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## Efforts to Eradicate Child Marriage Practices in Indonesia: Towards Sustainable Development Goals

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### Abstract

Child marriage in Indonesia is a reality recurring within society. Religious and customary laws often become the basis to legitimize the practices of child marriage. According to UNICEF in 2016, Indonesia ranked the seventh in the world and the second in ASEAN for the highest rate of child marriage. Child marriage is a manifestation of gender inequality, especially for female. Indonesia, as one of the member countries of the United Nations (UN), has ratified the implementation of the Sustainable Development Goals (SDGs) program issued by the UN to eradicate the practice of child marriage occurring within the society. One of the purposes of the SDGs program is to “Achieve Gender Equality and Empower All Women and Girls.” Hence, it is expected that from this program, Indonesia will have a zero rate of child marriage by 2030. This article discusses child marriage practices occurring in Indonesia as well as efforts taken by the Indonesian Government (both the central government and regional government) in an attempt to eradicate the problem of child marriage.

*Keywords:* Gender, Marriage, Child marriage, Sustainable development goals (SDGs), Indonesia

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## Background

Marriage is an important event in a human's life. It is often seen as sacred as it institutionalizes not only the couples' desire to settle and live together but also their belief and cultural background. In many cultures, marriage is considered to be a one-time event that should be entered into only with proper consideration.<sup>6</sup> The author recognizes that many cultures are honoring and legalizing same-sex marriage. This article focuses on the current state of the law in Indonesia and as such will focus only on marriage between heterosexuals.

Marriage should be entered into voluntarily and without force. The purpose of marriage in Indonesia is to create a happy and eternal family, in which spouses help and complete each other in order for each of them to develop their own character and to help and achieve their spiritual and material prosperity.<sup>7</sup>

In Indonesia, marriage is regulated under Law Number 1 of 1974 on Marriage. In Article 1 of the Marriage Law, marriage is a physical and mental bond between a man and a woman as a husband and wife, with the purpose of creating a happy and eternal family (household) based on the belief in one God. Every person has the right to consummate a marriage as regulated by Article 28 B of the 1945 Constitution. The Constitution guarantees the rights of every person to create a family and carry on their descendants through a valid marriage. Moreover, a similar stipulation is also regulated under Article 10 Paragraph (1) of the Law Number 39 of 1999 on Human Rights.

In accordance with the Marriage Law in Indonesia, every marriage has to fulfil the determined requirements, particularly with regards to the age restriction. Pursuant to Article 7 Paragraph (1) of the Law Number 1 of 1974 on Marriage, a marriage is only permitted if the man has already turned 19 years old and the woman has turned 16 years old. From the age prerequisite, there is an inequality of position between men and women since the age restriction applied for women is still categorized as children's age. The gender inequality is in contrary to the Article 27 Paragraph (1) of the 1945 Constitution, whereas every citizen is said to have the same position before the law. From the aforementioned fact and the 'norm' on the minimum age requirement to consummate a marriage, many child marriages occur in Indonesia due to the influence of custom and religion considering that Indonesia has diverse culture and religions. Most culture and religions allow the community to conduct child marriage. In addition to a minimum age that is deemed too young in the Marriage Law, the Article 7 Paragraph (2) provides a dispensation from the provision the Article 7 Paragraph (1) that the minimum age requirement can be excepted if there is a permission from the Court or other Authorized Officials appointed by the parents of either the groom or the bride.

Based on the data from UNICEF on the State of the World Children, marriage among children in Indonesia ranked the seventh in the world and the second in ASEAN.<sup>8</sup> Cases of child marriage spread across provinces in Indonesia. According to the Indonesian National Socio-Economic Survey (SUSENAS) data in 2017, there are 20 provinces with a higher prevalence of child marriage compared to the national average (22.8%), namely West Sulawesi (34.22%),

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<sup>6</sup> Soedaharyo Soimin, *Personal and Family Law*, Jakarta: Sinar Grafika, 2002, page.5

<sup>7</sup> K. Wantjik Saleh, *Marriage Law in Indonesia*, Jakarta: Ghalia Indonesia, 1960, page 14

<sup>8</sup> CNN Indonesia, "Issues behind the High Rate of Child Marriage in Indonesia", <https://www.cnnindonesia.com/gaya-hidup/20180425133623-282-293415/persoalan-di-balik-tingginya-angka-perkawinan-anak-indonesia>, accessed on January 23<sup>rd</sup> 2019, at 18:52 (GMT+7)

South Kalimantan (33.68%), and Central Sulawesi (31.91%). The followings are the prevalence of the child marriage in every province in Indonesia:<sup>9</sup>

**Image 1.** Prevalence of Child marriage based on the Province in Indonesia



It requires psychological maturity of every married couple to realize a harmonious household. It is undeniable that psychological maturity is closely related to the age of the couple.<sup>10</sup> It is a problem faced in almost all countries across the globe. The United Nations (UN), as one of many international organizations, has put the effort in facing and overcoming this problem by issuing a Sustainable Development Goals (SDGs) document. The document lists 17 goals and 169 targets to be achieved by 2030. The purposes of the SDGs program are as follows:

<sup>9</sup> Central Statistics Agency. Child Marriage in Indonesia in 2013 and 2015 (Revised Edition). Jakarta: Indonesian Central Statistics Agency (BPS) 2017, page 9-10

<sup>10</sup> Ibid.

**Image 2.** Sustainable Development Goals<sup>11</sup>

By a means of the Sustainable Development Goals (SDGs) program agreed by its member countries and other countries in the world, the UN has made eradication of child marriage as one of the main purposes to be attained. In the SDGs document, the UN stipulates its fifth goal for sustainable development to “Achieve Gender Equality and Empower All Women and Girls”. It states that “gender equality is not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”.<sup>12</sup> The fifth SDG has nine targets in which the third is the eradication of dangerous practice such as child marriage, forced marriage, and female genital mutilation.<sup>13</sup> One of the reasons why child marriage must be eradicated is that it is a form of discrimination against women and thus entails violence against human rights, hence it must be prohibited in all part of the world.<sup>14</sup>

Indonesia, as one of the UN member countries, has complied with the SDGs document. Indonesia has taken an active role in implementing the SDGs document by adopting the resolution “Transforming Our World: The 2030 Agenda for Sustainable Development”. Through the issuance of Presidential Regulation Number 59 of 2017 on the Achievement of Sustainable Development Goals, Indonesia has shown its commitment to comply with the UN to eradicate child marriage, especially in Indonesia. The UN defines, follows up, and reviews the process and development made by as well as the compliance of all countries in implementing the Sustainable Development Goals for the next 15 years.<sup>15</sup>

<sup>11</sup> United Nation Principle for Responsible Investment, “Sustainable Development Goals”, <https://www.unpri.org/sdgs/the-sdg-investment-case/303.article>, accessed August 28<sup>th</sup>, 2018, at 18.16 (GMT+7).

<sup>12</sup> United Nation, “Sustainable Development Goals”, <https://www.un.org/sustainabledevelopment/gender-equality/>, accessed August 28<sup>th</sup>, 2018, at 16.16 GMT+7.

<sup>13</sup> Ibid.

<sup>14</sup> Sonny Dewi Judiasih, Susilowati Suparto, Anita Afriana, Deviana Yuanitasari, “Women, Law, and Policy: Child Marriage Practices in Indonesia”, *Jurnal Notariil*, Vol 3 No 1, 2018, page 48

<sup>15</sup> Lorenza Campagnolo, Fabio Eboli Luca Farnia, and Carlo Carraco, “Supporting the UN SDGs Transition: Methodology for Sustainability Assessment and Current Worldwide Ranking”, *Economics Journal*, Vol 12, 2018, page 2

The Presidential Regulation Number 59 of 2017 on the Achievement of Sustainable Development Goals is an initial step and effort that have been realized by the Indonesian government. In addition, Indonesia has taken other measures to achieve the purpose of gender equality, particularly for women, through the eradication of child marriage in Indonesia. These efforts are conducted by the government both at the central and regional level in Indonesia, for instance, through the issuance of laws and regulation such as Regional Regulation on age requirements for marriage or prevention of child marriage. In addition, the central government has coordinated all related institutions to make national socialization both directly and indirectly to teenagers and society, as well as the implementation of programs aiming at eradicating child marriage.

Based on the aforementioned descriptions, this article discusses two problems: *first*, how is the practice of child marriage in Indonesia; *second*, how is the effort taken to eradicate the child marriage in Indonesia, based on gender equality.

## Discussion

### *Practices of Child marriage in Indonesia*

Child marriage most possibly occurs among girls who are poor, with low education, and live in rural areas.<sup>16</sup> From the minimum age requirement in Indonesia i.e., 16 for women and 19 for men, it is evident that there is an inequality that is based on gender even at the level of law in Indonesia. The minimum age requirement for women is lower as opposed to men.

Gender discrimination is based on the custom within society.<sup>17</sup> Gender speaks about differences between men and women based on their structure and characteristics as human formed since childhood, that materialized as active power within a human being.<sup>18</sup> In general, the term gender inequality or discrimination is closely connected with women as they are deemed lower and weaker in society.<sup>19</sup>

Child marriage is a manifestation of malfunction in gender equality, particularly in limitation within women's lives in terms of determining their own choice and rights to obtain education. This is because they will be isolated from social-life as housewives, they must take care of their husband and children, thus, most women are 'forced' to leave their education, hence, they will have lower education affecting the limitation of rights in determining their own economy, namely to work or have a job.<sup>20</sup> In the long run, women who are married at an early age will have lower education and lesser experiences compared to those who get married at a mature age.

The gender inequality does not only occur due to societal tradition and beliefs, but also resulted from system and regulations issued by the government that planted an understanding among society that the social status of women is lower than men. It is not shocking that various

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<sup>16</sup> Simin Montazeri, Maryam Gharacheh, Nooredin Mohammadi, Javad Alaghband, and Hassan Eftekhari Ardabili, "Determinants of Early Marriage from Married Girls Perspectives in Iranian Setting: A Qualitative Study", *Journal of Environmental and Public Health*, 2016, page 2

<sup>17</sup> Andrey Shahstri, "Gender Inequality and Women Discrimination", *IOSR Journal Of Humanities and Social Science*, Vol 19 No 11, 2014, page 28

<sup>18</sup> Reich, *Politic and Ideology in Marxis Theory*, New Left Books, 1997, Chapter 3, page 23

<sup>19</sup> Andrey Shastrii, "Gender Inequality and Women Discrimination", *Op.cit*, page 27

<sup>20</sup> Almee Arrabide, Shoshana Smolen, Sheyda Joolharzadeh, *Research Paper Child Marriage in South Asia*, Center for Reproductive Rights: New york, 2013, page 11

policies putting women on disadvantage,<sup>21</sup> one of which, is the minimum age requirement for marriage in Indonesia. Gender equality is one of the human rights. On that note, there have been many public-policies issued in order to put the ideas of equality into reality.<sup>22</sup>

In addition to the inequality with regards to minimum age requirement, another problem in Indonesian overall marriage institution is the provisions in Law Number 1 of 1974 on Marriage in which there is a possibility to be exempted from the minimum age requirement through dispensation by the court or other authorized officials appointed by both groom and bride.<sup>23</sup> The permission of dispensation request has resulted in a higher rate of child marriage in Indonesia. As stipulated in the Article 7 Paragraph (2) of the Marriage Law: “With respect to exemption from Paragraph (1) of this Article, both parents of the bride or the groom can request for dispensation to the Court or Authorized officials.” The literal meaning of a marriage dispensation is an exception made for a marriage to be valid in case one or both parties is/are underage, they shall be permitted to consummate a marriage as long as they fulfil the requirements of the dispensation procedure determined by the applicable law.<sup>24</sup> This has indirectly shown that the Marriage Law permits the occurrence of child marriage. Despite that child marriage includes boy, most of the child marriage cases that are below 18 years old occur for girls.<sup>25</sup>

Up until recently, there is no resolution on the legal age of children in Indonesia that is from 16 to 18 years of age. On the other hand, the provision in the Article 47 Paragraph (1) of the Law Number 1 of 1974 on Marriage states that children who have not yet turned 18 years old or have never been married are under the custody of their parents, as long as the custody is not revoked. If the Law determined that parents’ authority as guardian ends as a child turn 18 years old, then supposedly the Marriage Law should take this age as a benchmark to determine child-adult age, because if it is not, then it means the Marriage Law has approved the conduct of child marriage. This is considered as contradictory with Article 28 B Paragraph (2) and Article 28 C Paragraph (1) of the 1945 Constitution that contains the rights of children to live their lives and fulfil their needs.

The provision in the Article 7 Paragraph (1) of the Law Number 1 of 1974 on Marriage is also in conflict with the Law Number 35 of 2014 on the Amendment to the Law Number 23 of 2002 on Child Protection in which the Child Protection Law states that a person aged 18 is still categorized as children. Hence, if a marriage is conducted based on the minimum age requirement pursuant to the Law Number 1 of 1974 on Marriage, this means that the law indirectly allows child marriage, particularly for girls. The matters on the age category for children in the Child Protection Law is also in line with age indicator of children in the Convention of the Right of the Child that defines a child as under 18 years old (in Article 1).<sup>26</sup> The minimum age requirement contains in the Marriage Law—in addition to contradict the Child Protection Law—is also potential to conflict with the Law Number 20 of 2003 on National

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<sup>21</sup> Tilaar and Riant Nugroho. Education Policy. “An Introduction to Understand Education Policy as a Public Policy”. Yogyakarta: Pustaka Belajar. 2012, page 156.

<sup>22</sup> Ibid, page 158

<sup>23</sup> Sonny Dewi Judiasih, (et.al) “Woman, Law and Policy, *op. cit*, page 51

<sup>24</sup> Sonny Dewi Judiasih, Susilowati Suparto, Anita Afriana, Deviana Yuanita Sari, “Court Dispensation: A Review of Court Decision on Child Marriage Request”, Journal of Law of Civil Procedure ADHAPER, Vol 3, No 2, 2017.

<sup>25</sup> Nawal M. Nour, “Child Marriage: A Silent Health and Human Rights Issue”, Vol 2, No 11, 2006, page 2

<sup>26</sup> Jeniffer Birech, “Child Marriage: A Cultural Health Phenomenon, International Journal of Humanities and Social Science”, *International Journal of Humanities and Social Science*, Vol 3 No 17, 2013, page 97

Education System, Law Number 39 of 1999 on Human Rights, the Law Number 7 of 1984 on Ratification of Eradication of All Forms of Discrimination against Women.

The practice of child marriage is still happening often in Indonesia. This is influenced by the background of Indonesia as one of the largest multicultural countries in the world that can be seen from either socio-cultural or geographical condition of Indonesia that is complex, diverse, and vast.<sup>27</sup> Besides, Indonesia also consists of diverse groups of ethnic, cultural, religious and other backgrounds, each collided in plurality and heterogeneity.<sup>28</sup> Every tribe has its own cultural uniqueness and characteristic in its socio-cultural community. The diversity of Indonesian society triggers conflict and disintegration from all aspects, including custom, culture, until religion. In such conditions, Indonesia requires people who can communicate and bridge the culture difference and possess the knowledge on the comparison of cultural pattern. This is because diversity in the society has a potential to raise group segmentation, divided structure, and weak consensus, prone to conflict, forced integration, and the existence of group domination, which in the end may disrupt the flow of the lives of the society.<sup>29</sup>

In Indonesia, the practice of child marriage is one of many serious problems and becomes an urgent matter that has to be solved. Child marriage is a violation of children's human rights and has a negative impact on the physical, health, mental and emotional development of the children, it also hampers their opportunity to obtain proper education.<sup>30</sup> From the psychological point of view, children who are married underage will have lower education compared to those who are married at a mature age. Hence, this will limit their experience and knowledge. A child who is married underage will tend to have unstable emotion in overcoming problems arising in their household, and in the end, will have a greater impact on divorce.<sup>31</sup>

Indonesia has a high rate of divorce. Within the period of 2013-2015, women aged 20-24 who are married before that age of 18 has a higher rate of divorce than those who married after the age of 18. In Central Agency on Statistic (BPS) 2017 Revision, the percentage of women aged 20-24 with 'divorced' status and had married before 18 is 4.53%, while the percentage of those who had married after 18 was lower, i.e., 3.02%. Urban areas have a much higher divorce rate compared to the rural areas. The percentage of divorced women aged 20-24 in the cities who had married before 18 reaches 7.02%, while those who had married after 18 and got divorced is only 3.06%. There is an increase of divorce rate among women aged 20-24 who had married before 18 from 4.31% in 2013 to 4.53% in 2015. Below are the details:

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<sup>27</sup> Gina Lestari. "Bhinneka Tunggal Ika: Indonesian Multicultural Treasure amidst Life of Diverse ethnicity, religion, race, and inter-group relations". *Journal of Civic Education and Citizenship*. No 1. 2015, page 31

<sup>28</sup> Kusumohamidjojo, *The Diversity of Indonesian Society*, Jakarta: PT. Gramedia Widiasarana, 2000, page 45

<sup>29</sup> Ridwan. "The Problems of Cultural Diversity and the Alternative Solutions", *Madaniyah Journal Vol 2 IX Edition*. 2015, page 254

<sup>30</sup> UNICEF, "Child Marriage", <http://unicef.in/Whatwedo/30/Child-Marriage>, accessed on May 25<sup>th</sup>, 2018, at 23.04 GMT+7

<sup>31</sup> IHEU (*International Humanist and Ethical Union*), *Child Marriage: A Violation of Human Right*, <http://iheu.org/child-marriage-violation-human-rights/>, accessed on January, 23<sup>rd</sup> 2019 at 18:31 GMT+7



**Table 1.** The Prevalence of Divorce Based on a Marriage Status<sup>32</sup>

Marriage Status	Place of Living					
	Urban		Villages		Urban + Villages	
	<18	18+	<18	18+	<18	18+
Married	92,77	96,63	96,37	96,73	95,22	96,69
Divorced	7,02	3,06	3,36	2,99	4,53	3,02
Divorced by Death	0,22	0,31	0,27	0,28	0,25	0,29

Source : Susenas 2017

There are several factors underlying the practices of child marriage. The supporting factors are economical, educational, social, environmental, religious, as well as custom and culture within the society in Indonesia, whereas poverty and traditional/customary views hold the most dominant place. UNICEF states that poverty is one of the most important factors that contribute to child marriage, because the family deemed that daughters are a burden to the family's economy.<sup>33</sup> It is considered that marriage can transfer the economic burden of daughters to their spouses.<sup>34</sup> Another reason for parents to marry their daughters at such an early age is to protect them against free-sex behaviours.<sup>35</sup> The marriage phenomenon occurs in Indonesia is mostly influenced by custom and religion of the society that legitimizes marriage for children. In several regions in Indonesia, religious law and customary law are mixed as theologist and sociologist basis to validate marriage for children.<sup>36</sup> In Indonesian society, cultural and religious aspects are influencing one another as they have a close dialectics, and not separated as independent entities.

It is widely known that that applicable laws and regulations in Indonesia are inseparable from the influences of custom, culture, religion and environment of the society. With such background of customs and traditions, Marriage Law in Indonesia has lots of relation with diverse local laws deriving from laws and customs prevailing in the local communities.<sup>37</sup> In Indonesia, different customs and traditions lead to different ways and requirements of marriage.<sup>38</sup> Every culture also has its own regulations and traditions that are different from other culture,

<sup>32</sup> Central Statistics Agency, Child Marriage, *op.cit*, page 11

<sup>33</sup> Anne Wijffelman, "Child Marriage and Family Reunification: An Analysis Under the European Convention on Human Rights of The Dutch Forced Marriage Prevention Act", *Netherlands Quarterly of Human Rights (NQHR)*, Vol 35 No 2, 2017, page 106

<sup>34</sup> R Gaffney Rhys, "International Law as An Instrument to Combat Child Marriage", *The International Journal of Human Right*, Vol 15, No 3, 2011, page 359-360

<sup>35</sup> Ibid.

<sup>36</sup> Sonny Dewi Judiasih, Susilowati Suparto, Anita Afriana, Deviana Yuanitasari, Betty Rubiati, Hazar Kusmayanti, Child Marriage in Indonesia: Comparison of Legal Age for Marriage and Child Marriage Across Countries, Bandung: PT. Refika Aditama, 2018 page 2.

<sup>37</sup> Hilman Hadikusuma, *Marriage Law in Indonesia*, Bandung: CV. Mandar Maju, 2007, page 2

<sup>38</sup> Sonny Dewi Judiasih, Betty Rubiati, Deviana Yuanitasari, Hazar Kusmayanti, Elycia Feronia Salim, *Sustainable Development Goals: Efforts to Eradicate Child Marriage in Indonesia*, Bandung: Penerbit Cakra, 2019, page 9.

including the tradition and regulation on marriage, particularly with regards to the minimum age of marriage. This becomes one of the reasons for the occurrence of child marriage in Indonesia. Several customs and religions in Indonesia, particularly Islam as the religion of the majority of Indonesians, the practice of child marriage is allowed. Based on rules or law in Islam, a person deemed as eligible for marriage if he/she is biologically ready and there is no certain age restriction for conducting a marriage. According to one Muslim religious figure in Indonesia, from an Islamic point of view, the age restriction for marriage will be problematic in the future both for the Country and for Islam as a religion. If child marriage is fully eradicated, one of the possible impacts is an increase of underhanded marriage practice in Indonesia, which is considered as valid by Islam, but cannot be administratively registered by the state, meanwhile, according to Article 2 Paragraph (1) of the Law Number 1 of 1974 on Marriage, a marriage is legal if contracted according to the laws of the respective religions and beliefs of the parties concerned.

*The effort taken to eradicate child marriage in Indonesia based on gender equality*

The Indonesian government has planned and execute various efforts to preventing up to eradicating the practices of child marriage in Indonesia. The Indonesian government, starting from the central to the regional government, have been doing various efforts in settling the problem of child marriage. The following content are the efforts.

First, Gender Mainstreaming in National Development (President Instruction Number 9 of 2000 on Gender Mainstreaming in National Development) is a strategy to achieve equality and justice for gender through policy and program that takes into account experience, aspiration, needs and problems of women and men to obtain the same access to participate in and get benefit from the development process.<sup>39</sup> Indonesia has policies in several regulations, such as Law Number 39 of 1999 on Human Rights, Law Number 23 of 2004 on Eradication of Domestic Violence, and Presidential Regulation Number 59 of 2017 on the Achievement of Sustainable Development Goals.

Second, Indonesia, as one of the members to the United Nations, agrees to the implementation of Sustainable Development Goals (SDGs) by ratifying the SDGs through the Presidential Regulation Number 59 of 2017 on the Achievement of Sustainable Development Goals. The SDGs have 17 goals and 193 targets, whereas one of them is Gender Equality. This is the fifth goal of the SDGs program, of which, it aims to eradicate all dangerous practices towards children, child marriage, forced marriage, and girl's marriage. Several development targets of the SDGs that have become the national target is increasing the number of policies that are responsive to gender issues and empowering women as well as increasing the median for women's first marriages in 2019 to become 21 years old.

Third, to support the eradication of child marriage practices, Indonesia government under the era of governance of President Joko Widodo and Vice President Jusuf Kalla has increased the 9 years compulsory education to 12 years by the announcement of "Smart Indonesia Program/*Program Indonesia Pintar*". This program focuses mainly on implementing a mandatory Twelve-years-education by providing bigger chances to children from poor families to be able to continue their study until High School. Hence, the program will both increase the quality of Human Resources for Indonesian society and also solving child marriage practices in

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<sup>39</sup> Ministry of Women Empowerment of the Republic of Indonesia. A Guidebook on the Integration of Women Protection Issues in Gender Mainstreaming Process. Jakarta: Ministry of Women Empowerment of the Republic of Indonesia. 2008, page 1

Indonesia. This is due to the obligation of children to firstly finish their education until high school, whereas they will be graduated at least at the age of 18.

Fourth, the National Family Planning Coordination Body (BKKBN) supports the minimum marriage age of 21 years old for women and 25 years old for men.<sup>40</sup> This policy is made to ensure that each of marriage couple has attained both physical and mental maturity. BKKBN is developing Planned Generation Program (GenRe) i.e., program in a framework to prepare teenagers for their family life through an understanding of Marriage Age Maturity.<sup>41</sup> Moreover, the Ministry of Women Empowerment and Children Protection has launched the “STOP CHILD MARRIAGE” movement. The Minister of Women Empowerment and Children Protection invites all government both central and regional; parents; institutions; society; the business world and the media to jointly support this movement. On this matter, the society has also announced the STOP CHILD MARRIAGE, and through this movement, the government is urged to issue a Regulation In Lieu of Law that shall fully prohibit the practice of child marriage in Indonesia.<sup>42</sup>

Fifth, another effort to eradicate the practice of child marriage is conducted by submitting a judicial review to the Constitutional Court regarding the change of the minimum age limit for marriage in the Law Number 1 of 1974 on Marriage. Through Constitutional Court Decision Number 30-74/PUU-XII/2014, the Constitutional Court declared that the provisions on the minimum age requirement of the Law Number 1 of 1974 on Marriage are not in conflict with the 1945 Constitution. It acknowledges that several applicable religions in Indonesia or other cultural backgrounds in Indonesia also have different regulations with regards to the minimum age of marriage. Subsequent to the court decision, the effort to adjust the minimum age requirement for marriage in the Law Number 1 of 1974 on Marriage was re-submitted to the Constitutional Court for judicial review. The Constitutional Court received claim Number 22/PUU-XV/2017 on the revision of the Law of Marriage. By a means of Constitutional Court Decision taken December 2018, the House of Representative and the government are provided a period of three years from the declaration of the decision to make new provision on the minimum marriage age for women. If within three years there is no change to the law, the minimum age requirements for women shall be automatically adjusted to the age restriction for children as regulated under the Law Number 34 of 2015 on the Amendment of Law Number 23 of 2002 on Child Protection. On that note, the Draft Law on the Amendment of Law Number 1 of 1974 on Marriage has included within the National Legislation Program (PROLEGNAS) for the 2015-2019 period.<sup>43</sup>

Sixth, the child marriage issue in Indonesia also has been discussed by feminist groups in Indonesia and allies such as Koalisi Perempuan Indonesia (Indonesian Women Coalition), Yayasan Kesehatan Perempuan (Women Health Foundation), KAPAL Perempuan, Cahaya Guru, Koalisi 18+ and Kongres Ulama Perempuan Indonesia (Indonesian Women Ulama Congress). They expect that the Government Regulation In Lieu of Law on Prevention and Eradication of Child marriage to become an alternative or one of the solutions to suppress child marriage rate level in Indonesia. On this regard, the Ministry of Religious Affairs of the Republic

<sup>40</sup> Sonny Dewi Judiasih, et. al., Child Marriage, *Op Cit*, page 105

<sup>41</sup> *Forum Genre Indonesia* [Indonesian Gender Forum], <http://www.genreindonesia.com/duta-genre-indonesia/>, accessed on January 24<sup>th</sup>, 2019, at 21.32 GMT+7

<sup>42</sup> Sonny Dewi Judiasih, et al, Child Marriage, *Op.Cit*, page 105

<sup>43</sup> Indonesian House of Representatives. “National Legislation Program: On Draft Law”. <http://www.dpr.go.id/prolegnas/index/id/118>. (24/01/19), accessed on January 24<sup>th</sup>, 2019, at 21.32 GMT+7

of Indonesia also supports marriage to be conducted after the age of 18 for women, Indonesian President Jokowi is also helping in giving direction and chances for the creation of this Draft of the Regulation.<sup>44</sup>

Seventh, as the prevalence of child marriage practice in Indonesia raises concerns in society. There are several regions in Indonesia that have their own policies in overcoming the high rate of child marriages occurring in their respective regions, some of the efforts include those in the discussion below.

West Nusa Tenggara is the first province to regulate the Marriage Age Maturity with the issuance of Governor Circular Letter Number 150/1138/Kum of 2014. The Circular Letter recommends that the Marriage Age Maturity to consummate a marriage is at 21 years of age. The Letter encourages all units in the regional instruments, as well as Regent/Mayor in whole NTB to execute this Marriage Age Maturity program.<sup>45</sup> West Lombok Regency (a Regency under West Nusa Tenggara Province) commits to support the Anti-Child Marriage movement. The Regency endorses prevention for child marriage by a means of a “Yes I do” program. This is conducted to push the commitment from West Lombok Government to create Regional Regulation related to the prevention of child marriage in West Lombok Regency by targeting the minimum age of marriage into 21 for both for women and men.<sup>46</sup>

In addition, Loloan Village (under North Lombok Regency) creates its own regulation, i.e., the Village Regulation No. 4 of 2016 on Marriage Age. The regulation aims to provide an ideal marriage age. As regulated under Article 6 of the Village Regulation, a marriage is only allowed for women who have turned 19 and men who have turned 21 years of age. If there is any violation of the age restriction, as regulated under this Village Regulation, then the couple is arranged to be separated. Violations of the regulation shall impose the family of the couple with a social sanction, that is, no local participation during the marriage consummation.<sup>47</sup>

Besides, there is also a village regulation that enforces sanction on child marriage, namely Village Regulation Number 3 of 2016 on the Implementation of Child Protection in Sanentan Sluke Rembang that refers to the Law Number 35 of 2014 on Child Protection as the Amendment to Law Number 23 of 2002 on Child Protection. Article 41 Paragraph (1) of this Village Regulation states that “Every person is prohibited from influencing and persuading children, for the interest of a family and individual that might harm a child’s future that leads to child marriage.” According to the statement from the Head of Sanentan Village, any violation against this regulation can be sanctioned with the issuance of village relocation letter from the village’s instruments. This regulation is also fully supported by the Office of Religious Affairs of Sluke Sub-district by not accepting marriage registration from Sanentan underaged communities i.e., with the age below 18 and 20.

In a draft of Regulation of Bialo Bulukumba Village, it is regulated that marriage must be conducted after someone has reached 18 years old or above. Each parent is responsible for preventing any marriage that involves someone aged below 18. In such cases if marriage happens, then the parents or guardians of the bride or groom shall be sanctioned administratively by the village’s government in the form of fine of 1 (one) million rupiah. The fines shall be

<sup>44</sup> *Koalisi Perempuan Indonesia* [Indonesian Women Coalition]. “Draft of Government Regulation in Lieu of Law on the Prevention and Eradication of Child Marriage”. <http://www.koalisperempuan.or.id/2016/05/16/draft-perppu-pencegahan-penghapusan-perkawinan-anak/>. Accessed on January 24th, 2019, at 21.57 GMT+7

<sup>45</sup> Office of Health for West Nusa Tenggara (NTB), <https://dinkes.ntbprov.go.id/jurnal/jurnal-pendewasaan-usia-perkawinan/>, accessed on January 24th, 2019, at 15.49 GMT+7

<sup>46</sup> Ibid

<sup>47</sup> Ibid

deposited into the mosque's cashflow to be managed and used for the development of children and teenagers in the village.

In Ngadisari Village, Sukapura Sub-District, Probolinggo Regency, East Java, one of the requirements to consummate a marriage is High School Certificate. The Head of Ngadisari Village obliges all of the communities to have High School or similar education certificate as mandatory pre-requirement before marriage. This mechanism entails an obligation for people to submit High School certificate as one of the required documents for marriage administrative registration requirements that will be handed over to the Village administrators before forwarded to the Office of Civil Register.<sup>48</sup>

Several regions in Indonesia have created local regulations aiming to prevent child marriage. Most of the regulations are preventing and prohibiting the practice of child marriage. By definition, children, as referred to in the Law Number 35 of 2014 on the Amendment of Law Number 23 of 2002 on Child Protection, are under 18 years old. In line with the Law is a local regulations, one of the regulations is the Gunung Kidul Regent Regulation Number 36 of 2015 on the Prevention of Child marriage; Bantul Regent Regulation Number 4 of 2017 on the Prevention and Handling of Child Marriage; Regional Regulation in South Pesisir Regent Number 2 of 2017 on Women Empowerment and Child Protection; Regional Regulation of Bantul Number 3 of 2018 on the Implementation of Child Protection; Magelang Regional Regulation Number 13 of 2016 on Child Protection; Sukabumi Regional Regulation Number 1 of 2018 on the Implementation of Child Protection; West Banka Regional Regulation Number 10 of 2018 on Child Protection; Semarang Regional Regulation Number 6 of 2014 on Children Protection; and Serang Regional Regulation Number 13 of 2017 on the Implementation of Child Protection.

Furthermore, numerous higher education institutions have made efforts in developing and socializing of child marriage issues as well as the Sustainable Development Goals. Besides taking an active role in the 'Stop Child marriage' movement, society is also one of the parties that submit judicial review against the Law Number 1 of 1974 on Marriage with regards to revision of the minimum age requirement to conduct a marriage, especially for women. Further, society expects that the authorized institution issues a haram fatwa to prohibit the practices of child marriage in Indonesia.<sup>49</sup>

In this regard, the Indonesian government has made various efforts either in the form of legal approaches or socialization interventions, both directly and indirectly to transform society. Several regulations that have been issued, either by the central or regional government, are all attempts to prevent the practice of underage marriage or marriage in childhood in general. Efforts to define the age of the child should refer to the Law Number 35 of 2014 on the Amendment of Law Number 23 of 2002 on Child Protection. In addition to the government, activists who care for women and children, as well as society, have been participating in efforts to prevent and eradicate the practice of child marriage in Indonesia. An active role of society is critical. Besides the efforts made in the form of socialization or movement from certain local communities rejecting this practice, the understanding and concrete roles from the society will also provide a huge impact in achieving the goal of eradicating child marriage in Indonesia.

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<sup>48</sup> M. Ilham Riza Pahlefi, "A Descriptive Study on the Effectiveness of High School Diploma as A Prerequisite of Marriage and the Role of Social Capital in Building the Education in Ngadisari Village, Sukapura District, Probolinggo Regency". *Journal on Public Policy and Management Universitas Airlangga*, Vol 2, No 1, ISSN 2303-341X, 2014, page. 5

<sup>49</sup> Sonny Dewi Judiasih, *et al*, *Child Marriage in Indonesia: Op. Cit*, 2018, page 105

## **Conclusion**

The percentage of child marriage practices in Indonesia is still very high. The vast region along with different socio-economic conditions and diverse backgrounds of the Indonesian society that consists of various cultures and religions are also the main factors that cause a high rate of child marriage practice in Indonesia. Despite these facts, the Indonesian Government is still trying to conduct various efforts in preventing, particularly eradicating the practice of child marriage. These efforts are not only coming from the government but also the society. Even though there is a high rate of child marriage in Indonesia, it is expected that Indonesia can still fulfil its purpose and achieve the target in the Sustainable Development Goals (SDGs) Program formulated by the United Nations, namely that all practice of child marriage around the world shall be fully eradicated by 2030.

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