

## Philosophical Review of Materialism and Idealism Limits of Wedding Age in Indonesia; Study of Article 7 Paragraph (1) of Law 16 of 2019 jo. Law 1 of 1974 concerning Marriage

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### Abstract

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#### Keywords:

Philosophical  
Age of  
Marriage,  
Ideality,  
Materialism.

*This research departs from a juridical confusion regarding the ideal of a person going to get married, where the age of marriage with other provisions regarding age, namely, in terms of philosophical Materialism and Idealism of Marriage Age in Indonesia. Whereas in Indonesian Law on Marriage Marriage is only permitted if men and women have reached the age of 19 (nineteen) years. The purpose of this study is to find out the philosophical review of materialism and idealism of marriage age in Indonesia, with the article 7 paragraph (1) for 16 of 2019 jo. u 1 year 1974 regarding marriage). The conclusion of this research is the philosophical value of materialism and idealism of marriage age is the concept of historical materialism of humans who will choose their readiness in facing marriage, this is because one's age is not a reference, which is the basis for people to get married including their readiness to face material livelihood, readiness self and material. Likewise in Indonesia, the ideal age in society in Indonesia if it is associated with Karl Mark's theory, then the readiness of oneself in the material (economic elements) is as a reference for people to get married.*

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### A. Introduction

Views on the perspective of Islamic law, especially in Indonesia, marriage has a religious meaning that is of very high value, this is because marriage is not just a legal event, but rather is a bond of legal relations between a man and a woman to live together, in the bond of husband and wife, with the intention of building a family, maintaining offspring, also preventing adultery, and maintaining the peace of soul and family.<sup>1</sup> However, the ideal and noble purpose of the marriage can be lost when the marriage process that is carried out by the community does not meet the various provisions that have been set, both in Islamic Law (religious), and in Positive Law (State).

Islamic law considers that there is no explicit explanation regarding age restrictions as a condition for marriage other than aqil-balig. However, in West Nusa Tenggara (NTB), there is a Governor's policy whereby the Governor requires that a man or woman who wishes to have a marriage for the first time be required to be at least 21 years old.<sup>2</sup> In the view related to religion, Marx said that religion is opium, in which a person devotes himself more to his

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<sup>1</sup> Chuzaimah T. Yanggo, *Problematika Hukum Islam Kontemporer* (Jakarta: Pustaka Firdaus, t.t), 67.

<sup>2</sup> Winengan. "Politik Hukum Keluarga Islam di Aras Lokal: Analisis Terhadap Kebijakan Pendewasaan Usia Perkawinan di NTB", *Al-Ahwal Jurnal hukum keluarga islam*, Vol 11, No 1 (2018), h.1.

religion, so he will also lose himself. According to Marx's views humans make religion, not religion makes man.<sup>3</sup>

Definition of Materialism is a system of thought that believes in matter as the only absolute existence and rejects the existence of anything other than matter. This system of thinking becomes very "kuncara"<sup>4</sup> in the form of Karl Marx's dialectical materialism. While in the criticism made by Karl Marx to Hegel about humans as the essence of the soul. Marx refutes by giving the view that humans are natural creatures in natural objects.<sup>5</sup>

While in Indonesian Law on Marriage is bound by new laws and regulations contained in Law 16 of 2019 concerning Amendments to Law 1 of 1974 concerning Marriage it is necessary to be contained in article Article 7 (1). have reached the age of 19 (nineteen) years”<sup>6</sup>.

Marriage is an issue that will always be interesting to talk about, such as news that was viral some time ago, namely the marriage of two 14-year-old and 15-year-old boys in South Kalimantan. Many questions then arise about early marriage. One of them is whether Islam limits the age of marriage? In online news, news.detik.com The Indonesian Child Protection Commission (KPAI) stated that it was concerned about the marriage of two children in South Kalimantan and said the marriage violated the Marriage Law and the Child Protection Act. "This clearly violates the Marriage Law and also the Child Protection Act, because in the PA Law 0-18 years is the age of the child," KPAI Commissioner Retno Listyarti told AFP on Sunday (07/15/2018). According to online news on the website www.republika.co.id, the National Population and Family Planning Agency / BKKBN has reported that the number of Indonesian teenagers who already have children is quite high, 48 out of 1000 teenagers. Meanwhile, according to the Indonesian Ulema Council / MUI, there is no explicit provision in the Islamic fiqh literature regarding age restrictions on marriage. Whether it's the minimum or maximum limits. According to the MUI itself, early marriages are basically legal when the requirements and the harmony of the marriage are fulfilled. However, the law will be haram if the marriage will actually bring at the same time cause madharat.<sup>7</sup>

From the above explanation it is confirmed that the age of marriage is still ambiguous. With the above problems, the researcher is interested in studying about how the philosophical review of materialism and idealism regarding the age of marriage in Indonesia is related to Article 7 Paragraph (1) of Law 16 of 2019 jo. Law 1 of 1974 concerning Marriage. Islam also through its legal sources as well as the historical facts of Islam itself is very likely to arise rather than multiple interpretations of the relationship between Islam and the state, especially if we look at the real conditions, the diversity of styles and forms of the state, in

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<sup>3</sup> Irzum Farihah, "Filsafat Materialisme Karl Marx (Epistemologi Dialectical and Historical Materialism)", *FIKRAH: Jurnal Ilmu Aqidah dan Studi Keagamaan*, Volume 3, No. 2, (2015), h.1.

<sup>4</sup> Kuncara dalam bahasa jawa berarti terkenal.  
[https://id.wiktionary.org/wiki/Lampiran:Kamus\\_bahasa\\_Jawa\\_%E2%80%93\\_bahasa\\_Indonesia](https://id.wiktionary.org/wiki/Lampiran:Kamus_bahasa_Jawa_%E2%80%93_bahasa_Indonesia).  
Diakses 30 Juni 2020.

<sup>5</sup> Daniel L Pals, *Seven Theories of Religion*, (New York: Oxford University Press, 1996), 133.

<sup>6</sup> Undang-undang Nomor 16 tahun 2019 tentang perubahan atas UU 1 tahun 1974 tentang Perkawinan, pasal 7 point 1.

<sup>7</sup> <https://www.muslimahatimes.com/apakah-islam-membatasi-usia-pernikahan>, Diakses 30 Juni 2020.

areas where the majority of the population is Muslim / Muslim countries.<sup>8</sup> So Muslim thinkers always try to answer the challenges of the times with Islam, because Islam is declared as a perfect and relevant religion for all times and places, especially in the era of the Industrial Revolution 4.0.

Islamic economics is based on Islamic concepts themselves about what is called human happiness and a good life that emphasizes aspects of brotherhood, socio-economic justice and meeting the spiritual needs of humanity. The development of the Islamic economic system in Indonesia began rather than the rapid progress, especially in the field of Islamic economics.<sup>9</sup> Thus Islamic economic factors can accelerate the pace of prosperity for prospective brides and grooms.

Departing from the above background, the formulation of problems can be drawn including: 1) How is the nature of the stipulation of Article 7 Paragraph (1) of Law 16 of 2019 amending the Law 1 of 1974 concerning Marriage? 2) What is the urgency of the Marriage Age Limit in Article 7 Paragraph (1) of Law 16 of 2019 amending the Law 1 of 1974 concerning Marriage?

## **B. Reviewing the Literature**

The essence of the meaning of marriage / marriage according to the language: al-jam'u and al-dhamu which means gathering.<sup>10</sup> While marriage / *Zawaj* itself can be interpreted with *aqdu al-tazwij* which means marriage contract. It can also be interpreted as *wath'u al-zaujah* which means making love with a wife. An almost similar definition is defined by Rahmat Hakim, that the word marriage comes from the Arabic *nikahun* which is the *masdar* or the origin of the verb / *fi'il madhi nakaha*, while the synonym *tazzawaja* is then translated into Indonesian as marriage. The words of marriage are also often encountered and used and are caused to have entered Indonesian.<sup>11</sup>

In Chapter I Marriage Basics Article 1 of the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage explained that marriage is a spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Almighty God one. Then proceed to Article 2 Marriage is legal, if done according to the law of each religion and his beliefs. (2) Each marriage is recorded according to the applicable laws and regulations.

Regarding the original law of marriage itself, the scholars differed according to their differing interpretations of the verse about marriage. Dawud al-Zhahiri argues that the law of origin of marriage is mandatory. The Imam al-Shafi'i believes that the law of origin of marriage is permissible. The different laws of origin of marriage are conditional.

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<sup>8</sup> Hisam Ahyani dan Elah Nurhasanah, "Peran Strategi Politik Islam terhadap Perekonomian di Indonesia", *Jurnal Mutawasith Jurnal Hukum Islam*, (2020), h. 19.

<sup>9</sup> Naelul Azmi, Rahardi Mahardika, "Problematika Sistem Ekonomi Islam di Indonesia", *UTILITY: Jurnal Ilmiah Pendidikan dan Ekonomi*, Volume 4, No. 1, Februari (2020), h. 8-24.

<sup>10</sup> Sulaiman Al-Mufarraj, *Bekal Pernikahan: Hukum, Tradisi, Hikmah, Kisab, Syair, Wasiat, Kata Mutiara*, (Jakarta: Qisthi Press, 2003), 5.

<sup>11</sup> Rahmat Hakim, *Hukum Perkawinan Islam*, (Bandung: Pustaka Setia, 2000), 11.

Marriage law is obliged to those who are already established, their sexual appetite is urgent, and he is feared to commit adultery. That is because safeguarding yourself and purifying it from deeds that are forbidden is a must. Marriage law becomes a sunnah when a man already feels capable and old enough, and already has a sexual desire, but he can keep himself from falling into adultery that is forbidden by Allah Swt. Marriage law is forbidden if the man is only able to have intercourse but is unable to provide a living and does not have the potential to provide a living, while his lust is not urgent. The law of marriage becomes contradictory if the man is impotent and unable to provide the wife's groceries, even though he does not make the wife illiterate because his wife is rich and the man has no lust. The prosperity is increased if impotence decides from obedience and worship and study. Marriage law will be changed if a man is not pressured by reasons that require the marriage and forbidden reasons for getting married.<sup>12</sup>

Age restrictions on marriage in Indonesia Indonesia, which in fact Indonesia is a country that adopts a mixed legal system with its main legal system, namely the Continental European legal system. In addition to the Continental European legal system that exists in Indonesia itself also applies the customary legal system and the religious legal system, which is specifically sharia / Islamic law. This issue of marriage is strengthened by the existence of a new law as stipulated in Law 16 of 2019 concerning Amendment to Law 1 of 1974 concerning Marriage as stipulated in article Article 7 Point (1) explained that "Marriage is only permitted if men and women have reached the age of 19 (nineteen) years old".<sup>13</sup>

While marriage according to Imam Al-Ghazali the purpose of marriage is to get world and Hereafter happiness. This happiness cannot be generated instantaneously (must work hard / endeavor), but requires real and real effort from the culprit. In order to build a harmonious and strong relationship that does not quickly become fragile with a divorce, at least in order to realize the above, there are three stages that must be carefully prepared, namely the First Pre-marital stage, the second post-marriage, the third Method of Resolving Problems.<sup>14</sup>

Marriage is likened to a bond that is very urgent and sacred in order to reach mutual agreement, together there is a balance, and excuses on a mutual agreement, when one man or woman faces cheating, in the sense of breaking promises, or betraying the closeness of marriage, then matters that means violating the agreement or referred to as default / promise disability.<sup>15</sup> Thus the nature of the engagement in marriage is a joint commitment to build a civilization of a prosperous, peaceful and ideal and balanced life.

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<sup>12</sup> Sayid Sabiq, *Fiqh Sunnah*, Vol. 3 (Beirut: Dar al-Fikr, 2007), 458.

<sup>13</sup> Undang-undang Nomor 16 tahun 2019 tentang perubahan atas UU 1 tahun 1974 tentang Perkawinan, pasal 7 point 1.

<sup>14</sup> Al-Ghazali, *Ihya Ulumuddin*, (Surabaya : Darul Kutub, tt), 26-36 dalam Abdullah, "Nikah Perspektif Al-Ghazali Telaah Konsep Dan Strategi", *Al-Ihkam : Jurnal Hukum Keluarga urusan Abwal al-Syakhsbiyyah Fakultas Syariah IAIN Mataram*. Vol. 11 No 2, Desember (2019), h. 15.

<sup>15</sup> Hisam Ahyani, *Perjanjian kerja dosen tetap pada perguruan tinggi keagamaan swasta (PTKS) di Jawa Barat dihubungkan dengan pasal 75 ayat (2) Undang-Undang nomor 14 tahun 2005 tentang Guru dan Dosen*, Tesis (Bandung: UIN Sunan Gunung Djati, 2018), h. 1.

According to the Civil Code in Article 119 it is stated that marriage essentially causes the mixing and unification of the property of married couples, except if the married couple makes a Marriage Agreement that regulates the separation of assets. Henceforth it is reiterated that in Article 35 of Law No. 1/1974 concerning Marriage / Marriage Law, that by making Marriage Agreements carried out by prospective husbands and prospective wives can deviate from the rules of the law regarding the provisions of joint property provided that the provisions are not in conflict with the moral or general order. More specifically, the definition of what is called a Marriage Agreement is contained in Article 29 of the same law. These provisions are a basis which is the legal basis for making the Marriage Agreement by the prospective husband and wife.

Marriage agreements are drawn up solely to safeguard business interests and respect the dignity of each party. Marriage agreements can also be used to ensure that the couple of readers / people who will enter into marriage agreements with relatives, not the wealth that has been obtained. So that the intention to be genuinely sincere from the depths of your deepest siblings with your potential partner can be proven before building a household that is in accordance with the agreement.

Understanding or ta'rif of marriage is a contract that justifies association and limits rights and obligations and helps to help between a man and a woman who is not his mahram. Marriage is a sunnah of the Prophet, ie imitating the behavior of the Prophet Muhammad Saw.<sup>16</sup> So in Law No. 1 of 1974 Chapter 1 Article 1 it is stated that marriage is an inner and physical bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Godhead of the Almighty. Thus, marriage is a contract value which is the whole aspect of the content contained in the word marriage or tazwij and is a ceremonial greeting or yells containing sacred values.<sup>17</sup> In Islam the marriage bond is marked by a covenant or a strong and strong covenant / mitsaqan galizha. This marriage contract is an agreement that involves Allah SWT. So basically it's not just an ordinary agreement. In Islam, marriage is intended to implement and implement Islamic teachings in fulfilling a person's sexual needs in a legal manner and to carry out offspring held in an atmosphere of mutual love / mawadah and affection / mercy between the bride and groom.

Materialism is a system of thought that believes matter as the only absolute existence and rejects the existence of anything other than matter. This system of thinking became famous in the form of Karl Marx's dialectical understanding of materialism. His criticism aimed at Hegel about humans as the essence of the soul, explained that Karl Marx denied that humans are natural creatures in natural objects.<sup>18</sup> It was explained that humans are natural creatures on natural objects, so nature itself is actually an event that cannot be forced, meaning that it is forced by the will, on the contrary if an act or human will is forced, then it is not natural. Relation to an engagement event that occurs between two insane that interact with each other and experience a contradiction that is so great, then the human has done a real scholarship.

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<sup>16</sup> Sosroatmodjo dan Aulawi, *Hukum Perkawinan di Indonesia*, (Jakarta: Bulan Bintang, 1975), 33.

<sup>17</sup> Tihami dan Sohari Sahrani, *Fiqh Munakahat: Kajian Fikih Nikah Lengkap*, Jakarta: PT Raja Grafindo Persada, 2014), 8.

<sup>18</sup> Lavine, T. Z, *Pertualangan Filsafat dari Socrates ke Sartre*, (Yogyakarta: Penerbit Jendela, 2002), 46.

An engagement in marriage when forced then, an act that absolutely no human intervention around it or the influence of the environment, then a person's normative law has been automatically removed. This means that the level of scholarship in doing one's own will is also influenced by a number of factors including human beings engaging in marriages because they are forced and forced. So that there is material in this world there must be moving, including moving someone's heart that is the god of the all-wise creator.

Karl Marx himself believes that the basis of the economy is what determines the superstructure of society. Marx expressed his opinion that in a change in history that will occur with a conflict between social classes. Classes according to Marx's view are divided into bourgeois classes, that is, the class of capital owners and the proletarian class, better known as the working / lower classes. In essence between social classes is a change in history and that determines the course of history, and not social classes that change individually. The emergence of these two classes is the cause and effect of opposition to the class revolution itself. Relating to religion, Marx gives the view that the concept of a religion is opium ie the more the person devotes himself to his religion, the more he will lose himself. For Marx himself man made religion, not religion made man.<sup>19</sup>

Examining thoroughly about the existence of a bond in a marriage is something very interesting to study, especially for those who are not yet married and prepare their children for family. Remember, the wheel of life in a marriage that they have lived from the procession of marriage itself to the ongoing family life, is often the best teacher experience for the learning process of their lives. Choosing a potential companion must be seen and examined, this is as narrated in Hadith Sahih Al-Bukhari No. 4700-Book of Marriage following the authors present:

حَدَّثَنَا مُسَدَّدٌ حَدَّثَنَا يَحْيَى عَنْ عُبَيْدِ اللَّهِ قَالَ حَدَّثَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبَتْ يَدَاكَ

*“Has told us Musaddad Has told us Yahya from Ubaidullah he said; Having told me Sa'id bin Abu Sa'id from his father from Abu Hurairah radliallahu 'anhu, from the Prophet sallallaahu 'alaihi wasallam, he said: "The woman was married for four things, because of her wealth, because of her descendants, because of her beauty and because of her religion. Then choose because of his religion, surely you will be lucky”.*

The importance of making a Marriage Agreement is as follows.<sup>20</sup> First, ensuring security and business interests. A small example is if one of the spouses is a business owner (or serves as the business leader, even though he is not a business owner), and one day the business is sued for losses then both partners will be involved. Marriage agreements can prevent this from happening, so that your spouse and baby don't get involved in business losses.

Second, guarantee the continuation of family inheritance. Article 35 Paragraph (2) of the Marriage Law explains that the inheritance of each husband and wife and the assets obtained

<sup>19</sup> Irzum Farihah, *Jurnal Ilmu Aqidab dan Studi Keagamaan*... 1.

<sup>20</sup> <http://kcaselawyer.com/seputar-perjanjian-perkawinan-dasar-hukum-fungsi-materi-yang-diatur-dan-waktu-pembuatan/>. Diakses pada 30 Juli 2020.

by each of these are as gifts or inheritance, that is, precisely under the control of each husband and wife as long as the parties not specify another. Through a Marriage Agreement, it can be reaffirmed so that there will be no gift or family inheritance. This is because in practice, in the case of choosing a partner, the owner of the family inheritance dies, the inheritance will be owned by his spouse who is still alive. Not to mention if there is a possibility that the couple will remarry with another man / woman, so that the family inheritance will be lost and cause arising rather than feud. The agreement can also guarantee the acquisition of inheritance from inheritance or inheritance owned by some families remains in the authority of the parties (men and women).

Third, protect the interests of a wife in the case of the husband doing polygamy. This in a Marriage Agreement can ensure there is a separation of inheritance from the istrei party, be it for the first, second, third marriage and even for the fourth and subsequent marriages. Each wife will be calm and secure life. Far from the feud and disputes between the parties of the heirs.

Fourth, the importance of the agreement in marriage is to maintain partnership relations in political marriage. For government officials and high profile investors such as marriage, marriage is often done to get a good name, then besides building relationships, or exchanging other immaterial attributes where these immaterial attributes are attached to prospective in-laws (in-laws). Usually, political marriages are held to maintain reputation and expand relationships with the principle of mutual benefit between prospective in-laws (in-laws). But often the partnership relationship will fail because of the emergence of disputes due to the mixing of assets. By making a marriage agreement, it is expected that prospective in-laws can obtain immaterial values in accordance with what is expected of political marriages without worrying about the problems triggered by the problem of the intricacy of wealth.

Fifth, the marriage agreement can protect the spirit and ideals of the partnership that will be planned and implemented by both parties. Ensure the financial condition of the parties concerned after the event of a marriage agreement is broken or ended. Many women find that they no longer work after marriage in the hope that the future wife can play a role as a housewife with more leverage. In this connection the Marriage Agreement is very beneficial for women who are not working, so that when the court verdict rejects demands for living and child education fees proposed by a mother of the resulting child who holds childcare rights and prefers to determine the amount of living expenses and children's education costs based on consideration of judge decisions. In a Marriage Agreement this matter can be discussed well from the beginning after the marriage agreement, both in number and mechanism. The execution was enough to submit the agreement and ask the judge to order the husband to carry out the obligations agreed upon together in the Marriage Agreement.

Sixth, the importance of a marriage agreement is Avoiding unhealthy marital motivations. By making a marriage agreement, it can avoid sincere intentions from prospective couples who apparently have the intention to pay off debts from their debtors through the wealth of the marriage. The sweet promise of a prospective partner before marriage is not necessarily completely true, and in practice many problems are encountered that arise after the household takes place. Marriage agreements can protect you from unhealthy intentions like

this, so that the position of those intentions will never be expressed by their respective spouses.

The material stipulated in the agreement can be determined by agreement on the parties to the prospective husband and wife, as long as it does not conflict with law, law, religion, and propriety or decency. Adapaun Marriage agreements that are commonly agreed upon include containing the inheritance in marriage, debt carried by husband or wife, and so forth. In the application below are the things that are generally regulated in a marriage agreement:

- a. Inborn assets, whether in the form of assets obtained from their respective businesses or from grants, inheritance or free of charge obtained by each of them during the marriage. All debts and receivables carried by the husband and wife in the marriage, so that the responsibilities made by the parties during the marriage will remain the responsibility of each or both of them with certain restrictions.
- b. The wife's right to take care of her personal property, both movable and immovable and with the task of collecting and or enjoying the results as well as income both from her own work or other sources. Revocation of a will, as well as other provisions that can protect the wealth and business continuity of each party in the event that one or both parties are shareholders / business leaders in an entity in the business.

### **C. Research Method**

#### a. Types of research

Legal research is a scientific activity, which is based on certain methods, systematics and ideas aimed at studying one or several specific legal phenomena by analyzing them.<sup>21</sup> The type of this research is normative (doctrinal) and empirical or sociological legal research based on primary and secondary data. Normative-empirical legal research is legal research concerning the application or implementation of normative legal provisions (codifications, laws or contracts) in action on any particular legal event that occurs in society.<sup>22</sup>

#### b. Research Type

This type of research is analytical descriptive, which is describing and describing problems related to the object of research which then analyzes the problem. In this context it illustrates the nature and urgency of the enactment of Law No. 16 of 2019 amending the Law No. 1 of 1974 concerning marriage. where in Article 7 Ayar1) it is explained that the age of marriage of a person, both male and female, at least 19 years. Furthermore, the results of this study will then be analyzed on the juridical aspects that underlie and regulate the legal relations arising from the existence of Law No. 16 of 2019 amendments to Law No. 1 of 1974 concerning marriage.

#### c. Problem Approach

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<sup>21</sup> Soerjono Soekanto, *Penelitian Hukum Normatif*, (Jakarta: Rajawali Pers, 1990), 1.

<sup>22</sup> Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: PT. Citra Aditya Bakti, 2004), 134.



The problem approach in this research is, the Statute Approach and Conceptual Approach related to the implementation of the ideal age for a marriage based on Law No. 16 of 2019 amending the Law No. 1 of 1974 concerning marriage.

d. Data and Data Sources

When in the business process of getting the data or the right answer in discussing this research, and in accordance with the problem approach used in this study, the type of data used in this study can be divided into two namely:

1) Secondary Data

Secondary data is data obtained through a literature study of legal materials, the type of secondary data needed in this study consists of:

a) Primary legal material

Primary legal material is legal material that has binding legal force based on laws and other regulations. Primary legal materials used include:

- (1) Civil Code (Civil Code)
- (2) The 1945 Constitution (4th Amendment).
- (3) Law No. 16 of 2019 amendments to Law No. 1 of 1974 concerning marriage.
- (4) Law No. 1 of 1974 concerning marriage

b) Secondary legal material

Namely material that provides an explanation of primary legal materials such as literature and legal norms relating to the issues discussed in this study.

c) Tertiary legal material

Namely the Big Indonesian Dictionary, the Indonesian Law Dictionary, the English Dictionary, the Mass Media, Articles, Journals, the Internet and other books relating to the problem under study, which are used as a guideline for understanding various notions contained in primary and secondary legal materials.

2) Data collection technique

This research is based on the availability of data and information relevant to the problem to be discussed. To obtain data and information about a problem, in the implementation of this research activity the data collection technique is used by conducting Library Research, library research is carried out by collecting and analyzing secondary data, ie data obtained through document study activities in the form of books, papers and regulations relating to marriage.

3) Data processing

Data obtained both from the results of the literature study are further processed using the following methods:

- a) Editing, i.e. the data obtained is checked whether there are still deficiencies and whether the data is in accordance with the problem.
- b) Data classification, which is the process of grouping data according to the subject matter in order to make it easier to analyze data.
- c) Systematic data, i.e. compiling and placing the data on the subject in a systematic way so as to facilitate discussion.

4) Data analysis

The data obtained will be processed and analyzed descriptively qualitatively, meaning that the results of this study are described in the form of explanations and descriptions of sentences that are easy to read and understand for interpretation and conclusions drawn about the nature of marriage and the age of marriage imposed in Indonesia based on Law no. 16 of 2019 amendments to Law No. 1 of 1974 concerning Marriage.

#### **D. Results and Discussion**

**a. The nature of the stipulation of Article 7 Paragraph (1) of Law 16 of 2019 changes to Law 1 of 1974 concerning Marriage.**

**1) Marriage**

The essence of the meaning of marriage / marriage according to the language: al-jam'u and al-dhamu which means gathering.<sup>23</sup> While marriage / Zawaj itself can be interpreted with aqdu al-tazwij which means marriage contract. It can also be interpreted as wath'u al-zaujiah which means making love with a wife. An almost similar definition is defined by Rahmat Hakim, that the word marriage comes from the Arabic nikahun which is the masdar or the origin of the verb / fi'il madhi nakaha, while the synonym tazawaja is then translated into Indonesian as marriage. The words of marriage are also often encountered and used and are caused to have entered Indonesian.<sup>24</sup>

In Chapter I Marriage Basics Article 1 of the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage explained that marriage is a spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Almighty God one. Then proceed to Article 2 Marriage is legal, if done according to the law of each religion and his beliefs. (2) Each marriage is recorded according to the applicable laws and regulations.

Prompts to get married in the Qur'an have also been mentioned as the word of Allah in (Qs. Al-Nur: 32) as follows:<sup>25</sup>

*"And marry those who are single among you".*

The above verse contains direct orders from Allah Almighty for every insane to get married.

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<sup>23</sup> Sulaiman Al-Mufarraj, *Bekal Pernikahan: Hukum, Tradisi, Hikmah, Kisab, Syair, Wasiat, Kata Mutiara*, (Jakarta: Qisthi Press, 2003), 5.

<sup>24</sup> Rahmat Hakim, *Hukum Perkawinan Islam*, (Bandung: Pustaka Setia, 2000), 11.

<sup>25</sup> Ahmad Bagir, *Menyingkap Hakikat Perkawinan: Al-Ghazali*, diterjemahkan dari kita *Adab An-Nikah* karya Al-Imam Abu Hamid Al-Ghazali, (Jakarta: Mizan, 2014), 12.

*"If you divorce your wives, then have achieved the iddah, then do not prevent them from remarrying with their future husband, if there is a match between them in a good way". (Surat al-Baqarah: 232).*

This verse is a form of prohibition from Allah SWT to immediately get married before the iddah period is over.

## **2) Legal Origin of Marriage**

Regarding the original law of marriage itself, the scholars differed according to their differing interpretations of the verse about marriage. Dawud al-Zhahiri argues that the law of origin of marriage is mandatory. The Imam al-Shafi'i believes that the law of origin of marriage is permissible. The different laws of origin of marriage are conditional.

Marriage law is obliged to those who are already established, their sexual appetite is urgent, and he is feared to commit adultery. That is because safeguarding yourself and purifying it from deeds that are forbidden is a must. Marriage law becomes a sunnah when a man already feels capable and old enough, and already has a sexual desire, but he can keep himself from falling into adultery that is forbidden by Allah. Marriage law is forbidden if the man is only able to have intercourse but is unable to provide a living and does not have the potential to provide a living, while his lust is not urgent. The law of marriage becomes contradictory if the man is impotent and unable to provide the wife's groceries, even though he does not make the wife illiterate because his wife is rich and the man has no lust. The prosperity is increased if impotence decides from obedience and worship and study. Marriage law will be changed if a man is not pressured by reasons that require the marriage and forbidden reasons for getting married.<sup>26</sup>

## **3) Age restrictions on marriage in Indonesia**

Whereas in Positive Law in Indonesia which incidentally Indonesia is a country that adopts a mixed legal system with its main legal system namely the Continental European legal system. In addition to the Continental European legal system that exists in Indonesia itself also applies the customary legal system and the religious legal system, which is specifically sharia / Islamic law. This issue regarding marriage is strengthened by the existence of a new law as stipulated in Law 16 of 2019 concerning Amendment to Law 1 of 1974 concerning Marriage as stipulated in article Article 7 Point (1) explained that "Marriage is only permitted if men and women have reached the age of 19 (nineteen) years old".<sup>27</sup>

While marriage according to Imam Al-Ghazali the purpose of marriage is to get world and Hereafter happiness. This happiness cannot be generated instantaneously (must work hard / endeavor), but requires real and real effort from the culprit. In order to build a harmonious and strong relationship that does not quickly become fragile with a divorce, at least in order to realize the above, there are three stages that must be

<sup>26</sup> Sayid Sabiq, *Fiqh Sunnah*, Vol. 3 (Beirut: Dar al-Fikr, 2007), 458.

<sup>27</sup> Undang-undang Nomor 16 tahun 2019 tentang perubahan atas UU 1 tahun 1974 tentang Perkawinan, pasal 7 point 1.

carefully prepared, namely the First Pre-marital stage, the second post-marriage, the third Method of Resolving Problems.<sup>28</sup>

4) The Nature of an Marriage Engagement

Marriage is likened to a bond that is very urgent and sacred in order to reach mutual agreement, together there is a balance, and excuses on a mutual agreement, when one man or woman faces cheating, in the sense of breaking promises, or betraying the closeness of marriage, then matters that means violating the agreement or referred to as default / promise disability.<sup>29</sup> Thus the nature of the engagement in marriage is a joint commitment to build a civilization of a prosperous, peaceful and ideal and balanced life.

According to the Civil Code in Article 119 it is stated that marriage essentially causes the mixing and union of married couple's assets, except if the married couple makes a Marriage Agreement that regulates the separation of assets. Henceforth it is reiterated that in Article 35 of Law No. 1/1974 concerning Marriage / Marriage Law, that by making Marriage Agreements carried out by prospective husbands and prospective wives can deviate from the rules of the law regarding the provisions of joint property provided that the provisions are not in conflict with the moral or general order. More specifically, the definition of what is called a Marriage Agreement is contained in Article 29 of the same law. These provisions are a basis which is the legal basis for making the Marriage Agreement by the prospective husband and wife.

Marriage agreements are drawn up solely to safeguard business interests and respect the dignity of each party. Marriage agreements can also be used to ensure that the couple of readers / people who will enter into marriage agreements with relatives, not the wealth that has been obtained. So that the intention to be genuinely sincere from the depths of your deepest siblings with your potential partner can be proven before building a household that is in accordance with the agreement.

**b. Materialism in Marriage**

Understanding or ta'rif daro marriage is a contract that justifies association and limits rights and obligations and helps to help between a man and a woman who is not his mahram. Marriage is the sunnah of the Prophet Saw, ie copying the behavior of the Prophet Muhammad Saw.<sup>30</sup> So in Law No. 1 of 1974 Chapter 1 Article 1 it is stated that marriage is an inner and physical bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Godhead of the Almighty. Thus, marriage is a contract value which is the whole aspect

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<sup>28</sup> Al-Ghazali, *Ihya Ulumuddin*, (Surabaya : Darul Kutub, tt), 26-36 dalam Abdullah, "Nikah Perspektif Al-Ghazali Telaah Konsep Dan Strategi", *Al-Ihkam : Jurnal Hukum Keluarga urusan Abwal al-Syakhsbiyyah Fakultas Syariah LAIN Mataram*. Vol. 11 No 2, Desember (2019), h. 15.

<sup>29</sup> Hisam Ahyani, *Perjanjian kerja dosen tetap pada perguruan tinggi keagamaan swasta (PTKS) di Jawa Barat dihubungkan dengan pasal 75 ayat (2) Undang-Undang nomor 14 tahun 2005 tentang Guru dan Dosen*, Tesis (Bandung: UIN Sunan Gunung Djati, 2018), h. 1.

<sup>30</sup> Sosroatmodjo dan Aulawi, *Hukum Perkawinan di Indonesia*, (Jakarta: Bulan Bintang, 1975), 33.

of the content contained in the word marriage or *tazwij* and is a ceremonial greeting or yells containing sacred values.<sup>31</sup> In Islam the marriage bond is marked by a covenant or a strong and strong covenant / *mitsaqan galizha*. This marriage contract is an agreement that involves Allah SWT. So basically it's not just an ordinary agreement. In Islam, marriage is intended to implement and implement Islamic teachings in fulfilling a person's sexual needs in a legal manner and to carry out offspring held in an atmosphere of mutual love / *mawadah* and affection / mercy between the bride and groom.

Materialism is a system of thought that believes matter as the only absolute existence and rejects the existence of anything other than matter. This system of thinking became famous in the form of Karl Marx's dialectical understanding of materialism. His criticism aimed at Hegel about humans as the essence of the soul, explained that Karl Marx denied that humans are natural creatures in natural objects.<sup>32</sup> It was explained that humans are natural creatures on natural objects, so nature itself is actually an event that cannot be forced, meaning that it is forced by the will, on the contrary if an act or human will is forced, then it is not natural. Relation to an engagement event that occurs between two insane that interact with each other and experience a contradiction that is so great, then the human has done a real scholarship. An engagement in marriage when forced then, an act that absolutely no human intervention around it or the influence of the environment, then a person's normative law has been automatically removed. This means that the level of scholarship in doing one's own will is also influenced by a number of factors including human beings engaging in marriages because they are forced and forced. So that there is material in this world there must be moving, including moving someone's heart that is the god of the all-wise creator.

**c. The Marriage Age Limit View is viewed in terms of the Idealism of Marriage, Especially in Indonesia**

If related to Karl Marx's thought which makes matter primary in living this life, which is about marriage ties, then with the concept of historical materialism, humans will choose their readiness to face marriage, this is because a person's age is not a reference, which is the basis for people to do marriage includes readiness to face material livelihood, self readiness and material. Historical materialism holds that human behavior is determined by the position of matter, not just ideas, this is because ideas are part of matter.<sup>33</sup> Marx mapped materialism into historical materialism and dialectical materialism. Historical materialism is an economic view of history. The historical word is placed by Marx with the intention of explaining the various stages of economic development of society which took place throughout the ages. Whereas materialism referred to by Marx is referring to the notion of matter as the ultimate reality. Marx still

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<sup>31</sup> Tihami dan Sohari Sahrani, *Fiqh Munakahat: Kajian Fikih Nikah Lengkap*, Jakarta: PT Raja Grafindo Persada, 2014), 8.

<sup>32</sup> Lavine, T. Z, *Pertualangan Filsafat dari Socrates ke Sartre*, (Yogyakarta: Penerbit Jendela, 2002), 46.

<sup>33</sup> Nanang Martono, *Sosiologi Perubahan Sosial Perspektif Klasik, Modern, Posmodern, dan Poskolonial*, (Jakarta: Rajawali Pers, 2014), 45.

consistently uses the word historical materialism to show his attitude which is contrary to the philosophy of idealism.

If analyzed there is a question of how Karl Marx's historical materialism approaches, which are based on the proposition that the production and distribution of goods and services is the basis for assisting humans in developing their existence. According to Karl Mark, that the process of human life from two factors that have a historical relationship, including economic factors that become commonplace as a basis and problems of human consciousness contained in both science, philosophy, ideology and religion as a superstructure.

Karl Marx himself believes that the basis of the economy is what determines the superstructure of society. Marx expressed his opinion that in a change in history that will occur with a conflict between social classes. Classes according to Marx's view are divided into bourgeois classes, that is, the class of capital owners and the proletarian class, better known as the working / lower classes. In essence between social classes is a change in history and that determines the course of history, and not social classes that change individually. The emergence of these two classes is the cause and effect of opposition to the class revolution itself. Relating to religion, Marx gives the view that the concept of a religion is opium ie the more the person devotes himself to his religion, the more he will lose himself. For Marx himself man made religion, not religion made man.<sup>34</sup>

The selection of prospective partners based on age is a paralysis in choosing a life companion, this is as some experts say as follows:

Romance expert Rachel Russo argues that there is a fundamental reason for using age as a benchmark in choosing a partner. However, there are a number of reasons why this rule is still a lot of considerations. The urgency of looking at a person's life stage is to know the suitability of our values with him, rather than basing his decision on his age. For Russo there are other reasons why this age regulation works better for women than men. Russo believes that a 30-year-old man who has an affair with a 22-year-old woman is likely to be an ideal partner, rather than having an affair with women of the same age. This is because a man usually has a slower stage of maturity and relationship readiness than a woman. Most people have very different priorities, so basically these rules do not apply to everyone and do not guarantee a desirable match. In general, men prefer women who are younger than him and want rules so that they feel welcome to date younger women.<sup>35</sup> The explanation above is in line with the age limit of marriage in Indonesia, where in principle, I personally and on behalf of the institution agree with the plan to determine the minimum age limit for women's marriage. This was stated by the Chancellor of IAIN Palu Prof. KH Sagaf S Pettalongi, in Palu, on Monday (9/16). The DPR through the Legislation Body led by Supratman

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<sup>34</sup> Irzum Farihah, *Jurnal Ilmu Aqidab dan Studi Keagamaan...* 1

<sup>35</sup> Ariska Puspita Anggraini, "Jarak Usia dalam Memilih Pasangan Hidup, Apa Pentingnya?", Kompas.com, 27 Maret 2019, th.

Andi Agtas (Maman) from the Gerindra Faction in the electoral district of Central Sulawesi, will raise the minimum age limit for female marriage to 19 years old. The House Legislative Assembly raised the minimum age limit when discussing the review of Law No. 1 of 1974 concerning Marriage which, before being raised, was the age limit for female marriage of 18 years. Prof. Sagaf said that the DPR's move to raise the minimum age limit for women before marriage takes place is a commitment whose aim is to protect the rights of women and children in the aspects of education, social and culture and the growth of children. He explained, with the age position of men and women stepping at the age of 0-10 years and 10-18 years, men and women are still in the process of growth, or the initial process towards establishment both physically and mentally.

In this premarital process, men and women are entitled to their rights such as the right to receive proper care, guidance and teaching from parents, family and the environment. In addition, they have the right to get proper education to shape their intellectual intelligence and skills. Therefore the rights attached to the prospective bride must be guaranteed by the state and should not be taken lightly. As for carrying out marriage under the age of 19 years have a very fatal impact on women and children, this is because they can drop out of school which then contributes greatly to the high poverty rate.<sup>36</sup>

In addition, marriage at an early age will be a contribution to the maternal mortality rate during childbirth, because women's reproductive organs are not yet well established. In the context of Islam, Prof. Segaf, who is the Deputy Chairperson of the Central Sulawesi MUI, said that Islam highly respects children in obtaining their rights and is firm in protecting children. Islam firmly states that the child conceived by the mother has the right to be born safely to the world. That statement is in line with the word of Allah in surah al-An'am verse 151:

قُلْ تَعَالَوْا أَنبِئُكُمْ مَا حَرَّمَ رَبِّيَ عَلَيْكُمْ ۚ أَلَّا تُشْرِكُوا بِهِ شَيْئًا ۚ وَبِالْوَالِدَيْنِ إِحْسَانًا ۚ وَلَا تَقْتُلُوا أَوْلَادَكُمْ ۚ إِنَّهُ كَانَ مِنَ إِمْلَاقٍ ۚ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ ۚ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ ۚ إِلَّا بِالْحَقِّ ۚ ذَٰلِكُمْ وَصَّاكُم بِهِ لَعَلَّكُمْ تَعْقِلُونَ

Say: "Let me read what is forbidden to you by your Lord: do not associate anything with Him, do good to your parents, and do not kill your children for fear of poverty, We will provide sustenance to you and them, and do not approach the abominable deeds, whether seen in between or hidden, and do not kill the soul that is forbidden by Allah (kill him) but with something (cause) is right ". That is what you are commanded to understand.

<sup>36</sup> Nashih Nashrullah, "Rektor IAIN Palu Jelaskan Manfaat Pembatasan Usia Nikah", *Republika.co.id*, Khazanah, 16 Sep 2019, th.

Thus the above verse affirms that it is not permissible to kill a born child. It clearly means that God gives birth rights to children and grows into adolescents and adults.

Examining thoroughly about the existence of a bond in a marriage is something very interesting to study, especially for those who are not yet married and prepare their children for family. Remember, the wheel of life in a marriage that they have lived from the procession of marriage itself to the ongoing family life, is often the best teacher experience for the learning process of their lives. Choosing a potential companion must be seen and examined, this is as narrated in Hadith Sahih Al-Bukhari No. 4700-Book of Marriage following the authors present:

حَدَّثَنَا مُسَدَّدٌ حَدَّثَنَا يَحْيَى عَنْ عُبَيْدِ اللَّهِ قَالَ حَدَّثَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا فَاظْفَرْ بِدَاتِ الدِّينِ تَرَبَّتْ يَدَاكَ

*“Has told us Musaddad Has told us Yahya from Ubaidullah he said; Having told me Sa'id bin Abu Sa'id from his father from Abu Hurairah radliallahu 'anhu, from the Prophet sallallaahu' alaibi wasallam, he said: "The woman was married for four things, because of her wealth, because of her descendants, because of her beauty and because of her religion. Then choose because of his religion, surely you will be lucky”.*

**d. Urgency of Marriage Age Limit in Article 7 Paragraph (1) of Law 16 of 2019 amendment to Law 1 of 1974 concerning Marriage**

The importance of making a Marriage Agreement include the following:<sup>37</sup> First, Ensuring business security and interests. A small example is if one of the spouses is a business owner (or serves as the business leader, even though he is not a business owner), and one day the business is sued for losses then both partners will be involved. Marriage agreements can prevent this from happening, so that your spouse and baby don't get involved in business losses.

Second, guarantee the continuation of family inheritance. Article 35 Paragraph (2) of the Marriage Law explains that the inheritance of each husband and wife and the assets obtained by each of these are as gifts or inheritance, that is, precisely under the control of each husband and wife as long as the parties not specify another. Through a Marriage Agreement, it can be reaffirmed so that there will be no gift or family inheritance. This is because in practice, in the case of choosing a partner, the owner of the family inheritance dies, the inheritance will be owned by his spouse who is still alive. Not to mention if there is a possibility that the couple will remarry with another man / woman, so that the family inheritance will be lost and cause arising rather than feud. The agreement can also guarantee the acquisition of inheritance from inheritance or inheritance owned by some families remains in the authority of the parties (men and women).

<sup>37</sup> <http://kcaselawyer.com/seputar-perjanjian-perkawinan-dasar-hukum-fungsi-materi-yang-diatur-dan-waktu-pembuatan/>. Diakses pada 30 Juli 2020.



Third, protect the interests of a wife in the case of the husband doing polygamy. This in a Marriage Agreement can ensure there is a separation of inheritance from the istrei party, be it for the first, second, third marriage and even for the fourth and subsequent marriages. Each wife will be calm and secure life. Far from the feud and disputes between the parties of the heirs.

Fourth, the importance of the agreement in marriage is to maintain partnership relations in political marriage. For government officials and high profile investors such as marriage, marriage is often done to get a good name, then besides building relationships, or exchanging other immaterial attributes where these immaterial attributes are attached to prospective in-laws (in-laws). Usually, political marriages are held to maintain reputation and expand relationships with the principle of mutual benefit between prospective in-laws (in-laws). But often the partnership relationship will fail because of the emergence of disputes due to the mixing of assets. By making a marriage agreement, it is expected that prospective in-laws can obtain immaterial values in accordance with what is expected of political marriages without worrying about the problems triggered by the problem of the intricacy of wealth.

Fifth, the marriage agreement can protect the spirit and ideals of the partnership that will be planned and implemented by both parties. Ensure the financial condition of the parties concerned after the event of a marriage agreement is broken or ended. Many women find that they no longer work after marriage in the hope that the future wife can play a role as a housewife with more leverage. In this connection the Marriage Agreement is very beneficial for women who are not working, so that when the court verdict rejects demands for living and child education fees proposed by a mother of the resulting child who holds childcare rights and prefers to determine the amount of living expenses and children's education costs based on consideration of judge decisions. In a Marriage Agreement this matter can be discussed well from the beginning after the marriage agreement, both in number and mechanism. The execution was enough to submit the agreement and ask the judge to order the husband to carry out the obligations agreed upon together in the Marriage Agreement.

Sixth, the importance of a marriage agreement is Avoiding unhealthy marital motivations. By making a marriage agreement, it can avoid sincere intentions from prospective couples who apparently have the intention to pay off debts from their debtors through the wealth of the marriage. The sweet promise of a prospective partner before marriage is not necessarily completely true, and in practice many problems are encountered that arise after the household takes place. Marriage agreements can protect you from unhealthy intentions like this, so that the position of those intentions will never be expressed by their respective spouses.

**e. Material that can be arranged in a Marriage Agreement**

The material stipulated in the agreement can be determined by agreement on the parties to the prospective husband and wife, as long as it does not conflict with law, law, religion, and propriety or decency. Adapaun Marriage agreements that are commonly agreed upon include containing the inheritance in marriage, debt carried by husband or

wife, and so forth. In the application below are the things that are generally regulated in a marriage agreement:

- 1) Inborn assets, whether in the form of assets obtained from their respective businesses or from grants, inheritance or free of charge obtained by each of them during the marriage. All debts and receivables carried by the husband and wife in the marriage, so that the responsibilities made by the parties during the marriage will remain the responsibility of each or both of them with certain restrictions.
- 2) The wife's right to take care of her personal property, both movable and immovable and with the task of collecting and or enjoying the results as well as income both from her own work or other sources. Revocation of a will, as well as other provisions that can protect the wealth and business continuity of each party in the event that one or both parties are shareholders / business leaders in an entity in the business.

**f. When making a marriage agreement**

Article 29 of the Marriage Law states that the Marriage Agreement is an agreement made at the time or before the marriage takes place and it is further explained that the Marriage Agreement must be ratified by the marriage registrar. Based on the provisions in the article above, the marriage agreement is made both before and before the marriage takes place. However, this can lead to problems related to land ownership in mixed marriages between Indonesian citizens and foreigners, where both parties have no time to make a marriage agreement before the marriage takes place. Without any marriage agreement, the assets obtained after the marriage will become joint property, but in the case of land ownership, only Indonesian citizens can be allowed to own land with ownership status. This will cause couples who are citizens of Indonesian citizens can not buy land with ownership status. This problem has obtained a solution with the issuance of Decision of the Constitutional Court No. 69 / PUU-XIII / 2015 2015 (MK Decision 69/2015).

With the Decision of the Constitutional Court 69/2015, the provisions of Article 29 of the Marriage Law are changed to be as follows: (1) At the time, before it takes place, or during marriage, both parties with mutual agreement can submit a written agreement that is ratified by the marriage registrar or notary, after which the contents also apply to third parties as long as the third party is involved. (2) The agreement cannot be ratified if it violates the legal, religious and moral boundaries. (3) The agreement shall come into force as from the date of marriage, unless specified otherwise in the Marriage Agreement. (4) During the marriage, the marriage agreement can be regarding marriage assets or other agreements, can not be changed or revoked, except if from both parties there is an agreement to change or revoke, and the change or revocation does not harm a third party.

The decision of the Constitutional Court 69/2015 overcame the restlessness of Indonesian citizens who were married with different nationality couples. The Constitutional Court Decision 69/2015 provides an opportunity for a married couple to be able to make a marriage agreement during the marriage bond or commonly known

as the Postnuptial Agreement, as long as the couple is still bound in a legal marriage. This Marriage Agreement must be ratified by a notary or marriage registrar.

## **E. Conclusion and Funding**

Based on the discussion above that the ideal age when viewed from the philosophical abstraction value of materialism and idealism of marriage age in Indonesia, and based on the study of article 7 paragraph (1) under 16 of 2019 jo. uu 1 of 1974 concerning marriage in which the philosophical value of materialism and idealism of marriage age is the concept of historical materialism Humans who will choose their readiness in facing marriage. Then a person's age is not a reference, which is the basis for people to get married including self-readiness to face material livelihood, self-readiness and material. Likewise in Indonesia, the ideal age in society in Indonesia if related to Karl Mark's theory, the readiness of oneself in the material (economic element) is as a reference for people to get married. Thus the ideality of the age of marriage in Indonesia does not have to be based on the age of 19 years, both men and women

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