

The Impact of Underage Marriage on Household Harmony in the Baduy Society From The Perspective of Customary Law and Marriage Law

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Abstract

Underage marriages are still common in the Baduy community. As we know, the government has made regulations on age restrictions for marriage as a response to several incidents that have occurred in several households in Indonesia. Several divorces occur because the husband or wife married at too young an age so that in their marriage there are prone to quarrels, so regulations on the age limit for marriage for men and women were made. The researcher formulated the problem of this study, namely whether underage marriages that occur in Baduy have an impact on marital harmony and household peace in Baduy and how effective is the Marriage Law regarding the minimum age limit for marriage for the Baduy community. According to the researcher, the purpose of this study is to find out the customary law regulations or considerations in Baduy regarding the age limit for Baduy men and women who will marry. The researcher believes that the long-term goal of this study is to ensure that all parties, both academics and the local government, provide direction, education, and socialization regarding the age limit for marriage in the Baduy community and its surroundings in order to create family harmony in the Baduy community. This is done as long as it does not conflict with Baduy customary law. The specific target of the study is to socialize the regulations on the age limit for marriage to the wider community so that it is hoped that a *sakinah mawadah wa rahmah* household will be realized and avoid quarrels between husband and wife in Indonesian families in general, and in particular for the Baduy community. Descriptive in the form of a description of the current condition of the average age of marriage in marriage in Baduy. Literature studies, observations, and Baduy studies were carried out to obtain the data needed by the researcher. Interviews with the local government will also be conducted to determine the divorce rate of the Baduy community and the community around Baduy, so that the best efforts can be made to socialize the regulations on the age limit for marriage.

I. Introduction

The background of this study is that marriage has been regulated in all kinds of requirements and elements in the Marriage Law. Likewise, the age limit for marriage for male and female couples who are going to get married. However, looking at the current condition of the Baduy, it seems that the Marriage Law has not been able to accommodate the legal needs of the Banten Baduy community because apart from them holding fast to ancestral customs. The age limit for marriage is explained in the Marriage Law, namely the legal age for marriage if the man and woman are at least nineteen years old. It is different in the Baduy because on average they get married at a very young age.

Marriage Law is regulated and ratified by the president, so there are several things that are standard and must be met. However, customary law still does not regulate the age limit for divorce. In Indonesia, issues related to the minimum age of marriage have been regulated in Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage, which states that the minimum age for marriage is 19 years for men and 19 years for women, but in reality there are still many cases of underage marriages that occur in Indonesia, especially in rural areas. On the other hand, underage marriages often occur for several reasons, one of which is pressing economic factors (poverty). Many parents from poor families assume that by marrying off their children, even though the age of the child is underage, it will reduce the family's economic burden without thinking long about the positive or negative impacts of their underage marriages and there are also factors of socializing among teenagers that begin to occur beyond reasonable limits.¹

There are many things that underlie the failure of a marriage relationship, one of which is underage marriage. Underage marriage is a marriage carried out by one or both partners who are still under the age determined by law. In the modern era like today, underage marriages still occur in many areas where there are still many teenagers who marry underage. Marriages that are carried out on the basis of mental, physical and spiritual readiness by the Marriage Law are used as a barometer of the perfection of an ideal between husband and wife in building a household.

A valid marriage is only a marriage that meets certain requirements by going through certain procedures that have been stipulated in Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage. Based on the provisions of Article 2 paragraph (1) of Law Number 1 of 1974, a marriage is considered valid if it is carried out according to the law of one's religion and belief, including the provisions of the laws and regulations that apply to one's religion and belief group as

¹Ita Surayya, Israfil, Haeratun & Musakir Salat, "Perkawinan Dibawah Umur Dan Dampaknya Terhadap Keluarga Di Desa Aik Dewa Lombok Timur", *Jurnal Risalah Kenotariatan*, Volume 2, No. 2, Desember 2021, pp. 2-14.

long as they do not conflict or are not otherwise determined in the Law. The requirements that must be met to carry out a marriage according to Law Number 1 of 1974 are as stated in Articles 6 to 11, namely: (a). The existence of the consent of both prospective brides and grooms. Article 6 paragraph (1) of Law Number 1 of 1974 states "Marriage is based on the consent of both prospective brides and grooms." The consent of the marriage is that the marriage must be based on the free will of both parties, both the prospective groom and the prospective bride. The consent or willingness of both parties to carry out the marriage is a very important requirement to form a happy, eternal and prosperous family in accordance with the purpose of the marriage itself. (b). The existence of permission from both parents or guardians for prospective brides and grooms who are not yet 21 years old. Regarding the need for permission, it is closely related to the responsibility of parents in the care carried out by parents with great difficulty in raising their children so that the freedom that exists for the child to determine the choice of prospective husband or wife does not eliminate the function and responsibility of parents.

Article 6 paragraph (2), (3), (4), (5) and (6) of Law Number 1 of 1974 states: 1) To carry out a marriage, a person who has not reached the age of 21 must obtain permission from both parents. 2) In the event that one or both parents have died, then the permission referred to in paragraph (2) is sufficient to be obtained from the parents who are still alive. 3) In the event that one or both parents have died, permission is obtained from the guardian or family who has blood relations and a direct line of descent. 4) In the event that there is a difference of opinion between those referred to in paragraphs (2) (3) and (4) of this article, or one or more of them does not express their opinion, then the court in the jurisdiction of the domicile that grants permission (6) The provisions of paragraphs (1) to (5) of this article apply as long as the laws of each religion and belief of the parties concerned do not determine otherwise. 5) The age of the prospective groom has reached 19 years and the prospective bride has reached 16 years. This provision is regulated in Article 7 paragraph (1) of Law Number 1 of 1974 which states "Marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years."

Determining the age limit for carrying out a marriage is very important because marriage as a binding agreement between a man and a woman as husband and wife must be carried out by those who are mature enough, both in terms of biology and psychology. This is necessary to realize the purpose of marriage itself, also to prevent marriage at a young age or child marriage because marriages carried out at a young age often result in divorce and the offspring obtained are healthy offspring. Underage marriage is a marriage carried out by one or both partners who are still under the age determined by law. Marriage must be based on the maturity of the age of both partners, so that the purpose of marriage can be realized properly. The philosophy of marriage basically includes marriage preparation (choosing the right partner), proposal, and seeing the woman who is proposed to, which is detailed as follows: 1. Preparation (Choosing the right partner) In the Islamic perspective, marriage is not

only a civil matter, nor is it just a family matter and cultural issue, but a religious issue and event. Because marriage is carried out to fulfill the Sunnah of the Prophet. Therefore, Islam provides guidelines for choosing the right partner. What is meant by choosing a woman who is strong in religion is her religious commitment or her sincerity in carrying out the teachings of her religion. This is made the main choice because that is what will strengthen a marriage. Wealth can disappear at some point and beauty can fade at some point, likewise position, will disappear at some point.²

In the modern era like today, underage marriages still occur in many areas. For example, what happened in the Lebak Banten area, especially in the Baduy Dalam and Baduy Luar indigenous communities, where there are still many teenagers who marry underage. Various factors trigger underage marriages, ranging from economic factors, low levels of education, pregnancy outside of marriage, the residential environment, and customs. The reasons above are the reasons most often put forward by couples who marry underage. The Baduy Indigenous Community is located in Leuwidamar District, Rangkasbitung Regency, Banten, consisting of Gajebo, Cikeusik, Cibeo, and Cikertawana Villages. The geographical conditions where the Baduy Tribe lives and operates are a village called Kanekes Village. Administratively, the Baduy Tribe inhabits the Kendeng Mountains, Leuwidamar District, Lebak Regency, Banten Province.³ Then seen from its geographical location, Baduy is located at coordinates 6 ° 27'27 " - 6 ° 30'0" North Latitude and 108 ° 3'9 " - 106 ° 4'55" East Longitude.⁴

Although the Baduy community is divided into three levels of citizenship, the status of kinship and family relationships with each other remains unbroken. Tangtu people still consider other members family even though they are in the Panamping or Dangka areas, and vice versa. This principle of life is what makes the integrity of the Baduy community still well maintained until now because they adhere to the principles of *pikukuh* which have been passed down from their ancestors.⁵ However, if there are differences in citizenship, it will affect certain things such as marriage, appointment to government positions, and so on.

In the past, Baduy customs prohibited their citizens from marrying non-Baduy citizens, but now some have begun to fade and change. Some Baduy people are beginning to realize that change will still occur even though customary rules clearly

²Jamaluddin dan Nanda Amalia, *Buku Ajar Hukum Perkawinan*, Cet. 1, Unimal Press, Sulawesi Utara, 2016, p. 43.

³Nazia Maulia Amini. "Interaksi Sosial Wanita Pekerja Baduy", dalam *Jurnal Pendidikan Lingkungan dan Pembangunan Berkelanjutan*, Volume XIX, Nomor 1, Maret 2018, p 45.

⁴Johan Iskandar, *Ekologi Perladangan di Indonesia: Studi Kasus dari Daerah Baduy*, Djambatan, Jakarta, 1992, p. 21. Lihat juga R. Cecep Eka Permana, *Mitra Seajar Pria dan Wanita dari Inti Jagat: Sebuah Kajian Antropologis*, Pusat Penelitian Kemasayarakatan dan Budaya Lembaga Penelitian Universitas Indonesia, Jakarta, 1998, p. 10.

⁵Hingga kini *pikukuh* Baduy tidak mengalami perubahan apa pun, sebagaimana yang termaktub dalam *buyut* titipan nenek moyang. Maskur Wahid, "Sunda Wiwitan Baduy, Agama Penjaga Alam Lindung Desa Kanekes Banten", dalam *Jurnal Wacana*, IAIN Sultan Maulana Hasanudin, Banten, p.10.

prohibit it strictly. Therefore, currently there are many Baduy Panamping people who marry outsiders or non-Baduy, indeed with the consequence that they have to leave their customs. In living their daily lives, the Baduy people are also inseparable from social interactions between the Baduy people and outsiders.⁶ But in essence, the Baduy people never care about the changes of the times and the arrival of negative influences from outside Baduy. A simple lifestyle and independent living have become a mutual agreement because their simplicity has become a shortcut in their lives in facing reality. A society that always appears without ever leaving its characteristics, wherever, whenever, and when dealing with anyone does not know fantasy and variation.⁷

According to several sources, currently there are many Baduy people who have converted to Islam because they married Baduy people who are already Muslim or non-Baduy people who are Muslim.⁸ Until now, the marriage of the Muslim Baduy community is carried out based on matchmaking and witnessed by a shaman or kokolot according to the customary institution (tangkesan), and in addition, it is also witnessed by a registrar or Naib as the penghulu. As for the dowry or gifts, it is in the form of betel, poleng cloth, and money as much as possible.⁹ Baduy people's marriage is known as a monogamous marriage. Marriage there is carried out with a matchmaking system determined by the father's side because according to them a good marriage is a marriage that is carried out between a man and a woman with close kinship.¹⁰

Regarding the age limit for marriage, there are similarities and differences in tradition between Inner Baduy and Outer Baduy. The marriage system in the Inner Baduy tribe still applies the matchmaking model. On average, girls there marry at the age of adolescence. It is not strange if we see very young Inner Baduy women carrying children while doing activities in front of their respective houses. This is not much different from the Outer Baduy people who are allowed to marry at a young age. One of the reasons is because there is no obligation for them to go to school and enter the world of education so that for them age is not a barrier to marriage.¹¹

Researchers conducted interviews in the Baduy area about the practice of underage

⁶Ayi Rukmana, *Tradisi Perkawinan Baduy Luar Dengan Baduy Dalam (Studi Kasus di Desa Kanekes Kecamatan Leuwidamar Kabupaten Lebak Banten)*, UIN Syarif Hidayatullah Jakarta, 2016, p. 2.

⁷Djoewisno, "Potret Kehidupan Masyarakat Baduy: Orang-orang Baduy Bukan Suku Terasin, tetapi Mereka yang Mengasingkan Diri, Cipta Pratama, 1987, p. 134.

⁸Kiki Muhamad Hakiki, "Ke-Islaman Suku Baduy Banten: Antara Islam dan Slam SundaWiwitan", dalam *Jurnal Refleksi*, Volume 14, Nomor 1, April 2015, p. 44.

⁹Mara dan Johan Arifin Kasnodihardjo, *Balutan Pikukuh Persalinan Baduy*, Pusat Humaniora Kebijakan Kesehatan dan Pemberdayaan Masyarakat, Cetakan 1, November 2014, p. 58.

¹⁰Septiana Dwiputri Maharani, "Perempuan dalam Kearifan Lokal Suku Baduy", dalam *Jurnal Filsafat*, Volume 19, Nomor 3, Desember 2009, p. 213.

¹¹Muhamad Muslih, "Perbandingan Prosedur Perkawinan Adat Baduy dengan Kompilasi Hukum Islam" dalam *Kanun Jurnal Ilmu Hukum*, Vol. 21, No. 3, Desember, 2019, p. 437.

marriage. The practice of underage marriage in Baduy is still widely practiced. Regarding this, there are similarities and differences in tradition between Inner Baduy and Outer Baduy. The marriage system in the Inner Baduy tribe still applies the arranged marriage model. On average, girls there marry at a very young age. It is not strange if we see very young Inner Baduy women carrying children while doing activities in front of their respective houses. This is not much different from the Outer Baduy community who are allowed to marry at a young age. One of the reasons is because there is no obligation for them to go to school and occupy the world of education so that for them age is not a barrier to marriage so they are married at a very young age.¹²

2. Research Method

This study uses the Normative Juridical and Sociological Normative legal research methods. This study is Descriptive Analytical and uses Primary Data Sources and Secondary Data Sources. Descriptive in this study is in the form of a description of the situation, conditions, circumstances, and reality that exist in the Baduy indigenous community in relation to underage marriage that has become a culture and is ingrained. Then the problems are analyzed so that solutions can be found for these problems. The data sources used in this study were obtained from Library Research. Normative Juridical in this study is in the form of a discussion of several existing regulations. Normative Sociological Research on law constructs law as a system of legal regulations that have existed so far and are then constructed in a community behavior.¹³ Analytical Descriptive in this study is trying to describe the situation systematically so that the data can be presented well and in accordance with the target.¹⁴

This study aims to obtain a picture of whether underage marriages that occur in Baduy have an impact on marital harmony and household peace in Baduy and how effective is the Marriage Law regarding the minimum age limit for marriage for the Baduy community. This study also uses primary data sources and secondary data analyzed using qualitative methods, with data collection techniques of Literature Study and Field Study in the Baduy customary area through observation of the Baduy community, both the Inner Baduy and Outer Baduy communities. Interviews and observations were conducted to obtain the necessary data. The data obtained through field research and literature studies were analyzed normatively qualitatively to obtain clarity on the problems to be discussed.

¹²Paparan ini diambil dari wawancara singkat peneliti dengan beberapa tokoh masyarakat Baduy Luar, yaitu Jaro Saija dll. Dan ditambah dengan beberapa keterangan lain yang sejenis. Wawancara dilakukan di Baduy Luar.

¹³Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, 2010, p. 48.

¹⁴Soerjono Soekanto, *Metodologi Research*, Andi Offset, Yogyakarta, 1998, p. 3.

3. Results and Discussion

Underage Marriage

According to Azhar Basyir, marriage is a contract or agreement to legitimize sexual relations between a man and a woman in order to realize a happy family life filled with peace and affection in a way that is approved by Allah SWT.¹⁵

Meanwhile, according to Article 1 of Law No. 1 of 1974 concerning marriage, it is stated that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God. Meanwhile, marriage according to sharia is a contract that allows a man to freely associate with certain women at the time of the contract using the word *nikah* or *tazwij* or its translation. From several definitions of marriage above, a conclusion can be drawn, that marriage is a contract or agreement between a man and a woman to legitimize living together as husband and wife in order to realize a happy household life full of peace, tranquility, and affection in accordance with the ways approved by Allah SWT.

Underage marriage in classical fiqh discourse is commonly known as *az-zawaj ash-shaghirah*, while in contemporary writings it is commonly referred to as *az-zawaj al-mubakkir*.¹⁶ Underage marriage in classical *furuq* discourse is understood as a marriage in which the bride and groom have not reached puberty. The sign of puberty for boys is marked by wet dreams (*ihtilam*), and for girls it is marked by the arrival of menstruation (*haidh*). Marriage in the age range before puberty like this, in today's era, is more appropriately referred to as child marriage.¹⁷

Meanwhile, in this study, what the author means by underage marriage is a marriage in which the age of the prospective bride and groom has not reached the minimum age limit permitted by the Marriage Law, which is 19 years for women and 19 years for men. For this reason, underage marriage requires prior dispensation permission from the local religious court. According to Bateq Sardi, marriage is something that has been commonly done from generation to generation and has been done since ancient times. Lack of public understanding of marriage causes early marriage, early marriage is very difficult to prevent, this is because both parents and children have wanted marriage. For parents who have daughters will always be anxious to see their children grow up without thinking about their age, so if someone proposes to their daughter, they will immediately marry their daughter even though she is not old enough, as stipulated in the Marriage Law.¹⁸

¹⁵Ahmad Azhar Basyir, *Hukum Perkawinan Islam*, Fak. Hukum UII, Yogyakarta, 1999, p. 13.

¹⁶Hussein Muhammad, *Fiqh Perempuan; Refleksi Kiai atas Wacana Agama dan Gender*, LKiS, Yogyakarta, 2007, p. 89.

¹⁷Ali Trigiyatno, *Pernikahan Dini*, <https://alitrigiyatno.wordpress.com/2012/03/28/pernikahan.dini/> diakses pada 25 Desember 2022, p. 23.

¹⁸Bateq Sardi, "Faktor-Faktor Pendorong Pernikahan Dini Dan Dampaknya Di Desa Mahak Baru Kecamatan Sungai Boh Kabupaten Malinau", *Journal Sosiatri-Sosiologi*, 3, 2016, p. 199.

Marriage customs often occur because since childhood children have been matched by their parents. That child marriage is to immediately realize the family ties between the groom's relatives and the bride's relatives that they have long wanted together, all so that their family ties are not broken.

Marriage viewed from the Age Limit according to Law

The provisions regarding the minimum age limit for marriage according to the Marriage Law are contained in Articles 6 and 7 as follows:

- (1) Marriage must be based on the instructions of both prospective brides and grooms.
- (2) To enter into marriage, a person who has not reached the age of 21 (twenty one) years must obtain permission from both parents.
- (3) In the event that one of the two parents has died or is unable to express his/her will, then the permission referred to in paragraph (2) of this article is sufficient to be obtained from the parent who is still alive or from the parent who is able to express his/her will.
- (4) In the event that the parent has died or is unable to express his/her will, then permission is obtained from the guardian, the person who cares for or the person who has a blood relationship in a direct descending line as long as they are still alive and are able to express their will.
- (5) In the event of a difference of opinion between the persons referred to in paragraphs (2), (3), and (4) of this article, or one or more of them does not express their will, then the court in the jurisdiction of the person who will be getting married at the request of the person may grant permission after first hearing the persons referred to in paragraphs (2), (3) and (4) of this article.
- (6) The provisions of paragraphs (1) to (5) of this article apply as long as the laws of each religion and belief of the person concerned do not determine otherwise.

Article 7

- (1) Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years
- (2) In the event of a deviation from paragraph (1) of this article, a dispensation may be requested from the court or an official appointed by the parents of both the man and woman.
- (3) The provisions regarding the condition of one or both of the persons in Article 6 paragraph (3) and (4) of this Law shall also apply in the case of a request for dispensation in paragraph (2) of this article without prejudice to what is meant in the origin of paragraph (6).

In the compilation of Islamic law, this provision is further emphasized, as stated in Article 15 paragraph (1), for the benefit or welfare of the family and household, marriage may only be carried out by both bride and groom who have reached the age specified in the law, namely the prospective husband and wife must be at least 19 years old. In the event that they do not meet the age requirements or do not reach the specified age, they are also permitted on condition that they obtain a marriage permit

from a religious court.

Through the decision of the Constitutional Court (MK) Number. 22/PUU-XV/2017, it became the basis for changing the age limit for marriage in Article 7 paragraph (1) of Law Number 1 of 1974 concerning marriage. After going through various dynamics of long debates and even protests. This change in the law is based on the hope that the birth rate will be lower and reduce the risk of higher maternal and child mortality. In addition, the realization of children's rights in order to improve the growth and development of children, including helping parents and providing access to the highest education for children and can reduce the high practice of underage marriage. So on October 14, 2019, President Jokowi in Jakarta ratified the Republic of Indonesia Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, and came into effect on the date of promulgation. Regarding the change in Article 7, it is as follows:

Then Article II of this Law shall come into force on the date of its enactment. Based on these changes, as stated in Article 7 Paragraph (1) of Law Number 16 of 2019, it is clear that there has been a change in the minimum age for marriage in Indonesia from what was previously regulated in the minimum age limit for marriage. Women 16 years and 19 years for men to 19 years for men and women.

Biography of the Inner Baduy and Outer Baduy Regions

The Baduy community is currently divided into three parts, namely the Tangtu Baduy (Inner), Panamping Baduy (Outer), and Dangka Baduy (a split from Panamping Baduy).¹⁹ They actually do not like to call themselves urang Baduy (Baduy people) as is commonly done by outsiders.²⁰ They prefer to call themselves urang Kanekes,²¹ urang Rawayan, or more specifically by referring to their village of origin such as urang Cibeo, urang Cikartawana, urang Tangtu, or urang Panamping.²²

Continuing from the above, the existence of the Dangka Baduy community coexists with the outside Baduy community. Even in terms of clothing between the Dangka community and the outside Baduy community, there is no longer any difference. The Dangka community is now mostly Muslim, even Baduy women wear the hijab like Muslims in other areas. It's just that in certain cases they sometimes still follow customary rules, especially when celebrating Baduy traditions that are considered sacred. The Islam of the Dangka community is a very unique reality, different from the other two Baduy. The Muslim Baduy village among the Baduy villages in the

¹⁹Kiki Muhamad Hakiki, "Ke-Islaman Suku Baduy Banten: Antara Islam dan Slam Sunda Wiwitan", dalam *Jurnal Refleksi*, Volume 14, Nomor 1, April 2015, p. 31. Diakses pada 5 Desember 2022, pukul 10:14 WIB. <http://journal.uinikt.ac.id/index.php/refleksi/article/view/9576>.

²⁰Danasasmita, S., dan Anis Djatisunda, *Masyarakat Kanekes*, Bappeda D.T. I Jabar, Bandung, 1983, p. 13.

²¹*ibid*, p. 14.

²²Garna, JK, *Masyarakat dan Kebudayaan Baduy I*, Jurusan Antropologi Fakultas Sastra Unpad, Bandung, 1974, p. 7.

Dangka area is the Cicakal Girang village.²³ Geographically, Cicakal Girang is located at the western end of Kanekes Village which directly borders Keboncau Village, Bojong Manik District. Along with its development, Cicakal Girang has now developed into two new villages, each of which already has a prayer room as a place of worship. Many people in Cicakal Girang have embraced Islam. Gradually, the community began to get to know Islam and then officially embraced Islam and left their beliefs. Even now in this village there is an Islamic boarding school as a place to study religion for Muslim Baduy children.²⁴

Life in Baduy Dangka is indeed much looser in tradition compared to Baduy Panamping, although the existence of the Dangka community originally came from the migration of the Panamping community. The existence of the Dangka community comes from two things, namely, first, because of their own desire to move from Panamping to become a community that lives more freely. Then secondly, because of the expulsion factor from Panamping due to violating customs. Even so, Dangka residents are still allowed to return to being Panamping residents after they undergo a purification ceremony for the sins resulting from violating the customary provisions. Therefore, the obedience of the Baduy community is indeed very well maintained and consistent and is not eaten away by time.²⁵ All forms of modern behavior and lifestyles that are contrary to the *pikukuh karuhun* will be rejected by them, because those who violate will receive legal sanctions in accordance with the customary law in force in the Baduy community.²⁶

Continuing from this, although the Baduy people are divided into three levels of citizenship, the status of kinship and family relationships with each other remains unbroken. The Tangtu people still consider other members as family even though they are in the Panamping or Dangka areas, and vice versa. This principle of life is what has maintained the integrity of the Baduy people until now because they adhere to the principles of Sialanguh that have been passed down from their ancestors.²⁷ However, if there are differences in citizenship, it will affect certain things such as marriage, appointment to government positions, and so on.

Judging from its geographical location, the Baduy are located at coordinates 6 ° 27'27

²³Ayi Rukmana, *Tradisi Perkawinan Baduy Luar Dengan Baduy Dalam (Studi Kasus di Desa Kanekes Kecamatan Leuwidamar Kabupaten Lebak Banten)*, UIN Syarif Hidayatullah Jakarta, 2016, p. 2.

²⁴Kiki Muhamad Hakiki, *op.cit.*, p. 33.

²⁵Masyarakat Baduy mengenakan pakaian sehari-hari yang terdiri dari *lengkung* atau *ikel* (ikat kepala) dan *jamang kampret* atau *jamang kurung* (baju lengan panjang tanpa kerah). Risna Bintari, "Sejarah Perkembangan Sosial Ekonomi Masyarakat Baduy Pasca Terbentuknya Provinsi Banten Tahun 2000", dalam *Pandecta Research Law Journal Universitas Negeri Semarang*, Vol. 1, No. 1, 2012, p. 19.

²⁶Aan Hasanah, "Pengembangan Pendidikan Karakter Berbasis Kearifan Lokal Pada Masyarakat Minoritas (Studi atas Kearifan lokal Masyarakat Adat suku Baduy Banten)", dalam *Jurnal Wacana*, Universitas Islam Negeri Sunan Gunung Djati Bandung, Volume XXI, Nomor 1 Tahun 2012, p. 215.

²⁷Hingga kini *pikukuh* Baduy tidak mengalami perubahan apa pun, sebagaimana yang termaktub dalam *buyut* titipan nenek moyang. Maskur Wahid, *op.cit.*, p. 10.

"- 6 ° 30'0" North Latitude and 108 ° 3'9 "- 106 ° 4'55" East Longitude.²⁸ They actually do not like calling them urang Baduy (Baduy people) as is commonly done by outsiders. They prefer to call themselves urang Kanekes, urang Rawayan, or more specifically by calling their village of origin such as urang Cibeo, urang Cikartawana, urang Tangtu, or urang Panamping.²⁹

In addition, people outside Baduy usually give nature names with the term Baduy, such as calling a mountain in the Baduy region Mount Baduy and there is a river also known as Sungai Baduy.³⁰ The Baduy people live in hilly, valley-like, and forested areas. The Baduy tribe is divided into 2 groups, namely the Outer Baduy and Inner Baduy. Each has a separate village. There are several things that underlie the formation of these 2 groups. According to the stories of the Outer Baduy and Inner Baduy communities, the Baduy people were originally the Inner Baduy tribe. The term Outer Baduy emerged because of customary violations committed by the Inner Baduy people so that they had to leave Inner Baduy. One of the violations they committed was because they embraced Islam. Then after they embraced Islam, they formed their own village in the form of a Muslim village.³¹

When they converted to Islam, the Puun rule automatically applied that Baduy people who converted to Islam had to leave the Baduy village and as a consequence they had to pay a certain amount of money to the Puun as a 'fine' because they had converted to Islam. According to them, this term is called ngebokor. Continuing from this, there are customary provisions that must be met and then negotiated by several Islamic preachers, which in the end the policy was minimized by the Baduy customary leaders, although not clearly eliminated. Evidence of the success of the negotiation can be seen, because there is one family, namely the Muhammad Sadi family, from the Gerendeng village, who can survive in their village even though they have become Muslims, because so far Sadi has been one of the village figures.³²

Continuing from this, the Inner Baduy are called Tangtu and the Outer Baduy are called Panamping and Dangka. The Dangka Baduy are the community that most intensively carries out Islamization. The closeness of Baduy to Islam is actually due to their old tradition of Sunda Wiwitan teachings which are commonly called Agama

²⁸Johan Iskandar, *Ekologi Perladangan di Indonesia: Studi Kasus dari Daerah Baduy*, Djambatan, Jakarta, 1992, p. 21. Lihat juga R. Cecep Eka Permana, *Mitra Sejajar Pria dan Wanita dari Inti Jagat: Sebuah Kajian Antropologis*, Pusat Penelitian Kemasyarakatan dan Budaya Lembaga Penelitian Universitas Indonesia, Jakarta, 1998, p. 10.

²⁹Danasasmita dan Anis Djatisunda, *op.cit.*, p. 12. Lihat juga Danasasmita dan Anis Djatisunda, *Kehidupan Masyarakat Kenekes*, Bagian Proyek Penelitian dan Pengkajian Sundanologi Dirjen Kebudayaan Depdikbud, Bandung, 1986, p. 23. Lihat juga Garna, *Masyarakat dan Kebudayaan Baduy I*, Jurusan Antropologi Fakultas Sastra Unpad, Bandung, 1974, p. 7..

³⁰Edi S. Ekadjati, *Kebudayaan Sunda: Suatu Pendekatan Sejarah*, Pustaka Jaya, Jakarta, 2009, p. 46.

³¹Septiana Dwiputri Maharani, "Perempuan dalam Kearifan Lokal Suku Baduy", dalam *Jurnal Filsafat*, Volume 19, Nomor 3, Desember 2009, P. 199. Diakses pada 23 Desember 2022, pukul 10:44 WIB. <https://jurnal.ugm.ac.id/wisdom/article/view/3435/9400>.

³²Kiki Muhamad Hakiki, *op.cit.*, p. 37. Lihat juga Djatisunda dalam www.majalahfurqon.com.

Slam Sunda Wiwitan. However, Islam in Sunda Wiwitan is still simple and syncretic. Even though more Baduy Dangka embrace Islam, the relationship between Baduy Tangtu, Baduy Panamping, and Baduy Dangka remains good and there is good religious tolerance.³³

Actually, they call Sundanese people outside Kanekes as Sunda Eslam, namely Sundanese people who are Muslim and are considered as *urang are* or *dulur are*. This expression clarifies the recognition of the ethnic position of the Kanekes people as a Sundanese tribe and what distinguishes them is only the religious system because they do not adhere to Islam. Although the Baduy Cicakal Girang people are already Muslim, their Islam is still considered imperfect because it is still mixed with the beliefs of their ancestors, namely Sunda Wiwitan, therefore they are often considered as new adherents of Islam.³⁴

Practice of Underage Marriage in the Baduy Tribe in the Inner Baduy and Outer Baduy Regions

Islamic law has facilitated and regulated marriage law in the Compilation of Islamic Law and in Law Number 1 of 1974. Marriage is a very strong contract or *mitssaqaan ghalidzan* to obey the command of Allah SWT and carrying it out is worship as stated in Article 2 of the Compilation of Islamic Law in Chapter II concerning the Basics of Marriage. Then in Article 3 it is also stated that marriage aims to realize a household life that is *sakinah, mawaddah, and rahmah*. Related to the above, in marriage there are several problems that are often encountered in community life, namely divorce, arranged marriage, polygamy, polyandry, minimum age limit for marriage, and so on. In fact, it has been clearly regulated in Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage concerning divorce procedures in Chapter VIII concerning the Dissolution of Marriage and its Consequences. It is stated in Article 38 that a Marriage can be terminated due to death, divorce, and by a Court decision. Then it is also stated in Article 39 paragraph 1 that Divorce can only be carried out before the Court after the relevant Court has tried and failed to reconcile the two parties. Then in paragraph 2 it is stated that to carry out a divorce there must be sufficient grounds, that the husband and wife will not be able to live in harmony as husband and wife. Then in article 3 the procedure for divorce before the Court is regulated in separate laws and regulations.³⁵

Then related to the minimum age limit for marriage is regulated in Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage in Article 7 Article 1 that Marriage is only permitted if the man has reached the age of nineteen years and the woman has reached the age of sixteen years.

Continuing from the above, seeing the reality that occurs in society is indeed very

³³*ibid*, p. 25.

³⁴*Ibid*, p. 36. Lihat juga Djatisunda dalam. www.majalahfurqon.com.

³⁵Undang-undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan. Diakses pada 25 April 2022, pukul 02:50 WIB. http://hukum.unsrat.ac.id/uu/uu_1_74.htm.

different, for example in some areas that are still thick with culture, for example in the Baduy area. The existence of Islamic law in the Baduy area can be seen in various activities of the Baduy tribe that are directly in contact with Islamic law. Baduy is located in Leuwidamar District, Rangkasbitung Regency, Banten. Baduy consists of Gajebo, Cikeusik, Cibeo, and Cikertawana Villages. The geographical conditions where the Baduy Tribe lives and operates are a village called Kanekes Village. Administratively, the Baduy Tribe inhabits the Kendeng Mountains, Leuwidamar District, Lebak Regency, Banten Province.³⁶

The Baduy tribe obeys the law in terms of recording their marriage administration. This is a good thing because the Baduy tribe is located in the territory of Indonesia so they are required to obey the laws that have been made and enforced in the territory of Indonesia. Regarding the recording of marriage administration, this is in accordance with the Compilation of Islamic Law Article 5 paragraph 1 which states that in order to ensure orderly marriage for the Islamic community, every marriage must be recorded. Then in paragraph 2, the registration of the marriage is carried out by the Marriage Registrar as regulated in Law No. 22 of 1946 in conjunction with Law No. 32 of 1954. Then it is also stated in Article 6 paragraph 1 which states that in order to fulfill the provisions in Article 5, every marriage must be carried out in the presence of and under the supervision of the Marriage Registrar. Then in paragraph 2 it is stated that a marriage carried out outside the supervision of the Marriage Registrar has no legal force. Then Article 7 paragraph 1 states that marriage can only be proven by a marriage certificate made by a marriage registrar.³⁷

In addition to marriage registration, the average Baduy girl gets married at the age of adolescence.³⁸ In relation to this, it appears that there has been no synchronization with Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage Article 7 Article paragraph 1. Regarding the minimum age limit for marriage regulated in Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage in Article 7 Article 1 that marriage is only permitted if the man has reached the age of nineteen years and the woman has reached the age of sixteen years.³⁹

In addition, the marriage system in the Inner Baduy tribe still applies the matchmaking model. They are engaged to each other without any bond of love between them. Their parents or fathers are the ones who determine the prospective partner.⁴⁰ This clearly contradicts the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage in Article 6 paragraph 1, because marriage must be carried

³⁶Nazia Maulia Amini, *op.cit.*, p. 27.

³⁷Direktorat Pembinaan Peradilan Agama Islam, "Kompilasi Hukum Islam", dalam *Dirjen Pembinaan Kelembagaan Islam Departemen Agama*, 2001. p. 2. Diakses pada 23 April 2022, pukul 11:12 WIB. <http://hukum.unsrat.ac.id/ma/kompilasi.pdf>.

³⁸Septiana Dwiputri Maharani, *op.cit.*, p. 200.

³⁹Undang-undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan. Diakses pada 25 April 2022, pukul 03:10 WIB. http://hukum.unsrat.ac.id/uu/uu_1_74.htm.

⁴⁰Septiana Dwiputri Maharani, *op.cit.*, p. 200.

out voluntarily and there must be agreement from both men and women so that there is no coercion and no matchmaking in a marriage. This is regulated in the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage in Chapter II concerning the Conditions of Marriage in Article 6 paragraph 1 that Marriage must be based on the agreement of both prospective brides and grooms.⁴¹

Seeing the reality above, although the Baduy tribe recognizes itself as adherents of the Sunda Wiwitan religion, in terms of customary rules, married couples who have been legalized according to custom are required to marry according to Islamic law. This must be done because they realize that the Baduy community is an inseparable part of Indonesian citizens. Therefore, the Baduy people must submit to and obey the various rules that have been set, including in terms of marriage procedures that have been set in the Marriage Law of the Republic of Indonesia.⁴²

Regarding the age limit for marriage, it has been stated in Article 15 paragraph 1 which states that for the benefit of the family and household, marriage may only be carried out by prospective brides and grooms who have reached the age stipulated in Article 7 of Law Number 1 of 1974 concerning Marriage, namely the prospective husband must be at least 19 years old and the prospective wife must be at least 16 years old. Then paragraph 2 states that prospective brides and grooms who have not reached the age of 21 must obtain permission as regulated in Article 6 paragraphs 2, 3, 4, and 5 of Law Number 1 of 1974 concerning Marriage.⁴³ Regarding this age limit for marriage, there are similarities and differences in traditions between the Inner Baduy and Outer Baduy. The marriage system in the Inner Baduy tribe still applies the matchmaking model. On average, girls there marry at the age of adolescence. It is not strange if we see very young Inner Baduy women carrying children while doing activities in front of their respective homes. This is not much different from the Outer Baduy community who are already allowed to marry at a young age. One of the reasons is because there is no obligation for them to go to school and occupy the world of education so that for them age is not a barrier to marriage.⁴⁴

Based on the results of the interview with Jaro Saija, the marriage practices carried out in the Baduy tribe are indeed still not in accordance with the laws in Indonesia (namely Law Number 16 of 2019 concerning Marriage) because there are still many underage marriages in the Baduy tribe. In Baduy, there are still many cases of underage marriages that occur, even at a young age, many have been matched. One of the obstacles that occurs is that underage marriage is still a culture that is carried out from generation to generation. And the Baduy community is very firm in upholding ancestral customs and culture. In addition, in the field of education, the absence of

⁴¹Undang-undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan. *op.cit.*

⁴²Kiki Muhamad Hakiki, *op.cit.*, p. 45.

⁴³Direktorat Pembinaan Peradilan Agama Islam, "Kompilasi Hukum Islam", dalam *Dirjen Pembinaan Kelembagaan Islam Departemen Agama*, 2001, p. 11. Diakses pada 25 April 2022, pukul 03:05 WIB. <http://hukum.unsrat.ac.id/ma/kompilasi.pdf>.

⁴⁴Septiana Dwiputri Maharani, *op.cit.*, p. 200.

educational institutions in the Baduy region such as kindergarten, elementary school, junior high school, high school, and even university level is one of the causes of underage marriage. In the field of work, their activities such as farming, gardening, farming, selling forest products such as durian and honey, and becoming household assistants. All of these activities have not been a reason for the importance of postponing marriage. Then the legal consequences of underage marriage in the Baduy tribe do not have a significant impact. Violation of the provisions of Law No. 16 of 2019 concerning the minimum age for marriage has no legal consequences, it only has an impact on the welfare and harmony in marriage in the Baduy tribe.

Then Based on the results of an interview with a Baduy couple who carried out an underage marriage named Endan and Siti. Their marriage was carried out when Endan was 16 years old and Siti was 15 years old. This was carried out because it was arranged because almost all of his family had arranged marriages. This was done to protect descendants from violating the rules. Because in Baduy, in choosing a partner, it has been regulated which ones are allowed and which ones are not allowed to be partners. Endan and Siti have also been blessed with 2 children. Their activities are farming and being a "gaed" or guide when there are foreign tourists who want to go to Baduy. So far, Endan has still been able to provide for his family properly because he has these two jobs. Even though their marriage was carried out at a young age, they were happy and almost never argued. ⁴⁵

The Impact of Underage Marriage on Household Harmony in Baduy Society

Based on history, until now the marriage of the Muslim Baduy community is carried out based on matchmaking and witnessed by a shaman or kokolot according to the customary institution (tangkesan), and in addition, it is also witnessed by a registrar or Naib as the penghulu. As for the dowry or gifts, it is in the form of betel, poleng cloth, and money as much as possible. ⁴⁶

Unlike the Muslim Baduy, in the Tangtu Baduy community, marriage is only carried out according to Baduy customs. However, in the Panamping Baduy, usually after the customary marriage is completed, the groom, accompanied by one of his relatives, goes to the amil in the Cicakal Girang village. In the Cicakal Girang village, this is the only Baduy village where the majority of the population is Muslim. The existence of this Islamic village in Baduy, for the Baduy community, is considered necessary as a form of validation of the marriage that has been carried out. The majority of Baduy people do have different beliefs from Muslims in general, but in the marriage tradition they still refer to the rules applied by Islam, namely the registration of marriages that have been included in the Compilation of Islamic Law. Continuing from this, Baduy

⁴⁵Wawancara dilakukan dengan Endan dan Siti (pasangan Baduy yang melakukan pernikahan di bawah umur) di rumahnya di Baduy Luar.

⁴⁶Mara dan Johan Arifin Kasnodihardjo, *Balutan Pikukuh Persalinan Baduy*, Pusat Humaniora Kebijakan Kesehatan dan Pemberdayaan Masyarakat, November 2014, p. 58.

people's marriages are generally carried out with three stages of proposal and are always matched, but different from the Baduy Panamping community because there are those who are matched and there are also those who choose their own prospective partners. This requires the agreement of both parties. Marriage in Baduy Panamping is indeed not only carried out according to custom but also carried out in front of a marriage registrar as the author has mentioned above.⁴⁷ If we look at these customary provisions, there are several messages that can be found, namely, first, the Baduy people feel the need for provisions for the marriage process that are legalized not only according to custom, but also according to religion, conventional law, and state law. Second, this marriage pattern is carried out by the Baduy people as a form of respect for the Banten Sultanate which was once the king and ruler in the Islamic land of Banten, including the Baduy land. This is realized by customary provisions that require Baduy community marriages to use traditional methods and Islamic law. Because if we look at the history of their origins, the Baduy people are part of the Sundanese tribe, namely the indigenous people of West Java Province and now Banten Province and Baduy itself is indeed adjacent to the Banten Sultanate.⁴⁸

Then, regarding customary procedures in marriage, especially for the Baduy Panamping community (Outer Baduy), before the marriage process begins, the groom will say the oath or shahada in ancient Sundanese which is almost similar to the shahada sentence used in Islam. While in the marriage ritual process of the Baduy Tangtu community (Inner Baduy) which is called *nikah batih* (eternal marriage) in front of Puun, the bride and groom and their parents say the tangtu shahada which has different contents from the Panamping shahada.⁴⁹ Seeing the reality above, although the Baduy tribe recognizes itself as a follower of the Sunda Wiwitan religion, in terms of customary rules, married couples who have been legalized according to custom are required to marry according to Islamic law. This must be done because they realize that the Baduy community is an inseparable part of Indonesian citizens. Therefore, the Baduy people must submit to and obey the various rules that have been set, including in terms of marriage procedures that have been set in the Marriage Law of the Republic of Indonesia.

Regarding the implementation of Islamic law in the Baduy tribe, no data was found regarding conflicts between Baduy people and Baduy Muslims that were motivated by religious motives. If there is a conflict, it is usually related to disputes over the management of agricultural areas around the Baduy area. The religious harmony in the Baduy area is caused by the strong principle in their souls that they originate from one lineage and one family. Of all the problems above, related to the Inner Baduy and Outer Baduy communities who do not fully obey Islamic law which has been ratified as Positive Indonesian law in the Compilation of Islamic Law and Law of the Republic

⁴⁷Ayi Rukmana, *Tradisi Perkawinan Baduy Luar Dengan Baduy Dalam (Studi Kasus di Desa Kanekes Kecamatan Leuwidamar Kabupaten Lebak Banten)*, UIN Syarif Hidayatullah Jakarta, 2016, p. 2.

⁴⁸Farukhi, *Mengenal 33 Provinsi Indonesia: Banten*, PT Sinergi Pustaka Indonesia, Jakarta, 2008, p. 14.

⁴⁹Kiki Muhamad Hakiki, *op.cit.*, p. 47. Diakses pada 5 Agustus 2022, pukul 10:15 WIB. <http://journal.uinjkt.ac.id/index.php/refleksi/article/view/9576>.

of Indonesia Number 1 of 1974 concerning Marriage.

Continuing from the above, regarding underage marriage in some cases, marriage is something sacred and cannot be considered ordinary, building a good family is the goal that a husband and wife want to achieve, but in reality problems often arise and cannot find the right way out so that divorce occurs. Underage marriage has many problems from economic or financial to hostility from both. Data from BKKBN states that the right age to get married is around 20-25 because they are mentally and psychologically ready to face existing problems.

Marriage or marriage is something that everyone wants so it becomes a must for everyone, it can be said that marriage is an agreement between adult men and women who generally do not look at their profession, religion, poor or rich, and where they come from (village or city). However, some people pay attention to this with their ability to find a partner both physically and mentally because to form a family which in essence and the purpose of marriage itself is to get happiness, it becomes something important because with a marriage a person will be able to obtain their life needs such as biological needs or psychological needs.

Humans with the ongoing marriage automatically all their needs can be met biologically, and can also fulfill their sexual needs with their partners. Meanwhile, in terms of spirituality and mentality, it greatly affects individuals because someone who is married is better able to control their emotions and has also been able to control their lust. Emotional maturity is a very important aspect to maintain harmony in a marriage. The success of a husband and wife relationship (family) is one of the emotional maturity of the individual himself, be it husband or wife, besides that the emotional maturity of this individual can solve problems that exist in the family can be overcome. A person can be seen emotional maturity can be seen from the age of the person because what has been conveyed at the beginning that marriage is carried out by adult men and women so it can be said that marriage has a great responsibility when marriage has taken place there are many aspects that must be accounted for in terms of spiritual and physical readiness and also economic readiness.

In reality, some countries often do not comply with the concept of marriage because many countries carry out marriages not in accordance with its provisions, one of which is Indonesia as we know that Indonesia has a law regarding marriage, namely Law no. 1974, Article 7 paragraph (1)¹ states that marriage is permitted if the man has reached the age of 19 and the woman has reached the age of 16 years. Initially, it was like that, but the explanation was revised again and changed, where marriage can be carried out if the man and woman are at least 19 years old. Article 2 continues to say that the marriage of each candidate who has not reached the age of 21 years and who has not reached the age of 21 years, must obtain permission from both parents. However, in reality in the field it is still not in accordance with what is stated in the Law even though the National Population and Family Planning Agency (BKKBN) issued a regulation that the ideal age for marriage for women is 20-35 years and 25-40 years for men.

According to the author, related to the discussion of the practice of underage marriage in Baduy, when connected to the theory of justice, according to the research conducted, it is not in accordance with Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage. When connected to the theory of justice universally, because according to the regulations the minimum age for marriage is 19 years. While in Baduy, many people carry out marriages that are carried out under the age of 19. This is related to children's human rights. It is better not to marry underage, because this concerns the protection of children because they are susceptible to pregnancy diseases later and still do not have mature characteristics such as uncontrolled emotions, impatience, wanting to win alone and other characteristics that can damage marital relationships. The legal consequences of implementing underage marriages that are still widely carried out in the Baduy area according to several Baduy residents still do not have a significant legal impact. Because the rules and provisions in Law No. 16 of 2019 concerning amendments to Law No. 1 of 1974 concerning Marriage regarding the minimum age limit for marriage do not have sanctions if there are violations.

There is no prison sentence or fine related to sanctions for underage marriage. It's just that underage marriage has many negative impacts on the perpetrators, such as the level of family economic welfare which is still unstable, low maturity of thinking, harmony in marriage in the Baduy tribe is still vulnerable to quarrels, and other characteristics that threaten harmony and the sustainability of a family. In connection with the problem of the age limit for marriage in Baduy, the age limit in terms of marriage, especially in Indonesia, has had an age limit for marriage with the purpose of this age limit for marriage none other than to form a *sakinah, mawaddah, warrahmah*, happy family both in the world and in the hereafter which is blessed by Allah SWT.

The relation to the implementation of underage marriage in Baduy is that the purpose of this marriage is difficult to realize if the husband and wife are still in their youth which is a period that is still unstable in nature and character. In terms of legal consequences, it does not have a significant impact, but from other consequences, there are very many impacts. In Indonesia itself, the purpose of this marriage has been mentioned in Law No. 1 of 1974 concerning Marriage, which explains that marriage is a bond both physically and mentally, carried out by both parties, namely the man and the woman in a bond whose status is "husband and wife" with the purpose of this marriage, namely to form a happy and eternal family based on the Almighty God. Meanwhile, if we look at the purpose of marriage as stated in the Compilation of Islamic Law (KHI_1991/1992) in article 3 (three), namely the purpose of marriage is none other than to establish a household life that is *sakinah, mawaddah wal al-rahmah*, where the purpose of this marriage is to demand the readiness of the prospective husband and wife, both physically and mentally ready to shoulder together the attitude in sailing the ship of family integrity. So if we look at these provisions, the implementation of underage marriage in the Baduy community

is certainly physically and mentally unprepared to sail the ship of the family. Moreover, with the absence of an obligation to occupy an educational bench in Baduy, this is one of the obstacles in achieving maturity and maturity of thought. Because by enjoying an educational bench, this will accelerate the formation of a strong soul in terms of maturity of thought and emotional stability.

This is a challenge for the local government in terms of socialization about the dangers of underage marriage because marriage must be prepared in all respects. Puberty (for young people), adulthood (adult age) which is ready to go to the altar/marriage, and the time when a mature man is ready both physically and mentally to make the hearts of these young people become prospective husbands and prospective wives. Therefore, this readiness really needs to be prepared early on, both physically and mentally. For this reason, the government in this case is trying its best to prevent things from happening (underage/child marriage), one of which is by limiting the minimum age of prospective husband and wife in accordance with existing provisions.⁵⁰

The phenomenon of underage marriage (early age) carried out by the Baduy community is very susceptible to the impacts it receives, namely it will disturb the psyche of the early age child, in addition the child's mental health is disturbed, and the child's health is also disturbed. In a marriage that can be categorized as successful (sakinah, mawaddah, wal rahmah) are those who are able to create happiness in both the world and the hereafter, but today it is very difficult to realize, this is because the Baduy community still lacks readiness, both physically (outwardly) and psychologically (inwardly), this is if caused by the factor of age which is still early (underage), where the young generation has high emotions. As a result, this kind of marriage can result in a less than ideal marriage (meaning that in the end the model of early marriage is included in the category of less harmonious).⁵¹

Various factors in the study of underage marriage today conclude that there needs to be ongoing socialization from academics and the need for the role of KUA in implementing its marriage.⁵² Early marriage, which today has many consequences and impacts, both negative impacts in particular, where these negative impacts are especially for women (prospective brides), such as the impact on women's health in terms of (reproduction, and economy) of the woman. However, this number continues to increase every year, especially in our country (Indonesia) where it often occurs. In terms of the phenomenon of underage marriage, preventing child marriage is one of the goals of the Sustainable National Development Goals agenda abbreviated

⁵⁰ Muhammad Habibi Miftakhul Marwa, "Pengaturan Batas Usia Perkawinan Perspektif Keluarga Sakinah Muhammadiyah," dalam *Jurnal Justisi*, Vol. 7, no. 1, January 3, 2021, p. 1-13, <https://doi.org/10.33506/js.v7i1.1170>

⁵¹ Joko Tri Haryanto, "Fenomena Perkawinan Di Bawah Umur Studi Kasus Pada Masyarakat Cempaka Banjarbaru Kalimantan Selatan," *Jurnal Analisa*, Vol. 9, no. 1, 2012, p. 132.

⁵² Dwi Hadya Jayani and Muhammad Ahsan Ridhoi, "Wabah Pernikahan Dini di Tengah Pandemi dan Dampak Buruknya," 2021, <https://katadata.co.id/muhammadrighoi/analisisdata/5ff7cb5cdf279/wabah-pernikahan-dini-di-tengah-pandemi-dan-dampak-buruknya>.

as SDG's. Where today Indonesia has been able to prevent child marriage through the implementation of Law Number 16 of 2019 in conjunction with Law Number 1 of 1974 concerning Marriage, which in Article 7 paragraph (1) explicitly states that the government in this case provides minimum age limits for marriage for a man and woman who wish to marry, namely 19 years of age, this is due to the many negative impacts that occur if child marriage (early) continues to be carried out, so it is hoped that with the existing limits on the age of marriage, it can reduce and prevent child marriage, however, this Marriage Law still provides opportunities for deviations from the provisions of the minimum age limit for marriage with the Flexibility in terms of marriage dispensation, which researchers will examine the aspects contained in the dispensation, namely the value of justice, benefit and legal certainty. As a result, the restrictions in terms of early marriage are marriages based on Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, where this regulation creates values of justice and benefit for the child, but does not provide legal certainty regulations with the existence of various opportunities for dispensation in terms of marriage as per the regulation.⁵³

Furthermore, Law Number 16 of 2019 concerning Marriage has raised the minimum age limit for marriage for women from 16 years to 19 years. As a result, the minimum age for marriage for women and men is the same, 19 years. However, the government's solution in terms of the Marriage Law still regulates that underage marriages may be carried out with applicable terms and conditions, namely that both parents of the prospective bride and groom request dispensation from the local court. So that the implications in the civil rights of the child are against the guardian or parents of the bride and groom and are closely related to the validity of a marriage bond.⁵⁴

Regarding underage marriages carried out in Baduy, seen from a psychological perspective, encouraging or allowing early marriage is a form of violence against children. If one of the parents allows their child to get married at an early age, then it can be said that the parent has committed "violence against children". In other words, children under the age of 19 can be categorized as "not ready" to get married. The unreadiness of children to get married can be seen from 5 aspects of the child's growth and development, including: 1) Physical Aspect, where the physical of a child at adolescence is still in the process of developing. In other words, having sex will be susceptible to various diseases, especially for women. 2) From the Cognitive aspect, where at the age of children and adolescents, their insight is not too broad, their problem solving and decision making abilities have not developed sufficiently. If there is a problem in marriage, they tend to have difficulty solving it. 3) Language Aspect,

⁵³ Ratnaningsih Ratnaningsih and Sudjarmiko Sudjarmiko, "Menakar Nilai Keadilan, Kemanfaatan, Dan Kepastian Hukum Pencegahan Perkawinan Anak," *Journal Economic & Business Law Review* 1, no. 1 May 5, 2021, p. 50–66.

⁵⁴ Saragih Samdysara, "Batas Usia Nikah Berubah, Perkara Dispensasi Kawin Melonjak" *Bisnis.com*, January 22, 2020, <https://kabar24.bisnis.com/read/20200122/16/1192874/batas-usia-nikah-berubah-perkara-dispensasi-kawin-melonjak>

where a child and also an adolescent cannot always communicate their thought patterns carefully (clearly). This can be a big problem in a marriage bond. 4) Social Aspect, meaning that if married at a young age, the child's social life will tend to be limited and lack support in their environment. 5) Emotional Aspect, this can be seen from the emotions of adolescents being categorized as "unstable". If children and teenagers get married, when they have problems, it will be easier to get depressed and this is risky for them as teenagers, and children born in marriage. In addition, with unstable emotions, children/teenagers who get married fight more often, so their marriage is less happy.

Furthermore, it is explained that the age considered mature for marriage is 21 years old for a woman and 25 years old for a man. This is in accordance with the BKKBN Marriage Age Maturation program. There are several ways to prevent early marriage. First, of course, there needs to be education for children and the wider community about the dangers of early marriage from all aspects. In addition, it is also important to strengthen the legal umbrella from the government regarding the minimum age limit for marriage.⁵⁵ In responding to the challenge of the phenomenon of underage marriage, it can be done through various early prevention by parents, religious leaders, and mass organizations to immediately socialize the Marriage Law to the entire community. In addition, in terms of cooperation with the health service (Diskes) to immediately provide various health guidance or counseling related to the impacts caused to those who marry at an early age or underage.⁵⁶

Continuing from the above regarding the rules on the age limit for marriage, the Baduy community has not had formal regulations that are clearly written relating to problems in the field of Islamic law and all that exists is unwritten law in the form of customary law that has been passed down from ancestors. Although currently the Baduy still adhere to the ancestral customs and almost all problems can be resolved, however, because the longer the Baduy continues to develop in terms of the number of people, the level of thinking of the community (because more and more Baduy people are working outside the Baduy area), modernization is increasingly developing, and several violations of customary law that occur. So it is possible that over time this could erode the authenticity of customary law which has been a characteristic of the Baduy community.

Apart from that, the obedience of the Baduy people is indeed very well maintained and consistent and is not eaten by time.⁵⁷ All forms of modern behavior and lifestyles

⁵⁵ Erizka Permatasari, "Ulasan lengkap : Hukumnya Menikah di Usia Dini," *hukumonline.com/klinik*, 2021,

⁵⁶ Rosdalina Bukido, "Perkawinan Di Bawah Umur: Penyebab Dan Solusinya," *Jurnal Jurisprudentie*, Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum 5, no. 2, December 31, 2018: p. 188–198, <https://doi.org/10.24252/jurisprudentie.v5i2.6283>

⁵⁷ Masyarakat Baduy mengenakan pakaian sehari-hari yang terdiri dari *lengkung* atau *ikel* (ikat kepala) dan *jamang kampret* atau *jamang kurung* (baju lengan panjang tanpa kerah). Risna Bintari, "Sejarah Perkembangan Sosial Ekonomi Masyarakat Baduy Pasca Terbentuknya Provinsi Banten Tahun 2000", dalam *Pandecta Research Law Journal Universitas Negeri Semarang*, Vol. 1(1), 2012, p. 19.

that are contrary to the *pikukuh karuhun* will be rejected by them, because those who violate will receive legal sanctions in accordance with the customary law in force in the Baduy community.⁵⁸ This principle of life is what makes the integrity of the Baduy community still well maintained until now because they adhere to the principles of *bukanuh* that have been passed down from their ancestors.⁵⁹

In essence, the Baduy people never care about the changes of the times and the arrival of negative influences from outside Baduy. A simple lifestyle and independent living have become a mutual agreement because its simplicity has become a shortcut in their lives in facing reality. A society that always appears without ever leaving its characteristics, wherever, whenever, and dealing with anyone does not know fantasy and variation.⁶⁰ The Baduy people have indeed chosen to be a traditional society that is anti-modernization. This choice is in accordance with the beliefs they adhere to, namely Sunda Wiwitan. Even so, they still respect and maintain good relations and communicate with the modern society around them. To bridge the gap between traditional life and their modern surroundings, they created an institutional structure that combines customary structures with national government structures. One Puun said, 'misguided modernization will only make us lazy and ungrateful for God's gifts. We can forget the earth and its contents, when we feel modern and great'.⁶¹ Because culture functions as a way of life that is learned and expected, which is followed by members of a particular community group, as is the case with the Baduy tribe.⁶²

Baduy with their uniqueness have distinctive characteristics, namely wearing white clothes that are hand-stitched (or commonly called *baju sangsang*), white headbands, wearing dark blue sarongs that are woven by themselves up to the knees, and their appearance rarely speaks or speaks as needed, but they are friendly, strongly uphold customary law, are not easily influenced, have strong opinions, and are wise.⁶³ Likewise regarding marriage, until now the marriage of the Muslim Baduy community is carried out based on matchmaking and witnessed by a shaman or *kokolot* according to the traditional institution (*tangkesan*), and in addition, it is also witnessed by a registrar or *Naib* as the *penghulu*. As for the dowry or gifts, it is in the form of betel, *polong* cloth, and money as much as possible. As for the age limit for marriage in Baduy, there are similarities and differences in tradition between Inner Baduy and

⁵⁸Aan Hasanah, "Pengembangan Pendidikan Karakter Berbasis Kearifan Lokal Pada Masyarakat Minoritas (Studi atas Kearifan lokal Masyarakat Adat suku Baduy Banten), dalam *Jurnal Wacana*, Universitas Islam Negeri Sunan Gunung Djati Bandung, Volume XXI, Nomor 1 Tahun 2012, p. 215.

⁵⁹Hingga kini *pikukuh* Baduy tidak mengalami perubahan apa pun, sebagaimana yang termaktub dalam *buyut* titipan nenek moyang. Maskur Wahid, "Sunda Wiwitan Baduy, Agama Penjaga Alam Lindung Desa Kanekes Banten", dalam *Jurnal Wacana*, IAIN Sultan Maulana Hasanudin, Banten, p. 10.

⁶⁰Djoewisno, "*Potret Kehidupan Masyarakat Baduy: Orang-orang Baduy Bukan Suku Terasin, tetapi Mereka yang Mengasingkan Diri*", Cipta Pratama, 1987, p. 134.

⁶¹Septiana Dwiputri Maharani, "Perempuan dalam Kearifan Lokal Suku Baduy", dalam *Jurnal Filsafat*, Volume 19, Nomor 3, Desember 2009, p. 209. Diakses pada 23 April 2022, pukul 10:44 WIB. <https://jurnal.ugm.ac.id/wisdom/article/view/3435/9400>.

⁶²Syani, Abdul. *Sosiologi dan Perubahan Masyarakat*, PT Dunia Pustaka Jaya, Bandar Lampung, 1995. p. 12.

⁶³Kiki Muhamad Hakiki, *op.cit.*, p. 28-29.

Outer Baduy. The marriage system in the Inner Baduy tribe still applies the matchmaking model. On average, girls there marry at the age of adolescence. It is not strange if we see very young Inner Baduy women carrying children while doing activities in front of their respective houses. This is not much different from the Outer Baduy community who are allowed to marry at a young age. One of the reasons is because there is no obligation for them to go to school and enter the world of education so that for them age is not a barrier to getting married.⁶⁴

The absence of a ban on early marriage for the Baduy community has caused many cases of early marriage to occur in the Baduy community. There are no legal consequences, only the impact on several things that the author has explained above. Actually, if there is a ban on early marriage, the Baduy community will obey it very much, because they obey the rules of their ancestors, namely Sialanguh. According to the results of interviews conducted by researchers, regarding sanctions if there are violations committed by the Baduy community. The Baduy community who commit sins will still be detected even up to seven generations and up to their children and grandchildren so that their lives will not be peaceful. In line with this, if there are several rules that are violated, then one of the heaviest sanctions is in the form of karma because this karma takes many forms, namely chronic illness or bad luck that he will get. The Baduy community loves peace, is anti-violence, must not fight and must not hit either husband and wife or not husband and wife.⁶⁵ Baduy customary law is the basic law in the lives of the Baduy people and is not like civil law. In Baduy customary law there is a term "panyeboran" which is to eliminate bad luck, eliminate karma, and erase other sins. Then besides that there is also a term called ngebokor.

Baduy customary law is sharper and harsher because it pierces the heart and follows the violator throughout life. The impact if it has not been "cleaned up" then it can be chronic illness, become crazy, or it could be "difficult to have property" because even if he goes everywhere he will still get bad luck. Continuing from this there is the term "nujum" which is useful for detecting sins that have been committed by Baduy people. Nujum is carried out by a paranormal which in the process is in the form of calling the karuhun. The paranormal itself in Baduy tradition is jaro tujuh. In practice the karuhun will "nyurup" to one of the people appointed by the paranormal. So after the nyurup, he will reveal all his sins so that after it is known what his sins and mistakes are, then treatment is carried out, namely "ngabokor" to atone for his sins. The implementation of underage marriage is not a violation for the Baduy customary community, so there are no legal consequences. The consequences of underage marriages carried out by the Baduy indigenous community only affect things that are

⁶⁴Mara dan Johan Arifin Kasnodihardjo, *Balutan Pikukuh Persalinan Baduy*, Pusat Humaniora Kebijakan Kesehatan dan Pemberdayaan Masyarakat, November 2014, p. 58.

⁶⁵Wawancara dilakukan oleh peneliti dengan Jaro Saija dan dengan Yayan (warga Baduy) di Rumah Jaro (kepala adat Baduy Luar) di Ciboleger, Lebak, Banten pada Hari Sabtu tanggal 5 November 2022.

outside the law as explained above.⁶⁶

According to the author, regarding the discussion of underage marriage practices in Baduy, if it is connected to the theory of legal certainty, then this does not reflect legal certainty, in accordance with the Marriage Law which regulates the minimum age limit for marriage. Because there are forced marriages, it is prone to quarrels because the mindset is still unstable.

4. Conclusion

The conclusions of this study are as follows:

- a. Regarding the impact of underage marriage on household harmony in the Baduy community, from the perspective of customary law and the marriage law, people can actually still live in harmony in a family even though they are the result of a marriage from an underage couple. Even so, it is possible that at some point in the future there will be quarrels in Baduy families who marry underage.
- b. In accordance with the conclusion above, the government should continue to carry out various activities in educating the importance of carrying out marriages according to the age limit recommended by the government for the sake of the continuity and harmony of the Baduy family

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⁶⁶Wawancara dilakukan oleh peneliti dengan Jaro Saija dan dengan Yayan (warga Baduy) di Rumah Jaro (kepala adat Baduy Luar) di Ciboleger, Lebak, Banten pada hari Sabtu tanggal 5 November 2022.

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