

Implications of the Implementation of the Marriage Age Limit After the Enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage at the Pandan Religious Court

Sri Rahmadani^{1*}, Henry Aspan², Mhd. Azhali Siregar³

^{1,2,3}Department of Master of Law, Universitas Pembangunan Panca Budi, Indonesia

*E-mail: henryaspan@dosen.pancabudi.ac.id

ABSTRACT

The main problem is the existence of problems that arise after the amendment of Law Number 1 of 1974 concerning marriage at the Pandan Religious Court and the efforts made by the Pandan Religious Court against the emergence of problems after the amendment of Law Number 1 of 1974 concerning marriage. The purpose of this research is to describe and analyze the implications that arise and solutions after the amendment of Law Number 1 of 1974 concerning Marriage at the Pandan Religious Court. This type of research is field *research*, using a qualitative method with a case study approach. The results of the study show that, the implications that emerged after the amendment of Law number 1 of 1974 concerning marriage at the Pandan Religious Court are the increase in the number of marriage dispensation applications. The solution to the problems that arose after the amendment of Law Number 1 of 1974 concerning marriage at the Pandan Religious Court is to provide advice and a persuasive approach to the child to cancel his intention to marry at an early age, and if this is not considered acceptable to the child, then it is recommended to apply for a marriage dispensation. The results are based on the decision of the Religious Court. The conditions that must be met in filing a marriage dispensation application case at the Religious Court are as follows: 1). Application Letter, 2). Copy of the ID card of the parent/guardian concerned, 3). Copy of the Applicant's Family Card, 4). Copy of the Birth Certificate / ID card of the child, 5). Copy of ID card / birth certificate of the prospective husband/wife, 6). Copy of the child's last Education Diploma and/or certificate of still being in school from the child's school, 7). A copy of the Letter of Rejection from the Sub-district Religious Affairs Office and 8). Paying the cost of the case, the Applicant who cannot afford it can apply for a free marriage dispensation (prodeo)

Keywords:

Age of Marriage, Law Number 1 of 1974, Religious Court

1. Introduction

Marriage is a sacred promise bond between a man and a woman and in order to form a family that is *sakinah mawaddah and rahmah*, marriage is also the foundation in shaping it (Ramadani, 2023). So, because marriage is the most urgent and very sacred thing in human life, in Islamic religious sharia there are several rules and norms that must be carried out (Rafianti & Sinaga, 2023). Indeed, in

these regulations and norms there are actions that are only recommendations and obligations. Islam also regulates this before the implementation of the marriage bond until the realization of the marriage bond. Deliberately this is regulated in Islam with the aim of making it easier for husband and wife couples to build their households later (Yanggo, 1996: 67).

Marriage is a common sunnatullah and applies to all His creatures, both in humans, animals, and plants (Sahrani, 2010: 10). Nikah in lughotan or language is al-Jam'u and al-ḍammu which means gather. While in terms or terminology, marriage or marriage is a contract in the form of a handover between an adult man and an adult woman with the aim of both of them being satisfied with each other and then being able to foster a family that is faithful in realizing a prosperous social life (Sudirman, 1999: 76).

Marriage or marriage is also the desire of all humans or also known as the term fitratun insaniah. Because Islam is a religion that contains elements of fitrah, Islam does not accept things that are contrary to the elements of soft fitratun. So, because of this, Islam encourages its people to bind their affection with a strong bond, namely through marriage or marriage. In this regard, Allah SWT has said in the Quran in Surah An-Nur verse 32 which reads:

"And marry those who are still single among you, and also those who are worthy (to marry) of your male and female servants. If they are poor, God will empower them with His gifts. And Allah is Vast (His Gift), and He is Knowing." (QS. An-Nur: 32).

A marriage bond is considered to be legal, if it is done in accordance with the requirements and principles that have been set. The scholars have different opinions (ikhtilaful ulama) in looking at the requirements and harmony in marriage, but the difference of opinion among the scholars is not in the area of substance. However, these differences are not substantial. All scholars agree that the things that must be present in a marriage are: the marriage contract, the man who will marry, the woman who will marry, the guardian of the bride, the witness who witnesses the marriage contract, and the dowry or dowry (Syarifuddin, 2009: 59, Medaline et al., 2021; Rafianti et al., 2024)).

The provisions of the age of marriage in Islam are not strictly regulated, both for men and women, but Islam recognizes the concept of bā'ahi (ability) as a benchmark for someone who is going to get married (Asni, 2012: 78-79). The pros and cons among the community itself still emerge, especially about the age limit in carrying out marriage. According to medical experts, puberty experienced by women mostly occurs at the age of 16, puberty is a transition period from childhood to adulthood. The age of 16 is considered not to have the physical or mental readiness to become a wife. According to estimates, this age range can get a high risk if pregnancy occurs for a wife. Pregnancy in the teens will be easier to occur pre-eclampsia, abostus, anemia, death, bleeding and also obstetric surgery more often when compared to the age of 20 years and above (Dellyana, 1998: 174).

With Law Number 16 of 2019 which revised Law Number 1 of 1974, the age of men and women who want to get married is equalized to 19 years old. If you look deeper into Islamic law, a

person who will perform a marriage is the benchmark 'āqil bāligh known as Alāmatul Bulūgh, (Hakim, 2000: 142) that is, for women it is based on menstruation (menstruation) and for men it is based on when he begins to experience jima' (*coitus*) dreams (Sudirman, 1999: 34).

Seen outwardly, puberty is a conception that contains knowledge about certain biological processes that a person experiences as a sign of their biological maturity. If we look at the equality of marriage age in the revised article, it can be assumed that men and women come of age at the same time. Because a man and a woman are allowed to marry when they are 19 years old. Even though it is not a guarantee, it may not be the same.

2. Methods

This research is included in the field research category. This research uses a qualitative approach. Qualitative research is a type of research that produces discoveries that cannot be achieved by using statistical procedural procedures or by other means of quantification. Through qualitative research, researchers can recognize subjects and feel what they experience in their daily lives. According to this definition, qualitative research produces descriptive data so that it is a detail of a phenomenon being studied (Sudikin, i2002: 1(Nurhayati et al., n.d.; Rafianti et al., 2022)). The data sources in this study consist of two types, consisting of:

1. Primary data sources. Primary data sources are primary data sources that are closely related to the problems discussed. The primary data sources in this study are the Judges at the Pandan Religious Court and the Petitioner for dispensation in the issue of the age limit for marriage at the Pandan Religious Court.
2. Secondary data sources in this study are documents related to the problem of marriage age after the revision of the Marriage Law at the Pandan Religious Court. This is in accordance with the opinion expressed by Winarno Surakhmad who said that secondary data sources are data sources related to the problems discussed by researchers (Surakhmad, 2001: 71).

In collecting the required data, the author uses the following data collection techniques:

1. Observation, Observation is to make direct observations of the problems discussed. Observation is very necessary in the implementation of research, because through observation the researcher will get a clearer and more concrete picture of the problems discussed (Surakhmad, 2001: 109). The matters that will be observed are related to the problems of the age of marriage after the revision of the Marriage Law at the Pandan Religious Court. Observation was carried out so that the researcher obtained valid data by directly observing the problems of marriage age after the revision of the Marriage Law at the Pandan Religious Court.
2. Interview, Interviews are direct communication with research data sources to get the data needed. Interviews were conducted mainly with judges and dispensation applicants as a source of primary data related to the problem of marriage age after the revision of the Marriage Law at the Pandan

Religious Court. The purpose of the interview is to further strengthen the data obtained from observation.

3. Documentation, Documentation be data collection methods used in social research methodologies to trace historical data (Bungin, 2008: 121). In qualitative data research, one of the models is the Miles and Huberman Model, which is qualitative data analysis is carried out interactively and takes place continuously from the beginning of data collection in the field to completion, completeness and saturation. The steps are carried out: 1). Data Collection, 2). Data Reduction, 3). Data Display, and 4) Conclusion (Hanafi, 2014: 123).

The Chairman of the Pandan Religious Court revealed that:

"With the revision of the marriage law in October 2019, it has an impact on the increase in marriage dispensation cases in Central Tapanuli Regency, in 2019 the number of marriage dispensation cases amounted to 19 cases and in 2020 it increased to 42 cases, The problem that arises is the increase in the number of marriage dispensation applications due to the increase in the minimum age limit for marriage from 16 years to 19 years for women" (*Personal Interview*, Mhd Ghazali as Chairman of the Pandan Religious Court, November 3, 2024).

The same thing was also expressed by Zaldaki Lutfi Zulfikar, S.Sy one of the Judges at the Pandan Religious Court office, namely:

"The problem that arises after the revision of the marriage law is the increase in the number of applicants for marriage dispensation cases. The increase in marriage dispensation cases also has an impact on Religious Courts throughout Indonesia" (*Personal Interview*, Zaldaki Lutfi Zulfikar as Judge of the Pandan Religious Court, June 4, 2024).

3. Results And Discussion

A. Implications of Changes in the Marriage Age Limit After the Amendment of the Marriage Law at the Pandan Religious Court

Problems that arose after the revision of the marriage law at the Pandan Religious Court, including what was stated by the Chairman of the Pandan Religious Court, namely the increase in the number of submissions or applications for dispensa cases. According to Mr. Mhd Ghazali as the Chairman of the Pandan Religious Court, it was revealed that:

"With the revision of the marriage law in October 2019, it has an impact on the increase in marriage dispensation cases in Central Tapanuli Regency, in 2019 the number of marriage dispensation cases amounted to 19 cases and in 2020 it increased to 42 cases, The problem that arises is the increase in the number of marriage dispensation applications due to the increase in the minimum age limit for marriage from 16 years to 19 years for women" (*Personal Interview*, Mhd Ghazali as Chairman of the Pandan Religious Court, November 3, 2024).

The same thing was also expressed by Zaldaki Lutfi Zulfikar, one of the Judges at the Pandan Religious Court, namely:

"The problem that arises after the revision of the marriage law is the increase in the number of applicants for marriage dispensation cases. The increase in marriage dispensation cases also has an impact on Religious Courts throughout Indonesia" (*Personal Interview*, Zaldaki Lutfi Zulfikar as Judge of the Pandan Religious Court, June 4, 2024).

The researcher also analyzed the existing documents, the results of the analysis are based on the following table:

Table 1. Application for Marriage Dispensation at the Pandan Religious Court Before and After the Birth of Law No. 16 of 2019

It	Year	Number of Marriage Dispensation Cases
1	2017	10
2	2018	9
3	2019	19
4	2020	42
5	2021	39
6	2022	37
7	2023	28

Data Source from SIPP Religious Courts

This data was seen before and after the amendment of Law No. 1 of 1974 in article 7 which requires the minimum age of marriage that the age of men is 19 years and the age of women is 16 years.

Based on the results of the above research, it can be concluded that the problems that arose after the amendment of Law Number 1 of 1974 concerning marriage at the Pandan Religious Court are a significant increase in the number of marriage dispensation applications in 2020, because the enforcement of the age limit began on October 15, 2019 or in the final quarter of 2019;

B. Solutions to Problems Arising After Changes to the Marriage Law at the Pandan Religious Court

The problem that arose after the amendment of Law Number 1 of 1974 concerning marriage at the Pandan Religious Court was the increase in the number of applications for marriage dispensation. The solution to the problems that arise after the amendment of the marriage law at the Pandan Religious Court is to provide advice and a persuasive approach to the child to cancel his intention to marry at an early age and if this is not considered acceptable to the child, then it is recommended to apply for a marriage dispensation. The results depend on the results of the examination in the trial by the local religious court.

The increase in the age of marriage for women as stipulated in the amendment of the Marriage Law to 19 years has caused a significant increase in the number of marriage dispensation applications. This means that there is an increase in the burden of tasks that must be completed by judges in the Religious Court. This has actually become a logical consequence of the duties and positions carried out by judges in providing justice and legal certainty for the community.

An increase in the volume of cases is something that is almost impossible to avoid. With or without this amendment to the Marriage Law, the volume of cases in the Religious Court will certainly continue to increase from year to year due to many factors such as increasing public legal awareness, increasing the quality of education, increasing economic standards, easier access to courts, and so on. It's just that the increase in the marriage age has resulted in an acceleration (acceleration) of the increase in the volume of cases.

The problem surrounding the issue of increasing the minimum age limit for marriage has become like a hot ball thrown at the judiciary. With the handling of marriage dispensation applications, the majority of which are granted by judges, the Religious Court seems to have become an institution that encourages the increasing number of child marriage cases, something that is contrary to the vision of human resource development launched by the government which has also become a global consensus.

In examining and deciding the case of the marriage dispensation application, the judges actually experienced an inner upheaval. Judges are well aware that child marriage has many risks, while preventing child marriage by rejecting the application submitted also raises potential problems that are not simple. In this context, the judge is in a dilemma. On the other hand, judges are also not free parties to present solutions, especially because the position and authority of judges are limited outside of examining and deciding cases.

If the marriage dispensation is abolished, it will actually cause new social problems, because there will be many marriage ceremonies because they do not get a marriage dispensation, and it will also have an impact on children born from the marriage results. Of course, this will also be contrary to the Child Protection Law.

From the perspective of the independence of judges, coupled with the variety of variables found by judges in examining each case, judges must still be independent and free from all pressure in resolving the cases received. The judge is the person who knows the most about the ins and outs of the issues raised by the Applicant in the marriage dispensation case, namely the parents of the minor child. Parties outside the court cannot and should not interfere in the slightest with the authority of the judge in carrying out his duties to decide a case.

For a long period of time, of course, a thorough and comprehensive evaluation must be carried out regarding the effect of the rule regarding the addition of the minimum age limit for marriage for girls. At that time, the judge will appear to be one of the most important references in determining

and formulating government policies whether to maintain the revision of the Marriage Law or will return to revise it.

Public awareness regarding problems arising from child marriage is the best solution. It's just that this solution is not a portion of the judge's obligations within the dominant limit. The judge has a very limited time to interact with the parties, namely in the courtroom when examining the case. Therefore, the maximum role of the government, both central and regional, is needed to improve legal counseling facilities for the community. Ministries and institutions such as the Ministry of Religious Affairs, the Ministry of Social Affairs, and the Ministry of Women's Empowerment and Child Protection are parties that have a much more optimal role and authority in providing solutions to this problem.

The form of solutions in dealing with the problems that arise after the revision of the marriage law in the Religious Court includes as explained by the Chief Justice of the Pandan Religious Court, namely the Supreme Court issued a regulation called PERMA (Supreme Court Regulation) regarding guidelines for adjudicating marriage dispensation applications, namely PERMA No. 5 of 2019 (*Personal Interview*, Chairman of the Pandan Religious Court, June 3, 2024).

The strategies implemented by the Religious Court in providing solutions to problems that arise after the revision of the marriage law are:

According to one of the Judges at the Pandan Religious Court, it was explained that "From the Court's side, with the increase in cases of marriage dispensation applications, the judge appointed to adjudicate the case will immediately conduct a trial, and of course will give maximum advice by mentioning all the risks that may arise if marrying at the age of under 19 years. If all information has been obtained, both from the two parents who applied for marriage dispensation, the two prospective brides, the two prospective applicants for marriage compensation, and also from two witnesses, then the judge will immediately make a determination, whether it will be granted or rejected" (*Personal Interview*, Judge of the Pandan Religious Court, June 4, 2024).

According to Zaldaki Lutfi Zulfikar, it is by providing explanations and advice to applicants and children who are applying for marriage dispensation about the consequences of early marriage from all aspects, the message conveyed to the community in facing changes in the Marriage Law is for the public to understand and comply with the Marriage Law as a guideline in carrying out matters related to marriage (*Personal Interview*, Zaldaki Lutfi Zulfikar as Judge of the Pandan Religious Court, June 4, 2024).

According to the Chairman of the Pandan Religious Court, what the Pandan Religious Court does is to provide advice and a persuasive approach to children to cancel their intention to get married at an early age. According to him, he urges parents and the community to always supervise their children so that they are not trapped in promiscuity which ultimately forces parents to marry their children immediately (*Personal Interview*, Chairman of the Pandan Religious Court, June 3, 2024).

According to the various data above, the researcher concluded that the solution to the problems that arose after the amendment of the marriage law at the Pandan Religious Court was to provide advice and a persuasive approach to the child to cancel his intention to get married at an early age and if it was not considered acceptable to the child, then it was recommended to apply for a marriage dispensation. The result of whether it is granted or rejected depends on the results of the examination in the trial by the local Religious Court.

Click or tap here to enter text.

4. Conclusion

1. The provisions for the age limit for marriage in Indonesia are listed in Article 7 of Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 which states that marriage is only allowed if the man and woman have reached the age of 19 (nineteen) years.
2. The problem that arose after the amendment of the marriage law at the Pandan Religious Court was the increase in the number of applications for marriage dispensation cases. The solution to the problems that arise after the amendment of the marriage law at the Pandan Religious Court is to provide advice and a persuasive approach to the child to cancel his intention to marry at an early age, and if this is not considered acceptable to the child, then it is recommended to apply for a marriage dispensation. The results are based on the decision of the local Religious Court.
3. Judges must anticipate the problems that arise, namely the increase in marriage dispensation applications. So the judges are also so that they can provide an understanding of the dangers of underage marriage. There is a solution to the problem that arose after the amendment of the marriage law at the Pandan Religious Court, namely, by providing advice and a persuasive approach to the child to cancel his intention to marry at an early age, and if it is not considered acceptable to the child, then it is recommended to apply for a marriage dispensation. The results are based on the decision of the local Religious Court. Judges can also accept applications for marriage dispensation by completing the conditions that have been regulated in the law. Then the application was heard in a fair and wise way.

3. References

- Asni, (2012). *Pembaharuan Hukum Islam di Indonesia*. Jakarta: Kementerian Agama RI.
- Bungin, Burhan. (2008). *Analisa Data Penelitian Kualitatif; Pemahaman Filosofis dan Metodologis ke Arah Penguasaan Model Aplikasi*, Jakarta: PT. Raja Grafindo Persada.
- Chuzaimah T. Yanggo, (1996). *Problematika Hukum Islam Kontemporer*. Jakarta: Pustaka Firdus.
- Dellyana, Shanty. (1998). *Wanita dan Anak di Mata Hukum*. Yogyakarta: Liberty.

- Hakim, Rahmat. (2000). *Hukum Perkawinan Islam*. Bandung: Pustaka Setia.
- Hanafî, Abdul Halim. (2013). *Metodologi Penelitian Kependidikan*. Batusangkar : STAIN Batusangkar Press.
- Medaline, O., Rafianti, F., & Sembiring, R. (2021). Mapping Community Land in North Sumatra through the Implementation of Agrarian Reform. *Forestry*, 41, 158–312.
- Nurhayati, S., Arnita, V., & Tanjung, I. U. (n.d.). *LEGAL COUNSELING ON THE EFFECT OF HR QUALITY AND WORK STRESS ON EMPLOYEE PERFORMANCE IN MANAGING MANGROVE FOREST TOURISM POTENTIAL IN*. 746–756.
- Nurjanah, S. (2018). Keberpihakan Hukum Islam Terhadap Perlindungan Anak. *Al-'Adalah*, 14(2), 391–432.
- Rafianti, F., Krisna, R., & Radityo, E. (2022). Dinamika Pendampingan Manajemen Halal Bagi Usaha Mikro dan Kecil Melalui Program Self Declare. *Jurnal Sains Sosio Humaniora*, 6(1), 636–643.
- Rafianti, F., Nurhayati, S., Wakhyuni, E., & Andafi, M. (2024). The Challenges of Implementing the Online Single Submission (OSS) System in Business Licensing (NIB) and Halal Certification Processes. *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 23(3), 586–599.
- Rafianti, F., & Sinaga, M. H. A. P. (2023). Nusyuz as the Cause of Domestic Violence: A Comparative Study of Islamic Law and Criminal Law. *International Journal of Law, Environment, and Natural Resources*, 3(1), 11–20.
- Ramadani, S. (2023). Protection Of Human Rights Against Female Commercial Sex Workers as Victims of Trafficking in Person Under law Number 21 of 2007 Concerning The Crime of Trafficking in Persons. *Proceeding International Seminar and Conference on Islamic Studies (ISCIS)*, 2(1).
- Sahrani, Sohari. (2010). *Fikih Munakahat*. Jakarta: PT. Raja Grafindo Persada.
- Sudikin, Basrowi. (2002). *Metode Penelitian Kualitatif Prespektif Mikro*. Surabaya: Insan Cendikia.
- Sudirman, Rahmat. (1999). *Konstruksi Seksualitas Islam dalam Wacana Sosial*. Yogyakarta: Media Pressindo.
- Surakhmad, Winarno. (2001). *Pengantar Penelitian Ilmiah Dasar Metode Teknik*. Bandung: Tarsito.
- Syarifuddin, Amir. (2009). *Hukum Perkawinan Islam di Indonesia*. Jakarta: Kencana Prenada Media Group.