pasal 28H Ayat (1) Dan Ayat (2) Undang-Undang Dasar Tahun 1945," 1945.

⁵² Pasal 28I Ayat (1) Dan Ayat (2) Undang-Undang Dasar Tahun 1945," 1945.

⁵³ Ikhsan Edy, *Beberapa Catatan Tentang Konvensi Hak Anak*, Sumatera Utara: USU Digital Library, 2002, p. 128.

However, the affirmation of the definition of a child's age which can be found in a number of laws and regulations has created legal uncertainty regarding the age limit of children in Indonesia due to differences in age limits, including:

No	Statutory Provisions	Maximum Age Limit for a Child
1	Provisions of Article 330 of Civil Law Book (KUHP) ⁵⁴	21 years
2	Regulations Number 13 of 2003 ⁵⁵	18 years
3	Article 1 number (2) Regulation Number 4 of 1979 concerning Child Welfare ⁵⁶	21 years
4	Regulations Number 12 of 1995 concerning Correctional Article 1 Number 8 concerning Correctional Student ⁵⁷	18 years
5	Regulations Number 3 of 1997 concerning Juvenile Court Article 1 Number 1 ⁵⁸	18 years
6	Article 1 verse (5) Regulation Number 39 of 1999 concerning Human Rights ⁵⁹	18 years
7	Article Number 23 of 2002 concerning Child Protection ⁶⁰	18 years
8	Article Number 30 of 2004 concerning Notary Position Article 39 of (1) ⁶¹	18 years
9	Article Number 40 of 2004 concerning Social Security System Article 41 verse (6) ⁶²	23 years
10	Article Number 12 of 2006 concerning Citizenship of Indonesian Republic Article 4 letter h ⁶³	18 years

⁵⁴ Article 330 Civil Law Book (KUHP).

⁵⁵ Regulations Number 13 of 2003 concerning Employment Article 1 Number 26.

⁵⁶ Regulations Number 4 of 1979 concerning Child Welfare Article 1 Number (2).

⁵⁷ Regulations Number 12 of 1995 concerning Correctional Article 1 Number 8.

⁵⁸ Regulations Number 3 of 1997 concerning Juvenile Court Article 1 Number 1.

⁵⁹ Regulations Number 39 of 1999 concerning Human Right Article 1 verse (5).

⁶⁰ Regulations Number Number 23 of 2002 concerning Child Protection.

⁶¹ Regulations Number 30 of 2004 concerning Notary Position Article Article 39 verse (1) letter a.

⁶² Regulations Number 40 of 2004 concerning Social Security System Article 41 verse (6).

11	Regulations Number 21 of 2007 concerning Eradication of the Crime of Human Trafficking Article 1 Number 5 ⁶⁴	18 years
12	Regulations Number 44 of 2008 concerning Pornography Article 1 Number 4 ⁶⁵	18 years
13	Regulations Number 11 of 2012 concerning Juvenile Criminal Justice System Article 1 Number 3 to Number 5 ⁶⁶	18 years
14	Resolution of Minister of Justice Number M 02-IZ.01.10 of 1995 concerning Visa Article 1 Number 3 ⁶⁷	18 years
15	Government Regulation Number 35 of 1949 concerning Pension to Widows and Children of Deceased Civil Servants ⁶⁸	21 years

Based on several laws and regulations that have been described above, it is clear that the age limit of children, especially girls in Law Number 1 of 1974 concerning Marriage a contrario is not in accordance with other laws and regulations which explain that the age limit of a child is below under 18 years. This factually and actually has created a situation of legal uncertainty regarding the age limit of children in Indonesia.

c. Threatening the Reproductive Health of Girls

The health of the reproductive organs of girls can be disrupted due to marriage at an early age. Many diseases threaten and endanger girls who marry at an early age because the reproductive organs of girls are actually not ready or worthy to have sexual relations.

Pregnancy at an early age is still common in Indonesia. The results of the 2012 Demographic and Health Survey (IDHS) show that there are still 10%

⁶³ In Regulations Number 12 of 2006 concerning the Citizenship of Indonesia Republic Article 4 letter h.

⁶⁴ Regulations Number 21 of 2007 concerning Eradication of the Crime of Human Trafficking Article 1 Number 5.

⁶⁵ Regulations Number 44 of 2008 concerning Pornography Article 1 Number 4.

⁶⁶ Regulations Number 11 of 2012 concerning Juvenile Criminal Justice System Article 1.

⁶⁷ Resolution of Minister of Justice Number 10 of 1995 Article 1 Number 3 concerning Visa.

⁶⁸ Article 5 Government Regulation Number 35 of 1949 concerning Pension to Widows and Children of Deceased Civil Servants.

(6,927) adolescents aged 15-19 who have given birth or are currently pregnant.⁶⁹ This is one of the contributors to the high maternal mortality rate (MMR). Child marriages with early pregnancy (under the age of 18 years) are at great risk of experiencing bleeding during childbirth.⁷⁰

d. Threatening Children's Right to Education

Article 28C paragraph (1) of the 1945 Constitution protects the right of everyone to develop themselves through fulfilling their basic needs. The right to education and benefit from science and technology, arts and culture in order to improve the quality of life and for the welfare of mankind. This constitutional mandate should be implemented with the provisions of the national education system through compulsory education for 12 years for children. However, on the condition of child marriage that occurs, then the constitutional rights are negated.⁷¹

e. Impact on the Psychological Condition of the Child

Children aged 16 years have not been able to play the role of parents who have the responsibility to care for and educate children psychologically, children still want to hang out with their peers and still need mental development at their age. In such conditions, the marriage of a child aged 16 years will threaten the right to live in physical and spiritual prosperity, the right to live and the right to a good and healthy living environment in Article 28H paragraphs (1) and (2) as well as the right to personal protection, family, honor, dignity and respect. property under his control in Article 28G.⁷²

f. The Occurrence of Discrimination in the Fulfillment of Rights between Boys and Girls

The discrimination in question occurs because of differences in the provisions governing the age limit for marriage in Article 7 paragraph (1) of Law Number 1 of 1974 which stipulates a lower minimum age for marriage for girls than boys. The age limit for men is 19 years, while women are 16 years, this has clearly and convincingly been a discriminatory act because there are differences based on the gender of a child.

2. Marriage Age Limit based on *Maqāṣid al-Syarāh*

⁶⁹ UNITED NATIONS, "Population Division World Population Prospects," 2012, <http://www.indexmundi.com/facts/indonesia/adolescentfertility-rate>.

⁷⁰ Fadlyana and Larasaty, "Pernikahan Usia Dini Dan Permasalahannya," 136–41.

⁷¹ Ferry Firmansyah, "Perkembangan Wajib Belajar 9 Tahun Di Indonesia Periode 1994-2008," *Avatara E-Journal Pendidikan Sejarah* 1, no. 2 (2013), p. 28.

⁷² Undang-Undang Dasar Tahun 1945," 1945.

Public awareness in efforts to protect children is marked by the emergence of institutions, alliances, activists on behalf of the community that focus on fighting for children's rights, of course this is a very good step and needs to be appreciated. The Women's Health Foundation as a non-governmental organization that focuses on fighting for children's rights, with various scientific considerations, existing data, along with cases that occurred, tried to sue the Marriage Law Number 1 of 1974 article 7 which stipulates the limit. The minimum age for marriage is 19 years for men and 16 years for women.

The Women's Health Foundation submitted a judicial review to the Constitutional Court to conduct a judicial review of the Marriage Law Number 1 of 1974 against the 1945 Constitution, which in essence is to increase the minimum age limit for marriage for women from 16 years to 18 years, accompanied by various evidences, data, witnesses and expert statements. After understanding some of the arguments of the Women's Health Foundation in the judicial review, the author notes that the Women's Health Foundation tries to explain the negative impact of child marriage that threatens children's rights.

The author sees that the Women's Health Foundation's argument focuses on the health side, psychological condition, education, and discrimination of girls, but only a few discusses child marriage from the perspective of Islamic law. Therefore, the author wants to investigate further about how the Women's Health Foundation argument in explaining the negative impact of child marriage when viewed from the perspective of *maqāṣid al-syarāh*.

As for the provisions on the age limit for marriage, although there are no explicit instructions from the Qur'an and Hadith that mention it, the *maṣlahah* theory can be one of the bases and requirements in understanding the determination of the minimum age limit for marriage which is in line with the objectives of Islamic law. Imam Al-Ghazali stated the meaning of *maṣlahah* is taking advantage and rejecting harm in order to maintain the goals of *syara'*. This theory is used as an effort to analyze legal problems to find solutions for the benefit and minimize harm within the minimum age limit in marriage. To facilitate the discussion, the author grouped some of the arguments from the Women's Health Foundation into 3 main topics of discussions:

a. Impact of Child Marriage on Health

The argument of the Women's Health Foundation to increase the marriage age of women, which takes into account that women at the age of 16 are not sexually mature. As explained in his judicial review argument, that women who are pregnant at the age of 16 have the potential to experience difficulties in giving birth. Even at the age of 16, the readiness of a woman's womb is not strong and the consequences are very fatal because it can lead to maternal death.

This interpretation confirms that in the perspective of *maqāsid al-syarāh*, the argument of the Women's Health Foundation to increase the age of marriage is a consideration that is in line with the concept of maintaining the soul (*hifz al-nafs*). Nurturing the soul is something that must be maintained, because God does not want humans to do actions that threaten their souls. Including child marriage results in a higher birth rate and also results in an increase in maternal mortality.

Changes in the age limit for marriage do not only touch the dimension of protection for the health of the prospective bride, but also more broadly, the protection of prospective husbands and prospective children who will be born after the marriage is carried out. This is in line with the concept of maintaining offspring (*hifz al-nasab*) in *maqāsid al-syarāh*.

Concerning the argument of the Women's Health Foundation about women who are about to give birth at the age of 16 can experience premature birth, babies born with defects, and babies born with low weight. The bad potential for babies born to mothers at the age of 16 and the mothers as well. With consideration of the benefit of the baby born later to be healthy and not disabled, it is very urgent to determine the ideal marriage age in carrying out marriage. As in the letter al-Baqarah verse 195:

وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ

Meaning: "And spend (your wealth) in the way of Allah, and do not drop (yourself) into destruction with your own hands, and do good. Indeed, Allah loves those who do good." (QS. Al-Baqarah [2]: 195).

From the verse above, Allah forbids his servants to harm himself. Meanwhile, pregnancy and childbirth experienced by a girl who married at an early age can harm her personality and also harm her fetus. Therefore, the argument of the Women's Health Foundation in increasing the age of marriage is also in line with the *maqāsid shari'ah* concept in maintaining offspring (*hifz al-nasab*).

On the other hand, the authors found another negative impact of child marriage which can be life-threatening, the impact on mental health. If the Women's Health Foundation explains a lot about women's reproductive health, then actually the impact of mental health is no less important to be reviewed. because mentally, those under 19 years old are still considered to be in the category of puberty or just entering their teens, and psychologically their emotional level is still high. As a result, when marriage is permitted at these ages, it is likely that the household will experience problems and are prone to divorce because they have not been able to control their emotions properly.

Thus, the effort to increase the age limit for marriage is actually in accordance with the principle of marriage which states that the prospective husband and wife must have matured in mind and body. The goal is that the purpose of marriage to create an eternal and happy family in a good and healthy way can be realized. Changes in the age limit for marriage and the concept of protection for women proposed by the Women's Health Foundation in a judicial review at the Constitutional Court can also go hand in hand with the *maqāṣid al-syarīah* principle in avoiding the disadvantage of child marriage practices and realizing the child welfare in accordance with the *nash* instructions, by meeting basic needs/primary (*dharuri*), secondary (*hajiyat*) and tertiary (*tahsiniyat*).

b. Impact of Child Marriage on Children's Education

Education essentially encourages humans to be involved in the process of changing their lives for the better, developing self-confidence, developing curiosity and increasing skills and knowledge. Thus education serves to improve the quality of individual life, mindset, individual behavior. This is in line with the notion of education contained in the dictionary of education, that education is: the process by which a person develops the ability, attitudes, and other forms of behavior in society.

In relation to marriage, the Women's Health Foundation stated in its argument that a child's right to education would be threatened if a child who was still 16 years old, which means that the girl should still be in high school and have not yet finished her constitutional right to education for 12 years until graduating from high school must forced into child marriage. Because basically children who have married are busy with domestic affairs, such as taking care of children and husbands. This results in a loss of enthusiasm for learning and continuing their education because there are obligations that must be fulfilled in terms of family.

On the other hand, the author is of the opinion that child marriage is not only depriving children (survivors of child marriage) to education. However, there is something more important about how a child at an early age who gets married and becomes a mother will educate and guide his child perfectly even though the mother is the first school for her child.

Humans are born in a state of *fitrah*, a baby who is born is like a white sheet of paper without a single drop of ink. Both parents are the first educators who will put ink on the paper. As in the Hadith that the Prophet PBUH said as follows:

كُلُّ إِنْسَانٍ تَلَدُهُ أُمَّهُ عَلَى الْفِطْرَةِ، وَأَبَوَاهُ بَعْدُ يَهُودَانِهِ وَيُنَصْرَانِهِ وَيَمَجْسَانِهِ، فَإِنْ كَانَ مُسْلِمًا، فَمُسْلِمًا

Meaning: Has told us Qutaibah bin Sa'id has told us 'Abdul 'Aziz Ad Darawadri from Al 'Ala from his father from Abu Hurairah, the Messenger of Allah said: "Every child is born in a state of fitrah and it is his parents who make him a jews, christians and magi. If both parents are Muslims, then their children will become Muslims.

Fitrah referred to in the Hadith above is potential. Potential is ability; so the nature in question is innate. The father-mother in this hadith is the environment as intended by educational experts. Both, according to this hadith, determine a person's development. So all human nature in the form of potential, besides being cultivated to grow and develop, must and need to be educated and directed. Because the influence of parents (representing the environment in the form of association, reading, education, and so on) can affect humans to be bad, evil and so on.

If we look at educational programs as an effort to develop children, preserve divine and human values, and equip students with productive abilities, we can say that nature is the basic potential of students that can lead to the growth of human abilities to survive and thrive, improve life. This can be done through the provision of various abilities from the school environment and outside the school which are patterned in educational programs.

c. The Occurrence of Discrimination in the Fulfillment of Rights between Boys and Girls

The Women's Health Foundation stated in its argument that the difference in the provisions governing the age limit for marriage in Article 7 paragraph (1) of the 1974 Marriage Law is a form of discrimination against women. Determination of a lower minimum age for marriage for girls whose age limit is 16 years and boys 19 years. This has clearly and convincingly resulted in discriminatory actions in the treatment between boys and girls, resulting in the non-fulfillment of a number of constitutional rights, especially for girls.

After conducting the analysis, the authors found that this difference is a form of discrimination based on gender which is contrary to the laws and regulations in Indonesia as guaranteed by Article 3 paragraph (3) of the Human Rights Law and Article 1 of the Convention on the Rights of Women (CEDAW) in Article 1 which states that every distinction, exclusion or restriction made on the basis of gender which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of the equality of men and women, human rights and fundamental freedoms in the political sphere, economic, social, cultural, civil or otherwise.

The author also finds that one of the central themes as well as the main principles of Islamic teachings is the egalitarian principle, namely equality between humans, both male and female, as well as between nations, tribes, and descendants. This is hinted at in QS. Al-Hujurat verse 13 which means "O people! Indeed, we created you from a male and a female, then We made you into nations and tribes so that you might know one another. Verily, the most honorable of you in the sight of Allah is the one who is most pious. Verily, Allah is Knowing, All-Aware" (QS. Al-Hujurat 49:13).

This verse gives us an idea of the similarities between men and women both in terms of worship (spiritual dimension) and in social activities (professional career matters). This verse also completely erodes the view that between the two there are differences that marginalize one of the two. These similarities include various things, for example in the aspect of religious practices. Whoever is diligent in doing religious practices, it will get more rewards regardless of gender. The difference then exists due to the quality of the value of devotion and piety to Allah SWT.

This verse also emphasizes that the main mission of the revelation of the Qur'an is to liberate humans from various forms of discrimination and oppression, including sexual discrimination, skin color, ethnicity and other primordial ties. The minimum age limit equality in Indonesia, which is 19 years, does not conflict with Islamic law. In addition, this age equality has also been implemented in several countries where the majority of the population is Muslim. The minimum age limit for marriage in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, can also be considered good and safe because it has exceeded the age limit for puberty according to the opinion of Islamic jurists and does not conflict with Indonesian law and human rights.

However, there is actually something that has been overlooked by the Women's Health Foundation, namely article 6 paragraph 2, which states "to enter into a marriage a person who has not reached the age of 21 (twenty-one) years must obtain the permission of both parents". This article indicates that the adult age is 21 years, which is higher than the requested age, which is 19 years. Children who are under 21 years of age are still under the consideration of their parents as guardians, because the child is not yet mature enough to give legal considerations.

The age limit of 19 years applied for by the Women's Health Foundation in the marriage law is actually still not too high compared to some other countries in the world. Algeria, for example, limits the age for marriage to 21 years for men and 18 years for women. Likewise, Bangladesh is 21 years old for men and 18 years old for women. Indeed, there are also some countries that set

the age is very low. North Yemen, for example, limits the age of marriage to 15 years for both men and women. What is clear is that with the limitation of the age of marriage in the laws and regulations in Indonesia, it is hoped that this can be a step to break through customary and customary laws that are found in Indonesian society.

One example of customary law that applies in Indonesia, the customary law of the Javanese community, often encounters marriages of young girls. Javanese girls are often married off when they are less than 15 years old, even though they are not allowed to live together until the appropriate age limit. Usually this is called hanging mating. With this age limit. Therefore, ambiguity regarding the interpretation of the age limit, whether contained in tradition or Islamic law, can be avoided.

Regarding the relationship of the Women's Health Foundation argument to *maqāṣid al-syarīah*, the author has mentioned in the three points of analysis of the above arguments about the explanation of the contextualization of *maqāṣid al-syarīah* in the Women's Health Foundation argument in three basics, namely nurturing the soul, nurturing offspring, and nurturing the mind. The explanation of the contextualization of *maqāṣid al-syarīah* in maintaining religion and maintaining property if it is related to changes in the age limit for marriage is as follows:

1. Maintaining Religion (*hifẓ ad-dīn*)

Maintaining religion within the perspective of *maqāṣid al-syarīah* does not only mean fighting for religion in *jihad*. Strengthening the pillars of religion is also an important part of maintaining religion. One way to strengthen the pillars of religion is to get married. However, marriages held at an early age have consequences for divorce. While divorce is an act that is allowed even though Allah SWT hates the act. Therefore, regulations are needed that can strengthen them by considering the problems. The argument of the Women's Health Foundation related to increasing the marriage age for women, is a solution in preventing the divorce rate for marriage at an early age, it is in line with the rules of *jalb al-mashāliḥ wa dār al-mafāsīd*.

2. Taking Care of Property (*hifẓ al-mal*)

Maintaining wealth in Islam is spending wealth in a way that is pleasing to Allah swt. A girl who is 16 years old does not yet have the ability to manage finances well. Low education will result in someone in unplanned financial management. Poor financial planning will result in disrupted family survival. Meanwhile, one of the factors that trigger family squabbles is the problem of poor family financial management. Therefore, when a 16-year-old girl gets

married and has to carry out the duties of a wife to manage family finances while she is not yet mature in the management aspect of family financial management, it can have a negative impact on the sustainability of her household life. For this reason, in the perspective of *maqāṣid al-syarīah*, it is in line with determining the ideal marriage age in carrying out marriages for the realization of a happy and prosperous family.

In addition to an explanation of the contextualization of *maqāṣid al-syarīah* in changing the age of marriage that is oriented to the benefit of the five basic principles above, the author also wants to explain the very famous Hadith. And it is often misunderstood by ordinary people to immediately carry out marriages. This hadith of the Prophet Muhammad PBUH does have an implied meaning about the age limit for marriage and has been suggested by several scholars with different *syarah*. According to the authors, the argument of the Women's Health Foundation in a judicial review to increase the marriage age from the standard of Law Number 1 of 1974 concerning Marriage in Article 7 is something that is in accordance with the objectives of *maqāṣid al-syarīah* and Islamic law, with some reasons: First, the development of the times and cultural issues that always change from time to time so that the legal status must also follow it (*tagayyuru al-ahkām bi tagayyuri al-amkinah wa al-ajminah*) this is what is called the dynamics of Islamic law. Second, the age of Law Number 1 of 1974 concerning Marriage is too long (needs revision in certain articles). Third, the rapid development of science and knowledge and technology that requires a person to sit longer in formal educational institutions. Fourth, the purpose of marriage to form a *sakinah, mawaddah and rahmah* family is likely to be realized when both partners are adults (over 18 years of age). Fifth; age under 18 years is still classified as a child category in accordance with Law Number 23 of 2002 concerning Child Protection.

And the ratification of Law No. 16 of 2019 is a breath of fresh air for all children in Indonesia and all non-profit organizations that have participated in the struggle for maturing the age of marriage, especially the Women's Health Foundation which took part as an applicant in the 2014 judicial review, but finally in 2019 with the change in the age limit for marriage to 19 years for both men and women, this organization is very grateful.

Conclusion

Factors causing child marriage in Indonesia are mostly due to poverty, low-level of education, conflict in the household, existing traditions in the society as well as religious understanding and environmental factors. Yayasan Kesehatan Perempuan as a non-governmental organization proposed a judicial review as a form of anticipation and prevention of child marriage in order to

ensure children's rights in obtaining a better life in terms of education, health, economy, and other factors. The practice of child marriage has a very large impact on the development of children so that the determination of the age limit for child marriage by the Yayasan Kesehatan Perempuan to the Constitutional Court is in accordance with the objectives of Islamic Sharia, namely to take care of oneself (*hifz al-nafs*) by being aware of the sociological consequences that will occur, also in the health aspect also maintains offspring (*hifz al-nasl*), so that the mother and the child live in a physically and spiritually healthy state.

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