

DETERMINATION OF ADULT STATUS IN POSITIVE LAW IN INDONESIA AFTER ENACTED LAW NUMBER 16 OF 2019

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Abstrak. *This study aims to examine and analyze the effect of determining adult status in Law No. 16 of 2019 against adult status in Islamic law and positive law in Indonesia. This research was conducted using a normative juridical approach with analytical descriptive specifications. Literature study was used to obtain the legal materials needed in this research. The legal materials that have been collected are then analyzed using hermeneutic analysis and interpretation methods. The results show that determining adult status is a preventive effort from the Government to avoid discrimination or prevent the deprivation of rights for children. Therefore, it is recommended that all parents continue to provide incentive supervision to their children until their children reach adulthood. In this case, the child avoids promiscuity so that there is no marriage by accident. In addition, it is recommended to the public not to carry out forced marriages and the practice of child marriage which is part of the Indigenous Peoples Law. Furthermore, it is suggested that the Indonesian Ulema amend the KHI, and the Government subsequently enacted it in laws and regulations.*

Keywords:
*Adult Status;
Law No. 16 of 2019;
Marriage.*

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INTRODUCTION

Humans as social beings live interdependence between humans with one another. Humans then unite to form certain groups starting from the family. Then the family interacts with each other and unites into a large group called the community.¹ Furthermore, the community agreed to bind themselves to a country where each country has its form and order. As for the Indonesian context, based on Article 1 section (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), it regulates that “*Indonesia is a law-based state.*”

The above provisions are based on the explanation of the 1945 Constitution, where the State is based on the law (*rechtsstaat*) and not based on sheer power

¹Nugraha, G. C. P., *et al.* (2020). Kedudukan Anak sebagai Ahli Waris yang Beralih-Alih Agama Menurut Hukum Waris Adat Bali. *Jurnal Konstruksi Hukum*, 1(1), p. 228.

(*machtsstaat*).² Therefore, it can be said that the 1945 Constitution is the highest rule or norm and has binding legal force in the national legal order. This conception gives birth to consequences in which all state life must be based on law, one of which is about marriage. However, this rule has only been codified in positive Indonesian law based on Law of the Republic of Indonesia Number 1 of 1974 on Marriage (hereinafter referred to as Law No. 1 of 1974).

Over time, there has been a polemic in Law No. 1 of 1974, particularly regarding the age limit for marriage. In this case, there are various conflicts between age and marriage in society's habits, cultural customs, and religion. According to Hotmartua Nasution, Law No. 1 of 1974 can no longer affect marriage positively, so a law reform is needed to overcome the existing problems.³ Previously, the age limit for marriage, based on Article 7 section (1) of Law No. 1 of 1974, regulates that "*Marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years.*"

Currently, the age limit for marriage has changed, based on Article 7 section (1) of Law of the Republic of Indonesia Number 16 of 2019 on Amendment to Law Number 1 of 1974 on Marriage (hereinafter referred to as Law No. 16 of 2019), which regulates that "*Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.*"

Changes from the above provisions are closely related to a person's age to be declared worthy of marriage. In other words, they are considered adults. The adult size is in line with Rendika Aris Yudhanto, who assessed that the equal age of marriage between men and women has the purpose of minimizing the harm of child marriage suffered by women.⁴

As for Islamic law, a person considered an adult is known as a *baligh*. However, there are no clear rules regarding a person's adult age. The Qur'an also does not regulate the appropriate age for a person to carry out marriage. On the other hand, if the Qur'an is examined more deeply, there is a rule that correlates with adulthood.⁵ In

²Azhari, A. F. (2012). Negara Hukum Indonesia: Dekolonisasi dan Rekonstruksi Tradisi. *Jurnal Hukum Ius Quia Iustum*, 19(4), p. 491.

³Nasution, H. (2019). "Pembaharuan Hukum Keluarga Islam tentang Usia Perkawinan di Indonesia (Studi Atas Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan)". *Bachelor Thesis*. Fakultas Syariah dan Hukum, Universitas Islam Negeri Sumatera Utara, p. 55.

⁴Yudhanto, R. A. (2020). "Studi Kritis terhadap Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan Perspektif Hukum Islam". *Thesis*. Fakultas Ilmu Agama Islam, Universitas Islam Indonesia, pp. 85-86

⁵Sainul, A. (2019). Konsep Kedewasaan Subyek Hukum. *Jurnal el-Qanuniy: Jurnal Ilmu-Ilmu Kesyarahan dan Pranata Sosial*, 5(2), p. 258.

this case, based on the Q.S. An-Nisa' verse 6 states that:⁶

وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ
وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا أَنْ يَكْبَرُوا ۗ وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ ۗ وَمَنْ كَانَ فَقِيرًا
فَلْيَأْكُلْ بِالْمَعْرُوفِ ۗ فَإِذَا دَفَعْتُمْ إِلَيْهِمْ أَمْوَالَهُمْ فَأَشْهَدُوا عَلَيْهِمْ وَكَفَىٰ بِاللَّهِ حَسِيبًا



Muhammad Sulaiman Al-Asyqar, in Ibn Katsir's Interpretation, describes that:⁷

"Both have the same interpretation to be declared as someone who has reached adulthood. In this case, the man has reached adulthood when he has released semen, while the woman has reached adulthood when she has menstruated."

Furthermore, adults in the Islamic perspective are known as *mahkum 'alaih*. Syaifuddin Zuhdi and M. Junaidi explained that "*mahkum 'alaih* is a legal subject or person who commits or is burdened with legal action (*mukallaf*)."⁸

The age limit as intended above is generally implemented based on Islamic law. In this case, legally establish a Muslim man and woman as legal subjects. Meanwhile, in the Indonesian context, the determination of a man and a woman as legal subjects has been regulated in-laws and regulations, including:

1. Article 330 of the Civil Code, namely the age of 21 years or already married;
2. Article 98 section (1) of the Compilation of Islamic Law, namely a person who is independent or at the age of 21 years and is not physically or mentally disabled or has never been married;
3. Article 1 point 1 of Law No. 17 of 2016 on Child Protection, namely the age of 18 years;
4. Article 1 point 26 of Law No. 13 of 2003 on Manpower, namely the age of 18 years; and
5. Other Laws and Regulations.

Understanding and measuring the adult limit between Islamic and positive law in Indonesia will find differences. The difference is due to the legal implications caused by the adult referred to in these provisions. In this case, adult in Islamic law

⁶Translation of Q.S. An-Nisa' verse 6: And test the orphans [in their abilities] until they reach marriageable age. Then if you perceive in them sound judgment, release their property to them. And do not consume it excessively and quickly, [anticipating] that they will grow up. And whoever, [when acting as guardian], is self-sufficient should refrain [from taking a fee]; and whoever is poor - let him take according to what is acceptable. Then when you release their property to them, bring witnesses upon them. And sufficient is Allah as Accountant.

⁷Ad-Dimasyqi, A.-I. A. F. I. I. K. (2000). *Tafsir Ibnu Katsir Juz 4* (Trans. by Bahrun Abu Bakar). Bandung: Sinar Baru Algensido, p. 450.

⁸Zuhdi, S. & Junaidi, M. (2019). *Ushul Fiqh*. Surakarta: Muhammadiyah University Press, p. 51.

affects rights, obligations, and private things (merits and sins). Meanwhile, adults in positive law in Indonesia affect some more complex cases. For example, inheritance rights, agrarian rights, political rights, to the age limit for marriage. Especially for the issue of the age limit for marriage as an indicator of adult, there are many complex relationships between Islamic law and positive law in Indonesia.

Based on the description above, this study aims to examine and analyze the effect of determining adult status in Law No. 16 of 2019 against adult status in Islamic law and positive law in Indonesia. In this case, it is against the Compilation of Islamic Law, the Civil Code, and Law No. 17 of 2016.

METHOD

This research was conducted using a normative juridical approach with analytical descriptive specifications. The normative juridical approach examines the law from an internal perspective, with the object of research being legal norms.⁹ Analytical descriptive research specifications are carried out systematically, factually, and accurately by providing a description or descriptive explanation of the researcher's events about the existing facts to be adapted to the theory/doctrine and applicable regulations.¹⁰ The legal materials used in this research are as follows:

1. Primary legal materials, namely binding legal materials, including:
 - a. The Civil Code;
 - b. The Compilation of Islamic Law;
 - c. Law No. 17 of 2016 on Child Protection.
 - d. Law No. 16 of 2019 on Marriage.
2. Secondary legal materials, namely materials that explain primary legal materials, such as literature books, research results, works from legal circles, or legal practitioners related to legal protection of perpetrators of criminal acts based on the Indonesian criminal justice system.

A library study data collection technique was used to obtain the legal materials needed in this research, namely inventorying, reading, and analyzing legal materials, both primary legal materials and secondary legal materials.

The legal materials that have been collected are then analyzed using hermeneutic analysis and interpretation methods. The hermeneutic analysis is used to understand the text as a series of signs arranged in a certain way by the author to convey a specific meaning. In contrast, interpretation analysis is used to interpret and reveal ontological, epistemological, and axiological essences related to the purpose of this research.¹¹

⁹Diantha, I. M. P. (2017). *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*. Jakarta: Kencana Prenada Media Group, p. 12.

¹⁰Qamar, N. & Rezah, F. S. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. Makassar: CV. Social Politic Genius (SIGn), p. 99.

¹¹Bachmid, F. (2021). Eksistensi Kedaulatan Rakyat dan Implementasi Parliamentary Threshold dalam Sistem Pemilihan Umum di Indonesia. *SIGn Jurnal Hukum*, 2(2), p. 90.

RESULTS AND DISCUSSION

A. Draft of Making Law No. 16 of 2019

1. Philosophical Ground

The view of life and the legal purpose of the Indonesian state is based on Pancasila and the 1945 Constitution. Article 28D of the 1945 Constitution regulates that:

- (1) Every person has the right of recognition, securities, protection, and fair legal certainty, and equal treatment before the law.
- (2) Every person has the right to work and to receive fair and decent remuneration and treatment in employment relations.
- (3) Every citizen has the right to obtain equal opportunity in government.
- (4) Every person has the right to citizenship.

The above provisions can be understood that the state exists to ensure the rights of every citizen and equal treatment before the law without exception.¹² Therefore, the Government always tries to make laws and regulations to realize legal certainty, one of which is the protection of children's human rights.

Furthermore, making Law No. 16 of 2019 to realize children's human rights must be in line with Article 1 point 1 of Law of the Republic of Indonesia Number 17 of 2016 on the Enactment of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection Into Law (hereinafter referred to as Law No. 17 of 2016), which explains that "*a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.*"

The above provisions can be understood that someone not yet 18 years old should still have the fundamental rights as a child. In the perspective of Islamic law, the fundamental right of children is to get a decent life and a living from their parents, family, community, and government.¹³ In this case, children get love, material needs, education, health insurance, and security. Therefore, it is excessive if a child already has to bear significant responsibilities as husband/father or wife/mother.

2. Sociological Ground

Sociological factors as the Government's consideration in making Law No. 16 of 2019 is the environmental condition of the Indonesian people who still tend to practice child marriage. In this case, forced child marriage is due

¹²Asrun, A. M. (2016). Hak Asasi Manusia Dalam Kerangka Negara Hukum: Catatan Perjuangan di Mahkamah Konstitusi. *Jurnal Cita Hukum*, 4(1), p. 136.

¹³Kurniawati, R. D. (2021). Efektifitas Perubahan UU No 16 Tahun 2019 tentang Perubahan atas UU No 1 Tahun 1974 tentang Perkawinan terhadap Penetapan Dispensasi Kawin (Studi Kasus di Pengadilan Agama Majalengka Kelas IA). *Journal Presumption of Law*, 3(2), pp. 164-165.

to certain conditions or the practice of child marriage which is part of the Indigenous Peoples Law. The Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia noted that in 2020, there were at least more than 64 thousand applications for marriage dispensation because the candidates were minors.¹⁴

In addition to violating children's human rights, child marriage also brings more harm than benefits if it is carried out at this time. Monitoring from parents is also very much needed so that children do not fall into bad relationships and get married by accident.¹⁵ Times have also changed. The Indonesian people cannot apply the old customs to measure the ability to marry today. The consequences of early marriage also present more negative impacts than positive impacts. The positive impact of early marriage is that a child is protected from adultery and eases the burden on parents.¹⁶ Meanwhile, the negative impact of early marriage is that it hinders the development of children's potential, hinders the opportunity to continue their child's education, the impact of pregnancy at a young age, and is vulnerable to family problems because children do not have mature thoughts.¹⁷ In this case, the negative impact can lead to divorce. Therefore, making Law No. 16 of 2019 is a preventive effort from the Government to minimize the negative impact of child marriage.

3. Juridical Ground

Indonesia is a law-based state placing the rights of its citizens in the Article of the 1945 Constitution. However, all people's actions in Indonesia must also be following positive law that has been codified and enacted by the Government. In this case, as a citizen's obligation to obtain these rights. People who violate laws and regulations can result in civil sanctions, administrative sanctions, and criminal sanctions. On the other hand, social, cultural, and legal life in society always develops. Suppose the Government does not immediately amend laws and regulations to suit the conditions of the community. In that case, there will be a legal vacuum that makes the function of law as social control in society not work. The Government's hope by making Law No. 16 of 2019 is so that the lives of Indonesian people, especially family life, become more orderly and prosperous.¹⁸

¹⁴Pranita, E. (2021, 1 October). Pernikahan Dini Meningkatkan Selama Pandemi, BKKBN Gencarkan Edukasi Reproduksi. *Kompas.com*. Retrieved at the date of 26 April 2022.

¹⁵Isnaini, E. (2013). Kedudukan Hukum bagi Anak yang Lahir karena Kawin Hamil (Married By Accident) di Tinjau dari Hukum Islam dan Hukum Perdata. *Jurnal Independent*, 1(2), p. 16.

¹⁶Pitrotussaadah, P. & Mintarsih, M. (2020). Batas Usia Minimal Perkawinan Menurut Perspektif Hukum Positif di Indonesia dan Hukum Islam. *Muttaqien: Indonesian Journal of Multidisciplinary Islamic Studies*, 1(1), p. 80.

¹⁷Natsif, F. A. (2018). Problematika Perkawinan Anak (Perspektif Hukum Islam dan Hukum Positif). *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam*, 5(2), p. 176.

¹⁸Millah, V. S. (2020). Peran dan Upaya KUA dalam Menanggulangi Pernikahan di Bawah Umur (Studi Kasus di KUA Kec. Cikande Tahun 2016-2018). *Syaksia: Jurnal Hukum Perdata Islam*, 21(1), pp. 144-145.

B. Aspek Pembuatan UU No. 16 Tahun 2019

1. Health Aspect

One of the Government's considerations for making amendments to Law No. 1 of 1974 was its negative impact on health. In this case, both psychological and physical will be experienced by children when doing early marriage. Psychologically, suppose someone has carried out the roles of father and mother but at the same time is still a child. In that case, that person will be vulnerable to experiencing post-traumatic stress disorder. In addition, a person is also prone to depression or baby blues. This mental health disorder affects girls and can also affect boys.¹⁹

In terms of physical health, the ideal age for a woman to give birth should be 20-25 years. Meanwhile, if a mother gives birth at a younger or older age, there will be a higher risk of complications during pregnancy.²⁰ So that by making Law No. 16 of 2019, the Government has prevented the community from practicing child marriage. On the other hand, the Government certainly wants to have a young generation that is physically and mentally healthy to participate in national development activities.

2. Religious Aspect

In formulating draft Law No. 16 of 2019, the Government also considers several recognized religions in Indonesia. In this case, the religions of Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. The six religions have different views regarding the age for carrying out marriages. This condition is caused by the fact that people in Indonesia are pluralistic. Therefore, in formulating the draft Law, the Government must not only consider one religion so that the law can be implemented in all circles of society.

3. Educational Aspect

Through Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 10 of 2020 on the Smart Indonesia Program, the Government requires the community to study for 12 years. The consequence of this Regulation of Minister position is that a child can get married if they graduate from Senior High School. Meanwhile, if a woman is 16 years old, she is still a student in Junior High School. On the other hand, if it refers to Article 7 section (1) of Law No. 1 of 1974, a woman who is 16 years old has been reached for marriage. In this case, the girl did not complete a Junior High School education. This condition constitutes educational discrimination for a

¹⁹Yusuf, Y. (2020). *Dinamika Batasan Usia Perkawinan di Indonesia: Kajian Psikologi dan Hukum Islam. Journal of Islamic Law (JIL)*, 1(2), p. 214.

²⁰Aprilia, I. N. (2020). Pengaruh Kehamilan Usia Remaja terhadap Kejadian Anemia dan KEK pada Ibu Hamil. *Jurnal Ilmiah Kesehatan Sandi Husada*, 11(1), p. 555.

woman when compared to a man. Therefore, making Law No. 16 of 2019 is the Government's effort to ensure that there should be no discrimination in education for students.

4. Indigenous Aspect

Indonesia consists of various tribes, races, and different cultures. Child marriage is considered natural based on culture or indigenous, a hereditary belief of the community. Some indigenous people in Indonesia believe that when the family proposes to their daughter from the son's side, the family from the daughter's side should not reject it but must immediately accept it. If the daughter's family rejects that proposal, the indigenous people believe that their daughter will have difficulty finding a mate or even not getting married.

Of course, this culture is no longer relevant compared to current conditions. In the reality of having a family, whether or not marriage is fast is not a parameter of one's happiness. Building a household must be based on the ability of the two prospective brides to carry out their respective responsibilities. In this case, the bride and groom's financial ability and thought maturity are indicators of carrying out their duties. Therefore, biologically adult is not necessarily psychologically adult, and vice versa.

5. Aspects of Comparison in the Different States

In the Decision of the Constitutional Court of the Republic of Indonesia Number 22/PUU-XV/2017, the Petitioner who filed the Judicial Review Law No. 1 of 1974 against the 1945 Constitution also compares the minimum age limit for marriage for men and women in various states.

Table 1. Minimum Age Limit for Marriage in Muslim Majority State

| No. | State | Minimum Age Limit for Marriage (Year) | |
|-----|------------------|---------------------------------------|-------|
| | | Man | Woman |
| 1. | Algeria | 19 | 19 |
| 2. | Albania | 18 | 18 |
| 3. | Etiopia | 18 | 18 |
| 4. | Irak | 18 | 18 |
| 5. | Nigeria | 18 | 18 |
| 6. | Uni Emirate Arab | 18 | 18 |

Source: Decision of the Constitutional Court No. 22/PUU-XV/2017

Table 2. Minimum Age Limit for Marriage in ASEAN State

| No. | State | | Minimum Age Limit for Marriage (Year) | |
|-----|-------------------|-----------|---------------------------------------|-------|
| | | | Man | Woman |
| 1. | Malaysia | | 18 | 16 |
| 2. | Philippines | | 18 | 18 |
| 3. | Thailand | | 17 | 17 |
| 4. | Vietnam | | 18 | 18 |
| 5. | Brunei Darussalam | Christian | 14 | 14 |
| | | China | 15 | 15 |
| | | Islam | 18 | 16 |
| 6. | Cambodia | | 20 | 18 |

Source: Processed from various sources

Based on table 1 above, it can be seen that the Muslim majority state has equalized the minimum age limit for marriage between men and women. While table 2 above, it can be seen that the age limit for marriage is still very diverse in the ASEAN states. With the comparison of the minimum age limit for marriage in different States and the increasing number of cases of child marriage becoming a national challenge. In this case, making Law No. 16 of 2019 is the Government's effort to keep pace with the changing times. In addition, making Law No. 16 of 2019 is a preventive effort from the Government to minimize the negative impact of child marriage.

C. The Consequences of Determining Adult Status in Law No. 16 of 2019 against Islamic Law and Positive Law in Indonesia

Adulthood is a benchmark for someone carrying out legal action and being responsible for an action.²¹ A person's adulthood refers to a person's age limit based on laws and regulations. In this case, a person can enter into an agreement, enter into a marriage, make a will, and other legal actions.²² Therefore, it becomes essential to analyze the adult status between Law No. 16 of 2019 regarding Islamic law and positive law in Indonesia.

1. Compilation of Islamic Law

The Compilation of Islamic Law (KHI) is the result of the efforts of Indonesian Ulema in searching for a contextual fiqh mindset in Indonesia. Ismail Sunny stated that KHI is the ground, basis, and guideline for judges to examine and decide various cases.²³ In this case, the judges of the Religious

²¹Witro, D., et al. (2021). *Subjek Hukum dan Objek Hukum: Sebuah Tinjauan Hukum Islam, Pidana dan Perdata. Asy Syar'iyah: Jurnal Ilmu Syari'ah dan Perbankan Islam*, 6(1), p. 46.

²²Nurkholis, N. (2017). *Penetapan Usia Dewasa Cakap Hukum Berdasarkan Undang-Undang dan Hukum Islam. Yudisia: Jurnal Pemikiran dan Hukum Islam*, 8(1), pp. 76-77.

²³Suny, I. (1987). *Hukum Islam dalam Hukum Nasional. Jurnal Hukum & Pembangunan*, 17(4), pp. 356-357.

Courts, High Courts, or the Supreme Court concerning the scope of authority of the Religious Courts.

As for the age limit for adults, as based on Article 98 section (1) of KHI, it regulates that:

“The age limit for an independent child or an adult is 21 years, as long as the child is not physically or mentally disabled or has never been married.”

The above provisions can be understood that if a person is married even though he is under 21 years of age, then that person is considered an adult. For example, if a woman marries at the age of 16, she is considered an adult. On the other hand, Article 15 section (1) of KHI regulates that:

“For the benefit of the family and household, marriage may only be carried out by the prospective bride and groom who have reached the age determined in Article 7 of Law No. 1 of 1974, namely the prospective husband is at least 19 years old and the prospective wife is at least 16 years old.”

Suppose the above provisions are related to Article 7 section (1) of Law No. 16 of 2019, Article 15 section (1) of KHI will be automatically against Law No. 16 of 2019. On the other hand, the statement that Article 15 section (1) of KHI is automatically changed and harmonized with Article 7 section (1) of Law No. 16 of 2019 is a misrepresentation. In this case, all written rules must be made, amended, and repealed by an authorized body. Meanwhile, when referring to laws and regulations, the Presidential Instruction of the Republic of Indonesia Number 1 of 1991 on the Spread of the Compilation of Islamic Law is the last legal basis for the existence of KHI. Therefore, the role of Indonesian Ulama is needed to amend the KHI and subsequently enact laws and regulations.

2. The Civil Code

Some Supreme Court jurisprudence has defined adults to be held responsible for their legal actions when they reach 17 years.²⁴ A person can take legal actions at that age, such as requesting an identity card from a relevant government agency. As for the age limit for adults, based on Article 330 section (1) of Colonial Regulations, Staatsblad Number 23 of 1847 on the *Burgerlijk Wetboek voor Indonesie* (hereinafter referred to as the Civil Code), it regulates that:

“Where the term ‘immature’ is referred to in legal regulations, this term shall be interpreted as follows, to the extent that it concerns the indigenous population: any individual who has not reached the age of 21 years and who has not previously entered into matrimony.”

²⁴Haris, J. K. (2018). Implementasi Dispensasi Nikah dalam Tinjauan Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak di Pengadilan Agama Takalar. *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam*, 5(2), p. 207.

The above provisions can be understood that determining adult status in carrying out legal actions in the form of identity documents is different from legal actions containing civil matters. For example, making an agreement or a deed requiring it before a notary. On the other hand, Article 1320 section (2) of the Civil Code regulates that *“in order to be valid, an agreement must satisfy the following ... conditions there must be capacity to conclude an agreement.”*

Suppose the above provisions are related to Article 7 section (1) of Law No. 16 of 2019. It can be understood that the minimum age limit explains to someone in carrying out legal actions of a civil nature. A person who agrees with another person must meet the specified age limit. However, if the person concerned does not meet the age limit specified in the applicable laws and regulations. In this case, the person concerned must accompany a parent or guardian in carrying out the legal action.

3. Law No. 17 of 2016 on Child Protection

When viewed from the perspective of a child's age, a child cannot be equated with someone who is already an adult because children have a habit of not obeying orders, rules, or laws because the child lacks understanding and knowledge about life. However, child marriage in Indonesia is still an ongoing issue. The meaning of child marriage is an inner and outer bond between a man and a woman as husband and wife at a relatively young age or still children.²⁵ Domestic living conditions for couples who marry young or under the age of 20 are vulnerable to psychological, physical, social, domestic violence, and death.

Suppose Article 1 point 1 of Law No. 17 of 2016 is related to Article 7 section (1) of Law No. 1 of 1974. It is understood that there is a contradiction between the two provisions. In this case, a woman who married at 16 already had to bear the family's burden. On the other hand, women aged 16 years should still get protection because they are still in the child age category. At the same time, Article 3 of Law No. 17 of 2016, regulates that:

“Child protection aims to ensure the fulfillment of children's rights to be able to live, grow, develop and participate optimally in accordance with human dignity and dignity and get protection from violence and discrimination, for the realization of quality, morally noble and prosperous Indonesian children.”

Suppose Article 1 point 1 of Law No. 17 of 2016 is related to Article 7 section (1) of Law No. 16 of 2019. It is understood that these provisions are in line with the objectives of child protection as regulated in Article 3 of Law No. 17 of 2016. Therefore, making Law No. 16 of 2019 is a preventive effort from the Government to avoid acts of discrimination or prevent the deprivation of rights for girls.

²⁵Apriliani, F. T. & Nurwati, N. (2020). Pengaruh Perkawinan Muda terhadap Ketahanan Keluarga. *Prosiding Penelitian dan Pengabdian kepada Masyarakat*, 7(1), p. 92.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion above, it can be concluded that determining adult status in Law No. 16 of 2019 is inseparable from philosophical, sociological, and juridical grounds. In this case, based on the goals of the Indonesian state as regulated in the 1945 Constitution, the social life of the community, and upholding human rights. In addition, the Government also considers aspects of health, religion, education, culture, and the minimum age limit for marriage in different States. Furthermore, determining adult status in Law No. 16 of 2019 also relates to a person's actions in carrying out legal actions. Both those regulated in the KHI, the Civil Code, and Law No. 17 of 2016. Therefore, determining adult status is a preventive effort from the Government to avoid discrimination or prevent the deprivation of rights for children. Based on the description of these conclusions, it is recommended that all parents continue to provide incentive supervision to their children until their children reach adulthood. In this case, the child avoids promiscuity so that there is no marriage by accident. In addition, it is recommended to the public not to carry out forced marriages and the practice of child marriage which is part of the Indigenous Peoples Law. Furthermore, it is suggested that the Indonesian Ulema amend the KHI, and the Government subsequently enacted it in laws and regulations.

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