

THE DEVELOPMENT OF MARRIAGE LAW REGARDING AGE LIMIT OF MARRIAGE BASED ON LEGISLATION NUMBER 16 YEAR 2019 REGARDING AMENDMENT TO LEGISLATION NUMBER 1 YEAR 1974 CONCERNING MARRIAGE AND LEGAL ASSURANCE THEORY

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ABSTRACT

Legislation Number 1 of 1974 concerning marriage underwent changes related to the rules for the marriage age limit it is in Article 7 paragraph (1) which states that marriage is only permitted if the prospective groom is 19 years old and the bride is 16 years old. These values are considered no longer relevant to the objectives of Islamic law, such as benefit and cause a lot of harm. Therefore, the government set a new rule regarding the age limit for marriage with the enactment of Legislation Number 16 of 2019 concerning Amendments to Legislation Number 1 of 1974 concerning Marriage. The focus of this research is on the development of marriage law regarding the age limit for marriage in terms of the Legislation of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Legislation Number 1 of 1974 concerning Marriage and Legal Assurance Theory. The research that the author conducts includes library research, which is a study that aims to collect data and information sourced from library data such as books, books and articles. The data collection method used is the documentation method. The primary data sources used are copies of Legislation Number 16 of 2019 and the Decision of the Constitutional Court Number 22/PUU-XV/2017.

Keynotes: Age limit, Marriage, Legal Certainty.

ABSTRAK

Undang-undang Nomor 1 Tahun 1974 tentang perkawinan mengalami perubahan terkait dengan aturan batas usia nikah yang terdapat dalam pasal 7 ayat (1) yang menyatakan bahwa perkawinan hanya diizinkan apabila calon mempelai laki-laki telah berusia 19 tahun dan mempelai perempuan berusia 16 tahun, aturan tersebut dinilai sudah tidak relevan lagi dengan tujuan syariat Islam yaitu kemaslahatan dan banyak menimbulkan kemadharatan. Oleh sebab itu pemerintah menetapkan aturan baru mengenai batas usia nikah dengan ditetapkannya Undang-undang Nomor 16 Tahun 2019 Tentang Perubahan atas Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan. Fokus penelitian ini adalah mengenai Perkembangan Hukum Perkawinan Mengenai Batas Usia Perkawinan Ditinjau Dari Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Teori Kepastian Hukum. Penelitian yang penulis lakukan termasuk penelitian kepustakaan (library research) yaitu suatu penelitian yang bertujuan untuk mengumpulkan data dan informasi yang bersumber dari data-data kepustakaan seperti buku, kitab dan artikel. Metode pengumpulan data yang digunakan yaitu metode dokumentasi. Sumber data primer yang digunakan yaitu salinan Undang-undang Nomor 16 Tahun 2019 dan Putusan Mahkamah Konstitusi Nomor 22/PUU-XV/2017.

Kata kunci : Batas Usia, Perkawinan, Kepastian Hukum.

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A. Introduction

Indonesia is a country with the fourth largest population in the world, this reality shows that the population of Indonesia is very large and with different cultural characters required legal harmony in order to realize legal certainty of rights and obligations, especially in terms of marriage, legal norms governing of marriage are very important considering that marriage is a legal relationship between two legal subjects who will later become a family and give birth to the next generation of the nation.

Normative legal certainty is when a regulation is made and promulgated with certainty because it regulates clearly and logically. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical. It is clear in the sense that it becomes a norm system with other norms so that it does not clash or cause norm conflicts. Legal certainty refers to the application of a clear, permanent, consistent and consequent law whose implementation cannot be influenced by subjective circumstances.

Certainty and justice are not just moral demands, but. factually characterizes the law. An uncertain and unjust law is not just a bad law.¹ According to Utrecht, legal certainty contains two meanings: first, there are general rules that make individuals know what actions may and may not be carried out and secondly, in the form of legal security for individuals and government arbitrariness because of general rules, individuals can know what may be charged. or committed by the State against individuals.²

Considering that there is still a lot of factual occurrence, especially in villages that parents often match their children who are not biologically included in the adult category, this is what causes early marriage to occur because the child protection law and the marriage law are not in line. In this case, two functions are needed. the state, namely the state as a forum for the welfare of the people, then the function of the state is to prevent it from happening in the form of interference with the private rights of citizens related to the function of the state in law which is not only limited to maintaining security for the community, but the state is also an achiever and embodiment welfare for society.³

While the constitution guaranteed child protection rights and guardianship responsibilities of a child, as a form of obedience to state law, must fulfill it in the form

¹ Cst Kansil, Christine , S.T Kansil, Engelian R, Palandeng ,Godlieb N Mamahit, Kamus Istilah Hukum, Rineka Cipta, Jakarta, 2009, Hlm.385

² Ridwan Syahrini, Rangkuman Intisari Ilmu Hukum, Citra Aditya,Bandung,1999., Hlm.80.

³ Teguh Prasetyo, Filsafat, Teori dan Ilmu Hukum, Pemikiran Menuju Masyarakat Yang Berkaitan dan Bermartabat, Jakarta: Rajawali Press, 2013, Hlm. 145

of making legal norms at the level of the law, because the state has the competence to form laws through the approval of the legislative and executive bodies in this case. government. In this problem, two functions of the state are needed, namely the state as a forum for the welfare of the people, then the function of the state to prevent this from happening in the form of interference with the private rights of citizens related to the function of the state in law which is not only limited to maintaining security for the community, but the state is also the achiever and embodiment of welfare for the community.⁴

State intervention is needed in the context of preventing child marriages under the general law, considering that the state as the creator and enforcer of law in its activities must obey the law.⁵ In the sense that the law becomes a guideline in carrying out state duties based on the legal awareness of the people, then the law is equal and does not have authority in relation to individuals (impersonal) or state institutions. It is clear that the obligation to obey the law is not only imposed on the people but also the state administrators, so the law is the guide for the highest power of the state, not the legal subject who has the power so that the principle of equality before the law (Equality before the law) becomes a complete awareness for state administrators who manage the state and the people. who live in a country.

The regulation of the minimum age for marriage as specifically regulated in Article 7 Paragraph (1) and Paragraph (2) is considered contrary to the 1945 Constitution of the Republic of Indonesia and laws and regulations relating to the protection of human rights, in particular children's rights. Article 7 is troubling because it opens the door for child marriage. This is confirmed by the Constitutional Court Decision Number 22/PUU-XV/2017 which states that Article 7 Paragraph (1) of the phrase "16 (sixteen) years" of the Law on Marriage is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force.

Furthermore, in the Decision Order it is stated that the Constitutional Court orders legislators within a maximum period of 3 (three) years after the decision is made to make changes to Law Number 1 of 1974 concerning Marriage. At least, there are two main considerations of the Constitutional Court: setting the age limit for marriage which is 19 years for the groom and 16 years for the bride is declared contrary to the spirit of protection for children which places the age limit for children at 18 years and this

⁴ Ibid.

⁵ Usep Ranawijaya, *Hukum Tata Negara Dasar-Dasarnya*, Jakarta: Ghalia Indonesia, 1983. Hlm.181.

provision has violated the principle of equality in the law. before the law in accordance with Article 27 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. In reality, the rate of child marriage in Indonesia is relatively high, which is about 1 in 9 girls marrying under the age of 18 years or around 375 girls marrying every day.⁶

The impact of child marriage is very diverse, namely for children who are married they will lose their rights to grow and develop, deprived of their right to education, and their vulnerability to sexual violence. Another impact, child pregnancy contributes to the high maternal mortality rate. In Indonesia, there are many births of malnourished babies and stunting children.⁷

To anticipate the impact of early marriage involving children and to anticipate the resilience of a new family, a mature age is needed, both biologically and psychologically, so that they are able to apply family restraints and form a generation of Indonesians with mature personalities. no longer relevant so that it is amended by a new law in accordance with the principles of the child protection law. So that it has implications for legal certainty, legal benefits and justice.

B. Focus of Problems

How did the considerations affect the amendment of Legislation Number 1 of 1974 concerning Marriage to Legislation Number 16 of 2019 concerning Marriage? and how is the legal reform of Legislation Number 16 of 2019 concerning the First Amendment to Legislation Number: 1 of 1974 concerning Marriage, in the perspective of legal certainty?

C. Methodology

The typology of the research used is a normative research methodology, namely studying legal issues at the level of norms in accordance with the rules of legal discipline or legal doctrine. The research in writing this law is juridical-normative, this research is based on analyzes of the legislation that governs each problem studied and leads to a literature study to obtain existing secondary data so that the relationship between legislation and other regulations can be obtained and its application in this study is especially the conflict of norms between vertical and horizontal regulations.⁸

⁶ Reported by UNICEF in 2018, sourced from Susenas 2016 data <https://www.unicef.org/indonesia/ChildMarriageSDGFactsheetenglish.pdf>, accessed 07 April 2021.

⁷ Sulistyowati Irianto, "The Speech", in Hoko Horri, Mies Grijns, and Saptandari, Married Young in Indonesia, Voice, Law and Practice, Obor Book Library Foundation, Jakarta.

⁸ Abdulkadir Muhamad, Hukum Dan Penelitian Hukum, (Bandung, Citra Aditya Bakti, 2004, Hlm.2.

Normative Juridical Research is a legal research method that is carried out by examining library materials or mere secondary materials.⁹The data analysis method is carried out by collecting data through the study of library materials or secondary data which includes primary legal materials, secondary legal materials and tertiary legal materials, both in the form of documents and applicable laws and regulations relating to normative juridical analysis of the synchronization of laws with actual facts. occurs in the community to improve the performance of the legal system in Indonesia and further studies are carried out whether the application is in accordance with its normative provisions.¹⁰

D. Finding and Discussion

1. The considerations affecting the Amendment to Legislation Number 1 of 1974 concerning Marriage as amended by Legislation Number 16 of 2019 concerning Marriage.

According to the explanation of Law of the Republic of Indonesia Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage, the factors that influence changes in the age limit for marriage in Indonesia in general are: In the provisions of Article 28 B of the Constitution of the Republic of Indonesia Indonesia in 1945, it is stated that everyone has the right to form a family and continue offspring through legal marriage and the State guarantees the child's right to survival, growth and development, and the right to protection from violence and discrimination.

Article 7 paragraph (1) of the Marriage Law which regulates the age limit for marriage between men who are 19 (nineteen) years old and women who have reached 16 (sixteen) is a form of discrimination and is contrary to the constitution. The age difference between women and men is a form of discrimination that occurs in real terms and is regulated in a law, where women do not have the same rights and opportunities as men in terms of fulfilling their basic rights. Therefore, this difference is a form of inequality before the law that harms the position of girls in Indonesia.

The factors that affect the change in the age limit for marriage in Indonesia, according to the contents of the Academic Paper on the Draft Law on the Marriage

⁹ Soerdjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta, Raja Grafindo Persada, 1994. Hlm. 2.

¹⁰ Henni Muchtar, *Analisis Yuridis Normatif Sinkronisasi peraturan daerah dan hak asasi manusia*. *Jurnal Humanus* Vol XIV No.1 Tahun 2015. Hlm. 85.

Age limit, there are 3 foundations, namely: Philosophical Foundations Philosophical foundations are considerations or reasons that illustrate that the regulations formed take into account the views of life, awareness, and legal ideals that include a spiritual atmosphere as well as the philosophy of the Indonesian nation originating from Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. The preambles in Pancasila are the main foundations that bind the State Administrators in formulating policies with dimensions of God, Humanity, Unity, Democracy and Justice.

These five precepts become the spirit in every policy drawn up by the State Organizers in order to realize the ideals of a united, sovereign, just and prosperous Indonesia. Where these ideals can only be achieved if the State Organizers guarantee the welfare of every citizen, including guaranteeing and protecting children's rights as human rights. The 1945 Constitution of the Republic of Indonesia Article 28 D guarantees that everyone, including children, men and women, has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law.

As stated in the fourth paragraph of the Preamble to the 1945 Constitution which reads "to form a government of the State of Indonesia which protects the entire Indonesian nation and the entire homeland of Indonesia and realizes general welfare, educates the nation's life and participates in carrying out world order based on independence, eternal peace and social justice." This sentence implies the State guarantees the rights of everyone and is obligation to protect, promote and fulfill these rights from discriminatory behavior.

Furthermore, the State guarantees the fulfillment, protection and respect of human rights through the body of the 1945 Constitution of the Republic of Indonesia which is summarized in 40 constitutional rights in 14 clumps.¹¹ The guarantee of the right of everyone to be free from discriminatory treatment on any basis and the right to obtain protection from discriminatory treatment is contained in Article 28I paragraph (2) of the 1945 Constitution. The existence of this guarantee shows the State's commitment to realizing a life of nation and state that is far from discriminatory treatment including the age limit for marriage for women and men.

¹¹ Komisi Nasional Anti Kekerasan Terhadap Perempuan (Komnas Perempuan), 'Hak Konstitusi', https://www.komnasperempuan.go.id/file/pdf_file/2018/Publikasi40%20HAK%20KONSTITUSI.pdf, diakses pada 31 Maret 2021

The 1945 Constitution of the Republic of Indonesia has also guaranteed protection for its citizens, including vulnerable groups. This guarantee covers protection from acts of violence and exploitation.

The state's commitment to guaranteeing a just society without discrimination has been confirmed by the ratification of several international conventions that lay down the principles of equality and justice and the principle of non-discrimination as the basis for guaranteeing human rights, such as the Covenant on Civil and Political Rights, the Covenant on Economic, Social Rights. and Culture, the Convention on the Rights of Women (CEDAW), and the Convention on the Rights of the Child.

The state has a positive obligation to actively protect and ensure the fulfillment of human rights and freedoms. In this case, the state is obliged to stop all forms of discrimination against women through the making of laws and policies as well as administrative measures and concrete actions to prevent discrimination from occurring. In the context of marriage, discrimination and violations of women's rights are often carried out by parents, namely marrying women who are still children using the dispensation mechanism.

Opportunities for violation of women's rights are wide open because the provisions regarding dispensation are very loose and there is no guide for judges to determine when the dispensation application can be granted or not. Therefore, the responsibility to protect women, in addition to increasing the age of marriage to be equal to the minimum age for men, is to tighten regulations on dispensation.¹²

Sociological Basis The practice of child marriage in Indonesia is a persistent problem that arises from time to time, from the colonial era to the present. During the colonial period, cases were found where girls were married off at a fairly young age, such as and/or 10 years.¹³ The neglect of the practice of child marriage that causes sexual violence and exploitation has been going on for quite a long time. The response of the colonial state only emerged around 1890, which was marked by the urge to have intercourse with children.

The rules in the Marriage Law are an effort by the State to protect the institution of marriage from the abuse of marriage that can damage the family

¹² Naskah Akademik Rancangan Undang-Undang tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, HLM 12

¹³ Sita T, Van Bemellen dan Mies Grinjs, 'Perdebatan Tentang Perkawinan Anak, Mulai dari Zaman Kolonial Hingga Ke Kurun Jawa Masa Kini: Adat, Agama, dan Negara', dalam Horii, Grinjs, Irianto, dan Saptandari, 2018, Menikah MUDA di Indonesia, Suara, Hukum dan Praktek, Yayasan PustakaBuku Obor, Jakarta.

institution. Unfortunately, the implementation of this rule faces serious obstacles in the field. Marriage under the minimum age in the Marriage Law still occurs for various reasons, both related to the legal substance, as well as related to the influence of social, economic and cultural factors of society, religious understanding.¹⁴

Juridical basis, Indonesia as a state of law in the reform era already has laws and regulations on Child Protection. This law is the result of the development of legal politics based on respect for human rights, especially children's rights. The Child Protection Law further strengthens the idea of the importance of reconsidering the provisions in Article 7 Paragraph (1) concerning the minimum age limit for marriage for women and Article 7 Paragraph (2) concerning dispensation for marriages below the minimum age for marriage. With the development of laws that provide more protection for children's rights, the existence of the minimum age limit for prospective brides, especially for women in Article 7 paragraph (1) is starting to be considered increasingly irrelevant in providing child protection. The existence of Article 7 Paragraph (1) is contrary to the Child Protection Law.

The age limit of a child according to the Child Protection Act is someone who is not yet 18 years old, including children who are still in the womb. The Child Protection Law expressly states in Article 26 paragraph 1 (c) that parents are obliged and responsible to prevent marriage at a child's age, but this article, like the Marriage Law, is not accompanied by provisions for criminal sanctions so that these provisions are almost meaningless. in protecting children from the threat of child marriage. Article 7 paragraph (1) has not guaranteed the protection and fulfillment of children's rights to survival, growth, and development, as well as optimal participation in 2017 accordance with human dignity.

The Constitutional Court granted a part of the judicial review lawsuit related to the difference in marriage age in Law Number 1 of 1974 concerning Marriage Article 7 paragraph 1 which regulates the minimum marriage age of 19 years for men and 16 years for women through DECISION NUMBER 22 /PUU-XV/2017. The Constitutional Court stated that the difference in the age limit of marriage for men and women in the law creates discrimination. In its consideration, the Constitutional Court considered the article to be Contrary to the 1945 Constitution of the Republic of Indonesia, which states that every citizen has the same position before the law. The

¹⁴ Susan Blackburn dan Bessell Sharon, "Marriageable Age: Political Debates on Early Marriage in Twentieth-Century Indonesia", Indonesia, No. 63, April 1997, hlm. 107-141.

Constitutional Court also stated that the Marriage Law was not in sync with the Child Protection Law which stipulates that a child is someone who is not yet 18 years old. The Constitutional Court also conveyed a number of adverse effects of child marriage, related to aspects of health and education. If placed in a broader context, child marriage threatens and has a negative impact on children's health because the ideal reproductive maturity limit has not been achieved. The potential for exploitation and violence against children also increases.¹⁵

2. Legal Renewal of Legislation Number 16 of 2019 concerning Marriage in the Perspective of Legal Certainty.

Through the decision of the Constitutional Court No. 22/PUU-XV/2017 which was read out on December 13, 2018, can be used as a basis for changing the age limit for marriage in Article 7 paragraph (1) of Legislation Number 1 of 1974 concerning marriage. Then after going through various processes, on September 16, 2019 by the DPR and the Government, the Bill on amendments to Legislation Number 1 of 1974 concerning marriage has decided to be legit.

Article 7 paragraph (1) of Legislation Number 1 of 1974 concerning marriage states that marriage can only be permitted if the man reaches the age of 19 years and the woman has reached the age of 16 years. Paragraph (1) of Legislation Number 35 of 2014 concerning amendments to Legislation Number 23 of 2002 concerning Child Protection defines that a child is a person who is 18 years old, including children who are still in the womb.

Article 7 Paragraph (1) then explains the age limit for marriage, which according to the elucidation of Article 7 Paragraph (1) is for the purpose of maintaining the health of husband and wife and offspring, it is necessary to set limits for marriage. Through this explanation, the real goal to be achieved in limiting the age of marriage is the reason for the health of the husband, wife and offspring that will exist. Through this purpose, Article 7 Paragraph (1) then comes with the following formulation: "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." The article contains an age limit with different treatment between men and women. Boys at the age of 19 years, while women at a younger age, which is 16 years. In addition, Article 7 Paragraph (2) also states that there may be deviations from the marriage age limit as

¹⁵ Eddy L. Fadlyana dan Shinta Larasaty, 2009, "Pernikahan Usia Dini dan Permasalahannya", Sari Pediatri, Vol. 11, No. 2, Agustus 2009.

referred to above through a request for dispensation to the Court or other authorized official. The dispensation can be submitted by both parents from the male or female side. That is, Article 7 Paragraph (2) opens the opportunity for marriages under the age of 16 for women and under the age of 19 for men.¹⁶

The Constitutional Court issued a decision Number 22/PUUXV/2017 which one of the considerations of the Constitutional Court in the decision was However, when the difference in treatment between men and women has an impact on or hinders the fulfillment of the basic rights or constitutional rights of citizens, both included in the group of civil and political rights as well as economic, educational, social and cultural rights, which should not be distinguished solely on the basis of gender, then such a distinction is clearly discrimination.

In the same consideration, it is also stated that setting the minimum age limit for marriage that differs between men and women not only creates discrimination in the context of implementing the right to form a family as guaranteed in Article 28 B paragraph (1) of the 1945 Constitution, but also creates discrimination against the protection of children's rights as guaranteed in Article 28 B paragraph (2) of the 1945 Constitution. In this case, when the minimum age of marriage for women is lower than that for men, legally women can form a family faster.

Because of this, in its decision the Constitutional Court ordered the legislators within a period of 3 years to make changes to Legislation Number 1 of 1974 concerning Marriage to reach the age limit for marriage, the improvement of norms reached by increasing the minimum age limit for marriage, for women. In this case, the minimum age for marriage for women is the same as the minimum age for marriage for men, which is 19 (nineteen) years old.

So that the Law of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Legislation Number 1 of 1974 concerning Marriage was ratified by President Joko Widodo on October 14, 2019 in Jakarta. Legislation Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage has come into force since the promulgation of Acting. Minister of Law and Human Rights Tjahjo Kumolo on October 15, 2019 in Jakarta. The results of the law that was ratified on October 14, 2019 in the form of Legislation Number 16 of 2019 concerning Amendments to Legislation Number 1 of 1974 concerning Marriage, the following:

¹⁶ Naskah Akademik Rancangan Undang-Undang tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, HLM 18

LEGISLATION OF THE REPUBLIC OF INDONESIA NUMBER 16 YEAR 2019
CONCERNING AMENDMENT TO LEGISLATION NUMBER 1 YEAR 1974
CONCERNING MARRIAGE WITH THE GRACE OF GOD ALMIGHTY THE
PRESIDENT OF THE REPUBLIC OF INDONESIA.

Consider:

- a. The state guarantees the rights of citizens to form families and continue offspring through legal marriages, guarantee the rights of children to survive, grow, and develop and are entitled to protection from violence and discrimination as mandated in the 1945 Constitution of the Republic of Indonesia;
- b. Marriage at a child's age has a negative impact on children's growth and development and will cause the basic rights of children to not be fulfilled, such as the right to protection from violence and discrimination, children's civil rights, health rights, education rights, and children's social rights;
- c. As an implementation of the decision of the Constitutional Court of the Republic of Indonesia Number 22/PUU-XV/2017, it is necessary to make changes to the provisions of Article 7 of Law Number 1 of 1974 concerning Marriage;
- d. Based on the considerations as referred to in letters a, b, and c, it is necessary to enact a Law concerning Amendments to Law Number 1 of 1974 concerning Marriage;

Reckon; Assign;

Decide: ACT CONCERNING LEGISLATION NUMBER 16 YEAR 2019
CONCERNING MARRIAGE.

Article 5 paragraph (1), Article 20, and Article 288 of the 1945 Constitution of the Republic of Indonesia; Law Number 1 of 1974 concerning Marriage (State Gazette of the Republic of Indonesia of 1974 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 3019) ; With the joint approval of the BOARD OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA and the PRESIDENT OF THE REPUBLIC OF INDONESIA.

Article I Several provisions in Law Number 1 of 1974 concerning Marriage (State Gazette of the Republic of Indonesia of 1974 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 3019) are amended as follows:

The provisions of Article 7 are amended to read as follows:

Article 7

- (1) Marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years.
- (2) In the event that there is a deviation from the age provisions as referred to in paragraph (1), the parents of the male and/or female parents may request a dispensation from the Court on the grounds that it is very urgent, accompanied by sufficient supporting evidence.
- (3) The granting of dispensation by the Court as referred to in paragraph (2) is obliged to listen to the opinions of the two prospective brides who will carry out the marriage.
- (4) The provisions regarding the condition of one or both parents of the prospective bride and groom as referred to in Article 6 paragraph (3) and paragraph (4) shall also apply to the provision regarding the request for dispensation as referred to in paragraph (2) without prejudice to the provisions as referred to in Article 6 paragraph (6).

So based on the law, which is contained in Article 7 paragraph (1) of Legislation Number 16 of 2019, it is clear that there has been a change in the age limit for marriage in Indonesia from the previously regulated age of marriage for women to 16 years old and men 19 years old. So now the marriage age between men and women is 19 years old.

E. Conclusion

The minimum age for marriage for women is lower than for men, so legally women can start a family faster. Because of this, in its ruling, the Constitutional Court ordered the legislators to make changes to Legislation Number 1 of 1974 concerning Marriage within a maximum period of 3 (three) years. Changes in norms in this Marriage Law reach the age limit for marriage, improvement in norms reaches by increasing the minimum age for marriage for women. In this case, the minimum age for marriage for women is the same as the minimum age for marriage for men, which is 19 (nineteen) years old. The age limit in question is considered to have matured mentally and physically to be able to carry out a marriage in order to realize the purpose of marriage properly without ending in divorce and obtaining healthy and quality offspring. It is also hoped that an increase in the age limit higher than 16 (sixteen) years for women to

marry will result in a lower birth rate and reduce the risk of maternal and child mortality. In addition, it can also fulfill the rights of children so as to optimize the growth and development of children including parental assistance and provide children with access to education as high as possible.

F. Recommendation

As a follow-up to the decision of the Constitutional Court on the judicial review of Legislation Number 1 of 1974 concerning Marriage with the enactment of Legislation Number 16 of 2019 concerning Amendments to Legislation Number 1 of 1974 concerning Marriage, which has regulated the existence of age equality between men and women, implemented properly in providing guarantees of legal equality so that with these changes it provides legal certainty in the practice of legal relations in accordance with the principles of legal certainty which are the basis for the rules of engagement in marriage.

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