

## **The Norm of the Age Limit for Early Marriage in Suku Anak Dalam Jambi Province**

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### **Abstract**

Early marriage is still common in Indonesia. This paper discusses early marriages that occur in the isolated community of the Suku Anak Dalam in Jambi Province. This Socio Legal Study uses a qualitative approach. This research was conducted in Jambi Province with samples in 2 (two) districts, namely Batanghari and Muaro Jambi. The two districts represent the area where the Orang Rimba live. The results of the study show that the Suku Anak Dalam community has its own rules regarding marriage practices and are not in accordance with state law. One of the local norms in marriage is the determination of the marriage age limit for the bride and groom. Determination of the age limit for marriage for girls is when they are menstruating, while for boys it is marked by an agility test to hunt animals. If the boy passes the test, he is considered an adult and is able to get married. The valor of a man in the Anak Dalam Tribe lies in his ability to make a living and hunt. Early marriage is caused by several factors, including: Indigenous, dropping out of school, economy, promiscuity, filial piety, gender inequality.



**KEYWORDS** *Anak Dalam Tribe, Early Marriage, Regulation*

### **Abstrak**

Penikahan dini masih banyak terjadi di Indonesia. Paper ini membahas tentang pernikahan dini yang terjadi pada masyarakat terasing Suku Anak Dalam di Propinsi Jambi. Kajian Socio Legal ini menggunakan pendekatan kualitatif. Penelitian ini dilakukan di Provinsi Jambi dengan sampel di 2 (dua) kabupaten yaitu Batanghari dan Muaro Jambi. Kedua kabupaten tersebut mewakili wilayah tempat tinggal Suku Anak Dalam. Hasil penelitian menunjukkan bahwa, masyarakat Suku Anak Dalam memiliki aturan tersendiri dalam praktik perkawinan dan tidak sesuai dengan hukum negara. Salah satu norma lokal dalam perkawinan yaitu penentuan batas usia nikah calon pengantin. Penentuan batas usia nikah bagi anak perempuan yaitu ketika sudah menstruasi, sedangkan bagi anak laki-laki ditandai dengan uji ketangkasan untuk berburu binatang. Jika anak laki-laki tersebut lolos dalam ujian tersebut maka dianggap sudah dewasa dan mampu untuk melangsungkan pernikahan. Kegagalan seorang laki-laki pada Suku Anak Dalam terletak pada kemampuannya dalam mencari nafkah dan berburu. Pernikahan dini disebabkan oleh beberapa faktor antara lain: Indegeneous, putus sekolah, ekonomi, pergaulan bebas, berbakti kepada orang tua, ketidaksetaraan gender.

**KATA KUNCI** *Norma, Suku Anak Dalam, Pernikahan Dini*

## **Introduction**

Getting married is a sunnatullah that everyone will go through in the process of his life journey. To get married there are two things that need to be considered, namely physical readiness and mental readiness. A person's physical readiness can be seen from the economic ability, while mental readiness can be seen from the age factor.

In Indonesia, the issue of regulating the age of marriage not only reflects the success of the government in regulating the practice of marriage, but also marks the occurrence of a long debate on legal methodology between Islamic traditions and the state in the context of the

institutionalization of Islamic law in Indonesia <sup>1</sup>. The emergence of marriage regulations ranging from the draft marriage law (1973), the enactment of the Marriage Act (1974) to the Compilation of Islamic Law (1991) with their respective social backgrounds, is evidence that on the one hand the government intervenes in Islamic family law which actually flexibility in determining the age of marriage and accommodating the interests of the majority of Muslims, by way of legal unification so that they can continue to practice marriage based on their beliefs on the other hand.

On the other hand, Islamic jurists legalize early marriage. This understanding is the result of the interpretation of QS al Thalaq: verse 4. In addition, history records that Ayesha married the Prophet at a very young age. The substance of Islamic law is to create social benefits for humans in the present and the future as Imam Syatiby once echoed in his magnum opus. It is intended that Islamic law is always up to date, relevant and able to respond to the dynamics of the times <sup>2</sup>.

The following problem is that both government policies and religious law both contain elements of benefit. The government prohibits early marriage based on the various considerations above. On the other hand, religion does not limit the age of marriage, it also has a positive value <sup>3</sup>. A problem that is quite a dilemma <sup>4</sup>.

Although the regulation on the age of marriage is clear, the reality on the ground is not always appropriate. The rise of marriage at a young age

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<sup>1</sup> Susan Blackburn and Sharon Bessell, "AGE : MARRIAGEABLE POLITICAL DEBATES ON IN TWENTIETH- EARLY MARRIAGE CENTURY INDONESIA and Sharon Bessell" 63, no. 63 (1997): 107–41, <https://doi.org/https://doi.org/10.2307/3351513>.

<sup>2</sup> Abu Ishaq Ibn Musa Asy-Syathibi, *Al Muwafaqat Fi Usul Ash Sharia* (Beirut: Dar al Kutub al Ilmiyah, n.d.).

<sup>3</sup> Asep Saepudin Jahar, Euis Nurlaelawati, and Jaenal Aripin, *Hukum Keluarga, Pidana Dan Bisnis : Kajian Perundang-Undangan Indonesia, Fikih Dan Hukum Internasional* (Jakarta: Kencana, 2013).

<sup>4</sup> Abdul Halim and Muhammad Khaeruddin Hamsin, "KESENJANGAN KETENTUAN PERNIKAHAN DI BAWAH UMUR ANTARA FIKIH MUNAKAHAT," *Al-Mazaahib: Jurnal Perbandingan Hukum* 5, no. 1 (2017): 53–79.

tends to occur in rural communities<sup>5</sup> which has been going on for a long time and still persists to this day reflects the protection of the rights of young people who are neglected. According to the Council of Foreign Relations, Indonesia is one of the ten countries in the world with the highest absolute number of underage marriages and the second highest in ASEAN after Cambodia. It is estimated that one in five girls in Indonesia are married before they reach 18 years of age. The Central Statistics Agency (BPS) recorded five provinces that had the highest number of underage marriages, including Jambi Province<sup>6</sup> and occurs especially among the Suku Anak Dalam community.

This situation attracted the attention of several figures including, Pitrotussaadah<sup>7</sup>, Aria Sandra<sup>8</sup>, Muhammad Agus Kurniawan<sup>9</sup> Maturity does not depend on age, but the most urgent thing depends on readiness in terms of physical, mental, mental intelligence and maturity of thinking. Because there are people who have matured but whose minds are not yet mature, and vice versa, they are young but physically and psychologically mature.

This is contrary to Misyuraidah's research which concludes that a person's adult size is determined when he is married/married. As a symbol/sign of maturity, a person is given honor in the form of a customary title from his ancestors. Examples of customary titles in inter-tribal marriages (out group) in the Komerling community<sup>10</sup>.

<sup>5</sup> Eddy Fadlyana and Shinta Larasaty, "Pernikahan Usia Dini dan Permasalahannya," *Sari Pediatri* 11, no. 2 (November 2016): 136, <https://doi.org/10.14238/sp11.2.2009.136-41>.

<sup>6</sup> Inna Noor Inayati, "PERKAWINAN ANAK DI BAWAH UMUR DALAM PERSPEKTIF HUKUM, HAM DAN KESEHATAN," no. 1 (2015): 8.

<sup>7</sup> Mimin Mintarsih and Pitrotus Sa'adah, "Batas Usia Minimal Perkawinan Menurut Perspektif Hukum Positif Di Indonesia Dan Hukum Islam," *MUTTAQIEN: INDONESIAN JOURNAL OF MULTICLIPINARY ISLAMIC STUDIES* 1, no. 1 (2020): 74–84.

<sup>8</sup> Aria Sandra and Nyak Miftahul Rezki, "SYARIAH: Journal of Islamic Law," *SYARIAH: Journal of Islamic Law* 3, no. 1 (2021): 32–54.

<sup>9</sup> Muhammad Agus Kurniawan, "KEMATANGAN FISIK DAN MENTAL DALAM PERKAWINAN (PERSPEKTIF HUKUM ISLAM) Muhammad Agus Kurniawan STIT Agus Salim Metro," *NIZHAM: Jurnal Studi Keislaman* 4, no. 01 (2014): 112–25.

<sup>10</sup> Misyuraidah Misyuraidah, "Gelar Adat Dalam Upacara Perkawinan Adat Masyarakat Komerling Di Sukarami Ogan Komerling Ilir Sumatera Selatan," *Intizar* 23, no. 2 (2017): 241–60.

This research supports Winshery Tan <sup>11</sup> who concludes that the Anak Dalam tribe has customary laws and traditions that are sacred in nature and still carry magical values which are their way of life. These guidelines are different from the provisions of national law that affect legal certainty in Indonesia, especially in the case of marriage.

Child marriage is a violation of human rights that prevents girls from getting an education.<sup>12</sup>The impact of the marriage, apart from having a negative risk for the mental health of the husband and wife due to the unstable soul, can also harm the wife's own body, such as: maternal death, infant mortality, birth of malnourished babies <sup>13</sup>, domestic violence, rising poverty rates and young divorce, number of studies have shown that people who marry early tend to be at higher risk of dissolution of marriage than those who marry late <sup>14</sup> accompanied by the large number of widows<sup>15</sup>.

All of these problems seem to go hand in hand with the traditions held by the Suku Anak Dalam community. They have their own customs and provisions regarding marriage <sup>16</sup>. The provisions for the validity of marriages according to their customs are very significant differences with the provisions of Law no. 1 of 1974, especially regarding the regulation of the age of marriage. Marriage in the Suku Anak Dalam community is carried out without any age restrictions. According to them, the size of an

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<sup>11</sup> Winshery Tan and Bulan Ayu Sari, "Tinjauan Yuridis Perkawinan Suku Anak Dalam Di Jambi Berdasarkan Hukum Adat Dan UU Perkawinan Winshery Tan Bulan Ayu Sari," *Journal of JudicialReview* 20, no. 2 (2018): 177–88.

<sup>12</sup> Nawal Nour, "Health Consequences of Child Marriage in Africa," *Emerging Infectious Diseases* 12, no. 11 (2006): 1644–49, <https://doi.org/10.3201/eid1211.060510>.

<sup>13</sup> Commission of the Churches on International Affairs et al., "Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled 'Human Rights Council'" (United Nation: General Assembly, 2006), <https://digitallibrary.un.org/record/577977>.

<sup>14</sup> Evelyn L. Lehrer, "Age at Marriage and Marital Instability: Revisiting the Becker–Landes–Michael Hypothesis," *Journal of Population Economics* 21, no. 2 (April 2008): 463–84, <https://doi.org/10.1007/s00148-006-0092-9>.

<sup>15</sup> Dana Tilson and Ulla Larsen, "Divorce in Ethiopia: The Impact of Early Marriage Childlessness," *Cambridge University Press* 32, no. 3 (July 2000): 355–72, <https://doi.org/https://doi.org/10.1017/S0021932000003552>.

<sup>16</sup> Tan and Sari, "Tinjauan Yuridis Perkawinan Suku Anak Dalam Di Jambi Berdasarkan Hukum Adat Dan UU Perkawinan Winshery Tan Bulan Ayu Sari."

adult male is when he is physically strong and can hunt alone with hunting equipment like those used by adults. The tools used are spears, machetes and machetes. If you are able to hunt, it is permissible to marry through a dexterity test, but if you do not pass, the marriage is postponed. For girls, maturity can be known when they can menstruate <sup>17</sup>. While the regulation on the age of marriage according to Law Number 1 of 1974 is "marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years" <sup>18</sup>.

In general, the prospective husband is younger than his future wife. The difference in the age limit for marriage in the Suku Anak Dalam community is for boys aged at least 13-16 years and for girls 15-17 years. This is contrary to the provisions of Law no. 1 of 1974. This difference is interesting to study, because it is related to the legal reality that develops in Indonesian society. Although there is already a unified positive law in the matter of marriage, the existence of local customary law still has a strong position among its followers. Therefore, this paper aims to explain the regulation of the marriageable age and its impact on the Suku Anak Dalam community, the results of which will be input for the development of national law that still recognizes legal plurality in society.

## Methods

This research is a field research using qualitative methods. This qualitative method is a research model that aims to reveal existing phenomena and understand the meaning behind the phenomenon, both in

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<sup>17</sup> Muhammad Andri Primadhani, "Keabsahan Perkawinan Yang Dilakukan Oleh Masyarakat Adat Suku Anak Dalam Setelah Berlakunya Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Studi Kasus Di Bukit Duabelas, Kabupaten Tebo, Provinsi Jambi)," *LEGALITATUM* 1, no. 1 (2019): 11–27.

<sup>18</sup> Republic Indonesia President, "Law No. 1 of 1974 Concerning Marriage," Pub. L. No. 1 (1974).

the form of words, language and facts that explain early marriage in the Suku Anak Dalam community as the object of study <sup>19</sup>.

This research was conducted in Jambi Province by taking samples in 2 (two) districts, namely Batanghari and Muaro Jambi districts. According to the author, the two districts are considered to represent the area where the Suku Anak Dalam community live. The two districts were determined by the researcher to facilitate the implementation of the research. Another reason is the affordability of the villages in the selected districts and the majority of the tribal people in their lives are settled.

## Discussion

### Inner Tribe Genealogy

Many terms are used in labeling the Suku Anak Dalam. In anthropological literature, the Anak Dalam Tribe (Orang Rimba) is traditionally often referred to as "Orang Kubu" is a tribe that lives nomadic in the forest in Jambi Province. Orang kubu, the term used by the Jambi and Palembang Malays for groups of people living in the forest. Orang Rimba do not like to be called Orang Kubu because they are full of negative connotations such as dirty, infidel, disgusting, stupid and left behind <sup>20</sup>. This title is an interpretation of the lives of those who since their ancestors depended on the forest and its products for life <sup>21</sup>. In the Malay language the word kubu can mean "fortress", "stronghold" or "shelter" <sup>22</sup>. Muntolib in his dissertation called them "The Jungle People" <sup>23</sup>, while the

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<sup>19</sup> Iskandar, *Metodologi Penelitian Kualitatif* (Jakarta: Gaung Persada Pers, 2009).

<sup>20</sup> Christian Wawrinec, "Tribality and Indigeneity in Malaysia and Indonesia," *The Stanford Journal of East and Asian Affairs*, 2010.

<sup>21</sup> Robert Aritonang, *Orang Rimba Menantang Zaman Komunitas Konservasi Indonesia WARSI* (Jambi: WARSI, 2010).

<sup>22</sup> Steven Sager, "The Sky Is Our Roof, the Earth Our Floor Orang Rimba Customs and Religion in the Bukit Duabelas Region of Jambi, Sumatra," no. May (2008).

<sup>23</sup> Moentolib Soetomo, "Orang Rimbo: Kajian Struktural-Fungsional Masyarakat Terpencil Di Makekal" (1995).

government names the community with various names according to the project applied to the community. Beginning with the term alienated tribe which is a generalization for all tribes that are considered "not yet living normally". Then they were named Remote Indigenous Community (KAT) which was later called Suku Anak Dalam (SAD).

In general, the Suku Anak Dalam in Jambi Province are divided into three regional groups (group areas). First, the Anak Dalam Tribe in Bukit Dua Belas National Park (TNBD), the Ministry of Forestry, Directorate General of Forest Protection and Nature Conservation, Bukit Dua Belas National Park and its surroundings. Second, the Anak Dalam tribe who live spread along the Sumatran causeway from the Jambi-South Sumatran border to the Jambi-West Sumatra border. And third, the Tribe of Children in the Bukit Tiga Puluh National Park (TNBTP).

Based on history until now, the origin of the Anak Dalam Tribe is still full of mystery and question marks, only a few theories and stories by word of mouth of the descendants that can reveal a little of their history <sup>24</sup>. According to the results of Fachruddin Saudagar's research, there are several opinions regarding the origin of the Anak Dalam Tribe. The first opinion says that the Orang Rimba who live in Sarolangun Bangko come from Rejang Lebong because the dialect and conversation are similar to the Rejang language. The second opinion says that those who live in the Bungo Tebo area come from Minangkabau because the dialect of the language and their daily conversations are similar to the Minangkabau language. The third opinion states that those who live in the Batanghari area come from Palembang, because the dialect of the spoken language is similar to the Palembang language. And the fourth opinion states that they are natives of Jambi who are closely related to the ancient Malay and Srivijaya kingdoms in the past <sup>25</sup>.

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<sup>24</sup> Sager, "The Sky Is Our Roof, the Earth Our Floor Orang Rimba Customs and Religion in the Bukit Duabelas Region of Jambi, Sumatra."

<sup>25</sup> Fachruddin Saudagar, *Komunitas Kubu Di Jambi, Di Suwardi, Profil Komunitas Hukum Adat Adat Di Nusantara Dari Aceh Hingga Papua* (Pekanbaru: Alaf, 2011).



In general, the life of the Orang Rimba is not much different from the life of remote indigenous communities in Indonesia<sup>26</sup>. Through observations and searches in various areas the Anak Dalam tribe who live in Muaro Jambi Regency have begun to be interested in religious life, they are able to distinguish between good and bad in living life.

## **The Polemic of Marriage Age between Tradition and Regulation**

Since the first, the issue of underage marriage has always been a hot issue among Muslims. Issues that had been covered by piles of historical pages have now resurfaced. Between religion and the state there is a dispute in the meaning of early marriage. The dispute is widening and covers various aspects and involves many parties such as religious institutions, government institutions (executive and legislative), and the mass media (online, print and television) to mobilize women to fight or support child marriage. The state uses the term early marriage is limited by age. Meanwhile, from a religious perspective, early marriage is a marriage performed by a person who is not yet mature.

From a legal perspective, there are different provisions regarding the age limit for adulthood, because we cannot limit ourselves to one or two scientific fields, but must conduct interdisciplinary studies. Because there is no benchmark that can be used accurately in determining the limits of human maturity. However, if a common thread is drawn from each determination of the age of maturity, then the responsibility for all actions taken by a person becomes the benchmark for a person's maturity<sup>27</sup>.

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<sup>26</sup> Nathan Porath, "‘They Have Not Progressed Enough’: Development’s Negated Identities among Two Indigenous Peoples (Orang Asli) in Indonesia and Thailand," *Journal of Southeast Asian Studies* 41, no. 2 (2010).

<sup>27</sup> Muhammad Ghufon, "MAKNA KEDEWASAAN DALAM PERKAWINAN," *Al-Hukama’ The Indonesian Journal of Islamic Family Law* 6, no. 2 (2016).

The regulation of the age of marriage can be used as a determinant of maturity, but it is not always the right measure, because maturity itself is a condition where a person has reached a level of maturity in thinking and acting, while the level of maturity in each person is present differently, there is even an opinion that says that until the end of his life humans never experience maturity, because maturity is not always directly proportional to age<sup>28</sup>.

Regarding the regulation of the age of marriage The government's policy in setting the minimum age limit for marriage is of course through a process and various considerations. This is so that both parties are fully prepared and mature physically, psychologically and mentally. From a medical point of view, early marriage has a negative impact on both the mother and the child being born.<sup>29</sup> Meanwhile, if viewed from the social side, according to sociologists, early marriage can reduce family harmonization. This is caused by emotions that are still unstable, the turmoil of young blood and an immature way of thinking<sup>30</sup>. Seeing early marriage from various aspects does have many negative impacts. Therefore, the government only tolerates marriages over the age of nineteen for women and twenty-one years for men.

The regulation of the age limit for marriage is not specifically explained by Allah in the Qur'an. Therefore, the scholars do not necessarily justify the law, is prohibited or allowed, depending on the extent of benefit and mafsadah in it.

In the Qur'an there is not a single verse that explains the age limit for marriage. However, if examined further, there is a verse that implies a

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<sup>28</sup> Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia* (Jakarta: Kencana Prenada Media Group, 2009).

<sup>29</sup> Kazem Mohammad et al., "Sexual Risk-Taking Behaviors among Boys Aged 15–18 Years in Tehran," *Journal of Adolescent Health* 41, no. 4 (October 2007): 407–14, <https://doi.org/10.1016/j.jadohealth.2007.05.003>.

<sup>30</sup> Ahmad Rofiq, *Hukum Islam Di Indonesia* (Jakarta: PT Raja Grafindo Persada, 2000).

person's eligibility to marry as contained in the letter al-Nisa verse 6 which means <sup>31</sup>:

*"And test the orphans until they are old enough to marry, then if in your opinion they are intelligent (good at maintaining wealth), then hand over to them their wealth. And do not eat the property of orphans more than the proper limit and (do not) rush (spend it) before they grow up. Whoever (among the caretakers) is able, then let him refrain (from eating the orphan's property) and whoever is poor, then let him eat the property according to what is right. Then when you hand over property to them, then behold witnesses (about the surrender) for them. And Allah is sufficient as a Supervisor (of witness).*

Basically, in terms of marriage, the Suku Anak Dalam community have customary laws or traditions that still carry magical and sacred values which are their way of life. The marriage they apply holds the principle that "caro you, caro you, let us let this mak, because this is a legacy from our ancestors" which means that the methods and laws that are carried out by the community outside, then carry out these rules in your own way, while the laws and the traditional way that we follow is like this, let us run it ourselves because this is an inheritance from our ancestors from the Anak Dalam Tribe based on testimony of Tumenggung Tarib "Orang Rimbo" in the Forest is Our Home and Source of Livelihood at the trial of case Number 35/PUU-X/2012 dated 27 June 2012 at the Constitutional Court of the Republic of Indonesia.

However, these guidelines have a different understanding with the current national law <sup>32</sup>. For example, the Suku Anak Dalam have their own marriage age regulations, so they ignore the Marriage Law. For them, girls who have reached puberty are considered capable of getting married, while boys who are mature are marked by a dexterity test to hunt animals. Because according to the Tribe of Children, the concept of a man's valor

<sup>31</sup> Kementrian Agama Republik Indonesia, *Al-Qur'an Al-Karim Dan Terjemahannya* (Surabaya: HALIM Publishing and Distributing, 2014).

<sup>32</sup> Tan and Sari, "Tinjauan Yuridis Perkawinan Suku Anak Dalam Di Jambi Berdasarkan Hukum Adat Dan UU Perkawinan Winsherry Tan Bulan Ayu Sari."

lies in his ability to earn a living and hunt. This dexterity test for the Suku Anak Dalam community is in accordance with the verse of the Qur'an which regulates a person's eligibility to marry as contained in the letter an Nisa verse 6 which means <sup>33</sup>: *"And test the orphans until they are old enough to marry, then if in your opinion they are intelligent (good at maintaining wealth), then hand over to them their wealth."*

This verse interprets that we are commanded to test children's intelligence and mentality by paying attention to religion, maturity of thinking and how to manage property and to train children to use property until they are fit for marriage. And if we think that in the mental test they are really capable and intelligent in managing the property, then leave the treasure to him.

This is in accordance with the requirement that men are required to be able to hunt for men in the Suku Anak Dalam community in order that they are responsible for carrying out household obligations, especially the responsibility for earning a living.

According to Law no. 1 of 1974 is the principle of maturity or maturity of the prospective bride which aims to realize the purpose of marriage properly without ending in divorce <sup>34</sup>. Philosophically related to the regulation of the age of marriage according to Law no. 1 of 1974 regulates the principle: "Prospective husband and wife who want to enter into a marriage contract, must really have matured physically and psychologically (spiritually) in accordance with the understanding contained in the marriage itself". The principle of maturity or maturity of the prospective bride is one of the standards used in determining the age of marriage (marriage) <sup>35</sup>.

In general, indigenous peoples view a person as an adult if he is able to maintain his own interests. As stated by Ter Haar, that adults are

<sup>33</sup> Kementrian Agama Republik Indonesia, *Al-Qur'an Al-Karim Dan Terjemahannya*.

<sup>34</sup> June S Katz and Ronald S Katz, "Legislating Social Change in a Developing Country: The New Indonesia Marriage Law Revisited," *The American Journal of Comparative Law* 26, no. 2 (1978): 309–20.

<sup>35</sup> Rahmat Hakim, *Hukum Perkawinan Islam* (Bandung: Pustaka Setia, 2000).

capable (volwassen), married and living separately leaving their parents' Soepomo defines adulthood as *kuwat gawe* <sup>36</sup>, able to take care of his own property needs; this is reinforced by Harsanto Nursadi who stated that maturity in the concept of adat is based on:

1. Community assessment
2. Hunting and foraging skills
3. Ability to lead friends
4. Seeing a person's physical condition.

## Factors Causing Early Marriage

Marriages that are commonly carried out in the Suku Anak Dalam community are the result of negotiations/agreements between the male and female families. The preferred pattern of marriage is the marriage of a man with a woman from a brother's child from the mother's side. However, a man may choose the woman he likes from any family. The form of marriage that is prohibited is the marriage of the mother, namely marriage with the mother's sister, because they are considered close relatives <sup>37</sup>.

The implementation of marriage according to the adat of the Anak Dalam Tribe is preceded by a marriage ceremony and a period of engagement. The length of the engagement period is determined by the results of negotiations from the fathers of both families. In addition, the prospective groom must complete the marriage requirements, namely: dowry, food and side dishes. Another requirement that must be met as part of a valid marriage is a test of dexterity. The prospective groom must show agility such as: he must be able to walk on wood that has been peeled

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<sup>36</sup> Soepomo, *Hukum Perdata Adat Jawa Barat* (Jakarta: Djambatan, 1982).

<sup>37</sup> Soetomo, "Orang Rimbo: Kajian Struktural-Fungsional Masyarakat Terpencil Di Makekal."

off (slick) and or build a hall in half a day and do it himself and look for game animals. If he can do so, then it is considered passed and the marriage can take place. However, if he failed,

Based on the data obtained by researchers in the field, some of the informants revealed the reasons behind them doing early marriage, there were several factors behind it. These factors include:

1. Indigenous Factors. In general, marriages in the Suku Anak Dalam community are carried out without age restrictions. According to them, the size of an adult male is when he is physically strong and can hunt alone with hunting equipment like those used by adults. The tools used are spears, machetes and bung. They are generally considered to have been able to hunt at about 15 years of age. If you are able to hunt then it is permissible to marry through the agility test, if it has not been successful/passed then the marriage is postponed until the man has succeeded/passed the agility test. For women, maturity can be known when they can menstruate <sup>38</sup>. The adult size for the Anak Dalam tribe has similarities with Balinese customary law that if someone has been able to *negen* (*nyuun*) in accordance with the burden being tested, they are declared lucky as adults. For example, if a person is able to *negen* eight coconuts or *nyuun* coconut six grains, then he is automatically declared an adult <sup>39</sup>.

In the marriage process, adhere to the *seloko* "agree and negotiate, accept and pick up". This *seloko* is a guideline in carrying out the marriage process for the Anak Dalam Tribe, where to decide the life partner of the two prospective brides must go through consensus and negotiate first, whether the application is accepted or not, determine the

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<sup>38</sup> Primadhani, "Keabsahan Perkawinan Yang Dilakukan Oleh Masyarakat Adat Suku Anak Dalam Setelah Berlakunya Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Studi Kasus Di Bukit Duabelas, Kabupaten Tebo, Provinsi Jambi)."

<sup>39</sup> Jusuf, *Sociological Viewpoint of Family Function* (Surabaya: Sinar Sejahtera, 2004).

date of the wedding, what kind of wedding ceremony, where the position is settled. after marriage later and other problems <sup>40</sup>.

2. The internal education (dropout) factor they received. For the Tribe community, education is less important in life. They adhere to the life concept of “we must learn from the forest and must be able to take advantage of forest products”. As Baya said, the Suku Anak Dalam residents stated that they did not go to school and did not know how to read and write, their parents taught them to learn from nature and cultivate natural products for life. This can be found in their lives, children only finish elementary school or drop out of school, so this situation triggers early marriage. There are 1110 people who did not finish elementary school and only 141 people who finished junior high school based on report of office of the Head of Jebak Village, Batanghari Regency in 2021. This pattern is also common in poor or developing countries. According to research by Marcos et.al in 2015 concluded that the high and low level of education and the neglect of education are the causes of the fertile number of perpetrators of early marriage.<sup>41</sup> In practice, in the Suku Anak Dalam community dropping out of school is a reason to accelerate the marriage of their children, as experienced by HT, a young marriage actor who dropped out of school due to economic factors (personal communication, n.d.). The younger the age at marriage, the lower the level of education achieved by the child. On the other hand, based on the results of research by Team B Heaton et.al in several parts of Indonesia in 2014 showed that the increasing trend of learning among teenagers caused them to delay marriage, so this was quite effective in reducing divorce statistics in Indonesia.<sup>42</sup>

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<sup>40</sup> Mailinar and Bahren Nurdin, “Religious Life of the Anak Dalam Tribe in Senami III Hamlet, Jebak Village, Batanghari Regency,” *Journal of Contextuality* 28, no. 2 (2013): 261.

<sup>41</sup> Marcos Delprato et al., “On the Impact of Early Marriage on Schooling Outcomes in Sub-Saharan Africa and South West Asia,” *International Journal of Educational Development* 44 (September 2015): 42–55, <https://doi.org/10.1016/j.ijedudev.2015.06.001>.

<sup>42</sup> Tim B. Heaton, Mark Cammack, and Larry Young, “Why Is the Divorce Rate Declining in Indonesia?,” *Journal of Marriage and Family* 63, no. 2 (2001): 480–90.

3. Economic factors and the demands of life are the main factors in the occurrence of early marriage. As the author's interview with one of the residents of the Anak Dalam Tribe (Jaba) said that early marriage is an alternative to reduce the economic burden on the family. The factors disclosed by Jaba also occur in rural communities or marginalized communities in various regions in Indonesia.<sup>43</sup>, parts of the world <sup>44</sup> and industrial society.<sup>45</sup>. This is reinforced by the results of a 2018 National Statistics Agency survey concluding that in poor households, girls are considered an economic burden and early marriage is used as a solution to escape this economic burden <sup>46</sup>.
4. Promiscuity and lack of parental supervision. In general, their parents worked as farmers. Go in the morning and return in the evening. This results in the children being unsupervised. So they are dating beyond the limit as happened to SR and BH who got married because they were pregnant. As the author's interview with the Head of Jebak Village, represented by the Village Secretary, stated that the early marriage that occurred in the Suku Anak Dalam community was a reason to save their children from promiscuity (personal communication, n.d.). This case is reinforced by the findings of Khadijah Alavi et al in Taman Seri Puteri, Malaysia that adolescents who become pregnant out of wedlock are caused by a lack of attention from parents towards their child's association.<sup>47</sup>. This reason is the cause of early childhood marriage as the best attitude and solution to save them from promiscuity and the dangers of the glittering world that is misleading.

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<sup>43</sup> Luh Putu Ratih Kumala Dewi and Teguh Dartanto, "Natural Disasters and Girls Vulnerability: Is Child Marriage a Coping Strategy of Economic Shocks in Indonesia?," *Vulnerable Children and Youth Studies* 14, no. 1 (January 2019): 24–35, <https://doi.org/10.1080/17450128.2018.1546025>.

<sup>44</sup> Robert Jensen and Rebecca Thornton, "Early Female Marriage in the Developing World" 11, no. 2 (June 2010): 9–19, <https://doi.org/https://doi.org/10.1080/741954311>.

<sup>45</sup> Shoshana Grossbard, "Marriage and the Economy: Theory and Evidence from Advanced Industrial Societies," *Cambridge University Press*, 2003.

<sup>46</sup> Badan Pusat Statistik (BPS), *Pencegahan Perkawinan Anak: Percepatan Yang Tidak Bisa Ditunda* (Jakarta: Badan Pusat Statistik, 2020).

<sup>47</sup> Khadijah Alavi et al., "Hamil Luar Nikah Dalam Kalangan Remaja," *Journal of Social Sciences and Humanities* 7, no. 1 (April 2012): 131–40.



5. As respect and devotion to parents. Consent to marry in the Suku Anak Dalam community is often an accumulation of coercion or matchmaking on the child's parents/guardians, so that the child agrees to marry. Parents assume that marrying off their children means a form of protection for the child, but this is actually the cause of the loss of children's opportunities to develop and freedom in choosing a life partner. In accordance with seloko "it is the duty of parents to take their children to households, especially girls" <sup>48</sup>.
6. Gender inequality.

The women of the Anak Dalam tribe only know the domestic realm. They are forbidden to study, even outsiders are not allowed to know the names of the women of the Anak Dalam Tribe. In their tradition women are called kitchen ashes. In this context, women are only allowed to stay at home based on their customary seloko "Setukat may not leave the tanggo, sebingkah may not leave the yard" meaning that women are not allowed to leave the yard when they are married. Due to the concept of women being "kitchen ashes" then women's dependence on their husbands is very high economically. In the end, women see the criteria for choosing a husband based on their skills in hunting, foraging and making money <sup>49</sup>. In addition, women's lack of understanding of the laws and regulations is due to a lack of socialization from the government and the majority of women from the Suku Anak Dalam do not realize that the laws and regulations are set by the government in order to give them equal rights with men.

From the above factors, the amount of tolerance given by the Marriage Law by providing an age limit of 16 years for children to be allowed to marry. And for this reason, it is necessary to harmonize the various legal systems of marriage that apply in Indonesia so that it does

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<sup>48</sup> Lembaga Adat Propinsi, Jambi, and Pemerintah Daerah Tingkat I Jambi, *Buku Pedoman Adat Jambi* (Jambi: Pemerintah Daerah Tingkat I, 1993).

<sup>49</sup> Zarfina Yenti, "Kesehatan Reproduksi Perempuan Rimba: Studi tentang Kearifan Lokal Perempuan Rimba dalam Memanfaatkan Lingkungan" 7, no. 2 (2017): 159–72.

not cause disparities in legal provisions in the matter of marriage of minors. Revision of the marriage law, especially with regard to maturing the marriage age, is proposed as part of efforts to prevent early marriage<sup>50</sup>.

The regulation of the age limit for marriage is not specifically explained by Allah in the Qur'an. Therefore, the scholars do not necessarily justify the law, is prohibited or allowed, depending on the extent of benefit and mafsadah in it. There are several negative impacts that occur related to early marriage carried out on the Suku Anak Dalam community, including the following:

1. Will have an impact on the occurrence of divorce. Because their age ranges from marriage between 15-18 years which has not shown maturity in thinking and acting.

Based on the author's interview with the informant that at first he married a fellow Suku Anak Dalam, but because there was no compatibility, he finally divorced and remarried to a Padangnese (personal communication, n.d.). This is reinforced by a survey conducted by Dana Tilson and Ulla Larsen on 8757 Ethiopian women aged between 15-49 years with the finding that divorce is very susceptible to occur in young couples.<sup>51</sup> Likewise Evelyn L Lehrer's analysis that people who marry early tend to be at higher risk of dissolution of marriage than late marriage.<sup>52</sup>

The same thing also happened in Indonesia, as a survey conducted by Gavin W Jones et.al in West Java<sup>53</sup>, Uswatun Hasanah based on his studies at the Kisaran North Sumatra Religious Court and Muhammad Andri Primadhani in the case of the Anak Dalam Tribe marriage. Based on the results of the research conducted, it can be

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<sup>50</sup> Inayati, "PERKAWINAN ANAK DI BAWAH UMUR DALAM PERSPEKTIF HUKUM, HAM DAN KESEHATAN."

<sup>51</sup> Tilson and Larsen, "Divorce in Ethiopia : The Impact of Early Marriage Childlessness."

<sup>52</sup> Lehrer, "Age at Marriage and Marital Instability."

<sup>53</sup> Gavin W Jones, Yahya Asari, and Tuti Djuartika, "Divorce in West Java" 25, no. 3 (1994): 395–416, <https://doi.org/https://doi.org/10.3138/jcfs.25.3.395>.

concluded that the immature age in a marriage is very vulnerable to divorce. This is contrary to the purpose of marriage itself as stated in Article 1 of Law no. 1 of 1974 "

2. Early marriage can be physically dangerous, it also has negative risks for the mental health of married couples due to unstable souls, maternal mortality, birth of malnourished babies, and infant mortality <sup>54</sup>. It was stated that pregnancy at the age of less than 17 years had a five-fold risk of medical complications for both mother and child compared to the 20-24 year age group. The impact of early marriage is also very risky for the occurrence of cancer in the cervix. This is confirmed by researchers such as Ravi Prakash et.al in India, Kazem Mohammad et.al in Tehran, Iran.<sup>55</sup>and Nawal M. Nour in Africa <sup>56</sup> which concludes that how risky the womb of women who marry early marriage partners is.

The same thing also happened to the Suku Anak Dalam community, as the results of Abdul Haris' research concluded that the factors in cases of malnutrition that occurred in the Suku Anak Dalam toddlers included consumption patterns and marriage patterns.<sup>57</sup>This is reinforced by research conducted by Zarfina Yenti that early marriage carried out by Suku Anak Dalam women will of course affect their knowledge of reproductive health <sup>58</sup> and nutritional status of children under five.

3. Early marriage also has an impact on welfare, this is directly proportional to the education policy in the majority of schools which closes access for women who are married before the age of 18, so they

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<sup>54</sup> Fatrawati Kumari and Muqarramah Sulaiman Kurdi, "PERNIKAHAN ANAK DI KALIMANTAN SELATAN: PERSPEKTIF NILAI BANJAR," *Gender Equality: International Journal of Child and Gender Studies* 6, no. 1 (March 2020): 61, <https://doi.org/10.22373/equality.v6i1.6223>.

<sup>55</sup> Mohammad et al., "Sexual Risk-Taking Behaviors among Boys Aged 15–18 Years in Tehran."

<sup>56</sup> Nour, "Health Consequences of Child Marriage in Africa."

<sup>57</sup> Abdul Haris and Adelina Fitri, "Determinants of Stunting and Underweight In Toddlers of the Anak Dalam Tribe in Nyogan Village, Muaro Jambi Regency in 2019," *Jambi Public Health Journal*, 1, 3, no. 1 (2019): 41–53.

<sup>58</sup> Yenti, "Kesehatan Reproduksi Perempuan Rimba : Studi tentang Kearifan Lokal Perempuan Rimba dalam Memanfaatkan Lingkungan."

have little opportunity to improve welfare either through work or becoming entrepreneurs, so that they become poor.

4. Early marriage also has an impact on the administration of marriage. The majority of early childhood perpetrators do not have a marriage certificate, because marriages carried out are not recorded at the local Religious Affairs Office. As the author's interview with Jubai where he married at a young age and was not recorded by the Marriage Registrar because if he married through the KUA Subdistrict, his affairs were rather complicated and the cost was also rather expensive. They married the traditional leader and were attended by witnesses. This is as reported by Christian Snouck Hurgronje (1857-1936) when he was in Indonesia and saw the practice of marriage carried out by Muslims at that time marrying in front of teachers and several witnesses, but not being reported to the civil registry, so according to him it is impossible to expect any legal consequences of the marriage <sup>59</sup>.

Based on the author's observations that in the Suku Anak Dalam community, the sign of a married woman can be seen from the clothes she wears. For those who are married and have children, they will wear a kemben/cloth that is under the breast (not covering the breast), while for women who are still girls and not married, then they wear a cloth/kemben that covers the breast. However, this does not apply to men, there are no special signs for men who are or are not married.

For the Tribe community, early marriage is generally considered something that does not violate the law, so it is said to be legal. On the other hand, the related parties or the local government are still lacking in socializing about the impact of early marriage for the community itself so that the level of awareness to form a quality generation both in terms of education, health and welfare is still in the category of weak society.

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<sup>59</sup> C Snouck Hurgronje et al., *Nasihat-Nasihat C. Snouck Hurgronje Semasa Kepegawaiannya Kepada Pemerintah Hindia Belanda 1889-1936* (Jakarta: INIS, 1994).

The Suku Anak Dalam communities in Batanghari and Muarajambi regencies are mostly Muslim, but most of the residents when they get married are not recorded at the local District Office of Religious Affairs, which means they do not have a marriage certificate as authentic proof of their marriage, and this is a problem in itself. for them and their stakeholders. Not having a marriage certificate causes other resident documents such as birth certificates to not be issued. Besides, the case of unregistered marriage will corner and weaken the position of women, because her position as a wife and the rights related to her position as a wife are not recognized by law. Responding to the many cases of unregistered marriages, the law bridges this through the marriage istbat program as an alternative solution for them to legalize their marriage first. This provision is explained in article 7 paragraph 2-4 of the Compilation of Islamic Law.

In general and outline, Islamic family law <sup>60</sup> what applies in Indonesia and in the Islamic world is the same. Even if there are differences here and there, the differences relate more to administrative technical issues than to juridical philosophical differences. One of them relates to the matter of determining the age limit for marriage. In certain cases, such as the Suku Anak Dalam, to apply the rules set by the government in relation to the law, they must deal with customs, habits, and norms that have previously been firmly entrenched in society, so that their effectiveness is highly dependent on people's choices in solve legal problems, because in principle all legal rules that still exist in society cannot be isolated from their relations with other laws, such as state law, religious law, customs and even international law. As the author's interview with:

It can be said that the indigenous people of the Anak Dalam tribe are not yet in order with national law regarding marriage issues, but they hold

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<sup>60</sup> Lynn Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam: Amsterdam University Press, 2007).

fast to customary rules whose goals are the same as what the Indonesian people aspire to without threatening the sovereignty and integrity of the Unitary State of the Republic of Indonesia. Therefore, there is a need for legal harmonization between customary law, especially the customary law of the Anak Dalam Tribe with Law no. 1 of 1974 concerning marriage. In order for the Suku Anak Dalam community to carry out the marriage provisions contained in Law no. 1 of 1974 concerning Marriage without eliminating the identity and uniqueness of the indigenous people of the Anak Dalam Tribe by continuing to carry out the customs and customary laws that they have maintained for generations.

## Conclusion

The development of the practice of early marriage in the Suku Anak Dalam community is caused by the low level of education and economic backwardness. In the tribal society, the marriage is carried out without any age limit. They have their own customs and rules in marriage. One of these rules is related to how to measure the maturity of the bride and groom (marriage age limit). According to them, the size of an adult male is when he is physically strong and can hunt on his own through agility tests. Meanwhile, for women, maturity can be known when they can menstruate.

This coincides with the lack of fulfillment of the rules set by the State as stated in Law no. 1 of 1974. However, the purpose of this regulation is to make the prospective bride and groom responsible for their obligations in the household, so that the goal of forming a *sakinah* family, *mawaddah warahmah* is realized.

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