

JURIDICAL ANALYSIS OF MARRIAGE DISPENSATION IN EARLY MARRIAGE

(Case Study Of Decision Number 0022/Pdt.P/2023/PA.Pwt)

R. Fahmi Natigor Daulay¹, Beverly Evangelista²

Universitas Mataram

e-mail: fahmidaulay@staff.unram.ac.id

ABSTRACT

Early marriage remains a serious problem in Indonesia despite Law Number 16 of 2019 establishing the marriage age limit at 19 years. This normative juridical research analyzes the regulation of marriage age restrictions, marriage dispensation mechanisms, and judicial considerations through a case study of Decision Number 0022/Pdt.P/2023/PA.Pwt. Research findings indicate inconsistencies in the application of marriage dispensation requirements in courts. Judges granted dispensation based on considerations of preventing adultery without examining aspects of the child's best interest in accordance with Supreme Court Regulation Number 5 of 2019. The significant age disparity between prospective spouses (more than 16 years) that potentially creates unequal power relations was disregarded. The research concludes that implementation of the child's best interest principle in marriage dispensation has not been optimal. Recommendations include tightening criteria for urgent reasons, strengthening judge training, and enhancing inter-agency coordination to effectively prevent child marriage.

Keywords: *Marriage Dispensation; Early Marriage; Best Interest of the Child; Child Protection*

INTRODUCTION

Marriage is a sacred covenant that forms a family between a man and a woman. Marriage constitutes a significant event in communal life between human beings of different sexes to establish domestic unity. Marriage is not only based on biological needs between men and women that are legally recognized, but also based on the process of human life. Likewise, marriage is realized due to religiosity, meaning that religious aspects become the fundamental basis in domestic life.¹ The purpose of marriage is to fulfill religious guidance in order to establish a harmonious, prosperous and happy family. According to Imam al-Ghazali as quoted by Abdul Rohman Ghazali, the purposes of marriage are: (a) to obtain and continue offspring; (b) to fulfill human needs to channel desire and pour out affection; (c) to fulfill religious calling, maintain oneself from crime and corruption; (d) to cultivate

¹ Dwi Atmoko dan Ahmad Baihaki, *Hukum Perkawinan dan Keluarga*, (Malang: CV. Literasi Nusantara Abadi, 2022) p 1.

seriousness to be responsible for accepting rights and obligations and to obtain lawful wealth; (e) to build a household to form a peaceful society based on love and affection.²

As a sacred institution, marriage not only has a religious dimension, but also a legal dimension that is comprehensively regulated in statutory regulations in Indonesia. Marriage regulation in Indonesia has undergone significant development, particularly regarding minimum age restrictions for conducting marriage. Law Number 1 of 1974 concerning Marriage, which has been in effect for 45 years, regulated different marriage age limits between men and women, namely 19 years for men and 16 years for women. Through Constitutional Court Decision Number 22/PUU-XV/2017, the Constitutional Court stated that the provision of marriage age limit of 16 years for women in Article 7 paragraph (1) of the Marriage Law contradicts the 1945 Constitution of the Republic of Indonesia. This decision became the basis for the birth of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage which equalized the marriage age limit to 19 years for both men and women.

The change in marriage age limit has a noble purpose. Implementation of marriage before the specified age has risks that can be felt by both women and men. Children's unpreparedness at ages not ready for marriage can cause various things, such as termination of education, disruption of reproductive health, divorce at a young age, domestic violence, and so forth. In addition, early marriage also has negative impacts both mentally and physically. There are several aspects that trigger or are factors for early marriage, including economic needs, low education, early marriage culture, arranged marriages, and free sex among teenagers that causes pregnancy before marriage.³ Data from the Ministry of Religious Affairs shows the number of child marriages in Indonesia continues to decline over the past three years, from 8,804 couples under the age of 19 who married in 2022, to 5,489 couples in 2023, and decreased again to 4,150 couples in 2024. Despite the decline, a 2023 United Nations Children's Fund (UNICEF) report states that as many as 25.53 million girls in Indonesia married under the age of 18. This figure places Indonesia in fourth place globally with the highest number of child marriage cases after India, Bangladesh, and China.⁴

² Mesta Wahyu Nita, *Hukum Perkawinan di Indonesia*, (Lampung: CV. Laduny Alifatama, 2021) p. 1.

³ Shafa Yuandina Sekarayu dan Nunung Nurwati, "Dampak Pernikahan Usia Dini Terhadap Kesehatan Reproduksi", *Jurnal Pengabdian dan Penelitian Kepada Masyarakat (JPPM)*, Vol. 2 No. 1 (April, 2021), p 38-39.

⁴ Sali Susiana, "Perkawinan Anak: Faktor Penyebab Dan Upaya Pencegahannya", *Info Singkat Komisi VIII*, Vol. XVII No. 14 (Juli, 2025), p 1.

Although a minimum age limit for marriage has been established, many deviations are still found in the form of underage marriage practices. This contradicts the principles of marriage law as contained in Law Number 16 of 2019. As a solution, this law provides a marriage dispensation option through the court. However, the existence of this dispensation often creates the impression that the law is not consistent in enforcing the marriage age limit.⁵

Nevertheless, implementation of Law Number 16 of 2019 faces its own challenges in the digital era. The development of information and communication technology has changed patterns of social interaction in society, including in the context of inter-individual relationships that potentially lead to marriage. Social media, online dating applications, and various other digital platforms facilitate romantic relationships between underage children without adequate supervision. This phenomenon creates new dynamics in the context of early marriage, where relationships formed through the digital world often develop very quickly and intensely, thus encouraging the desire to immediately conduct marriage.

The digital era also brings significant influence to the normalization of close dating relationships among teenagers. Content on social media displaying the romantic lives of young couples, easy access to information about marriage, and viral stories of early marriage on digital platforms help shape the perception that early marriage is normal and even romantic. This condition creates social pressure for both teenagers and parents to immediately conduct marriage when the relationship is considered too close.

Reality on the ground shows that applications for marriage dispensation are almost always granted by courts. One example can be seen in the Decision of Purwokerto Religious Court Number 0022/Pdt.P/2023/PA.Pwt dated January 30, 2023. In this case, the Religious Court granted a marriage dispensation application for a prospective bride aged 18 years 5 months with a prospective groom aged 35 years. The reason underlying the granting of the dispensation request was concern about the occurrence of adultery because the relationship between the two prospective spouses was very close and could not be separated after dating for approximately 1 year. In its legal consideration, the panel of judges stated that there was no other choice but to marry the two prospective spouses so that adultery would not occur which could cause major sin and harm to both parties.

Social media and instant messaging applications make teenage relationships develop very quickly and intensely in a short time. This is different from the pre-digitalization era, where inter-individual interactions were more limited and easier to supervise by parents and the social environment. This phenomenon raises

⁵ Andrian Prayoga dan Vita Lukviana Wati, "Peran Media Sosial Dalam Mendorong Tren Pernikahan Usia Muda", *Triwikarma: Jurnal Ilmus Sosial*, Vol. 8 No. 3 (Juni, 2025), p 70.

questions about whether the existing marriage dispensation mechanism is still relevant and effective in the context of social changes brought about in the digital era.

In addition, the very significant age disparity between prospective spouses, such as in the case mentioned above with an age difference of more than 16 years, also raises questions about aspects of child protection and potential exploitation. However, in the consideration of that decision, the aspect of age disparity did not become a significant consideration, and the application was still granted based on the argument of preventing adultery. Whereas, according to the principle of child protection, marriage with a very large age disparity has the potential to create unequal power relations and can endanger the welfare of the child.

According to Lawrence Meir Friedman, there are three elements of the legal system, namely legal structure, legal substance, and legal culture.⁶ The problem of legal effectiveness does not only lie at the level of legal substance and legal structure, but also in legal culture. From the side of legal culture, public awareness about the importance of protecting children from early marriage is still low, and socio-cultural values that view early marriage as a solution to avoid social disgrace are still strong.

According to Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, judges are obliged to listen to the opinion of the child as the party who will conduct the marriage and must consider the best interests of the child. However, in practice, implementation of the principle of the best interests of the child is still not optimal in marriage dispensation decisions.⁷

Based on the description above, there is urgency to examine in depth the effectiveness of marriage age restrictions in Law Number 16 of 2019 regarding the phenomenon of early marriage in the digital era. This study is important to evaluate whether existing legal regulations have been able to answer the challenges of early marriage in the digital era, identify obstacles in its implementation, and formulate policy recommendations that are more responsive to contemporary social dynamics.

METHOD

⁶ Lawrence M. Friedman, *Hukum Amerika: Sebuah Pengantar, Terjemahan dari American Law An Introduction*, 2nd Edition, Alih Bahasa: Wisnu Basuki, (Jakarta: Tatanusa, 2001), p. 6-8.

⁷ Fransiska Novita Eleanora dan Andang Sari, "Pernikahan Anak Usia Dini Ditinjau Dari Perspektif Perlindungan Anak", *Progresif: Jurnal Hukum*, Vol. XIV No.1 (Juni 2020), p 52.

This research uses a type of normative legal research with a statutory approach that examines all laws and regulations related to the position of children in providing testimony for divorce cases. The nature of this research is descriptive analytical which describes and analyzes applicable legal rules without conducting field research. Research data sources are in the form of secondary legal materials consisting of primary legal materials including the 1945 Constitution, Civil Code, HIR, Compilation of Islamic Law, Law Number 16 of 2019 concerning Marriage, and Law Number 35 of 2014 concerning Child Protection; secondary legal materials in the form of law books, journals, scientific articles, and court decisions; as well as tertiary legal materials in the form of legal dictionaries and legal encyclopedias. Data collection was carried out through library research both offline and online to compile all relevant legal materials. Data analysis uses qualitative analysis methods.

DISCUSSION

Regulation Of Marriage Age Restrictions In Law Number 16 Of 2019

Regulation regarding marriage age in Indonesia has undergone a long and dynamic journey along with the development of community legal awareness and demands for protection of human rights, especially children's rights. Before the Marriage Law was declared effective on October 1, 1975, marriage law in Indonesia was regulated in various kinds of legal regulations or legal systems that applied to various groups of citizens and various regions. The various marriage laws were customary marriage law that only applied to indigenous Indonesians, Islamic marriage law that applied to indigenous Indonesians who were Muslim, the Civil Code (*Burgerlijk Wetboek* or BW) that applied to people of European, Chinese, and Foreign Eastern descent, Marriage Law according to the Indonesian Christian Marriage Ordinance (HOCI) that applied to indigenous Indonesians (Java, Minahasa, and Ambon) who were Christian. This ordinance began to be enacted on February 15, 1933, regulations on mixed marriages (*Regeling op de Gemengde Huwelijken*). These regulations were made to overcome the occurrence of many marriages between people subject to different laws, such as indigenous Indonesians with Chinese or Europeans, Chinese with Europeans, between Indonesians but of different religions or different origins.⁸

During the Dutch colonial period, there were no firm provisions regarding the minimum age limit for conducting marriage. Marriage law applicable to the European group was *Burgerlijk Wetboek* (BW), while for the Foreign Eastern group their respective laws such as Chinese law applied, and for the Indigenous

⁸ Jamaluddin dan Nanda Amalia, *Buku Ajar Hukum Perkawinan*, (Lhokseumawe: Unimal Press, 2016), p. 30-33.

group customary law and religious law applied.⁹ The absence of marriage law unification created various problems, including the absence of legal certainty regarding the minimum marriage age which caused rampant child marriage practices.

The birth of the Marriage Law applicable to all citizens of the Republic of Indonesia has largely met the demands of Indonesian society. This demand has been voiced since the first Indonesian Women's Congress in 1928 with the hope of improving the position of women in marriage. The issues that became the focus of the women's movement at that time were forced marriage, polygamy, and arbitrary divorce. Awareness of the need for national marriage law unification began to emerge since Indonesian independence. After going through lengthy debates in parliament involving various political and religious interests, exactly on January 2, 1974, Law Number 1 of 1974 concerning Marriage was enacted.¹⁰ This law is an important milestone in the history of Indonesian marriage law because for the first time Indonesia had marriage law that is national in nature and applies to all Indonesian citizens without distinguishing religion, ethnicity, and groups.

Article 7 paragraph (1) of Law Number 1 of 1974 stipulates that marriage is only permitted if the male party has reached the age of 19 (nineteen) years and the female party has reached the age of 16 (sixteen) years. This provision was in effect for 45 years from 1974 to 2019. The establishment of the age limit of 16 years for women at that time was based on the consideration that at that age a person was considered sufficiently mature physically and psychologically to conduct marriage and form a family.¹¹ However, along with the times, this provision began to draw criticism because it was considered discriminatory against women and not in line with the principle of child protection.

Criticism of the provision of different marriage age limits between men and women strengthened along with the development of awareness of gender equality and protection of children's rights. Various studies show that child marriage has serious negative impacts, both physically, psychologically, and socially. Women who marry at a child's age are more vulnerable to experiencing pregnancy and childbirth complications, dropping out of school, domestic violence, and poverty.¹²

Based on these considerations, several civil society organizations and individuals filed a judicial review of Article 7 paragraph (1) of Law Number 1 of

⁹ Muhammad Jazil Rifqi, "Dinamika Perkembangan Batas Usia Perkawinan Dalam Perspektif Hukum Progresif", *Arena Hukum*, Vol. 15 No. 2 (8, 2022), p 289–290.

¹⁰ Jamaluddin, *Op. Cit.*, p 33-34.

¹¹ Husen Muhammad, *Fikih Perempuan Refleksi Kyai Atas Agama dan Gender*, (Yogyakarta: LKIS, 2000). p .68.

¹² Fitri Yanni Dewi Siregar dan Jaka Kelana "Kesetaraan Batas Usia Perkawinan di Indonesia dari Perspektif Hukum Islam", *Mahakim*, Vol. 5 No. 1 (Januari, 2021), p. 6.

1974 to the Constitutional Court. The application was registered with Number 22/PUU-XV/2017. In its decision pronounced on December 13, 2018, the Constitutional Court granted the applicants' petition and stated that the phrase 16 (sixteen) years of age in Article 7 paragraph (1) of Law Number 1 of 1974 contradicts the 1945 Constitution of the Republic of Indonesia and has no binding legal force.¹³

The Constitutional Court in its consideration stated that differential treatment between men and women regarding the minimum marriage age limit has no constitutional justification and contradicts the principle of non-discrimination guaranteed in the 1945 Constitution.¹⁴ In addition, the Constitutional Court also considered that child marriage can hinder the fulfillment of children's constitutional rights, especially the right to education, the right to health, and the right to grow and develop optimally.¹⁵

The Constitutional Court decision was then followed up by the legislator by enacting Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage on October 14, 2019. This law came into effect on October 15, 2019. The fundamental change in this law is the equalization of the minimum marriage age limit for men and women to 19 years, as regulated in Article 7 paragraph (1) which reads: "Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years".¹⁶

The establishment of 19 years as the minimum marriage age limit has a strong ratio legis and is based on various scientific, legal, and social considerations. The age limit of 19 years for women is considered mature in body and soul to conduct marriage so as to realize the purpose of marriage properly without ending in divorce and obtaining healthy and quality offspring.¹⁷ Second, from a psychological perspective, the age of 19 years is considered as an age where a person has sufficient emotional and psychological maturity to build and live a household life. According to developmental psychology theory, in late adolescence which ranges from 18-21 years, individuals begin to develop a more stable self-identity, better abstract thinking ability, and the ability to make more mature

¹³ Putusan Mahkamah Konstitusi Nomor 22/PUU-XV/2017, p. 60.

¹⁴ *Ibid.*, p 58-59.

¹⁵ *Ibid.*, p. 52-53

¹⁶ Rabiatul Adawiyah, dkk., "Analisis Batas Usia Perkawinan Pada UU No. 16 Tahun 2019 atas Perubahan UU No. 1 Tahun 1974 Tentang Perkawinan (Studi Terhadap Pandangan Ilmuan Kota Padang tentang Perubahan Batas Usia Perkawinan)", *Hukum Islam (Fakultas Syariah Dan Hukum Universitas Islam Negeri Sultan Syarif Kasim Riau)*, Vol. 21 No. 2, (Desember, 2021), p 260.

¹⁷ Supianto, dkk., "Pemahaman Masyarakat terhadap Pembatasan Usia Minimal untuk Melangsungkan Perkawinan", *Jurnalrechtsens*, Vol. 9 No. 1, (Juni, 2020), p 98.

decisions.¹⁸ Third, from an educational perspective, establishing the age limit of 19 years provides opportunities for children to complete basic and secondary education. The education system in Indonesia stipulates that the age of graduation from upper secondary education (SMA/equivalent) is around 18 years. With the marriage age limit of 19 years, children have the opportunity to complete secondary education and even continue to higher education before marriage. Fourth, from a human rights law perspective, establishing the age limit of 19 years is in line with the provisions of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection which defines a child as someone who has not reached the age of 18 years. Although there is a one-year difference, establishing the age of 19 years provides a safe zone to ensure that marriage is not conducted at a child's age.

The General Explanation of Law Number 16 of 2019 explicitly states that the change in marriage age limit is intended to provide better protection for children's rights and to prevent child marriage which can have negative impacts on child growth and development. Marriage at a child's age not only threatens the child's right to education and health, but also has the potential to cause domestic violence, exploitation, and child neglect. Synchronization with the Child Protection Law is also an important consideration in changing the marriage age limit. Article 26 paragraph (1) letter c of Law Number 35 of 2014 concerning Child Protection explicitly states that parents are obliged and responsible for preventing marriage at a child's age. By raising the marriage age limit to 19 years, Law Number 16 of 2019 strengthens efforts to prevent child marriage and provides a stronger legal basis for protecting children's rights.

Analysis Of Marriage Dispensation For Early Marriage In Decision Number 0022/Pdt.P/2023/PA.Pwt

Although Law Number 16 of 2019 has established the minimum marriage age limit at 19 years, this law also regulates the possibility of deviations from these provisions through a marriage dispensation mechanism. Article 7 paragraph (2) of Law Number 16 of 2019 stipulates that: "In the event of a deviation from the age requirement as referred to in paragraph (1), the parents of the male party and/or the parents of the female party may request dispensation from the Court with very urgent reasons accompanied by sufficient supporting evidence". The provision regarding marriage dispensation is not actually new in the Indonesian marriage law system. In Law Number 1 of 1974 before the amendment, Article 7 paragraph (2) also regulated the possibility of deviation from the marriage age limit by requesting

¹⁸ Fitri Nur Rohmah Dewi, "Konsep Diri pada Masa Remaja Akhir dalam Kematangan Karir Siswa", *Journal of Guidance and Counseling*, Vol. 5 No. 1, (2021), p 55-56.

dispensation from the court or other officials appointed by both parents of the male and female parties.

There is a fundamental difference in the regulation of marriage dispensation between Law Number 1 of 1974 and Law Number 16 of 2019. Rochaeti explains that the significant difference lies in the stricter requirements in Law Number 16 of 2019, namely the phrase "very urgent reasons" and "sufficient supporting evidence," which were not explicitly regulated in Law Number 1 of 1974 before the amendment. The Explanation of Article 7 paragraph (2) of Law Number 16 of 2019 provides clarification regarding the meaning of the phrase "very urgent reasons" and "sufficient supporting evidence". In that Explanation it is stated: "What is meant by very urgent reasons is a situation where there is no other choice and it is very forced that the marriage must be conducted. What is meant by sufficient supporting evidence is a certificate stating that the age of the bride is still below the provisions of the law and a certificate from health personnel supporting the parents' statement that the marriage is very urgent to be carried out".

The phrase "situation where there is no other choice and it is very forced" shows that marriage dispensation should only be given in truly extraordinary circumstances (exceptional circumstances), not as a shortcut to avoid the marriage age limit provisions. The legislator wants marriage dispensation to be a last resort (*ultimum remedium*) that can only be taken if there is no better alternative for the child's interest.¹⁹

From a procedural side, marriage dispensation applications must meet several formal requirements. First, the applicant is the parent of the prospective spouse who is still under 19 years of age, both the parents of the male party and the parents of the female party. Second, the application must be submitted to the competent court, namely the Religious Court for those who are Muslim or the District Court for those of religions other than Islam. Third, the application must be accompanied by supporting evidence, at least in the form of an age certificate and a health certificate from medical personnel.

Although the Explanation of Article 7 paragraph (2) has provided criteria regarding very urgent reasons and sufficient supporting evidence, in practice there are still differences in interpretation among judges regarding what concrete situations can be categorized as very urgent and what evidence can be considered sufficient. This ambiguity creates problems in implementation, because judges have very broad discretion in assessing whether an application meets the criteria of very urgent reasons or not. In many cases, reasons such as dating relationships that are

¹⁹ Mia Hadiati dan Olivia Brilianci, "Analisis Alasan Mendesak dalam Penetapan Dispensasi Perkawinan Anak Pada Putusan Pengadilan Cilegon Nomor 32/Pdt.P/2019/Pa.Clg", *Unes Law Review*, Vol. 6 No. 1, (November, 2023) p 3667.

too close or fear of adultery are considered very urgent reasons, even though these reasons can actually be overcome by other means such as stricter supervision by parents or family counseling.

For example, in the Decision of Purwokerto Religious Court Number 0022/Pdt.P/2023/PA.Pwt, the panel of judges granted the marriage dispensation application with the main consideration that there was no other choice but to marry the two prospective spouses so that adultery would not occur which could cause major sin and harm to both parties. In its consideration, the judge also quoted religious arguments from the Qur'an Surah Al-Isra verse 32 and the ushul fiqh rule about rejecting harm.

Although in that case there was a very significant age disparity (the prospective bride was 18 years 5 months old while the prospective groom was 35 years old, with a difference of more than 16 years), this aspect did not become a significant consideration in the decision. The judge did not examine in depth the psychological and social implications of that age disparity, as well as the potential for unequal power relations in marriage that could endanger the child's welfare.

The theory of utility from legal philosopher Gustav Radbruch provides another perspective in examining the marriage dispensation phenomenon. Radbruch argues that good law must balance three core values, namely justice, legal certainty, and utility.²⁰ However, if we apply Radbruch's theory in the context of marriage dispensation practice as reflected in Decision Number 0022/Pdt.P/2023/PA.Pwt and other similar decisions, it is clear that these three values are in a very unbalanced and disproportionate condition.

From the side of legal certainty, this value is greatly weakened by the existence of a dispensation loophole that is too loose and easily accessible. Law Number 16 of 2019 has firmly established that the marriage age limit is 19 years, but with a high rate of granting marriage dispensation, the age limit provision becomes meaningless and loses its binding power. Society becomes uncertain whether the age limit of 19 years really must be obeyed or just a kind of rule that is easily set aside. This creates serious legal uncertainty.

From the side of justice, this value is also ignored because the needs and best interests of children are often defeated by social, cultural pressure, or parental wishes. In many marriage dispensation cases, children actually do not have free choice. They are in a pressured situation because of dating relationships that are considered too far by community norms, or because of pressure from parents and families who want marriage to be carried out immediately to avoid disgrace. In

²⁰ Martin Borowski, *Gustav Radbruch's Critique of Legal Positivism*(Cambridge University Press, 2021) p 627.

conditions like this, it is difficult to say that the decision to marry is a fair decision for the child.

From the side of utility, this value is also violated because marriage dispensation that is given too easily often produces long-term effects or impacts that are detrimental. Empirical data shows that marriages conducted at an early age have a very strong correlation with various negative outcomes such as termination of children's education, especially girls who often have to stop school after marriage, increased divorce rates at a young age due to immaturity in managing households, higher vulnerability to various forms of domestic violence, and being trapped in a cycle of poverty due to low levels of education and skills.

Thus, decisions that grant marriage dispensation easily without deep consideration of the child's best interests actually do not provide true utility for the child, but instead have the potential to bring greater harm or loss in the long term. This contradicts the purpose of the law itself which should provide protection and utility for legal subjects, especially for vulnerable groups such as children.

CONCLUSION

Based on the discussion that has been described, several important conclusions can be drawn as follows: First, the regulation of marriage age restrictions in Law Number 16 of 2019 which equalizes the age limit to 19 years for both men and women is a progressive and monumental step in efforts to protect children and enforce the principle of gender equality in Indonesia. This change has a very strong constitutional basis based on Constitutional Court Decision Number 22/PUU-XV/2017 and is supported by comprehensive scientific considerations from various aspects: safer reproductive health, more adequate psychological maturity, guaranteed educational continuity, and harmonization with other statutory regulations, especially the Child Protection Law. Second, although Law Number 16 of 2019 has regulated stricter requirements for marriage dispensation by requiring very urgent reasons and sufficient supporting evidence, in judicial practice there are still inconsistencies and ambiguities in its application. The absence of clear and measurable criteria regarding what is meant by very urgent reasons causes judges to have very broad discretion, which in turn causes a very high rate of granting marriage dispensation applications. This shows that the marriage dispensation mechanism which should be a last resort (*ultimum remedium*) in practice becomes an easy and routine shortcut to avoid marriage age limit provisions. Third, analysis of Decision Number 0022/Pdt.P/2023/PA.Pwt shows that implementation of the principle of the best interest of the child in marriage dispensation cases is still far from optimal. Judges tend to grant dispensation with the main consideration of preventing adultery based on religious arguments, without examining in depth and comprehensively the impact of marriage on various aspects of the child's life such

as education, health, psychosocial development, and long-term economic welfare. Crucial aspects such as the very large age disparity between prospective spouses (in this case more than 16 years) which has the potential to create unequal power relations also did not become a significant consideration in the decision.

REFERENCES

- Adawiyah, Rabiatul, dkk. "Analisis Batas Usia Perkawinan Pada UU No. 16 Tahun 2019 atas Perubahan UU No. 1 Tahun 1974 Tentang Perkawinan (Studi Terhadap Pandangan Ilmuan Kota Padang tentang Perubahan Batas Usia Perkawinan)". *Hukum Islam (Fakultas Syariah Dan Hukum Universitas Islam Negeri Sultan Syarif Kasim Riau)*. Vol. 21 No. 2. Desember 2021.
- Atmoko, Dwi dan Ahmad Baihaki. *Hukum Perkawinan dan Keluarga*. Malang: CV. Literasi Nusantara Abadi, 2022.
- Borowski, Martin. *Gustav Radbruch's Critique of Legal Positivism*. Cambridge: Cambridge University Press, 2021.
- Dewi, Fitri Nur Rohmah. "Konsep Diri pada Masa Remaja Akhir dalam Kematangan Karir Siswa". *Journal of Guidance and Counseling*. Vol. 5 No. 1. 2021.
- Eleanora, Fransiska Novita dan Andang Sari. "Pernikahan Anak Usia Dini Ditinjau Dari Perspektif Perlindungan Anak". *Progresif: Jurnal Hukum*. Vol. XIV No. 1. Juni 2020.
- Friedman, Lawrence M. *Hukum Amerika: Sebuah Pengantar*, Terjemahan dari *American Law An Introduction*, 2nd Edition. Alih Bahasa: Wisnu Basuki. Jakarta: Tatanusa, 2001.
- Hadiati, Mia dan Olivia Brilianci. "Analisis Alasan Mendesak dalam Penetapan Dispensasi Perkawinan Anak Pada Putusan Pengadilan Cilegon Nomor 32/Pdt.P/2019/Pa.Clg". *Unes Law Review*. Vol. 6 No. 1. November 2023.
- Jamaluddin dan Nanda Amalia. *Buku Ajar Hukum Perkawinan*. Lhokseumawe: Unimal Press, 2016.
- Muhammad, Husen. *Fikih Perempuan Refleksi Kyai Atas Agama dan Gender*. Yogyakarta: LKIS, 2000.
- Nita, Mesta Wahyu. *Hukum Perkawinan di Indonesia*. Lampung: CV. Laduny Alifatama, 2021.
- Penetapan Pengadilan Agama Purwokerto Nomor 0022/Pdt.P/2023/PA.Pwt tentang Dispensasi Kawin, tanggal 30 Januari 2023.
- Peraturan Mahkamah Agung Republik Indonesia Nomor 5 Tahun 2019 tentang Pedoman Mengadili Permohonan Dispensasi Kawin.

ISSN (Print) 2723-3413 - ISSN (Online) 2722-3663

DOI: <https://doi.org/10.30596/nomoi.v7i1.31217>

- Prayoga, Andean dan Vita Lukviana Wati. "Peran Media Sosial Dalam Mendorong Tren Pernikahan Usia Muda". *Triwikarma: Jurnal Ilmu Sosial*. Vol. 8 No. 3. Juni 2025.
- Putusan Mahkamah Konstitusi Republik Indonesia Nomor 22/PUU-XV/2017 tentang Pengujian Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Rifqi, Muhammad Jazil. "Dinamika Perkembangan Batas Usia Perkawinan Dalam Perspektif Hukum Progresif". *Arena Hukum*. Vol. 15 No. 2. Agustus 2022.
- Sekarayu, Shafa Yuandina dan Nunung Nurwati. "Dampak Pernikahan Usia Dini Terhadap Kesehatan Reproduksi". *Jurnal Pengabdian dan Penelitian Kepada Masyarakat (JPPM)*. Vol. 2 No. 1. April 2021.
- Siregar, Fitri Yanni Dewi dan Jaka Kelana. "Kesetaraan Batas Usia Perkawinan di Indonesia dari Perspektif Hukum Islam". *Mahakim*. Vol. 5 No. 1. Januari 2021.
- Supianto, dkk. "Pemahaman Masyarakat terhadap Pembatasan Usia Minimal untuk Melangsungkan Perkawinan". *Jurnal Rechtsens*. Vol. 9 No. 1. Juni 2020.
- Susiana, Sali. "Perkawinan Anak: Faktor Penyebab Dan Upaya Pencegahannya". *Info Singkat Komisi VIII*. Vol. XVII No. 14. Juli 2025.