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Implications Law Islam on Child Marriage in Minors Due To in *Doti* for the Society Tanah Towa Village, Kajang District Bulukumba District

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Abstract

This thesis examines the implications of Islamic law on underage marriage caused by doti among the people of Tanah Towa Village, Kajang District, Bulukumba Regency. It addresses three main questions: (1) the consequences of child marriage due to doti, (2) community perceptions of such practices, and (3) the implications of Islamic law on underage marriage resulting from doti. This study employs field research with theological-normative and juridical approaches. Data sources include primary, secondary, and tertiary data, collected through observation, interviews, documentation, and literature review. Data analysis is conducted through data reduction, presentation, and conclusion drawing. The findings show that, first, the practice of underage marriage due to doti is generally similar to marriage practices in the Kajang community. Second, community perceptions vary: while many consider it a common cultural practice, others view it as inappropriate because it violates human rights, particularly children's right to education. Third, from the perspective of Islamic law, although such marriages may be considered legally valid, they violate regulations on minimum marriage age and contradict fundamental principles of marriage in Islam, especially those related to consent, welfare, and protection. This study implies that underage marriage driven by doti limits children's opportunities and personal development. Therefore, parents and society should allow children greater autonomy in determining their future and be more aware of the negative consequences of forced or premature marriage.

Keywords: *Child Marriage, Islamic Law, Minors due to doti, Tanah Towa Village.*

INTRODUCTION

Islam encourages to enter into marriage and form a family. Therefore, marriage functions as a path, and the family functions as a clean, eternal, and permanent sharia container for receiving and applying these abilities in the correct place and path. [1]Marriage is one of the Laws of Islam. Marriage maintains relationships from generation to generation the next. Marriage is not only a means of releasing one's sexual desires; it is aimed more at creating affection and peace for those who marry. Peaceful family life

[1]Ali Yusuf As-Subki, *Fiqih Keluarga (Pedoman Berkeluarga dalam Islam*), h.25.

produces a safe and peaceful society. Islam sets conditions known as "terms and pillars of marriage" to make marriage possible.[2]

The Big Indonesian Dictionary (KBBI) [3] defines the word marriage as the following 1. an agreement between a man and a woman to legally marry a wife; 2. Wedding. The words *al-nikahu* mean *al aqd* bond/agreement and *al-wath;* having intimate relations. According to the term nikah, it is a marriage contract which is carried out based on certain conditions and pillars according to Islamic Law. Marriage is the basis for forming a family in Islam.[4]

Marriage is known as *al-jam'u* and *al-dhamu* which means gathering. *Aqdu al-tazwij* which means marriage contract is another word for the meaning *zawaj*. Apart from that, the words "*wath'u al-zaujah"* can mean having intercourse with one's wife. All His creatures m humans, animals, and plants can marry, which is a general sunnatullah. It is the way chosen by Allah swt to make His creatures grow and survive.

In regulating matters relating to Muslim marriages, Undang-Undang Marriage recognizes Law Islamic marriage (*fiqh munakahat*) as Law religion. [5] According to the formulation of article 2 paragraph (1) Undang- Undang Marriage, the basic Law is as follows:

"Marriage is valid if it is carried out according to Laws each person's religion and beliefs." According to Islamic Law, lineage is the main component in the family, and children are the most important component in family ties.

However, in the Big Indonesian Dictionary (KBBI), [6] "child" is defined as the second descendant, or the level below parents. Children are also defined as small humans.[7] Children are a gift and trust from Almighty God who must always be looked after and protected because they have dignity and human rights that must be respected. Children are the sons of life, the future of the country and nation.[8]

Child Marriage is one of the most frequently encountered problems related to child protection. This is because child marriage usually carries danger and often ends in divorce in society. The minimum age for marriage is regulated by the Indonesian Marriage Law. In the first paragraph of article 7 paragraph (1) Law Number 16 of 2019 it is stated that "The minimum age for marriage for women is the same as the minimum

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[2]La Ode Ismail Ahmad, "Wali Nikah dalam Pemikiran Fuqaha dan Muhadditsin Kontemporer", *Jurnal Al-Ma'Iyyah* 8, No.1 (2015), h.42.

[3]Desy Anwar, *Kamus Lengkap Bahasa Indonesia terbaru dilengkapi Pedoman Umum Ejaan Bahasa Indonesia yang disempurnakan,* (Surabaya: Amelia Surabaya, 2002), h.290.

[4]Andi Syahraeni, *Bimbingan Keluarga Sakinah* (Makassar: Alauddin University Press; 2013), h. 41.

[5]Mardi Candra, *Aspek Perlindungan Anak Indonesia (Analisis tentang Perkawinan di Bawah Umur),* (Jakarta: Prenadamedia, 2018), h.20.

[6]Desy Anwar, *Kamus Lengkap Bahasa Indonesia terbaru dilengkapi Pedoman Umum Ejaan Bahasa Indonesia yang disempurnakan,* (Surabaya: Amelia Surabaya, 2002), h.39-40.

[7]Erwin Hafid dan Muchlisah, *Pengasuhan Anak Usia Dini Dalam Hadis Nabi* (Gowa: Alauddin University Press, 2020), h. 13-14.

[8]Mardi Candra, *Aspek Perlindungan Anak Indonesia (Analisis tentang Perkawinan di Bawah Umur),* h.1.

age for marriage for men, namely 19 (nineteen) years". Basically, there is no dispute between religion and the state regarding Child Marriage.

The term early marriage is a contemporary term , the term "early marriage" is associated with time means i early a certain time. Expired marriage is the opposite. Marriage of women at the age of 13-24 years or men at the age of 17-18 years was commonplace for people living at the beginning of the 20th century or before. However, for modern society, this is an oddity. In addition, women who marry before the age of 20 or men before the age of 25 are considered "too early".[9]

According to the country, the term "early marriage" refers to age. However, from a religious perspective, early marriage is defined as a marriage entered into by someone who has not yet reached puberty. However, early marriage is an old problem that has been forgotten by the pages of history Now the problem has emerged again.

Child marriage, or marriage at an early age, is still debated today. especially in communities that care about child protection. Apart from that, it shows that child marriages are carried out because of the prohibited elements of coercion and unintentional marriages. Illegal coercion is usually motivated by the desire to gain social status or social percentage, and sometimes even material goals, such as marrying a minor to a man from a family or society with a higher social status. Like marrying off children at an early age for the reason of MBA (Married By Accident). This marriage was carried out because the pregnancy occurred outside a valid marriage according to Islamic law or state law. Because romantic ties and social interactions are very free among teenagers, this often happens.

On the other hand, Kajang Customary Law for example, does not stipulate a certain age for marriage. However, a child is usually married off after experiencing certain events or phases in his life. Often, they don't even pay attention to the child's age. This can be achieved by looking at the phenomena that exist in the Kajang Traditional Area, one of which is the occurrence of Child Marriage due to *Doti*.

Child marriage minors in the Kajang Traditional Area occurs because *doti.* Child marriage minors occur due to unintentional coercion in this case at *doti*. *Doti* itself is a science that resembles black magic which is used to destroy or eliminate someone's life. This ritual itself is carried out using certain media and objects and is carried out with a special procession. Apart from that, practice *doti* can also be done simply by reciting certain mantras. However, in this case *doti* is used to make someone attracted to the opposite sex because other people want to enjoy ah with that person. Not infrequently victims *doti* are adults but children who still need parental supervision and guidance. This then causes Child Marriage as a result *d oti* to occur. Child Marriage is Marriage which is carried out formally or informally where one or both parties are under 18 years of age.

Marriage of minors in *doti* is interesting to study, especially in the Kajang area in Bulukumba Regency. This phenomenon shows the large number of cases of Child Marriage among children caused by *doti* without considering the consequences. Therefore, the author tries to raise problems that occur in society with the title Tesis

[9]Muhammad Saleh Ridwan, *Perkawinan dalam Perspektif Hukum Islam dan Hukum Nasional* (Makassar: Alauddin University Press, 2014), h. 160-161.

"Implications of Islamic Law on Marriage and Children Under Age due to doti Village Community Tanah Towa Kecama tan Kajang Bulukumba Regency".

METHOD

Researchers conduct field research (*Field Research*) which is a data collection method in qualitative research that does not require in-depth knowledge of the literature used and certain abilities on the part of the researcher. Field research was carried out by means of interviews. Researchers also explain the relationship between the data they collect and events that occur in the field. This is done to find out the truth of something by understanding the phenomena or symptoms that are emanating from the object being studied. This research was conducted in Tanah Towa Village, Kajang District, Bulukumba Regency. This research starts from the case of Marriage Children Under Age in Kajang Regency. This location was chosen because the researchers' initial analysis showed that early child marriage is very common and has become a culture in Kajang Regency.

This field research allows direct observation of the Marriage Children Under Age in Kajang Regency. The location was chosen based on the availability of data and diverse perspectives that form the basis for analyzing the legal aspects under study.

The primary aim of selecting this location is to directly observe the Implications Law Islam on Child Marriage in Minors Due To in *Doti* for The Society Tanah Towa Village and analyze the Islamic legal perspective on this practice. Through the field research approach, the researcher aims to gain a deeper and more relevant understanding of how the Implications Law Islam on Child Marriage in Minors Due To in *Doti* for the Society Tanah Towa Village, Kajang District Bulukumba District.

RESULTS AND DISCUSSION

The laws that exist in society are based on the social reality of society having a diversity of legal systems as a form of socio-cultural identity.[10]

The implementation of underage marriages for the people of Tanah Towa Village, Kajang District, Bulukumba Regency is a big problem in society because if a child does not continue his education, a habit that has taken root in the community will occur, namely the occurrence of underage marriages. Apart from that, parents are afraid and worried about their children, namely that they will fall into the abyss of immorality or carry out actions that violate customs, such as, for example, *silariang marriage* (a man and a woman agree to run away or leave the house to another area to marry), *nilariang marriage* (marriage that occurs when a man runs away with a woman), *erangkale marriage* (marriage that occurs after a woman brings herself to a man), *ridoti* (a marriage that occurs due to *doti* or witchcraft) and *nipakatianang* (a woman who has been impregnated but has not yet entered into a legal marriage bond).

The Practice of Marriage and Minors as a result of being doti

Based on the researcher's interview with the people of Tanah Towa Village, Mr. Kahar Muslim as a community figure, said that:

[10]Dedy Sumardi, " Islam, Pluralisme Hukum dan Refleksi Masyarakat Homogen", *Junal Asy-Syir'ah* 50, no.2 (2016): h.16.

"Marriage of minors happens a lot and should not actually be done, but in reality, there are cases like that. "An action that is considered to be a violation of customs that seriously disturbs the balance of society so that the marriage of minors is considered to be a habit and is the best or middle way to take, namely to get married, but not to issue a marriage certificate first."[11]

The same thing was also said by Mrs. Juharniati, S.Pd. As an Educator at UPT SPF SMPN 21 bulukumba, That:

"This marriage of underage children or the case that was raised did occur among students in the school environment and in the surrounding environment and it is clear that marriage of underage children is a big problem facing us teachers because our students are married off by both parents. some of them are even forced by their parents or family to get married."[12]

According to the author, the reality of underage marriage is not just an old story that occurs, although in a different way or form, as is the case in Tanah Towa Village. The low age of marriage in this village is an old tradition that has developed so that it is difficult to eradicate, especially marriage. minors which occurred as a result of *Doti, Doti* who could not escape from the Kajang tribe community and even used mystical methods to get someone they liked.

From a structural sociological perspective, the village community is an extended family, which then greatly influences the patterns of community life in forming a family which is the beginning of the formation of society.

The kinship system in the Kajang/Konjo tribal community generally develops from a nuclear family. Likewise with the people of Tanah Towa Village whose family members consist of father, mother and children. Meanwhile, the extended family is relatives who are related to both the father's and mother's sides. The people of Tanah Towa Village calculate their lineage based on parental (bilateral) principles, namely taking into account both the father's and mother's lineages.

Based on the researcher's interview with Mr. Imam Hatong as the Village Imam in Tanah Towa Village, he said that:

> *"For the method of marriage and the process of carrying out the marriage, if what happens is the marriage of a minor, it is the same as the marriage process in general, whether the marriage of a minor or a marriage that is old enough (adult), or even as in the case discussed, marriage because there are elements witchcraft."*[13]

The Kajang traditional wedding ceremony, especially in Tanah Towa Village, consists of several stages, namely:

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[11]Kahar Muslim (65 Tahun), Tokoh Masyarakat Desa Tanah, *Wawancara,* Bulukumba, 07 Desember 2023.

[12]Juharniati, S.Pd (40 Tahun), Wakil Kepala Sekolah UPT SPF SMPN 21 BULUKUMBA, *Wawancara,* Kajang, 07 Desember 2023.

[13]Imam Hatong (60 Tahun), Imam Desa Tanah Towa, *Wawancara,* Kajang, 07 Desember 2023.

1. *Abboja (*Search*)*

If a family plans to find a partner for their child, there are two ways to go, namely searching for a candidate through their own family or searching for a candidate outside the family**.** *Abboja* (Search) from the male side for female candidates still prioritizes local religious and cultural values. Likewise, a woman still pays attention and examines the man who is going to propose to her.

In determining which girl to propose to, the man's family consults with his family, and in these deliberations the man's family usually uses several alternatives. If the first woman rejects the man's proposal, then he will propose to the other woman. other.

However, in this study, marriages that occur as a result of *doti* the man certainly already have a woman who wants to be his partner, even though in an unnatural way, because it influences a woman's subconscious mind so that the woman is willing and does not refuse. the man. Because of *doti* or spells used by men to attract or attract the attention of women, indirectly women who initially refused to accept the man accepted him.

2. *A'jangang-jangang*

After agreeing on the woman who will be proposed to, then the man's family carries out *A'jangang-jangang* activities by sending a delegation to the woman's family. This messenger can be a man or woman who is considered to be related by blood to the father or mother of the prospective groom. Where the messenger acts as a liaison between whether or not he can come to propose to the woman.

The sending of this delegation was carried out secretly, meaning that only the nuclear family who knew other people could not yet know about this because the application process was not final, but was still at the discussion stage between the two nuclear families of the male and female parties.

3. *Lampa Duta* (Approve/Propose)

After the friendship process has been completed and an agreement has been made, the next stage is *Lampa Duta* (Proposing/proposing). Where the man's extended family along with their entourage and elders come to the woman's house with the intention of proposing or proposing. This process is very important because in this event all the needs and traditional wedding equipment will be discussed including *Doi panaik* (spending money), *sunrang* (Dowry), *erang- erang* (offering), and *allo anjarina pa'buntingan* (date of marriage). And so on until the application agreement is accepted.

Once the proposal has been finalized, it means the woman has officially been proposed to. According to the customs of the Kajang tribe, a woman who has officially proposed to a woman must be kept in seclusion at home. This is done to avoid negative things or bad things happening.

4. *A'jaga leko'*

Literally "*a'jaga"* means feasting, while "*leko"* means betel leaf. According to the term, it is a henna night, which in the Makassar area is known as "*rontingi"* (Bugis: Mappaccing) which is a series of customs carried out the day before the contract. *A'jaga leko'* consists of several stages, namely:

a. *Abba'ra'* means powder, at this event the close family and friends gather to give blessings to the prospective bride and groom by presenting betel leaves that have been shaped in such a way accompanied by a bunch of red betel leaves and three pieces. a small plate containing slave flour (lime) which is white, yellow and one rice and two plates. For each family whose turn it is, the abba'ra' sprinkles the water in the bowl with a bunch of red betel leaves and is called andingngi (giving coolness).

b. *Kelongjaga*, which means traditional party singing, this party singing is accompanied by the beating of two drums. This singing begins when the village toa or elders in the village face the traditional leaders in front of them, that the party singing will soon begin. The singing is also carried out in front of traditional leaders and is followed by people who understand the song.

c. *Ang'ngada'* comes from the word '*ada'* which is added with the prefix, '*ang'* as a complement or amplifier, meaning *amang'ada'.* This means spreading food and drinks in front of the traditional leaders on *jali* and *tappere lonjo* (two-layered mats made from lontara leaves). Then the conversation turned to men and visiting each other with gentle and serious talk about dowries.

5. *Angganta' Sungrang*

Angngatta means to determine or calculate and *sunrang* means dowry. So, *angngatta sunrang* is determining or calculating the dowry that will be brought to the bride's place at the wedding ceremony. Calculating the dowry is carried out by the ambassador or person entrusted as a messenger to bring the dowry to the bride's place.

To calculate the dowry, the envoy faces the *galla' puto* which is witnessed by other traditional leaders. Then "*Suro"* said: "Excuse me, Puang Galla, we are holding a party like this not because we are capable or because we are arrogant, just because of love and affection, so there was an engagement which was initially preceded by mutual visits between men and women with gentle and serious conversations. Then determine the wedding day with the dowry that we rely on *galla puto* 'to *Ammatoa*. After the "*angngatta sunrang"* was finished, it was followed by a meal together, which ended the "*a'jaga leko'*"party.

6. *Ajjaga roa'*

Ajjaga roa', consists of two words, *ajjaga* means party, while '*roa'* means crowded. What this means is that of the many stages in the rapid implementation of a wedding, this event is the core of the wedding ceremony. Because that night the wedding took place. *Ajjaga roa'* is held by both parties, but in this case the groom's event is held first and then held at the bride's residence until the ceremony is declared complete. After the groom and his entourage have entered the house, he is immediately taken to '*abbua'* to '*androng bunting'* the bride, then married by the priest or as the headman during the deadline which has been specified. A marriage or marriage contract occurs if the woman has experienced menstruation or menstruation (pupil puberty) by the Imam or headman and the man has experienced a wet dream. The next man is '*assaling* 'then *'nideppo* 'and finally *'abbua* 'then gets to know the wife's family. Apart from that, he also asked for prayers.

7. *Mange Basa*

When the '*ajjaga roa* 'event has finished at the bride's house, then the groom's family comes to convey a summons to the bride to be invited to the groom's house. This is called '*mange basa* ', which is known in the Makassar area as '*alleka' bunting* 'while in Bugis land it is called '*marola* ', namely the bride women come to be taken to their husband's house or to their in-laws' house after an important wedding event is over. When the bride has entered the house, it continues with the event "*feed pregnant* 'or giving food to the bride and then to the family who are still there. When the above event is over, the bride returns to her house accompanied by gifts from the groom's parents in the form of rice, corn and other things as well as family gifts at the '*assolo* 'event above. The entire series of traditional wedding events above ends in the early hours of the morning.

Researcher's interview with Mr. Zulkarnain, S.Pd as Head of Tanah Towa Village, Kajang District, Bulukumba Regency, said that:

> "*Kajang traditional law, knowing Pasang (message) means oral and unwritten which is also the teaching of their ancestors*.[14]

Mr. Ismail continued as Chairman of Bumdes Galla' Lombo' Tanah Towa Village, Kajang District, Bulukumba Regency, Saying That:

Contents *pairsa ri Kajang* (Kajang traditional message), namely:

a. *Tangurangi mange ri turiea arana* , which means always remembering God's Will.
b. *Alemo sibatang, abulo sipappa, tallang sipahua, manyu siparampe, sipakatau tang sipakasiri* , which means fostering unity and oneness with full kinship and mutual respect an.
c. *Alambusu kigattang sabara ki charm*, which means acting firmly but also being patient and trusting.
d. *Sallu riajoka*, ammulu riadahang ammaca ere anreppe batu, alla buirurung, allabatu cideng, which means you have to obey the rules that have been made together even though you have to withstand waves and break mountain rocks.
e. *Nan digaukang sikontu passuroangto mabuttayya*, which means implementing all the rules purely and consistently.[15]

These five teachings guide society and leaders in everyday life. From these five messages, the principle of simple living and loving each other was born. According to Kajang customary marriage law, every marriage must be approved by the traditional authority/village officials. The way to obtain blessing from traditional authorities/village officials, namely one of the family members of the prospective bride and groom conveys the meaning that their parents have given permission for the bride and groom to carry out the marriage.

According to the researcher, in terms of marriage, the researcher can conclude that the people of Tanah Towa Village, as previously stated, are that the Kajang tribe has regulated procedures for carrying out marriages, including in this case the marriage of

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[14]Zulkarnain, S.pd (40 Tahun) Kepala Desa Tanah Towa, *Wawancara,* Kajang, 07 Desember 2023.

[15]Ismail (29 Tahun), Ketua Bumdes Galla' Lombo' Desa Tanah Towa, *Wawancara,* Kajang, 07 Desember 2023.

underage children or what is usually called child marriage and with the research that the researcher conducted, namely marriage of minors due to *doti* is the same as the practice or implementation of marriages in general which occur in the Kajang region or tribe.

Implications of Islamic Law on the Marriage of Underage Children Due to Doti for the Community of Tanah Towa Village, Kajang District, Bulukumba Regency

1. Marriage of Minors according to Law

Marriage of underage children has basically been a frequently discussed topic from the past until now, but this problem does not provide an intelligent solution at all. Although for various reasons this is done.

In Islamic law and in law there are differences in assessing whether a person is married. Each has limits and benchmarks in providing an assessment of whether someone is categorized as underage or not.

The revision of Law Number 1 of 1974 to Law Number 16 of 2019 which changed the minimum age for marriage to 19 years for both men and women does not seem to have an impact on efforts to prevent child marriage. This is due to several factors including social, legal, family, economics, information technology, culture, education, community environment and religion.

The Marriage Law adheres to the principle that in order to realize the goal of marriage, prospective husband and wife must mature physically and mentally without ending in divorce so that they can have good and healthy offspring, which is why the marriage of underage children must be prevented. Thus, the physical and psychological maturity of the prospective husband and wife is a principle contained in the Marriage Law.[16]

Basically, marriage according to the law tends to be based on the age limit. As in article 7 paragraph 1, in this case the minimum age limit for marriage for women is the same as the minimum age limit for marriage for men, namely 19 years. So, to assess a person's suitability for marriage for both men and women if they have reached 19 years. So, it can be concluded that the marriage of a minor is a marriage carried out by someone who has not yet reached the age limit set by law.

The existence of this marriage age limitation can be an explanation that a man and a woman who want to get married must be mature in body and soul to be able to realize the goal of marriage well, without divorce and to produce good and healthy offspring.

Not a few are marrying minors as a result of promiscuity, both men and women. So that getting married while pregnant is no longer a problem, especially since you don't feel embarrassed in your environment. That is why the requirements in the law are very strict, the consideration is for the benefit of all parties who will enter into a marriage. Because marriage is not just to fulfill sexual needs, but marriage is worth worship because it is a command of Allah and His Messenger.

Based on the description above, the author can analyze that the age factor depends on the situation and environmental conditions in which a person socializes and

[16]Titing Sugiarti dan Kunthi Tridewiyanti, "Implikasi dan Implementasi Pencegahan Perkawinan Anak", *Jurnal Legal Reasoning* 4, No.1 (2021), h. 84-85.

has activities. Of course, educational factors also play a very big role in determining a person's maturity and maturity. For this reason, child marriage should be understood because it should not be that they are still young but their thoughts are already mature and mature, and vice versa, it could be that they are old but their thoughts are still childish or immature.

The law also adheres to several principles which are principally related to marriage. These principles include:

a. The purpose of marriage is to form a happy and eternal family, for this reason husband and wife need to help and complement each other so that each can develop their personality, shape and achieve spiritual and material prosperity.
b. In this Law it is emphasized that a marriage is valid if it is carried out according to their respective religion and beliefs and in addition the marriage must be registered in accordance with the applicable laws and regulations.
c. This law adheres to monogamy, only if the person concerned allows it, a husband can have more than one wife.
d. Marriage law adheres to the principle that the prospective husband and wife are mature in spirit and body to enter into a marriage, so that they can realize the goals of marriage well without thinking about divorce.
e. Because the purpose of marriage is to form a happy and eternal family, the law adheres to the principle of making divorce difficult.
f. The rights and position of the wife are balanced with the rights and position of the husband both in domestic life and in the community environment so that everything that happens in the family can be negotiated and decided together with the husband and wife.[17]

2. Marriage of Minors according to Islamic Law

The five principles in Islamic law are protection of religion, soul, lineage, property and reason. Of these five universal values, one of them is protecting the line of descent. So, Islam provides a legal and legal way to maintain offspring through marriage. Because the existence of a marriage bond will protect the clarity of descent or generations.

The law regarding the marriage of minors is valid if they have fulfilled the predetermined conditions and pillars of marriage, namely *sighat* (ijab-qabul), the prospective bride and groom (husband and wife), the guardian for the woman and two witnesses. [18] If viewed from an Islamic perspective, the age limit for carrying out a marriage is not strictly defined and does not provide definite clarity regarding the age limit for someone to carry out u a marriage. In Islam, freedom is given to anyone who has the ability to get married immediately. However, in Islamic jurisprudence, one of the most important factors in preparing for marriage is age. A person's age can determine

[17]Ahmad Rofiq, Hukum Islam di Indonesia (Jakarta: RajaGrafindo Persada, 1998), hlm 46-47.

[18]Muhammad Ali, *Fiqih Munakahat Edisi Revisi* (Lampung: Laduny Alifatama, 2020), h.97.

whether he is mature enough in his attitudes and actions or not. In marriage, a mature and mature attitude is required from each candidate[19].

In Islamic jurisprudence literature, there are no explicit provisions regarding the age limit for marriage, but according to adulthood *(baligh)* is a provision, Ulama have different opinions regarding the age of puberty, among others, namely:

a. Imam Malik, al Laits, Ahmad, Ishaq and Abu Tsaur are of the opinion that the age limit *puberty* is the growth of hair around the genitals, while most Maliki Madzhab scholars are of the opinion that the age limit *menstruation* for women and men is 17 or 18 years.
b. Imam Abu Hanifah believes that the age of puberty is 19 years or 18 years for men and 17 years for women. This opinion tends towards the regulations currently used by the government in the 2019 Marriage Law.
c. Imam Syafi'i, Ahmad, Ibnu Wahab and the majority of scholars are of the opinion that this is the perfect age of 15 years. Even Imam Syafi'i once met a woman who had menopause at the age of 21 years and she menstruated at exactly 9 years old and gave birth to a baby girl at exactly 10 years old. And something like this happened again to his daughter. [20]

The fatwa commission of the Indonesian Ulema Council stipulates several provisions of Islamic law relating to marriage, namely:[21]

1) Underage marriage (early marriage) is legal as long as the marriage requirements and pillars are met, but it is haram if it results in harm.
2) Islam basically does not provide a definitive age limit for marriage, the age of eligibility for marriage is the age of ability to act and receive rights (*Ahliyatul ada' wa al wujub)* as a rule.
3) In order to realize the benefits of age as stipulated in Law Number 16 of 2019 as a guideline.

Marriage in Islamic law according to fiqh scholars is the attainment of an age that makes a person biologically ready to get married, for men who have had wet dreams and women who have menstruated. However, biological ability is not enough to enter into a marriage without economic and psychological ability. Economically, it means being able to provide a living and paying the dowry, while psychologically, they are mature in body and soul. A valid marriage is if you are able to carry out transactions, that is, you are mature, sensible and intelligent. [22] So, it can be concluded that the marriage of a minor in Islam is a marriage carried out by someone who has not yet *reached puberty.*

Religious shops' efforts to prevent child marriage include:

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[19]Armia, *Fikih Munakahat* (Medan: Manhaji, 2018), h. 233.

[20]Ibn Hajar al-Asqalani, *Fathul-Bari Sharah Sahih Al-Bukhari, jus v,* (Riyadh, Maktabah Darussalam,tt), h.310.

[21]Usman, M.Hisyam, Widjajanti Santoso, Endang Tumurdi, Dwi Purwako, *Dinamika Pelaksanaan Syariah "Perkawinan dalam Kontestasi Agama dan Negara",* (Jakarta: LIPI Press,2020), h.94.

[22]Wahbah Zuhaili, *Fiqih Imam Syafi'i 2* (Cet.2; Jakarta: Almahira, 2012), h. 457.

a) Ensure that the fatwa does not lead the community astray. Many religious fatwas are used as references for their followers. This is why the role of religious shops is very important, because religious shops should be able to find solutions to the problems of their people in order to achieve goodness and benefit in a comprehensive manner.

b) Formulating child protection fiqh through progressive understanding.

c) Campaigning to prevent child marriage.

d) In principle, religion can be avoided from bad consequences, and it is clear that the marriage of minors has clear bad consequences.

Marriage of minors violates the principles of marriage in Islam, namely as follows:

a) Marriage is a sacred agreement not only for sexual release.

b) Marriage in Islam is to improve the quality of a husband and wife to become a family that is *sakinah mawaddah* and *warahmah.*

c) Child marriage is vulnerable to psychological maturity, social, economic and spiritual stability.

d) Child marriage has an impact on family unhappiness.

3. Marriage of Minors due to *doti* according to Islamic Law

The law of marriage resulting from grace pellets, pellet magic is also called magic *Al-Athf* (grace), in other terms it is called *At-Tiwalah* The Prophet once called it an act of shirk.

What is his marital status? In principle, a faithful marriage that fulfills the conditions and harmony is a valid marital status. If it happens because of the influence of magic, then is the marriage invalid? In the Syabakah Islamiyah fatwa this kind of question was once asked. The answer provided by the fatwa institution

"M regarding the law of marrying her, if it is true that because of magic the existence of this magic does not affect the law of marriage. It's just that, in marriage there are harmony and conditions. As long as the conditions are harmonious and fulfilled, the marriage is valid. (Fatwa Syabakah Islamiyah, No. 240,361)."

What to do next? You must repent, and keep this a secret from anyone until death, including your wife, because it could trigger problems in the household.[23]

In Indonesian society today, especially in the Tanah Towa Village area, Kajang District, Bulukumba Regency, based on the results of research by researchers, it is true that there are many cases of marriage of underage children, whether it is pure marriage of minors or marriage of minors because there is an element of *Doti* with the aim of fulfilling both physical and spiritual needs and with the aim of establishing closer family relationships. Without them realizing that they had violated the rules, namely Law Number 16 of 2019, so that child marriage occurred and was experienced by the people of Tanah Towa Village.

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[23] https://konsultasisyariah.com/30070-pernikahan-hasil-pelet-pengasihan-wajib-cerai.html (Dikutip tanggal 28 Januari 2024).

The marriage of children minors because *d oti* is actually not a new thing for the people of Tanah Towa Village because they remember the many dispensations from the courts that give permission to minors to consummate marriages. In the Indonesian constitution, the conditions that can be fulfilled to carry out a marriage are regulated, but for certain reasons the court granted the applicant's request for a marriage dispensation [24] .

Marriage of underage children is no longer a taboo thing because the reality is that not only in remote areas is the benchmark for the number of cases of child marriage, but in big cities there are also cases of marriage of underage children. According to some people who marry underage children, this is done for several reasons, such as economic problems, lack of education, the influence of religion and the values of certain religions and also because they are pregnant before marriage. So marriage should not be considered a trivial matter, because actually marriage requires mental, physical and psychological, economic, social, cultural, intellectual and spiritual needs.[25]

Marriage of minors, if linked to the principle of child protection, can be called an act that violates this principle, namely the principle of living and developing. Child protection is all aspects of providing guarantees and protection for children of their rights to be able to live, grow, develop and participate optimally in accordance with human dignity, as well as receive protection from violence and discrimination. because children who have not yet reached the age of 19 years are not psychologically ready to run a household. In this case, children who are still under the age of 19 years do not mean they do not have thoughts, but the thought of building a household is a thought that is not appropriate to their age. If a child has entered into a child marriage, the child is actually not yet mentally prepared and his or her mind is still unstable, because it is not yet the time to have a household. [26]

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[24]Agnes Noviany simarmata dan Nicka Tri Mulyasari, "Peningkatan Kesadaran Masyarakat tentang Akibat dan Implikasi Hukum dari Perkawinan Anak", *Jurnal Dedikasi Hukum* 2, No.1 (2022), h. 100.

[25]Agnes Noviany simarmata dan Nicka Tri Mulyasari, "Peningkatan Kesadaran Masyarakat tentang Akibat dan Implikasi Hukum dari Perkawinan Anak", *Jurnal Dedikasi Hukum* 2, No.1 (2022), h. 102.

[26]Fadli Andi Natsif, "Problematika Perkawinan Anak (Perspektif Hukum Islam dan Hukum Positif), *Jurnal Al-Qadau Peradilan dan Hukum Keluarga Islam* (2018), h.9.

constitution, the conditions that can be fulfilled to carry out a marriage are regulated, but for certain reasons the court granted the applicant's request for a marriage dispensation [27] .

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Interview with Mr. Imam Hatong as Imam of Tanah Towa Village, Kajang District, said that:

> *"In my opinion, it is still good because it is also discussed with the family, if in Kajang the marriage of children who are not old enough are united by their parents with the symbol " Ajjara Roa' " (crowded party), in other words the life of the bride and groom is suspended until they reach a predetermined age/it is called a hanging marriage in the sense that the two partners cannot mix together like husband and wife. [30]*

This means that even though a marriage has taken place, the two of them do not mix immediately like husband and wife but rather postpone it until they are old enough.

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[27]Agnes Noviany simarmata dan Nicka Tri Mulyasari, "Peningkatan Kesadaran Masyarakat tentang Akibat dan Implikasi Hukum dari Perkawinan Anak", *Jurnal Dedikasi Hukum* 2, No.1 (2022), h. 100.

[28]Agnes Noviany simarmata dan Nicka Tri Mulyasari, "Peningkatan Kesadaran Masyarakat tentang Akibat dan Implikasi Hukum dari Perkawinan Anak", *Jurnal Dedikasi Hukum* 2, No.1 (2022), h. 102.

[29]Fadli Andi Natsif, "Problematika Perkawinan Anak (Perspektif Hukum Islam dan Hukum Positif), *Jurnal Al-Qadau Peradilan dan Hukum Keluarga Islam* (2018), h.9.

[30]Imam Hatong (60 Tahun) Imam Desa Tanah Towa, *Wawancara,* Kajang, 07 Desember 2023.

"Marriage is a result of *doti* if it is generally carried out in accordance with Islamic law, and also does not violate applicable customary law, but if there are violations committed it is clear that it destroys culture and violates the law."

Thus, the legal implications of marrying underage children as a result of this *doti* violate the rules regarding marriage age limits and also indirectly force children to marry men they do not like. Because the rules clearly regulate the conditions - conditions for marriage and consensual marriage so that they can have offspring to develop. Even though underage marriages as a result of *doti* carried out by the people of Tanah Towa Village are permitted and considered valid both according to Customary Law and Islamic Law, they consider this to be normal. And although the legal implications arising from the marriage of underage children due to *doti* are the range of divorces with very minimal numbers occurring in Tanah Towa Village. However, the marriage of minors still violates the principles of marriage in Islamic law, especially if the marriage is carried out because of the *Doti element.* However, in general, the law of marriage of minors due to *doti* is valid if the marriage principles and conditions are fulfilled.

Apart from that, it is permissible to carry out child marriages for urgent reasons by applying for a dispensation at the local court. Thus, how important it is for parental supervision of children's interactions today. Because close education is education from the family. So that human thinking today must be oriented towards the future and not get involved in the existing habits in society of carrying out marriages of minors.

The purpose of giving the Marriage Dispensation is basically given to the prospective bride and groom who want to get married who do not yet meet the requirements for getting married. However, because there is a goal of benefiting human life, dispensation can be given to the prospective bride and groom. It is hoped that granting dispensation to the children of underage marriage perpetrators can reduce the negative consequences in the lives of prospective brides and grooms if they are not given marriage dispensation. To provide standards for granting dispensations, Perma No. 5 of 2019 was then issued. The aim of issuing this perma is to guarantee standards for judges to be truly serious and careful in examining dispensation cases in accordance with existing guidelines [31]

CONCLUSION

The practice of child marriage under the age of *doti* for the people of Tanah Towa Village, Kajang District, Bulukumba Regency, as previously stated, is that the Kajang tribe has regulated procedures for carrying out marriages, including in this case marriage minors that the practice of marrying minors as a result of *doti* is the same as the practice or implementation of marriages in general which occur in the Kajang region or tribe.

People's opinions regarding the marriage of underage children due to *doti* especially people who think that this is a normal thing. They think that it is normal for such cases to occur, especially in traditional areas like that, especially the Kajang Traditional Area. Because indeed *doti* or guna-guna, the wider community knows that

[31]Mughniatul Ilma, Regulasi Dispemsasi Dalam Penguatan Aturan Batas Usia Kawin Bagi Anak Pasca UU No 16 Tahun 2019, *Jurnal Hukum dan Pranata Sosial Islam*, (Volume 2(2),2020):151.

the Kajang area is known not only for its strong culture but Kajang is also synonymous with *d oti* (Guna- To use). However, for the majority of educational staff, of course, they think more about the future of children. It is clear that they do not agree with hearing that child marriage is being carried out because it takes away the future of children and violates children's rights to live freely, be educated, play and learn.

Implications of Islamic Law on Marriage of minors due to *doti* for the people of Tanah Towa Village, Kajang District, according to the Marriage Law this has violated the rules regarding the age limit for marriage. As stated in the Marriage Law, the age limit for marriage for both men and women should be 19 years old. Because the rules clearly regulate the conditions for carrying out a marriage. However, according to Islamic law there are no restrictions on carrying out a marriage, however, if both the prospective bride and groom, both male and female, have reached puberty. In this case, puberty for men is wet dreams, and puberty for women is menstruation. Although underage marriages as a result of *doti* carried out by the people of Tanah Towa Village are permitted and considered legal. And although the legal implications arising from the marriage of underage children due to *doti* are the range of divorces with very minimal numbers occurring in Tanah Towa Village. However, the marriage of minors still violates the principles of marriage in Islamic law, especially if the marriage is carried out because of the *doti element.*

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