



Gender Analysis of Minimum Age Limits Marriage in Law Number 16 of the Year 2019 concerning Marriage in Polewali Regency Mandar

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ABSTRACT

Islam determines and views the importance of marriage, so that a marriage must go through and consider religious, moral and social grounds. Marriage in Islam is seen as a strong bond and an absolute commitment to social life and to being an honorable human being.

One of the issues discussed and the source of Islamic teachings is the issue of marriage. In the concept of Islamic law, there is no absolute provision regarding the minimum age a person is allowed to marry. The Qur'an indicates that the person who will enter into marriage must be someone who is ready and able.

This type of research is field research. According to Dedy Mulyana, field research is a type of research that studies phenomena in their natural environment. For this reason, primary data is data that comes from the field. So that the data obtained truly corresponds to the reality regarding the phenomena that exist at the research location.

Based on the results of an interview with Mr. Ahmad Yasin, S.H.i (Head Binuang District KUA) then it can be concluded that marriage dispensation is an application submitted by Indonesian citizens who want to get married but are prevented by the specified age limit. They cannot marry until they obtain special permission in the form of a marriage dispensation from the religious court. According to Mr Ahmad Yasin, awareness of the marriage age limit was obtained through outreach carried out by the Ministry of Religion of Polewali Mandar Regency.

Based on the results that researchers have obtained, it can be concluded regarding gender analysis of the minimum age limit for marriage in Law Number 16 of 2019 concerning marriage in Polewali Mandar Regency, Protection of Women's Rights and Welfare is important to prevent early marriage which tends to have a greater negative impact against women, such as health risks, interrupted education, and limited economic opportunities. Setting the same age limit for men and women reflects the principle of gender equality and avoids discrimination based on sex in the context of marriage in Polewali Mandar Regency.

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INTRODUCTION

Islam determines and views the importance of marriage, so that a marriage must go through and consider religious, moral and social grounds. Marriage in Islam is seen as a strong bond and an absolute commitment to social life and to being an honorable human being.

The purposes of marriage include, among other things, to produce offspring and for peace, tranquility and love and affection. All of this can be achieved only with the principle that marriage is for eternity, not just for a certain time.

In the concept of Islamic law, there is no absolute provision regarding the minimum age a person is allowed to marry. The absence of religious provisions regarding minimum and maximum age limits for marriage is assumed to provide leeway for humans to regulate it. The Qur'an indicates that the person who will enter into marriage must be someone who is ready and able.⁶

In reality, the marriage provisions contained in Law Number 1 of 1974 concerning Marriage and Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage are still not fully implemented by couples wishing to marry. This can be seen from the large number of underage marriages that do not meet the minimum age limit for marriage as regulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.

The thing that is most often ignored and violated by couples who want to get married is the minimum age limit for marriage. Even though marriage under the age specified by law can be done through marriage dispensation by the court, marriage under age has negative impacts. Child marriage has an impact on the high divorce rate. Apart from that, early marriage also has an impact on the growth and development of children both biologically and psychologically, as well as having the impact of depriving children of their rights because they are forced to enter the adult world instantly.¹¹

Based on the results of researchers' observations, the marriage provisions contained in Law Number 16 of 2019 concerning marriage are still not fully implemented by couples who want to get married. This can be seen from the large number of underage marriages that do not meet the minimum age limit for marriage as regulated in Law Number 16 of 2019 concerning marriage in Polewali Mandar Regency.

METHOD

This type of research is field research. According to Dedy Mulyana, field research is a type of research that studies phenomena in their natural environment. For this reason, primary data is data that comes from the field. So that the data obtained truly corresponds to the reality regarding the phenomena that exist at the research location.

RESULT AND DISCUSSION

Implementation of Law Number 16 of 2019 concerning Marriage in Polewali Mandar Regency

Look and explore further that the people of Polewali Mandar Regency are diverse with various backgrounds and other levels of knowledge and understanding. that's why the author conducted interviews from various levels of society.

The following is the author's interview with related parties regarding the public's understanding of the age limit for marriage after the issuance of Law number 16 of 2019 in Polewali Mandar district: In the interview with Mr. H. Kasim (Community Figure) he said that: "Ita die doesn't understand anything about the laws regarding tokaweng or wattu melo, mappakaweng, yes, support mallapor, you know in the office, yes, they usually reject what ndappai ganna agena, anna die government, makappai mua mepissangi, do the people tuu ndangi understand mua ndang information. Anna Marasa Mua Iya Rie UU Nipasi Jalan Siola about Religion Finger Mala Dipessangi Rio Dimasigi or Mua Diang Bomo Meeting."

In his explanation regarding the interview with Mr. H. Kasim (community figure), he said, "as a community shop, we don't understand the law regarding marriage, because when our child wants to get married, we only take our child to report to the Religious Affairs Office, and it is from the office that we find out that there was a rejection because the age limit for children to be married was under the category of not being old enough. And according to him, it would also be good for the government to carry out outreach through a religious approach, which can be conveyed in mosques or during studies so that people understand and know more about the laws regarding marriage. In an interview with one of the community leaders in Kuajang Village, he revealed that: "Anna immae sanaeke must nipakewang anndammi mala i'da. Mua is postponed, bomi marakke tau tommuanena menjari maindong i indang melo responsibility, iyapa tia mua mela rejects i religious office menjari melakka affairs, aparie law massawangang menjari rejects eh anna mua rejects i KUA, apa namesio bomi lao di office religious court mane karamboi radius maldi bomi messungang fare."

He said that the public's lack of understanding regarding the minimum age limit for marriage issued by the government resulted in frequent rejections by the Office of Religious Affairs (KUA) for those who wanted to get married due to their falling into promiscuity among underage children. This law only makes

things difficult for society in terms of administration. Just imagine if in our society, if there was a rejection by the Office of Religious Affairs, the community would be required to ask for a letter of recommendation from the Religious Court which is located quite far away so it costs money and it doesn't come out straight away and it even takes a long process, even though people who want to marry off their children are in emergency situations such as Pregnant first, caught having sex so you need to get married as soon as possible in order to hold the man accountable so he doesn't run away from responsibility. The result is that quite a few of our people marry their children under their hands (outside the authority of the Office of Religious Affairs), and this is what our society regrets regarding the reform of this law.

Based on the results of the author's interview with Mr. H. Kasim who lives in Kuajang Village, Binuang District, Polewali Mandar Regency, it can be concluded that he stated that he did not clearly understand the changes to the marriage age limit issued by the Government through Law number 16 of 2019 concerning marriage in Indonesia. However, he often hears complaints from local people who want to marry off their children because they are hampered by the marriage age limit that has been determined by the Office of Religious Affairs (KUA). In another opinion, he also said that the government does not understand the people below by changing the age limit for marriage in the latest law with the aim of suppressing the rate of marriage of underage children." This really won't produce anything if it doesn't involve all stakeholders because he considers that preventing underage marriages is more effective through a religious approach. Because the religious approach taken by preachers through lectures, Friday sermons, recitation every Friday night and routine recitations by mothers is much more accepted by the community in order to prevent child marriages from occurring.

From several informants who have been interviewed by researchers regarding the implementation of law number 16 of 2019 concerning marriage in Polewali Mandar Regency, it can be concluded that the majority of informants admit that they have received socialization from the Ministry of Religion of Polewali Mandar Regency, especially regarding the age limit for marriage. Both men and women are both 19 years old. Apart from that, Mr. H. Kasim and Mr. Imam of the Mosque, feel that a positive religious and legal approach is very important to prevent early marriage and protect children.

On the other hand, other informants have limited knowledge but are aware of these changes through personal experience or fleeting information. Meanwhile, Mr. Ahmad Yasin and Khairunnisa demonstrated a deeper understanding of the marriage age limit through outreach carried out by institutions such as the Ministry of Religion and BKKBN.

Islamic law analysis of the minimum age limit for marriage in Law Number 16 of 2019 concerning marriage in Polewali Mandar Regency

As in the general explanation of Law Number 16 of 2019, paragraph 4, the purpose of increasing and equalizing the marriage age limit, namely 19 years, is for the physical and mental maturity of the prospective bride and groom. This is to achieve the correct goal of marriage and obtain healthy and good offspring without having to end in divorce. This also embodies children's rights to optimize their growth and development, including parental support, and to provide the best possible educational freedom.

From the results of the researcher's interview with Mr Ahmad Yasin, S.Hi (Head of KUA Binuang District) he revealed that:

"Basically, the Marriage Law is good, but it is not in line with practice in the field. So the birth of changes to the law regarding the age limit for marriage did not have much of an impact on reducing the number of early marriages in Indonesia, especially in Polewali Mandar Regency itself.

Likewise, the Religious Courts as the last bastion to reduce the number of early marriages also do not have a big influence. This was granted by the Court regarding the marriage dispensation application case.

Then, after the amendment to the Marriage Law was issued, the article changed the marriage age from 19 years for men and 16 years for women to the same, namely 19 years for men and women. The change in the age limit has resulted in an increase in requests for marriage dispensation to the court every month.

The increase in the number of requests for marriage dispensation in quantity is influenced by changes in age. In terms of quality, early marriage between the ages of 16 and 19 years has also increased, although not as much as due to changes in age. Furthermore, after the age change, it can reduce the marriage rate of underage children, this still needs to be re-observed, in its implementation Law Number 16 of 2019 concerning Marriage cannot yet be said to be ideal in reducing the marriage rate of underage children, because since the issuance of this Law has not shown a decline in the number of requests for dispensation, on the contrary.

One of the conditions for marriage is that you have reached the appropriate age to enter into marriage. This means that both must have the requirements of Ahliyyah which terminologically means a person's ability or suitability to ascertain and determine whether or not they are worthy of accepting the book or responsibility for implementing the Shari'a. Namely, they must have the qualities of maturity (al-bulugh),

perfect intelligence (aqil), and maturity (rusyd).

Talking about the age limit for marriage, this is an issue that fiqh does not discuss. This means that there is no specific text that explains at what age a human can be said to be an adult (rusyd). Even fiqh books allow marriage between a man and a woman who is still a child or what is usually called a shighar marriage. This permissibility is stated clearly as in the following book of Fath al-Qadîr: "It is permissible to marry a young man and a small woman" or "It is permissible to marry a small man and a small woman", there are also which is mentioned indirectly as every book of fiqh mentions the authority of mujbir guardians to marry off their children who are still small or virgins. Even in contemporary jurisprudence literature we find the expression:

"If a man marries a young woman, and then the wife is breastfed by the husband's mother, then his wife becomes haram for him."

From this expression it can be understood that the wife is two years old or under, because breast-feeding which causes the law to be haram is taking place while the breast-feeding person is still two years old or less. That means it is permissible to carry out a marriage while the bride is still a baby. This ability is due to the absence of verses in the Qur'an or hadith that clearly state the age limit for marriage. In fact, the Prophet himself married Siti Aisyah when she was only 6 years old and had sex with her after she was 9 years old.

The changes regarding the minimum age limit for marriage to be 19 (nineteen) years for men and women are a form of change in societal conditions as time goes by, the law changes according to time and space (taghayyuru al-ahkam bi taghayyur al-azminah asa al- amkinah).⁸⁴ According to the author, the situation of women at the age of 16 years and men at the age of 19 years in the past (where the marriage age limit was stipulated in the Marriage Law No. 1 of 1974) and now is definitely different. The conditions of both are likely to change over time, they can be influenced by culture, customs, social conditions and changes in the surrounding environment which can have an impact on the color of household life, the quality of the generations passed down, and of course the future of this nation, as stated by M , Quraish Shihab.

Regarding the minimum age limit for marriage in Islamic law, no limit is specified as explained in the explanation above. However, the problem of differences in the minimum age limit for marriage between men and women, namely 16 years for women and 19 years for men, stems from the assumption that men must always be more mature and more capable than their wives. This is because men are positioned as heads of families and breadwinners, while women are positioned as subordinate parties. The existence of different marriage ages ultimately appears to discriminate against women.

When viewed through the lens of Imam al-Syathiby's version of mashlahah murlah, the author sees that providing a minimum limit for the age of marriage is a step or means to achieve the maqâshid syari'ah of marriage. The maqâshid is to look after the offspring (hifdz al-nasl) but the level only reaches the realm of hajiyyah, not up to the dlorûriyyah level. Because without a marriage age limit, a person will only encounter some difficulties in their domestic life because it is possible that there will be obstacles related to the reproductive system in young couples, as well as mental, mental maturity and way of thinking, but not to the point of causing loss of life.

Apart from that, this age limit is also not indicated by any special postulates, except only limited to the kully postulates as explained above, so that the existence of mashlahah in the form of a minimum marriage age limit is purely born as an inductive thought (istiqrâ'i) resulting from the existence of the text. - nash kully about the criteria for people who can get married.

Based on the explanation of Law Number 16 of 2019 concerning the age limit for marriage in Polewali Mandar Regency, it can be concluded that it is in accordance with the principles of Islamic law: The minimum age limit for marriage stipulated in this law reflects the principles of Islamic law which emphasizes the importance of physical maturity and maturity. psychology before entering into marriage. By setting a minimum age limit, the law aims to protect children from the risks of early marriage which can have a negative impact on their development, in accordance with the teachings and human values of Islam. Although the law sets an age limit, an educational approach and outreach regarding the importance of this age limit through institutions such as the Ministry of Religion is key to ensuring public understanding, especially among Muslims, regarding the relevance and need for this regulation in Polewali Mandar Regency. The importance of harmonization between positive laws contained in Law Number 16

In 2019, the principles of Islamic law have become a very crucial aspect. Thus, the minimum age limit for marriage is expected to reflect the values and principles of Islamic law in Polewali Mandar Regency.

Thus, Law Number 16 of 2019 concerning marriage indicates the Indonesian government's serious efforts to ensure that marriage regulations are in accordance with Islamic legal values, especially in terms of setting minimum age limits. This is a mandate as well as steps provided by law to ensure the successful implementation of this law in order to reduce the number of marriages of minors. This can be done by all stakeholders, religious leaders, community leaders, teaching staff, educators in schools and by the Government. Alone.

Gender analysis of the minimum age limit for marriage in Law Number 16 of 2019 concerning marriage in Polewali Mandar Regency

The International Decade of Women from the United Nations (UN) is a resolution to eliminate discrimination against women and has influenced various government and non-government organization policies to include women's/gender studies divisions in higher education institutions.

It needs to be understood that Islam carries a spirit of comparing the position and condition of women in the era before and after Islam was born. It can be seen that in pre-Islamic society (Jahiliyah), women's position was very low, even very bad, and they were considered no more valuable than a commodity. 100 The Qur'an as a reference for Islamic society basically recognizes that the position of men and women is the same. .

From this explanation, when it is related to the household, the wife's rights are recognized as equal to the husband's rights. In other words, women have rights and obligations towards men and vice versa. So, the difference in marriage age limits for men and women has clearly cut off one of their equal rights. In other words, differences in marriage age limits are fundamental issues regarding equality and justice that must be resolved in the family or marriage system.

Thus, the age limit for marriage is one of the determinants for a person, especially women, in navigating the life of a household. The low age of women at marriage could potentially give rise to problems such as marginalization due to gender views. A relatively young age at marriage could potentially make women victims of marginalization in their families.

If we look at it, this marginalization occurs because in terms of age the woman is not yet mature from economic, sociological and psychological aspects. This is the problem of gender inequality, that it seems as if the wife's (female) nature for life can only depend on her husband. This happens because laws and regulations set a low age limit for marriage, causing the volume of marriages to reach the age of readiness more quickly.

By determining the age limit for women's marriage in Article 7 paragraph (1) of Law no. 1 of 1974 concerning Marriage, the government has unknowingly opened a loophole for child marriages. This is also contrary to Article 28C paragraph (1) of the 1945 Republic of Indonesia Constitution because the age of 16 (sixteen) years is the age at which women are supposed to study at high school level/equivalent. So, with child marriage, children (especially girls) cannot continue their education because it creates new responsibilities as wives, future mothers, or prospective parents whose role is very large in a household. 101

Apart from that, setting a marriage age limit for women is also not in line with the national education system in Indonesia, namely the 12 year compulsory education program. So for 45 years (1971-2019), girls have not been able to enjoy their constitutional rights to education, resulting in differences in legal position between men and women with the conclusion that men can complete the 12-year compulsory education program, while women are hampered. by the age limit for marriage.

By changing the age limit for marriage for women from 16 (sixteen) years to 19 (nineteen) years, meaning it is equal to men in accordance with Article 7 Paragraph (1)102, the government is trying to slowly reduce gender inequality towards women. This means that women can at least receive the same 12-year compulsory education program as men up to the age of 19 (nineteen) years before getting married.

Raising the age limit for women's marriage to 19 (nineteen) years has reopened the way for women to receive their rights to develop their potential through education, experience and other development programs. On that basis, the difference in age limit for marriage between men and women, with the age limit for women being lower, has actually pushed women themselves into educational marginalization. Even though the level of education is an important factor in producing gender equality and justice.

This is what Mansour Fakhri then worries about, that basically the spirit of relations between men and women in Islam is equal. That the lower age limit for marriage for women has gradually supported a subordination of women themselves which is inappropriate and contrary to the spirit of justice.

Based on the results of an interview with the Head of the KUA of Binnang District, Polewali Mandar Regency regarding gender equality regarding the minimum age limit for marriage in Law 16 of 2019 concerning marriage, he revealed that:

At KUA Binnang, we are committed to encouraging gender equality in all aspects of life, including the marriage process. We believe that every individual, regardless of gender, has the same rights and responsibilities. We ensure that every wedding process is carried out without gender discrimination. We provide information and guidance to prospective brides and grooms about their rights and obligations, regardless of gender. Apart from that, we also encourage active participation from both parties in wedding preparations. Law Number 16 of 2019 has become the basis for us in determining the minimum age limit for marriage. We strictly follow the provisions of the law to ensure that marriages are only conducted taking into account the physical and psychological maturity of the bride and groom.

This is very important to protect children's rights and ensure marriages are healthy and sustainable. Like in many other places, we face challenges in increasing public awareness regarding the minimum age

limit for marriage. Education and outreach are our focus to ensure that people understand the importance of respecting the age limit for the common good. We continue to carry out educational activities, such as seminars, group discussions and social campaigns, to increase public awareness. He added:

“We work together with related institutions and concerned parties to create an environment that supports gender equality and understanding of the minimum age limit for marriage. I want to invite people to work together to support gender equality and respect the minimum age limit for marriage. By understanding and implementing these values, we can create a just and sustainable society.

This is reinforced by Husein Muhammad's opinion, that in Law Number 1 of 1974 concerning Marriage, women are placed unequally to men, namely that men as husbands are positioned to play a role in the public space, while women as wives are positioned in the domestic space.

This is also reinforced in the basic value of the National Commission on Violence Against Women that gender equality and justice is a relationship between men and women which is essentially equal and all social structures, including organizational systems and culture, which are being developed should ensure that there is no discrimination and oppression based on assumptions. -assumptions about inequality between men and women.

In the end, the change in the marriage age limit for women from 16 (sixteen) years to 19 (nineteen) years in accordance with Article 7 Paragraph (1) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage was analyzed from a rational perspective. Mansour Fakhri regarding gender equality is trying to transform the law with the aim of increasing the dignity of women and slowly reducing all gender injustices experienced by women.

In this way, this change in the age limit tries to provide justice and gender equality for women to be able to receive all justice and their rights as Indonesian citizens. Mansour Fakhri concluded that the aspect of social transformation for women is trying to produce justice for women themselves.

Based on the results of the description above, there is minimal outreach carried out by the Government so that understanding of the Law has not reached the public evenly. The results of the research show that it can be said that some people in Polewali Mandar Regency are not evenly distributed regarding information on the law regarding the age limit for marriage. Public education and awareness of the dangers of early marriage can be done if the law reaches the point where society as a whole understands it.

CONCLUSIONS

The implementation of Law Number 16 of 2019 concerning marriage in Polewali Mandar Regency has been ongoing since the law was implemented in Indonesia. The government's efforts, in this case the Ministry of Religion, to prevent underage marriages include carrying out various outreach activities in various circles of society through outreach, so that people know that the minimum age limit for marriage in Indonesia is 19 years for men and 19 for women.

Law Number 16 of 2019 concerning marriage indicates the Indonesian government's serious efforts to ensure that marriage regulations are in accordance with Islamic legal values, especially in terms of setting minimum age limits. This is a mandate as well as steps provided by law to ensure the successful implementation of this law in order to reduce the number of marriages of minors. This can be done by all stakeholders, religious leaders, community leaders, teaching staff, educators in schools and by the Government. Alone.

Gender analysis of the minimum age limit for marriage is to protect women's rights and welfare. This is important to prevent early marriage which tends to have greater negative impacts on women, such as health risks, interrupted education, and limited economic opportunities. Setting the same age limit for men and women reflects the principle of gender equality and avoids discrimination based on sex in the context of marriage in Polewali Mandar Regency. This is expected to reduce the practice of early marriage which tends to place women in a more vulnerable position. Especially in efforts to create gender equality and empower all women and girls in Polewali Mandar Regency. Thus, Law Number 16 of 2019 concerning marriage shows Indonesia's commitment to prioritizing the principle of gender equality by establishing the same minimum age limit for marriage for men and women, in line with efforts to protect women's rights and welfare.

REKOMENDASI

Based on the research results, conclusions and implications as previously stated, the next step is for the government, in this case the Ministry of Religion or related agencies, to be more active in conducting outreach regarding the latest regulations regarding the minimum age limit for marriage as stated in Law Number 16 of 2019 concerning marriage.

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