
CHILD PARTICIPATION IN MARRIAGE DISPENSATION IN SOUTHEAST ASIAN MUSLIM COUNTRIES FROM THE PERSPECTIVE OF THE CONVENTION ON THE RIGHTS OF THE CHILD

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ABSTRACT

The purpose of this research is to understand and analyze child marriages in Muslim-majority countries in Southeast Asia from the perspective of the Convention on the Rights of the Child. The research design used in this study is qualitative. The research nature is juridical-normative, referring to legal norms present in the legislations of Indonesia, Malaysia, and Brunei Darussalam. The research results indicate that using the CRC's concept of Child Participation in dispensations for underage marriage, it was previously shown that the concept of child protection encompasses a broad scope (O'Donnell), and the Convention on the Rights of the Child emphasizes that all actions taken concerning the child must be contextually appropriate, for the best interests of the child (Eekelaar). Therefore, this study shows to what extent the protection of children's rights regarding their participation in dispensations for underage marriage in Southeast Asian Muslim countries, is allegedly contradictory to the CRC's definitive provision on the age of the child. This research implies that it can help analyze the extent to which child marriages violate the rights of the child as guaranteed by the Convention on the Rights of the Child. It aids in understanding how cultural and religious factors influence the practice of child marriages in Muslim-majority countries in Southeast Asia. Additionally, the results of this research could stimulate further studies in the same or related domains.

Keywords: protection of children's rights, marriage dispensation, convention on the rights of the child, southeast asian muslim countries

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INTRODUCTION

In society, there are many legal issues related to children, such as the issue of underage Marriage, customs, or social habits that affect these matters. Marriage is a sacred moment in human life because God created it with certain conditions and needs, including Marriage (Chusnida & Anggriawan, 2022). The high rate of Marriage cannot be separated from the problems that occur in it. One of them is the phenomenon of child marriage. Data from UNICEF (United et al.'s Fund) shows that 30% of women in Southeast Asia are married under 18. In Indonesia, the percentage of women married under 18 is 18%, and the percentage of women married under the age of 15 is 2%, while the percentage of men married under 18 is 5%. These conditions are still not sufficient to carry out an analysis of the legality of marriage. Thus, further exploration regarding barriers to marriage within the framework of the law needs to be carried out (Sulasno dkk., 2023). One of the regulations related to this issue is contained in Article 7 paragraph (1) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage (Law No. 16/2019), which stipulates that the minimum age of Marriage is 19 years for men and women (Pardede dkk., 2021).

The increase in the minimum age of Marriage is intended to reduce the number of child marriages. However, Article 7, paragraph (2) of the revised Marriage Law states that marriage dispensation can be requested due to emergencies if deviations occur. As a result, marriage dispensations in various regions increased dramatically after the revision (Yuni, 2021). Juridically, every state is responsible for providing a good livelihood for children, providing physical and mental welfare, and keeping them away from all kinds of dangers that threaten a child (Erdianti, 2020).

Child protection is everything or activities carried out to guarantee and protect children's rights to live and adapt properly based on the dignity of humanity. With this, child protection is expected to provide children with protection against violence and discrimination. Children are the second offspring resulting from the marriage relationship between a man and a woman (Suriati dkk., 2022). Positive Law in Indonesia has tried to cover various rules to protect the interests of children, either based on vulnerability or the maintenance of fundamental rights. Various international conventions and rules have been adopted to protect children, but their implementation has yet to be maximized (Syakura, 2023).

The world's concern for protecting children's rights internationally is expressed in a convention called the Convention on the Rights of the Child (CRC) of 1989. The CRC, or Convention on the Rights of the Child, was universally proclaimed on November 30, 1989, through the General Assembly of the United Nations (UN) (Bahter, 2020). Ratifying states must commit to acting in the best interests of the child; therefore, states recognize the fact that they should provide and protect to the best of their ability the rights set out in the CRC and advance the human dignity of the child (Strømmland dkk., 2019).

The positive response of the Islamic world to the International Convention on the Rights of the Child provides great hope for efforts to improve the child protection system, especially in Muslim countries (MUHRISUN AFANDI, 2014), which have ratified the Convention on the Rights of the Child with a strong commitment to implement it in legislation in their respective countries. The problem of child protection is complex and raises various other problems that cannot always be addressed individually but must be addressed jointly (Zain dkk., 2021), not only in Southeast Asian Muslim countries, namely Indonesia, Malaysia, and Brunei Darussalam, where the majority of the population is Muslim but in other Muslim countries in the world experiencing the same thing.

The follow-up of the Convention on the Rights of the Child in each country, especially Southeast Asian Muslim countries, is: First, the central government of Malaysia ratified the Convention on the Rights of the Child on December 28, 1994, and adopted it on February 7, 1995 (Kaur, 2007). On July 19, 2010, regarding Reservations, "The Government of Malaysia accepts the provisions of the Convention on the Rights of the Child but expresses reservations with respect to articles 2, 7, 14, 28 paragraph 1 (a) and 37 of the Convention and states that such provisions should only apply if they are in accordance with the constitution, national laws, and national policies of the Government of Malaysia" In Malaysia, the issue of children's rights has been regulated in the Children's Act 2001 (Act 611). Then the Children's Act (611) of 2001 was amended to become the Children's Act (1511) of 2016. The Children's Act (Amendment) 2016 amended Sections 31, 32, and 33 by increasing fines and imprisonment (making the punishment for child abuse both physical and psychological) and introducing a new punishment of community service (Supaat, 2018).

The Government of Brunei Darussalam ratified the Convention on the Rights of the Child on December 27, 1995. However, the Government of Brunei Darussalam expressed reservations to provisions of the Convention that may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the state religion, and without prejudice to the generality of such reservations, specifically expressed reservations to Article 14 (Freedom of Religion), Article 20 paragraph 3 (Children deprived of a family environment), and Article 21 (Adoption) letters b, c, d, and e of the Convention. Following ratifying the Rights of the Child Act, the Children and Young Persons Act (Sect. 219) was enacted on March 1, 2010.

The Indonesian government is one of the international nations that ratified the CRC in the national context through the Presidential Decree of the Republic of Indonesia Number 36 of 1990 (Kepres RI No. 36) concerning the Ratification of the Convention on the Rights of the Child (Patilima dkk., 2019). The Law Number 23 of 2002 concerning child protection was formed (First Amendment to Law Number 35 of 2014 and Second Amendment to Law Number 17 of 2016). In addition to laws and regulations, institutions related to child protection were also established.

Growing awareness of social inequalities is reshaping research, policy, and practice in child protection systems in many countries. Policies and histories based on racism, capitalism, colonialism, sexism, and ableism are under new scrutiny and challenge. Connecting these challenges to how child protection systems operate is critical. It opens up new ways to examine how the state's interactions with children and their families can foster socially just outcomes. How children's right to participation may intersect with a growing awareness of social injustice has so far received little scholarly attention (Keddell, 2022). The central problem of child protection is under-recognized and poorly accommodated by legislation and legal decision-makers (Sheehan, 2019).

Based on the background description above, the objective of this research is to understand and analyze child marriages in Muslim-majority countries in Southeast Asia from the perspective of the Convention on the Rights of the Child. Consequently, the benefits of this research include the potential to enhance the protection of children's rights, particularly in the context of child marriages. By analyzing the practice of child marriages through the lens of the Convention on the Rights of the Child, this study can identify violations of children's rights and advocate for policy changes to safeguard these rights. Furthermore, the outcomes of this research can serve as a robust foundation for policymakers to formulate or revise policies related to child marriages. Policy decisions supported by empirical evidence tend to be more effective in addressing issues surrounding child marriages.

METHODS

This study is conducted with a literature review tailored to the problems studied with a normative juridical nature based on legislation regarding protecting children's rights. The approach used is a comparative approach to Law in the three countries, namely Indonesia, Malaysia, and Brunei Darussalam. For that purpose, this study uses comparative research by suggesting differences or similarities in legal protection policies for children. In order to achieve the research objectives so that the problems discussed can be researched and analyzed properly, in describing the legal materials used, this study uses descriptive analytical techniques, which reveal the laws and regulations relating to legal theories that are the object of study by describing aspects of children's rights in Law, namely laws in Southeast Asian Muslim countries.

RESULTS AND DISCUSSION

The Convention on the Rights of the Child is the most widely adopted international human rights treaty of all time, and almost all Muslim states are parties to the treaty. This contribution seeks to examine the issues and challenges that Muslim states face in implementing the Convention on the Rights of the Child (Hamid & Sein, 2013). The Convention on the Rights of the Child does not explicitly define child marriage, but the term "child" is clearly defined as a person under 18 (Yuslem, 2017). The United Nations Convention on Consent to Marriage, the minimum age for Marriage, and marriage registration have been in force since 1964. The KHA emphasizes that Marriage can only occur if both partners have given their free and full consent (Ernawati dkk., 2018).

The minimum age for someone to be married is one of the triggers for polemics. Suppose you look at some of the minimum ages of Marriage in the world. In that case, they are only sometimes based on the reality of society, meaning that there are many marriages under the age of Marriage as agreed upon in each country. This is the cause and influence of the distortion of the marriage age in several countries that allow underage Marriage. Nevertheless, in 2014, the Secretary-General of the United Nations recommended a specific target in the post-2015 Sustainable Development Goals to eliminate the age of Marriage. This recommendation was supported by 116 United Nations member states, including several Southeast Asian Muslim countries, namely Indonesia, Malaysia, and Brunei Darussalam. Therefore, the global consensus on eliminating child marriage has become increasingly prominent recently (Schumadi, 2013). The minimum age for Marriage is suspected to be one of the triggers (Badan et al., 2016).

The marriage limit in Indonesia was previously 19 years old for men and 16 years old for women. Under the new Law, men and women have the same minimum age of 19 for Marriage. The main change in Law Number 16 of 2019 compared to Law Number 1 of 1974 is in Article 7. If a couple marries under 19, as referred to in the Law, then some things must be done. The parents of the man and woman can request a dispensation from the Court by providing reasons and strong supporting evidence. This is stated in Article 7, Paragraph 3 of the Law. Thus, it is still permissible to marry a minor (child marriage) by requesting dispensation from the Court on urgent grounds with sufficient supporting evidence. Let us look back at Law No. 23/2002, which establishes children's right to be heard and requires this right to be applied under "morals and decency" in the child's best interests. The existence of a dispensation for child marriage needs to be integrated into most laws relating to children in Indonesia.

The Constitutional Court of the Republic of Indonesia has issued Constitutional Court Decision Number 22/PUU-XV/2017. One of the considerations of the Constitutional Court in the decision is: "However when the differential treatment between men and women has an impact on or hinders the fulfillment of basic rights or constitutional rights of citizens, both those included in the group of civil and political rights as well as economic, educational, social, and cultural rights, which should not be differentiated solely on the basis of sex, then such differentiation is clearly discrimination." In the same consideration, it is also stated that the setting of a different minimum age of Marriage between men and women has not only caused discrimination in the context of the implementation of the right to form a family as guaranteed in Article 28B paragraph (1) of the 1945 Constitution but has also caused discrimination against the protection and fulfillment of children's rights as

guaranteed in Article 28B paragraph (2) of the 1945 Constitution. In this case, when the minimum age of Marriage for women is lower than for men, women can legally form a family faster. Because of this, in its decision, the Constitutional Court ordered the legislators within three years to amend Law Number 1 of 1974 concerning Marriage (Hermanto dkk., 2021).

The change in norms in Law Number 1 of 1974 on Marriage extends to the age limit for Marriage; the improvement of norms extends to raising the minimum age of Marriage for women. In this case, the minimum age of Marriage for women is equal to the minimum age for men, which is 19 (nineteen) years old. The age limit is considered to be mature in body and soul to be able to enter into Marriage to realize the purpose of Marriage properly without ending in divorce and get healthy and quality offspring. A higher age limit of 16 years for women to marry is also expected to result in a lower birth rate and reduce the risk of maternal and child mortality. In addition, children's rights can also be fulfilled to optimize child development, including parental assistance, and provide children with access to the highest possible education.

With the development of laws that provide more protection for children's rights, an age limit of 16 years for prospective brides, especially for women, in Article 7 Paragraph (1) is increasingly considered irrelevant in providing child protection. The reasons for considering raising the age limit for women's Marriage from 16 to 19 years against Article 7 of the Marriage Law are based on theoretical studies, studies of principle principles, empirical and practical studies, as well as studies of the implications of implementing the new system (Akademik, 2019).

In addition, the increase in the age of Marriage is a separate meaning of maturing the age of Marriage: efforts to increase the age at first marriage to reach the minimum age of Marriage recommended by the National Population and Family Planning Agency (BKKBN). The purpose of maturing at the age of Marriage is to provide understanding and awareness to adolescents so that, in planning a family, they can consider various aspects related to family life, namely physical, mental, emotional, educational, and economic readiness. The maturing of the age of Marriage is motivated by several things, namely: the increasing number of cases of early Marriage, the number of cases of unwanted pregnancies, high population growth with low quality, and marrying at a young age, which causes disharmony in the family. The minimum age limit recommended by BKKBN is considered an age ready to face household life in terms of health, emotional, psychological, economic, educational, and population aspects. The age provision is based on the needs and conditions of a changing society and is for the benefit of humanity.

Regarding children's rights to participate in Indonesian marriages, a regulation has been made in the form of Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage. This Law was previously passed in a plenary meeting of the Indonesian Parliament on September 16, 2019. In the new Law signed by President Jokowi, there is the same minimum age for men and women to get married. The decision is appropriate under current conditions and situations, given the increasingly modern development of the times. The author agrees to equalize the age of Marriage between women and men, which is equal to 19 years. Nineteen years is a sufficient age for Marriage, and has realized the purpose of the Law itself is to provide the principles of justice, expediency, and legal certainty to reduce the divorce rate due to the age factor that is too young. In addition, it also aims to reduce the divorce rate, reduce the risk of maternal and child mortality, obtain healthy offspring, and fulfill children's rights in the form of

child growth and development to get the highest possible education. Therefore, Law Number 16 of 2019 was born. The main change in Law No. 16 of 2019 compared to Law No. 1 of 1974 is in Article 7:

- 1) Marriage is only permitted if the man and woman have reached the age of 19 years.
- 2) In the event of a deviation from the age provision as referred to in paragraph (1), the parents of the male party or the parents of the female party may request a dispensation from the Court on the grounds of extreme urgency accompanied by sufficient supporting evidence.
- 3) The Court granting dispensation, as referred to in paragraph (2), shall be obliged to hear the opinions of both parties to the Marriage.
- 4) The provisions concerning the situation of one or both parents of the prospective bride and groom, as referred to in Article 6, paragraphs (3) and (4), shall also apply to the request for dispensation, as referred to in paragraph (2) without prejudice to the provisions referred to in Article 6 paragraph (6).

If a couple marries under the age of 19, as referred to in the Law, then things need to be done. The parents of the man and woman can request a dispensation from the Court by providing reasons and strong supporting evidence. This is stated in Article 7, paragraphs (2) and (3) of the Law. Thus, it is still permissible to marry a minor (child marriage) by requesting dispensation from the Court on urgent grounds with sufficient supporting evidence. This deviation (violation) can occur in principle because there is "room" in the Law that makes it easy for such a practice to occur (Article 7, paragraph 2; in the event of a deviation from paragraph 1 of this article, a request for dispensation may be made to the Court or another official appointed by both parents of the male and female parties). When viewed carefully, the "space" for granting dispensation provided for in the provisions of the Law can be seen as a legal loophole that some people take advantage of, in the sense that the opportunity to enter into an underage marriage has the potential to be carried out based on this legal loophole. Article 7, paragraphs (2) and (3) of this Law require a more in-depth legal interpretation because the existence of paragraphs (2) and (3) opens a loophole to perform underage marriages without being accompanied by a paragraph or article regulating sanctions. Therefore, the importance of firmness and sanctions in this Law is to benefit and protect children's rights during their growth and development (Amri & Khalidi, 2021).

Of course, this is contrary to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Article 26, paragraph 1, letter c, states that parents are obliged and responsible for preventing child marriage (Suryani, 2021). From this Law, it can be concluded that Marriage is recommended at a minimum age of 18. If we look at the publication of the Indonesian child profile, in fact, there are still many children under the age of 15 who have married and even experienced divorce (Perempuan, 2018). This is a record of the condition of Marriage under the minimum age in Indonesia, which is that Marriage under the age of child marriage depends on court decisions and parental consent. This means that the Law in Indonesia still provides a way out in Article 7 (paragraphs 2 and 3) if there is a deviation. It can request dispensation to the Court or other officials appointed by both male and female parents. Then, in the case of people who violate the provisions of the age of Marriage, namely 19 years for men and women, they must face strict sanctions. Regarding these sanctions, the bride and groom, the person

or official who performs the Marriage, and the people involved in the child marriage all receive sanctions.

As per the current Malaysian Law, the minimum age for Marriage for females is 16 years old, and for males, it is 18 years old. If the person getting married is under 16, the Syariah Judge has to give written permission, which means there will be a court process where they have to go to the Court and ask for permission to get married. Although girls under the age of 18 are eligible for Marriage, the Malaysian Kanak-Kanak Act 2001 defines children as "persons under the age of eighteen years." The Committee on the Rights of the Child expressed concern about the inconsistency between the statutory definition and society's reality regarding the minimum marriage age (Orzala et al., 2006a).

Marriage between 16 and 18 years old is only allowed if there are legitimate benefits, the parties agree, and the minor has matured enough to understand Marriage's nature, rights, and responsibilities (Rumminger dkk., 2011). The minor must agree that the Marriage will not be against both parties' interests, and the Sharia Court must be consulted. In determining this, the judge should summon the minor, and he or she should contact the pediatrician to verify the existing evidence and forward it to the Court. It is to be noted here that teenage marriages before the legal age of majority in Malaysia can be legally performed with the discretion granted by the judge. It is only allowed if legitimate benefits exist, the parties agree, and the minor has reached sufficient maturity to understand Marriage's nature, rights, and responsibilities (Orzala et al., 2006b).

The marriage laws in Brunei Darussalam differ based on the ethnicity and religion of the Bruneian people, according to Islam, Christianity, and China. The provisions regarding the minimum age of Marriage in Brunei also vary. In Law, Chapter 47 on Marriage, Series 8 of 1948, amended by Series 6 of 1951, amended by Series 42 of 2005, and amended by Series 4 of 2013, Article 1 Paragraph 2 states that this Law does not apply to marriages solemnized according to the customs of Muslims, Hindus, Buddhists, and other people governed by their own laws or marital customs recognized by Brunei law. The age limit for Marriage stipulated in Law Chapter 47 on Marriage Series 4 of 2013 is 14 years old for both males and females. Based on Article 3, paragraph 1 (a), both parties to the Marriage in question have reached the age of 14 years. If one of the parties to the Marriage is a minor, the Marriage cannot take place unless the consent of the minor's father or guardian is obtained.

As for Islamic Law contained in Brunei Law Chapter 217 on Islamic Family Law Series 12 of 2000, amended by Series 17 of 2005, Series 42 of 2004, Series 62 of 2010, and Series 6 of 2012, this Law makes provisions relating to Marriage, divorce, maintenance, guardianship, and others relating to family life. The Brunei Law Chapter 217 on Islamic Family Law does not clearly state the minimum age of Marriage but explains that a child is someone who has not reached the age of 18 years (Jumat, 2019). In the Marriage Registration Act, Chapter 124 of 2002, it is explained that a person who wants to marry but is under 18 must obtain permission from the parents or guardians of both parties. Based on this, Brunei law does not have a set age for Muslim Marriage, but consent must be given by both the guardian and the registration officer (Young dkk., 2017); it is noted that marriages under a certain age in Brunei Darussalam can be performed at the discretion of the Court in the form of benefit or necessity and with the consent of the parties.

Although the minimum age of Marriage stipulated in the Law is below 18 years, the Law stipulates certain conditions before Marriage can occur. These requirements are put in place to ensure that each party is fully qualified and ready in all aspects to enter domestic life. In Muslim marriages, these conditions include parental or guardian consent. It is to be noted, however, that marriages below a certain age in Brunei Darussalam can be performed at the discretion of the Court in the form of advantage or necessity and with the parties consent. In addition, the concern about early Marriage in Brunei Darussalam is that it is still allowed with the consent of the guardian and the Court. It is, therefore, desirable to raise the minimum age of Marriage, arguing that it is an obligation agreed upon by signatories to the Convention on the Rights of the Child and the Best Interest of the Child.

According to Yayan Sopyan, it must consider an important aspect of law-making when discussing Islamic and Marriage laws because they have established a fairly balanced relationship. On the one hand, marriage law is representative of the interests of the public, which is the state's responsibility. On the other hand, Islamic marriage law is a majority belief that is feasible and possible to inspire national Law. Therefore, Islamic Law is likely to transform itself into national Law. So the concept of transformation describes how Islamic marriage law is integrated into the national system (Sopyan, 2012).

Although Islamic marriage law is integrated into the national system, when looking at regulations in Southeast Asian Muslim countries related to the age of Marriage, there are also differences, namely that Indonesia equalizes the age of Marriage between women and men, which is equal to 19 years (article 7 of Law No. 16 of 2019), that in Malaysia the minimum age for Marriage for women is 16 years old. For men is 18 years old, and in Brunei, there is no specified age for Muslim Marriage, but the guardian and registration officer must consent. Although it is worth noting in the situation of Marriage under the minimum age in Southeast Asian Muslim countries, Marriage of children under 18 years old is still allowed with dispensation depending on the Court's decision and parental consent.

Although the age requirement has been regulated in the marriage law, the opportunity for dispensation from the Court opens up opportunities for underage marriages. Dispensation is a legal policy that permits the Marriage of minors, with certain reasons included. Dispensation granted by judges raises pros and cons in the community because it is seen as justifying underage Marriage, which blatantly violates children's rights in the Convention on the Rights of the Child. In essence, the judge's decision to grant the application for dispensation against the Marriage of a minor is based on considerations under the applicable laws in each Southeast Asian country. For details, similarities and differences can be seen in the following table:

Table 1. Children's Participation in the Dispensation of Marriage Under Age

Country/Category	Marriage Age Limits	Dispensation of Marriage
Indonesia (Law No. 16 of 2019)	Age 19 for both males and females (Article 7, paragraph 1)	Must go to Court by hearing the opinion of the prospective bride and groom on the grounds of extreme urgency (Article 7 paragraphs 2, 3, and 4)

Malaysia	Age 18 for males and age 16 for females	With discretion, the judge should contact the pediatrician to verify the evidence before the Court.
Brunei Darussalam(Marriage Registration Act, Chapter 124 of 2002)	It does not clearly state the minimum marriage limit, but there is a requirement for marriages under 18 years of age to obtain permission from parents or guardians.	The parent or guardian and the marriage registrar must give consent.

The provisions for Marriage under the minimum age in Muslim-majority countries in Asia have similarities (Marriage under the age set by Law in each country can be legally performed with the discretion granted by the judge (subject to judicial authorization) and the consent of the parents (guardians), and in the absence of sanctions or threats of punishment in the country for the parents or party (groom or bride) or anyone who encourages child Marriage (those who marry are under the age of Marriage), Marriage under age determined by each country is not canceled and is still considered valid for various reasons. This can be seen in Indonesia, Malaysia, and Brunei Darussalam, where marriages below the minimum age are still allowed with dispensation for various reasons established as maturity, imperative (good reason or good faith), equality of status (kafala), results of medical evaluation (social investigation), and benefits (necessity) and with the consent of the parties. This is likely due to various factors, including economic, social, and cultural factors. Economic reasons are considered the quickest and easiest way to marry a child. The girl and her new family are expected to help improve her parents' economy. For social reasons, for example, some people still think that the sooner a girl gets married, the better for her. In terms of culture, it is suspected that in some regions of Indonesia, especially remote areas, marrying at a very young age is a common thing to do and not taboo, even though it is not under the provisions of the marriage law (Ernawati dkk., 2018). Although there are some similar notes regarding the permissibility of child marriage, the freedom of children to express opinions or participate in decision-making under Article 12 paragraph (1) of the KHA and the right to participate in decision-making concerning themselves regarding the issue of actions to dispense Marriage has been regulated in each Southeast Asian Muslim country.

Differences also occur in legislation in Southeast Asian Muslim countries on the issue of Marriage. As viewed from the explanation above, Southeast Asian Muslim countries (Malaysia and Brunei Darussalam, except Indonesia) set the minimum age of Marriage lower than the international minimum age of children. This results in a potential conflict of norms. On the other hand, the laws of Southeast Asian Muslim countries set the minimum age of Marriage at 18 years old but allow women and men to marry earlier than 18 years old by providing dispensation for child marriage. All these policies can sustain the acceptance of child marriage and violate children's rights (Burn & Evenhuis, 2014). Raising the age of Marriage in Indonesia to 19 years is also to avoid child marriage, especially for girls. In addition, limiting the minimum age of Marriage is a form of legal protection for children (Elkhairati, 2018). Children's health, welfare, and future must be maintained; this will not happen if underage Marriage still occurs. Given that early Marriage is prone to domestic violence, sexual violence, and high divorce rates (Hassim dkk., 2020).

CONCLUSION

The main thing to consider regarding marriage age limits is the issue of children. The government's steps in setting the minimum age of Marriage through legislation are a proactive step in maintaining the protection of women, especially children, and this is in line with the Convention on the Rights of the Child. If the government has made such a determination, the community is obliged to comply based on the principle of obedience to the government. It is therefore recommended that the specific details of granting marriage licenses to underage couples be set out in statutory provisions and that children's participation is required, as their opinions and views should be respected, honored, and considered in decisions concerning them. Such provisions are made to tighten the requirements for child marriage and ensure that it is carried out according to established procedures. The granting of dispensation for various forms of child marriage is a "violation" of children's rights. Children's rights are part of human rights that must be guaranteed and protected by parents, families, communities, the state, and the government. Thus, all forms of dispensation for Marriage, regardless of the judge's consideration of legal facts during the judicial process, are actually "unnatural" because they open up space for violations of the Law itself.

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