



The legal effects of age limits in Indonesian marriage after the issuance of law No. 16 of 2019 concerning marriage

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Abstract

The practice of child marriage in Indonesia is still very high and threatens the future of Indonesian children. This can be seen from Unicef data in 2023 which places Indonesia in 4th place globally and first place in ASEAN with a child marriage rate of 25.53 million. This is inseparable from the various factors that underlie the practice of child marriage such as educational, cultural, economic and social factors. Although Indonesia has set the age limit for marriage to 19 years for men and women through the revision of the marriage law, there are still loopholes for child marriage through marriage dispensation. In this study, there are two legal issues that will be discussed, namely the procedure for marriage dispensation and the legal consequences of early marriage for children. This research uses normative research methods and uses a statute approach. The results of this study indicate that the procedure for applying for marriage dispensation based on Perma 5/2019 includes submission by parents to the Court until trial examination and determination. The results of this study also show that child marriage has basically violated the child protection law and has an impact on 5 aspects that threaten human rights, namely health, education, economy, social, and psychological

Keywords: Child marriage, marriage age limit, marriage dispensation

Introduction

Marriage the view of Islamic Law is a binding between a man and a woman so that sexual relations between the two become lawful based on the willingness of both parties to achieve a happy family surrounded by peace, love and love in various ways that Allah SWT is pleased with. ^[1] According to positive law in Indonesia, a marriage is basically considered a legal act that gives birth to legal consequences. The definition of marriage in Indonesia based on Article 1 of Law Number 1 of 1974 concerning Marriage (Marriage Law 1/1974) states that "*marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Almighty God*". Meanwhile, based on Article 2 of the Compilation of Islamic Law (KHI) states that "*Marriage according to Islamic law is marriage, which is a very strong contract or mitsaaqon ghaliidhan to obey the commands of Allah SWT and carrying it out is an act of worship*". By looking at the definition of marriage according to Marriage Law 1/1974 and KHI, marriage is actually a bond / mitsaaqon ghaliidhan (strong contract) between a man and a woman in order to build a happy, eternal household, and to get offspring and to obey the commands of Allah SWT as an act of worship.

Basically, marriage is one of the rights of citizens that has been guaranteed by the Constitution in Article 28 B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that "*everyone has the right to form a family and continue offspring through legal marriage*". Furthermore, in paragraph (2), the Constitution has also guaranteed the rights of children by emphasizing that "*every child has the right to survival, growth and development and the right to protection from violence and discrimination*". Therefore, Marriage Law in Indonesia, which is regulated in Law Number 1 of 1974 concerning Marriage (Marriage Law 1/1974) as amended by Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning

Marriage (Marriage Law 16/2019), has limited the age of marriage through Article 7 paragraph (1) from initially 19 years for men and 16 years for women to both 19 years for both men and women.

The change in the age limit requirement for marriage in Marriage Law 16/2019 occurred as a result of the Constitutional Court Decision Number 22/PUU-XV/2017 which partially granted the petitum of the Petitioner regarding the testing of the norms of Article 7 paragraph (1) of Marriage Law 1/1974 concerning the minimum age limit requirements for men and women to be able to enter into marriage. The decision is classified as a very progressive decision from the Constitutional Court considering that the Constitutional Court in 2015 had rejected the application to review the norms of Article 7 paragraph (1) of the Marriage Law 1/1974 in Constitutional Court Decision Number 30-74 / PUU-XII / 2014 with the consideration that the regulation of age limits is an *open legal policy* or in this case is the domain of the legislators (Government and DPR) who have the authority to change the provisions regarding the age limit requirements for marriage. ^[2] Through Constitutional Court Decision Number 22/PUU-XV/2017, the Constitutional Court has changed its stance regarding the consideration of *open legal policy* in the previous Decision and considers that although the provisions regarding age limits are *open legal policy*, the policy must not treat citizens discriminatively on the basis of gender differences. ^[3] Therefore, the Constitutional Court eventually raised and equalized the age limit for women and men to 19 years old to be able to enter into a marriage.

The regulation regarding the age limit of marriage basically has the aim of good and benefit for men and women who will enter into marriage and guarantee the purpose of establishing the principle or principle of limiting the age of marriage as explicitly stated in the general explanation of Marriage Law 1/1974 in point 4 letter (d) which states that in order to be able to enter into a marriage, the prospective

bride and groom must be mature in mind and body in order to realize the good purpose of marriage without divorce and obtain good and healthy offspring.^[4] For this reason, Marriage Law 1/1974 has actually prohibited marriage for prospective brides who are underage. This is also emphasized in the explanation of Article 7 paragraph (1) of Marriage Law 1/1974 which states that it is important to determine the age limit of marriage in order to maintain the health of the husband, wife and their offspring. In addition, the Marriage Law 16/2019 in the consideration of letter (b) also states that marriage for prospective brides, especially women who are underage, will have a negative impact on the growth and development of the child and the child will lose basic rights that should be obtained such as the right to education, the right to health, etc.

The existence of Marriage Law 16/2019, which has limited the age of marriage to 19 years for men and women, has not stopped the practice of marriage in children, especially women. This is because there is still a gap in child marriage through marriage dispensation as stated in Article 7 paragraph (2) of Marriage Law 16/2019. After the ratification of the Marriage Law 16/2019 alone, the number of marriage dispensations that have been decided in the Religious Courts according to the 2020 annual report of the Supreme Court reached 63,231.^[5] The number of marriage dispensations has decreased from year to year, such as in 2021 there were 61,443 marriage dispensation decisions,^[6] in 2022 there were 50,748 marriage dispensation decisions,^[7] and in 2023 there were 41,536 marriage dispensation decisions.^[8] Although there has been a decrease in the number of marriage dispensations in the period 2020-2023, the fact that cannot be denied is that until now the marriage of minors is still rampant in Indonesia through marriage dispensation. In fact, based on Unicef data in 2023, Indonesia is ranked fourth in the world and at the same time ranks first in ASEAN with a child marriage rate of 25.53 million.^[9]

The rampant practice of child marriage in Indonesia cannot be separated from several factors that contribute to the number of child marriages such as social, economic, cultural, and religious factors that develop in society. Based on a study conducted from June 15 to July 4, 2014 and conducted in Lampung, DKI Jakarta, Banyuwangi, NTB, Sukabumi, North Sulawesi, South Kalimantan, and Semarang, it has been concluded that the factors that lead to child marriage include education, poverty, customs and arranged marriage.^[10]

Based on the above issues, the author is interested in discussing further in the discussion by focusing on three things, namely the concept of marriage dispensation according to Indonesian law and the procedure for applying for marriage dispensation and continued with a discussion of the legal consequences for children who marry at an early age.

Methods

This research is a type of normative research in the form of a literature study by studying, analyzing, and reviewing literature, research results and other reading materials related to the issues raised. The author in this research uses a *statute approach* by studying the legal principles and norms contained in a legislation related to the legal issues raised so that the author can build an argument in solving the legal problems being studied. The legal materials

collected by the author in this research are primary legal materials that have binding force and consist of laws and regulations and international conventions and the author also collects secondary legal materials in the form of law books, research results, and various other literature studies.^[11]

The data and/or information obtained in this research will be analyzed and presented descriptively qualitatively, namely analyzing data obtained from literature studies by explaining the research object obtained from the research results. Then the author also uses systematic interpretation, namely the author will analyze the relationship between a rule in the interlocking legislation so that the author can build an argument in solving the legal problems being studied. Because the data and/or information obtained in this research is qualitative data, so that data and/or information processing techniques are carried out deductively, namely starting from the basics of general knowledge, then examining things that are specific so that from this analysis process a conclusion can then be drawn.

Discussion and Result

Concept of Marriage Dispensation under Indonesian Law

The Big Indonesian Dictionary defines dispensation as an exception from the general rules for the existence of a special situation or in this case freedom from prohibition or obligation. In the view of C.S.T Kansil and Christine S.T Kansil, dispensation is defined as a decree that has a declaratory nature stating that basically the provisions of a law do not apply to the case that has been filed by the applicant.^[12] Meanwhile, Subekti *et al* have provided a brief understanding of dispensation, which is limited to an exception or deviation from an order.^[13]

The concept of marriage dispensation has been regulated in Article 7 paragraph (2) of the Marriage Law 16/2019 which states that "*In the event of a deviation from the age provisions as referred to in paragraph (1), the parents of the male party and/or the parents of the female party may request dispensation to the Court on very urgent grounds accompanied by sufficient supporting evidence*". Furthermore, the regulation regarding marriage dispensation is further regulated in Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications (Perma 5/2019). Article 1 point 5 of Perma 5/2019 defines marriage dispensation as the granting of permission to marry by the Court to a prospective husband/wife who is under the age of 19 years to enter into marriage.

Procedure for applying for marriage dispensation

Currently, the procedure for applying for marriage dispensation has been regulated in Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications (Perma 5/2019). In this Perma 5/2019 there are principles for Judges in adjudicating marriage dispensation applications listed in Article 2, namely: the best interests of the child; the right to life and development of the child; respect for the opinion of the child; respect for human dignity; non-discrimination; gender equality; equality before the law; justice; expediency; and legal certainty. In addition, Article 3 of Perma 5/2019 states that the guidelines for adjudicating marriage dispensation applications aim to:

1. Implement the principles as referred to in Article 2;
2. Ensure the implementation of a justice system that protects children's rights;
3. Increase parental responsibility in order to prevent child marriage;
4. Identifying the presence or absence of coercion behind the filing of the marriage dispensation petition; and
5. Standardizing the process of adjudicating marriage dispensation cases in court.

In applying for marriage dispensation to the Court, there are administrative requirements that must be met as stated in Article 5 of Perma 5/2019, namely:

1. Application letter;
2. Copy of Identity Card of both parents/guardians;
3. Copy of family card;
4. Photocopy of Identity Card or Child Identity Card and/or birth certificate of the child;
5. Photocopy of Identity Card or Child Identity Card and/or birth certificate of prospective husband/wife; and
6. Copy of the child's last education certificate and/or school certificate from the child's school.

If these administrative requirements are not met, other documents that can explain the identity and educational status of the child and the identity of the parents/guardians can be used (Article 5 paragraph (2) Perma 5/2019). Furthermore, the application for dispensation of marriage according to the provisions of Article 6 must be submitted by:

1. Parents
2. If the parents are divorced, the application for dispensation to marry is still submitted by both parents or one of the parents who has custody of the child based on a court decision;
3. If one of the parents has passed away or their whereabouts are unknown, an application for dispensation to marry is submitted by one of the parents;
4. If both parents have passed away or have been deprived of their powers or their whereabouts are unknown, an application for dispensation to marry is submitted by the child's guardian;
5. If the parent/guardian is absent, it is submitted by a proxy based on a power of attorney from the parent/guardian in accordance with statutory regulations.

Based on the provisions of Article 7 to Article 9 of Perma 5/2019, dispensation to marry is submitted to the competent Court provided that the Court is in accordance with the religion of the child if there is a difference in religion between the child and the parents/guardians and the same Court according to the domicile of one of the parents/guardians of the prospective husband/wife if the prospective husband/wife is under the age limit for marriage. After submission to the authorized Court, the Registrar checks the administrative requirements. If the administrative requirements are met, it will be registered in the register after paying the court fee, but if they are not met, the Registrar will return the application for dispensation of marriage to the applicant to be completed. In the event that the applicant is unable to afford it, he/she can

apply for dispensation of marriage pro bono (free of charge).

If the application for dispensation of marriage has been registered, it will enter the case examination process (Article 10 Perma 5/2019). At the first hearing, the applicant is obliged to present the child for whom the application for dispensation of marriage is filed, the prospective husband/wife, and the parents/guardians of the prospective husband/wife. If at the first hearing the applicant is not present, the Judge will postpone the hearing and call the applicant back at the second hearing, but if at the second hearing the applicant is still not present then the application for dispensation of marriage is declared "void". In addition, if the applicant is unable to present the parties at the first and second hearing as stated in Article 10 paragraph (1) of Perma 5/2019, the Judge will postpone the hearing and order the applicant to present the parties at the third hearing. If at the third hearing the applicant is still unable to present the parties, then the application for dispensation of marriage is declared "unacceptable". The parties to the hearing do not have to be present on the same day.

In the trial, Judges use language and methods that are easy for children to understand and Judges and Substitute Clerks may not wear court attributes (Article 11 Perma 5/2019). In addition, according to the provisions of Article 12 Judges in the trial must also provide advice to the parties and ensure that the parties understand the risks of marriage, related to:

1. Possible cessation of education for the child;
2. Sustainability of children in pursuing 12 years of compulsory education;
3. The child's reproductive organs are not yet ready;
4. The economic, social and psychological impact on the child; and
5. Potential for domestic disputes and violence.

The advice is considered in the determination and if the Judge does not provide the advice to the parties, it results in a "null and void" determination. The "null and void" determination also applies if the Judge in the trial does not hear the testimony of the child for whom the marriage dispensation is sought, the prospective husband/wife for whom the marriage dispensation is sought, the parents/guardians of the child for whom the marriage dispensation is sought, and the parents/guardians of the prospective husband/wife (Article 13 Perma 5/2019). According to the provisions of Article 14, in the trial the Judge identifies:

1. The child(ren) named in the petition are aware of and consent to the proposed marriage;
2. The psychological condition, health and readiness of the child to enter into marriage and build a household life; and
3. Psychological, physical, sexual or economic coercion of a child and/or family to marry or give birth to a child.

Therefore, in Article 15 of Perma 5/2019, the judge in examining the child for whom the marriage dispensation is requested can:

1. Hear the child's testimony without the parents present;
2. Hear the child's testimony through remote audio-visual communication examination at the local court or elsewhere;
3. Suggest that the child be accompanied by a chaperone;

4. Request recommendations from Psychologists or Doctors/Midwives, Professional Social Workers, Social Welfare Workers, Integrated Service Center for the Protection of Women and Children (P2TP2A), Indonesian/Regional Child Protection Commission (KPAI/KPAD); and
5. Bring in an interpreter/person who is used to communicating with the child, if needed.

In the examination, according to the provisions of Article 16, the judge shall pay attention to the best interests of the child by:

1. Thoroughly and carefully study the applicant's request;
2. Examine the legal standing of the applicant;
3. Exploring the background and reasons for child marriage;
4. Exploring information related to whether or not there are any impediments to marriage;
5. Exploring information related to children's understanding and consent to marriage;
6. Take into account the age difference between the child and the prospective husband/wife;
7. Hear testimony from the applicant, the child, the prospective husband/wife, and the parents/guardians of the prospective husband/wife;
8. Considering the psychological, sociological, cultural, educational, health, economic conditions of children and parents, based on recommendations from psychologists, doctors/midwives, professional social workers, social welfare workers, the Integrated Service Center for the Protection of Women and Children (P2TP2A) or the Indonesian/Regional Child Protection Commission (KPAI/KPAD);
9. Consider the presence or absence of psychological, physical, sexual and/or economic coercion; and
10. Ensure parents' commitment to take responsibility for their children's economic, social, health and education issues.

Based on the provisions of Article 17 of Perma 5/2019, the determination of marriage dispensation by the Judge considers the protection and best interests of the child in the legislation and unwritten law in the form of legal values, local wisdom, and a sense of justice that lives in the community and international conventions related to child protection. Marriage dispensation cases are heard by Judges who have a Supreme Court Decree as a Juvenile Judge,

attended training and/or technical guidance on women in conflict with the law or are certified in the Juvenile Criminal Justice System or have experience in hearing marriage dispensation cases. Any judge may also hear marriage dispensation cases if there are no judges who have the competency or certification as previously mentioned (Article 20 Perma 5/2019).

legal consequences for children who perform early marriage

In Islam, the age limit for entering into a marriage is not clearly and firmly regulated in either the Quran or sunnah. In Mughnyyah's view, the age limit is also not clearly and quantitatively explained by the classical fiqh scholars. In general, the classical fiqh scholars only provide adult factors for the prospective bride and groom without a detailed explanation of what adult means in terms of age limits.^[14] In another view, Husein Muhammad believes that the fiqh scholars have generally agreed that if the limit of adulthood (baligh) must be determined by numbers, the minimum age in marriage is 15 years, while Imam Abu Hanifah believes that 17 or 18 years. Other views can also be seen from the opinions of Ibn Shubrumah, Abu Bakr al-Asham, and Uthman al-Batti who argue that a man or woman cannot enter into marriage if both have not reached puberty and must have the consent of the child to be married. Although most scholars use the story of the marriage of the Prophet Muhammad SAW with Aisyah as a basis for legalizing early childhood marriage, Ibn Shubramah believes that this cannot be used as a basis because basically marriage is an exception or specificity for the Prophet himself and does not apply to his people.^[15]

Regarding the age limit for marriage, Imam Al-Ghazali also does not explain in detail about the age limit and believes that marriage is carried out when the prospective husband or wife has reached puberty. Imam Al-Ghazali in this case has given the limit of baligh with the sign of the growth of armpit hair as proof of one's baligh. However, Imam ash-Shafi'i, a pioneer of the madzhab who was also followed by Imam al-Ghazali regarding age limits, has limited the age of puberty for men and women to 15 years.

In Indonesia, the age limit for children to be able to enter into marriage based on Article 7 paragraph (1) of Marriage Law 16/2019 is 19 years old for both men and women. In addition to Marriage Law 16/2019, there are various other laws and regulations that regulate and describe the age limit of children, including the following:

No.	Legislation	Article	Content Material
1.	Civil Code	Article 330	"Minors are those who have not reached the age of twenty-one years, and have not previously been married..."
2.	Law Number 4 of 1979 concerning Child Welfare	Article 1 point 2	"A child is a person who has not reached the age of 21 (twenty-one) years and has never been married."
3.	Law Number 39 Year 1999 on Human Rights	Article 1 point 5	"A child is any human being under the age of 18 (eighteen) years and unmarried, including a child still in the womb if it is in his/her best interest."
4.	Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection	Article 1 number 1	"A child is someone who is not yet 18 (eighteen) years old, including children still in the womb."
5.	Law Number 13 Year 2003 on Manpower	Article 1 point 26	"A child is any person under the age of 18 (eighteen) years."
6.	Law Number 30 Year 2004 on Notary Position	Article 39 paragraph (1) letter a and paragraph (2)	"Facilitators must fulfill the following requirements: a. at least 18 (eighteen) years old or married; and." "The confronter must be known by the Notary or introduced to him by 2 (two) witnesses who are at least 18 (eighteen) years old or married and capable of performing legal acts or introduced by 2 (two) other confronters."

7.	Law No. 12/2006 on Citizenship of the Republic of Indonesia	Article 4 letter h and Article 5 paragraph (1)	"a child born out of a legal marriage to a foreign mother who is recognized by an Indonesian father as his child and the recognition is made before the child is 18 (eighteen) years old or unmarried." "Children of Indonesian citizens born outside legal marriage, not yet 18 (eighteen) years old and not yet married is legally recognized by his father who is a foreign citizen is still recognized as an Indonesian citizen."
8.	Law No. 21/2007 on the Eradication of the Crime of Trafficking in Persons	Article 1 point 5	"A child is someone who is not yet 18 (eighteen) years old, including children still in the womb."
9.	Law Number 44 of 2008 on Pornography	Article 1 point 4	"A child is someone who is not yet 18 (eighteen) years old."
10.	Law No. 11/2012 on the Juvenile Justice System	Article 1 number 3, number 4, number 5	"Children in Conflict with the Law, hereinafter referred to as Children, are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a criminal offense." "A Child Victim of Crime, hereinafter referred to as a Child Victim, is a child under the age of 18 (eighteen) years who has suffered physical, mental, and/or economic loss caused by a criminal offense." "A Child Witness to a Crime, hereinafter referred to as a Child Witness, is a child under the age of 18 (eighteen) years who can provide information for the purpose of investigation, prosecution, and examination in court about a criminal case that he/she has heard, seen, and/or experienced."
11.	Law Number 22 of 2022 concerning Corrections	Article 1 number 5 and number 7	"Children in Conflict with the Law, hereinafter referred to as Children, are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a criminal offense." "Fostered children are children who have reached the age of 14 (fourteen) years, but not yet 18 (eighteen) years old who are undergoing guidance in a special child development institution."
12.	Law Number 1 Year 2023 on the Criminal Code	Article 150	"Child is a person who is not yet 18 (eighteen) years old."
13.	Law No. 17 of 2023 on Health	Article 41(2)	"Infant and child health efforts are carried out from the womb, birth, after birth, until before the age of 18 (eighteen) years."

In some of these national laws and regulations, it is clear that the majority of children's age has been determined before the age of 18, so that the deviation of marriage by marrying a minor (19 years old based on Marriage Law 16/2019) through marriage dispensation is not in accordance with the laws and regulations which results in the loss of children's rights. Even based on Law Number 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (Child Protection Law 35/2014) in Article 26 paragraph (1) it is stated that "*parents are obliged and responsible for: c. prevent marriage at the age of a child.*" Thus, the marriage of a minor is basically a violation of the Child Protection Law 35/2014, which is a mandate from the provisions of Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In addition to violating the Child Protection Law 35/2014, the practice of child marriage at an early age will basically have an impact on several aspects that threaten human rights such as health, education, economy, social, and psychological.

First, the impact of early marriage on health aspects. The Central Statistics Agency (BPS) through its publication in 2020 stated that early marriage has a correlation with the rate of pregnancy in children. As of March 2020, for example, based on BPS data, 4.77 percent of early-age women (16-19 years old) had given birth. This is according to the World Health Organization (WHO) for women aged 10-19 years who experience pregnancy and childbirth are at high risk of systemic infections, eclampsia, and puerperal endometritis when compared to women aged 20-24 years. Giving birth to a woman at an early age is not only risky for herself but also risks the baby she will give birth to such as neonatal complications, preterm labor, and low birth weight (LBW). In fact, according to WHO, complications of pregnancy and childbirth are the highest contributor to early female deaths (15-19 years) in the world.^[16]

Second, the impact of early marriage on the educational aspect. Early marriage has the potential to cause women to drop out of school. This can be seen from the average length of schooling of women and men aged 20-24 years who marry above the age of 18 years is higher than those who marry below the age of 18 years. Women aged 20-24 years have a difference in average years of schooling of almost 2 years between those who marry before the age of 18 years and after the age of 18 years. In addition, the highest proportion or around 41.18 percent only completed education up to junior high school / equivalent level.^[17]

Third, the impact of early marriage on the economic aspect. The low level of education for married girls makes it difficult to access decent work. BPS data in 2018 states that the *Employment to Population Ratio (EPR)* of married women aged 20-24 years is only 32.46 percent and this figure is smaller than the EPR of unmarried women aged 20-24 years, which is 54.15 percent.^[18] The data indicates that women who marry at an early age have the potential to pass on poverty to their children. This can also be caused because economic inability is one of the factors that cause child marriage. Thus, child marriage is basically not the right solution to get out of the poverty zone and even has the potential to worsen economic conditions. Based on research conducted by Widyawati and Pierewan in 2017 by conducting a survey of 857 people from 13 provinces in Indonesia, it was concluded that elementary level education, education of spouses who were not in school, low income, and middle income had a significant influence on early marriage.^[19]

Fourth, the impact of early marriage on social aspects. One of the impacts of early marriage when viewed from a social aspect is the potential for divorce and infidelity among young husbands/wives who are less or unable to socialize and adapt to their husbands/wives or extended families which results in family disharmony. For example, in

Banyuwangi Regency there are divorce applications where almost 90 percent are young couples and the average age is under 30 years old. Most of these young couples are victims of early marriage, which reaches 300-400 cases out of a total population of 1.6 million in Banyuwangi.^[20]

Fifth, the impact of early marriage on psychological aspects. In Walgito's view, the phenomenon of early marriage will cause various problems considering that it is psychologically immature which results in anxiety and stress.^[21] Apart from anxiety and stress, early marriage in Dariyo's view will also cause depression.^[22] Children who marry are prone to divorce conflicts given their lack of mental readiness due to immaturity. Young couples will easily experience mental turmoil such as unstable emotions and immature mindsets that can lead to depression and stress due to anxiety in dealing with various problems that arise in a family.^[23]

Conclusion

After the existence of the Marriage Law 16/2019 which changed the age limit for marriage to 19 years for men and women, it did not stop the practice of child marriage in Indonesia. This is because there is still a loophole for child marriage through marriage dispensation as stated in Article 7 paragraph (2) of Marriage Law 16/2019. Therefore, the Supreme Court has issued Perma 5/2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. The procedure for applying for marriage dispensation based on Perma 5/2019 includes submission by parents to the Court until trial examination and determination. Perma 5/2019 also provides guidelines for judges in examining, adjudicating, and deciding applications for marriage dispensation by applying the principles of the best interests of the child, the right to life and growth of the child, non-discrimination and gender equality.

The justification for the existence of child marriage with the existence of marriage dispensation as stipulated in the provisions of Article 7 paragraph (2) of Marriage Law 16/2019 clearly shows contradictions with various laws that regulate the age limit of children, namely everyone who is not yet 18 years old. In addition, the norms of Article 7 of Marriage Law 16/2019 should also be linked to the conditions for marriage contained in Article 6 paragraph (1) and paragraph (2) of Marriage Law 1/1974 which stipulate that "*marriage is based on the consent of the bride and groom*" and "*To enter into marriage a person who has not reached the age of 21 (twenty-one) years must obtain permission from both parents*". From the provisions of these two paragraphs, it becomes clear that a person who is going to enter into a marriage must be able to make an agreement freely and without pressure and have reached the age of majority, namely 21 years, because before the prospective bride and groom reach this age they must have the permission of both parents. The practice of child marriage generally brings more harm to children as the next generation of the nation because it has an impact on several aspects that threaten human rights such as health, education, economy, social, and psychological.

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