

Child Marriage in Indonesian Law Perspective

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Abstract : Every person retains the right to marry and starts a family through a legitimized marriage. Indonesian Marriage Act has regulated the minimum age for boys to marry is 19 while the girls is 16, with an exception that the parents could ask for an exemption to the court or to the authorized official. Despite the age limit is set by the Marriage Act, however, with the influences from adat law and islamic law which allows younger persons to marry, the child marriage phenomenon is inevitable to happen in Indonesia. Child marriages in Indonesia have shown such alarming fact where 4.8 percentage of total marriage number come from persons with the age of 10 to 14 years old. The percentage was the result from a research conducted by the National Population and Family Planning Board (BKKBN). The result shows 41.9 percent of child marriages was contributed by girls who marry in the age of 15 to 19, which mostly comes from villagers. Other fact shows 50 percent of child marriages end in divorce with grounds varied from the mental health of the children, economic situation, and so on. With more children committed early marriages, more babies will be borned from indebted families. Subsequently, the government's program to alleviate poverty will be short of expectations. Other risk for child marriages includes death of the mother and the child after giving birth. The people have challenged the legality of child marriages through judicial review filed to the Constitutional Court. The Court decided to reinforce the age limitation previously set by the Marriage Act by issuing judicial decision no: 30-74/PUU-Xii/2014. The Court stated that changes to the age limit must be in conform with cultural and traditional situation. Further, it stated child marriages are allowed to be arranged as an "emergency exit" if the parents filed such request to an exemption on the grounds of coercive situation and after the court or the authorized officials issued its approval.

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