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Revisiting marriage laws and islamic jurisprudence on raising the minimum age in Indonesia

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Abstract: This study examines the legal and societal implications of raising the minimum marriage age for women from 16 to 19 years, as mandated by Indonesia's Law Number 16 of 2019. The amendment aligns the minimum age of marriage for both men and women, reflecting the principles of magasid al-shariah specifically the preservation of religion (hifzu al-diin), life (hifzu al-nafs), intellect (hifzu al-'aql), lineage (hifzu al-nasl), and property (hifzu al-maal). The research highlights the problems associated with early marriage, including health risks, limited educational opportunities, and socio-economic instability, which contradict the objectives of Islamic law and contemporary human rights standards. Using a normative-juridical approach and library research methods, this study analyzes primary sources, including the Qur'an, Hadith, Law Number 1 of 1974, Law Number 16 of 2019, and Constitutional Court Decision Number 22/PUU-XV/2017. Secondary sources include classical and modern Islamic jurisprudence, government reports, and academic literature. The findings reveal that the amendment supports the maslahah (benefit) principle by reducing health risks associated with early pregnancies, promoting women's access to higher education, and enhancing socio-economic stability through delayed marriages. However, challenges remain in the implementation of marriage dispensation regulations, which require stricter criteria to prevent misuse. The study concludes that this legal reform aligns with both Islamic principles and international child protection standards, serving as a model for harmonizing religious values with societal progress. The findings emphasize the need for complementary policies, such as legal education and stricter oversight of marriage dispensations, to maximize the law's impact on societal welfare.

Keywords: Marriage law, islamic jurisprudence, minimum marriage age

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Introduction

Marriage is a fundamental institution in human life, playing a vital role in fostering a stable and prosperous society. In Islam, marriage is highly encouraged as it provides a framework for individuals to fulfill their spiritual, emotional, and social needs while maintaining societal harmony (Sisca, 2021). The institution of marriage is deeply rooted in Islamic principles, emphasizing the creation of a family as the foundation for achieving sakinah, mawaddah, and rahmah (tranquility, love, and mercy). However, the regulation of marriage in contemporary contexts must align not only with religious teachings but also with the evolving needs of society. One of the key issues in this regard is the minimum legal age for marriage. In Islamic law, the concept of aqil baligh representing physical and mental maturity serves as the benchmark for legal accountability, including marriage (Putri, 2023). While classical Islamic jurists differ in their opinions on the precise age of maturity, the lack of a standardized definition has resulted in varying interpretations and implementations within modern legal systems.

In Indonesia, the minimum marriage age was initially regulated under Law Number 1 of 1974, which permitted marriage at 19 years for men and 16 years for women (Hikmah & Prasetyo, 2017).



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However, this regulation was criticized for being inconsistent with the principle of maslahah (benefit) in Islamic law, as it often led to negative societal consequences, such as early marriages and their associated challenges. In response to these concerns, the government enacted Law Number 16 of 2019, which raised the minimum marriage age for women to 19 years, aligning it with the requirement for men (Christi Rosyany Pangemanan et al., 2021).

This study aims to explore the benefits of this legal amendment from the perspective of Islamic law. Using the framework of maqasid al-shariah (objectives of Islamic law), it argues that the revised minimum marriage age supports the preservation of essential human values, including religion, life, intellect, lineage, and property. Additionally, the amendment reflects the government's commitment to promoting societal welfare and addressing contemporary challenges such as child protection, poverty reduction, and gender equality. By employing a normative juridical approach and library research methods, this study examines the philosophical, sociological, and juridical dimensions of the revised law and evaluates its compatibility with Islamic principles. The findings contribute to a deeper understanding of how legal reforms can harmonize religious values with societal progress, ensuring both spiritual and practical benefits for individuals and communities.

This study is significant because it bridges the gap between classical Islamic jurisprudence and modern legal frameworks, addressing pressing societal challenges such as child protection and gender equality. By focusing on maqasid al-shariah, this research underscores the objectives of Islamic law, which aim to ensure human welfare by preserving religion, life, intellect, lineage, and property. In this context, the minimum marriage age refers to the legally established threshold for marriage as defined in both Islamic law and Indonesia's positive law. Globally, the issue of child marriage and its impact on societal development has been a topic of intense debate, particularly in Muslim-majority countries. Through an analysis of Indonesia's reform of the marriage age, this study offers insights that could inform similar efforts in other nations. According to UNICEF, one in nine girls in Indonesia is married before the age of 18, raising concerns about the social and economic implications of child marriage (UNICEF, 2019). This study is limited to evaluating Law Number 16 of 2019 from the perspective of Islamic jurisprudence, with a specific focus on maqasid al-shariah. The analysis seeks to provide a balanced perspective on the law's alignment with both religious values and societal needs.

Method

This study employs a library research method to analyze the amendment of the minimum marriage age from the perspective of Islamic law and Indonesia's positive law (Mahanum, 2021). The normative-juridical approach is used to examine legal norms, including Law Number 1 of 1974, Law Number 16 of 2019, and Islamic legal doctrines derived from the Qur'an, Hadith, and classical as well as contemporary jurisprudence texts. Additionally, maqasid al-shariah is utilized to evaluate the maslahah (benefits) of the revised regulation. Data sources include: First, primary sources the qur'an, hadith, law number 1 of 1974, law number 16 of 2019, and constitutional court decision number 22/puu-xv/2017. Secondary sources: Classical and modern jurisprudential works, academic articles, books, and publications on Islamic and Indonesian marriage law. Supporting documents: Official reports and documents from government agencies, including religious courts. Data collection involves document review, focusing on legal texts, Qur'anic exegesis, and relevant literature. Descriptive and comparative analysis methods are applied to explain the findings systematically and compare Islamic law with Indonesia's positive law, highlighting their intersections and divergences. This comprehensive approach ensures the evaluation aligns with both religious principles and societal needs.

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Results and Discussion

The impact of changes in the marriage age limit for women in law number 16 of 2019 on marriage law in Indonesia

he change in the marriage age limit stipulated in Law Number 16 of 2019 can be better understood if supported by relevant empirical data. In the context of hifzu al-nafs, or preserving the safety of life, the risks of pregnancy and childbirth in underage women must be outlined with clear facts. For example, according to WHO data in 2022, pregnancy complications became the leading cause of death among women aged 15-19 globally (WHO, 2022). This fact reinforces that the health risks due to early marriage are very significant and need to be prevented. This data also shows that changing the marriage age limit is a strategic step to reduce mafsadat (harm) in that age group (Herlinda, 2021).

Furthermore, the concept of maslahah in this legal change needs to be linked to real practices. By raising the marriage age limit, women's opportunities to continue their education to higher levels are increasing (Hartanti & Susanti, 2021). This is in line with the BPS report in 2020, which showed a 15% increase in the number of women continuing their education to university after the enactment of Law Number 16 of 2019 (Badan Pusat Statistik, 2025). This fact illustrates the positive impact that is directly felt by society, especially in the context of women's personal and intellectual development. This change also provides greater space for women to prepare themselves mentally, physically, and economically before starting a household.

In the discussion of the principles of maqashid sharia, this change fulfills the five main elements: preserving religion, life, intellect, lineage, and property. From the perspective of hifzu al-diin, this age restriction provides prospective parents with the opportunity to receive better religious education before guiding their children. This is relevant to the hadith that states that marriage is the completion of half of religion, which means it must be carried out with full responsibility and thorough preparation (Susanti et al., 2023). In the context of hifzu al-aql, changing the marriage age limit helps women continue their education. Early marriage often leads to school dropout, which not only hinders intellectual development but also limits women's opportunities for professional growth (Tampubolon, 2021). With a minimum age of 19, women have a greater opportunity to hone skills and abilities that are beneficial for household and community life.

Hifzu al-nasl, or safeguarding the lineage, is also an important element in this change. By delaying the age of marriage, the risk of dangerous pregnancies for young women can be reduced. Additionally, this delay also helps reduce cases of premarital pregnancies, which often serve as the main reason for early marriages (Harsoyo & Widyastomo, 2022). By providing a better understanding of the responsibilities of marriage, this change can help prevent promiscuity that leads to unwanted offspring.

Hifzu al-maal, or the preservation of wealth, is guaranteed through this policy because it provides time for prospective couples to prepare themselves economically before marriage. Men who marry at a mature age have the opportunity to work and earn a stable income, thus being able to support household life better (Harsoyo & Widyastomo, 2022). This also helps reduce the economic burden on the family, which often becomes the main challenge in early marriages.

This change in the age limit is also in line with international law, such as the Convention on the Rights of the Child, which recommends a minimum age of 18 for marriage (Fadila, 2022). By raising the age limit, Indonesia demonstrates its commitment to protecting children's rights, particularly the right to education, health, and a decent life (Marasaoly, 2024). This step not only strengthens Indonesia's position in the realm of international law but also demonstrates that the principles of maqashid sharia can be applied relevantly in a modern context.

In the final analysis, this change in the marriage age limit reflects maslahah mursalah, which is a form of benefit that does not have direct evidence from the text but is highly relevant to achieving the objectives of Sharia. As the figh principle states, preventing harm is prioritized over pursuing benefit.

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Thus, this policy successfully integrates Islamic values with the needs of modern society, while also providing solutions to complex social issues.

The issue related to the high number of marriage dispensations below the minimum age as regulated in Law Number 1 of 1974 indicates a gap in the regulations that allows this practice to continue. Based on data from the Religious Courts within the jurisdiction of the Aceh Sharia Court and throughout Indonesia, the number of marriage dispensation requests reached 12,202 in 2014. This number increased to 12,231 in 2015, but decreased to 11,075 in 2016. This decline requires further analysis, such as whether there is an influence from certain policies, increased public awareness, or other factors. Statistical data like this needs to be combined with cause analysis so that its relevance to the raised issues is clearer. For example, if this decline is related to the campaign against early marriage, it can serve as an example of the success of government or related institution strategies.

The main reason for applying for a dispensation is to avoid or resolve unwanted pregnancy issues. Article 7 Paragraph (2) of Law Number 1 of 1974 provides an opportunity to apply for dispensation, but without clear limitations regarding when and under what conditions dispensation can be granted by the court. This ambiguity creates opportunities for abuse and renders this regulation ineffective in protecting children from early marriage. Therefore, the revision of Article 7 Paragraph (2) is very important to include specific and objective criteria. For example, dispensations can only be granted in certain situations such as urgent medical conditions or emergencies that can be legally proven.

Pregnancy prevention can actually be achieved through more comprehensive reproductive health education efforts (Tomia, 2024). This approach must include the integration of reproductive health education into school curricula, training for parents, and community-based campaigns involving religious and community leaders. These measures can provide a better understanding to adolescents and families about the consequences of early marriage and the importance of maintaining reproductive health.

The Constitutional Court's Decision Number 22/PUU-XV/2017 regarding the difference in minimum marriage age between men and women is a step forward in supporting child protection without discrimination (Muttaqin, 2022). This decision acknowledges that the previous provisions not only contradicted the 1945 Constitution but also were not in sync with the Child Protection Law. This decision encourages regulatory changes, including the revision of Law Number 16 of 2019, which sets the minimum marriage age for men and women at 19 years. This step philosophically demonstrates the state's commitment to protecting children's rights, ensuring they can develop optimally, and providing better opportunities for their future.

However, despite the progress in revising the minimum marriage age, the increase in the number of dispensation applications indicates a gap in the implementation of the new regulations. For example, in East Java, in 2020 there were 12,460 dispensation applications, the majority of which were submitted by women. This reflects that changes in regulations have not been matched by an increase in public legal awareness. Therefore, strategic measures are needed to strengthen legal education, tighten the supervision of dispensations, and impose strict sanctions on violations of the marriage age limit, except in clearly verified emergency conditions.

The revision of Law Number 16 of 2019, from philosophical, sociological, and juridical perspectives, is an important step to ensure the protection of Indonesian children. However, without adequate implementation measures, such as revising dispensation rules, enhancing legal education, and stricter supervision, these regulatory changes will not achieve their maximum potential. The government and the Indonesian House of Representatives need to take immediate action to resolve this issue in order to ensure the protection of children's rights and to create a quality generation of the nation's successors.

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The Maslahah Perspective on the Change in the Marriage Age Limit for Women in Law Number 16 of 2019

The change in the marriage age limit in Law Number 16 of 2019 is a step that reflects the principles of maqashid sharia (Sukadi et al., 2024), namely protecting religion (hifzu al-diin), life (hifzu al-nafs), intellect (hifzu al-'aql), lineage (hifzu al-nasl), and property (hifzu al-maal). To understand the benefits of this change in depth, we need to analyze each aspect based on empirical data, sharia principles, and the context of international law.

1. Hifzu al-Diin: Preserving faith through proper education and marriage

In the context of marriage, religion commands its followers to conduct marriage as a form of worship. Prophet Muhammad SAW said:

Meaning: "When a person marries, he has completed half of his religion. So fear Allah for the other half." (HR Baihaqi).

However, this faith is not limited to the execution of the marriage contract, but also to how the couple can educate the family within the framework of religion. Early marriage often sacrifices educational opportunities, so parents who marry at a young age are less capable of educating their children well, including in religious teachings. Data from UNICEF shows that children born to parents with low education levels have a greater chance of facing difficulties in understanding basic religious concepts. Therefore, with a minimum age limit of 19 years, individuals have more time to develop religious education before entering marriage.

2. Hifzu al-Nafs: Protection of Maternal and Child Health in Marriage

Kehamilan pada usia muda memiliki risiko besar bagi kesehatan ibu dan anak. Menurut data WHO, komplikasi kehamilan merupakan penyebab utama kematian perempuan berusia 15-19 tahun secara global. Risiko ini mencakup kanker rahim, kelahiran prematur, dan bahkan kematian ibu atau bayi akibat kurangnya kesiapan fisik. Menurut data WHO tahun 2022, komplikasi kehamilan adalah penyebab utama kematian perempuan berusia 15-19 tahun secara global (WHO, 2022). These risks include preeclampsia, postpartum hemorrhage, and premature birth. These statistics highlight the importance of raising the marriage age limit to reduce the mortality rate of young mothers and improve the health quality of future generations.

In the Islamic perspective, preserving the safety of life is very important. This is reflected in the fiqh principle:

Meaning: "Do no harm and do no harm."

By raising the marriage age limit, the risk of early pregnancy can be minimized, thereby better protecting the health of mothers and children. This reflects the principle of hifzu al-nafs, which is the main objective of Sharia.

3. Hifzu al-'Aql: Broader educational opportunities for women

Education is the key to a person's intellectual development. Early marriage often cuts off access to education, especially for women, which ultimately affects the low quality of family life (Anwar et al., 2024). By raising the marriage age limit to 19 years, women have more time to complete their formal education.

According to the BPS report in 2020, this change has increased the number of women continuing their education to higher education by 15% (Badan Pusat Statistik, 2020). This not only supports the intellectual development of individuals but also contributes to the development of a more intelligent and productive society. The principles of Islamic jurisprudence state:

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Meaning: "Fatwas change and differ according to the times, places, circumstances, intentions and customs."

In this context, the change in the marriage age limit is a reflection of the adaptation of Islamic law to the needs of the times.

4. Hifzu al-Nasl: Protecting offspring through responsible marriage

Islam greatly emphasizes the importance of protecting lineage. In the Quran, Surah Al-Isra, verse 32, Allah SWT says:

Meaning: "and do not approach adultery; Indeed, adultery is an abominable act. and a bad way."

By raising the marriage age limit, the government aims to prevent early marriages that are often conducted to cover up out-of-wedlock pregnancies. This also gives teenagers time to understand the great responsibility of building a family, thus ensuring the quality of future generations (Winarsih & Ismail, 2024).

5. Hifzu al-Maal: Enhancing economic independence before marriage

Marriage brings economic responsibilities, especially for men who are obligated to provide for the family. The principles of Islamic jurisprudence state:

Meaning: "Preventing damage is prioritized over gaining benefits."

In this context, changing the marriage age limit gives prospective couples time to develop work skills, obtain an education, and achieve economic independence before getting married. This has a positive impact on family financial stability and ultimately reduces poverty rates.

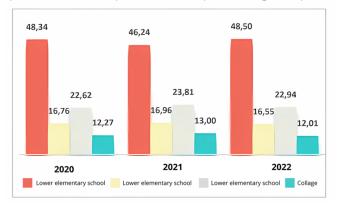


Figure 1. Percentage of employed women by education (Source BPS Jatim)

This change in the marriage age limit is in line with the Convention on the Rights of the Child, which emphasizes that children must be protected from early marriage due to its impact on their education, health, and their right to develop optimally (Tunnafsia Siregar et al., 2023). By raising the marriage age limit to 19 years, Indonesia demonstrates its commitment to child protection and global efforts to reduce early marriage rates.

This change is also in line with the Convention on the Rights of the Child, which recommends a minimum age of 18 for marriage. This step demonstrates Indonesia's commitment to protecting children's rights and providing better opportunities for the younger generation to thrive. Thus, the change in the marriage age limit in Law Number 16 of 2019 reflects the principle of maslahah mursalah, which is to establish policies not explicitly mentioned in the texts, but aimed at bringing benefits and preventing harm (Efrinaldi et al., 2022). This is also in line with the principles of Islamic jurisprudence:

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تَصَرُّفُ الْإِمَامِ عَلَى الرَّعِيَةِ مَنوْطٌ لَلْمَصْلَحَةِ

Meaning: "The policy of a leader (government) towards his people must be oriented towards their benefit".

This change is a form of the dynamization of Islamic law based on sharia values, responding to the needs of the times, and supporting the achievement of the overall welfare of the community.

Conclusion

The change in the marriage age limit in Law Number 16 of 2019, which raises the minimum marriage age for women to 19 years, reflects the principles of magasid sharia and the needs of modern society. This policy supports the protection of religion, life, intellect, lineage, and property in accordance with the objectives of Islamic law. In addition, this change is also in line with international standards, such as the Convention on the Rights of the Child, which prioritizes the protection of children's rights. Philosophically, this policy demonstrates the state's commitment to protecting children, especially girls, so they can grow and develop before getting married. Sociologically, this change aims to prevent the negative impacts of early marriage, such as health risks, school dropout, and economic burden. Legally, this policy aligns with the protection of children's rights as regulated in the Child Protection Law and the 1945 Constitution. However, despite the significant benefits of this policy, implementation challenges still exist, such as the increasing number of marriage dispensation requests. Therefore, strategic measures such as strict supervision, legal education, and refinement of related technical regulations are necessary. Overall, the change in the marriage age limit in Law Number 16 of 2019 is an example of integrating Islamic values with the needs of modern society. This policy not only strengthens the protection of children's rights but also supports the creation of a more qualified future generation.

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