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### **The Best Interest of the Child within the Marriage Dispensation Regulation in Indonesia**

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#### **Abstract**

The phenomenon of the child marriage is a crucial issue and has attracted public attention, especially among human rights activists in Indonesia. Although marriage dispensation has been regulated in Indonesia, the number of child marriages cases are still quite high. The purpose of this study is to explain the regulation of marriage age limit in the Indonesian law system. This study uses a historical-normative method. The sources and collection of the data refer to regulatory documents, literatures, and other resources that related to the research objective. The result of this study shows that there are several factors that influenced the child marriage cases in Indonesia, such as pregnancy outside of marriage, economy, education, customs, and religion. Moreover, the regulations of marriage dispensation in Indonesia are needed to be synchronized and harmonious with the other related regulations both are substantially and practically. In the other words, the implementation of marriage age limit regulations on the marriage dispensation lawsuit in Indonesia have to consider and return to the principle of the best interest of the child.

#### **Keywords**

Marriage, Age, Limit, Regulation, Marriage Dispensation.

#### **A. Introduction**

The Indonesian law system was created with the aim of fulfilling and protecting all aspects of human rights. This goal must be interpreted as a comprehensive protection for all citizens, including the children who are still under the marriage age (Azahary, 2017). In the Indonesian law system, this is clearly stated in the Preamble to the 1945 Constitution, which is further elaborated in the

articles and the body of the 1945 Constitution, and no less than 40 citizens' rights has been guaranteed by the state in in the 1945 Constitution, which became known as constitutional rights (Wiratraman, 2007).

One form of protection for the citizens is the protection of the right to have a marriage. However, even though the 1945 Constitution has emphasized the right to marriage as part of the constitutional rights, there are still many cases of underage marriages (Sendy, 2019). According to Hanafi (2015), the Government of Indonesia have set a minimum age limit for a person to marry, because they have both an interest and an obligation to guard and direct marriage as a social institution that must be protected by themselves and at the same time enhances human dignity (Octaviani & Nurwati, 2020).

In the context of Indonesian civil law, to provide the protection and to maintain a marriage that can run well, be healthy, and maintain its permanence, the Law of Marriage Number 1 of 1974 is given a limit on the age a person can marry. It is aimed to realize an ideal marriage with a mature age (Zulfiani, 2017). In this case, the age limit set is 19 for men and 16 for women like regulated in the Article 7 paragraph 1 the Marriage Law Number 1 Year 1974. This article contains several basic principles to guarantee the noble ideals of marriage, namely the principle of voluntary, family participation and maturity of the prospective bride, both the physical and mental maturity of the two prospective brides (Widyawati & Pierewan, 2017).

In addition, the physical and mental maturities of the two prospective brides are very urgent in marriage, because the maturity and a great sense of responsibility are needed in forming a family. This maturity is applied with an equal relationship pattern and considers the partner as a partner, so that the communication process in the household goes very well according to the expectations. The prospective bride and groom's maturity also mean that the prospective husband and wife must be physically and spiritually mature to carry out the marriage in order to fulfill the noble purpose of marriage (Puspasari & Pawitaningtyas, 2020).

One of the requirements in the Marriage Law Number 1 of 1974 is there is regulated that the lowest age limit for having a marriage (Djamilah & Kartikawati, 2014). This is stated in Article 7 Paragraph 1 which mentioned: *Marriage is only permitted if the male has reached the age of 19 (nineteen) years and the female has reached the age of 16 (sixteen) years.* This article contains the principle that the prospective husband and wife must mature body and soul to be able to carry out the marriage, so that they can realize the goal of ideal marriage without ending in divorce, and get good and healthy offspring.

In fact, there are many cases of under-age marriage through marriage dispensation procedure into the court. The marriage dispensation for the potential partner under the age of marriage is not arbitrary without a reason. There are many factors behind the stipulation of the marriage dispensation for potential

partner under the age of marriage, both the applicant's factor and the consideration of the judge as the dispensation provider for potential partner under the age of marriage (Hizbullah, 2019). For instance, some judges in religious court took a decision based on the reason that the two prospective brides have been put forward get out from adultery, they are very difficult to be separated, and they are really ready to marry. Thus, even though the marriage law has set the marriage age limit in such a way, it does not rule out the possibility for someone getting married. Someone who has not reached the stipulated age can still marry on the condition that he or she obtains permission from his or her guardian and from the religious court, where they can propose the applications for marriage permits in Indonesian marriage law system, which is very well known as the applications for marriage dispensation (Asrori, 2015).

Referring to the short empirical research, the cases of child marriage also appear to have been evenly distributed in almost all provinces in Indonesia. It is recorded that 23 provinces out of 34 provinces in Indonesia are proven to have a child marriage prevalence which is higher than the national prevalence. The highest prevalence of child marriage can be seen in South Kalimantan, with 4 out of 10 women and the lowest in Yogyakarta with 1 in 10 women. If it is returned to the main goal, the ideal marriage is to create a happy and prosperous family (Muntamah, Latifiani, & Arifin, 2019). Therefore, it is necessary to prepare for a mature marriage, including physical and non-physical preparation, with the provision of health, maturity and the ability to finance household life. It means that the prospective husband and wife who will enter domestic life have prepared the basic capital for efforts to foster and develop household life. Without such physical preparation, life and household space will become vulnerable, ultimately resulting in failure (Arikhman, Efendi, & Putri, 2019).

During the recent years, the phenomenon of under the age of marriage became a crucial problem in Indonesia based on various factors. This certainly needs to be regulated in a regulation to regulate marriage dispensation permits (Apriliani & Nurwati, 2020). An interesting point that needs to be examined here is whether the regulations regarding marriage dispensation were made with the aim of regulating or to tighten marriage permits for prospective married couples who are still minors and how far the state and government must be present and able to guarantee the constitutional rights for every citizen through drafting and ratifying the specific regulation regarding on marriage dispensation permits for the purpose of legal certainty.

Referring to the description above, the purpose of the paper are to explain the determinants factors of under the age of marriage cases in Indonesia, the marriage dispensation in the Indonesian marriage law, the universal legal norms for regulating the marriage dispensation, and the implementation of the principle of the best interest of the child in the protection of the children rights within the marriage dispensation regulation, including judicial procedures for marriage

dispensation according to the Indonesian law system.

## **B. Method**

This study uses a historical-normative method and descriptive-analytical approach. The historical-normative method is used to describe the development of marriage dispensation regulation in Indonesia. Descriptive-analytical approach is used to describe and analyze implementation of marriage dispensation regulations in solving the cases of the marriage dispensation arrangement in Religious Court. The sources and data collection techniques refer to interview with the recognized informants, regulatory documents, and literatures that relevant with the marriage dispensation regulations, including supported by the interview reports with the competent and recognized experts. The data analysis uses a combination between deductive and inductive approaches until formulating the conclusion.

## **C. Result and Discussion**

### **1. Determinant Factors of Under the Age of Marriage Cases in Indonesia**

To explain the determinant factors that influence the marriage dispensation applications to religious courts, this paper will present several excerpts from the interviews with several informants. The information obtained from informants is very important to see what the determinant aspects have caused the increase of the phenomenon of marriage dispensation applications to from year to year in religious courts.

#### **a. Pregnancy Before Marriage**

The large number cases of pregnancy outside of marriage is presumed resulted by the lack of parental attention to their children, especially regarding the issues of religious teachings in society. Pregnancy before marriage is something that should not happen. This is absolutely forbidden in Islamic religious teaching, which non-husband and wife couples are prohibited from having sexual relations. If someone is aware of this prohibition in religion, then he should not do so (Tampubolon, 2021).

Until now, religious values may be no longer used as a guide in living life among the young man and girls. At the same time, the parents also rarely remind their children about religious teachings. This causes moral decline experienced by children, which they tend to ignore religious rules, and the parents often acted lately. They alert their children when this situation has occurred. Many think that dating among the teenagers is something normal and has not been considered prohibited. Whereas children still need control from their parents so they don't overdo it. This condition, of course, can cause quite serious impacts. One of the effects is the pregnancy experienced by women who have had sexual relationship

with their partners. On the other hands, pregnancy should be a happy for a couple. However, if this pregnancy occurs before marriage, of course, it will have very serious further consequences (Yanti, Hamidah, & Wiwita, 2018).

Therefore, the occurrence of pregnancy before marriage is the main reason for parents to apply for marriage dispensation to the religious court. If the conditions are like this, then the only way out that parents take is to marry off the child, because the baby in the womb of the prospective bride must have a clear identity. They argued that without a legal marriage, the status of the children to be born would be unclear. In addition, it is likely to have a negative impact that will harm the child in the future (Syalis & Nurwati, 2020). This factor often causes applications for dispensation of marriage for children under the age of marriage to be submitted to the religious court, where the judges are obliged to grant the request on the grounds of obtaining benefits in terms of both religious and social law.

#### b. Economics

The high rate of young marriage is also triggered by the low economic capacity of the community or economic difficulties. The weak economic condition of the community causes parents not to be able to send their children to a higher education level, to ease the burden on the family, and the parents prefer to marry their children to someone who is considered capable of carrying the burden of his life reduced. These are becoming the second reason for the parents who have no longer able to live the burden of life, so the last resort is to marry his child even though he is not yet old enough and a marriage age dispensation is requested into the religious court (Hardianti & Nurwati, 2020).

Many cases occur in the problem of poverty which causes rampant underage marriages, when parents experience economic problems. In this case, the girl is sacrificed then the child is asked to quit school to just help his parents. By marrying off their daughters, parents hope that their burden in life will be reduced. Unfortunately, sometimes these girls also marry men with not much different economic status, which in turn creates new poverty (Fadilah, 2021).

In other several cases, there were still many cases where parents were in debt that could not be paid. If the parents who are in debt have a daughter, the girl will be handed over as a "means of payment" to the debtor. After the child is married, the debts are twisting the child's parents should be paid off. This is showed that the poor aspect has determinant impact to the parents to marry their children because of burden relieving reasoning. The parents will feel less burdened in life, because the child is becoming part of her husband responsibility. They feel that the sooner the girls marry, the better it is for their life, which is not because of the happiness of the children, but because of the weight and lightness of their life burden that they will bear (Redjeki, Hestiyana, & Herusanti, 2016).

#### c. Education

The applicant has also the reason that his child is no longer in school and does not have a permanent job so that it becomes a burden for parents. The low

level of community education has implicated on simple way of thinking among the parents, which they do not have the desire and motivation to facilitate their children to be more advanced. For those who daughters, they often wonder what their daughter wants to pursue to high school if they are finally returns to the kitchen in the end. This kind of thinking is still quite attached to rural communities. They are not used to seeing women working outside the home, so women are always placed in the kitchen. This is why the applicant aims to only marry and ask for a dispensation of age of marriage in religious court (Juhaidi & Umar, 2020).

However, education for children has a very big role. If a child drops out of school at the age of compulsory schooling, then fill the time by working, and now the child feels quite independent, so he feels able to support himself. It is on this basis that a child tends to want to marry in the under of age marriage. The same is true if the child who has dropped out of school is unemployed. In the void of time without work, they end up doing things that are not productive. One of them is building relationships with the opposite sex, which, if out of control, makes unwanted things happen. This is what encourages parents to quickly marry their underage children (Deasy, 2017). In this context, we can see that some parents who still do not understand the importance of education force their children to get married. This usually happens after teenagers have graduated from junior high school or even not. They think that higher education is not important. For them, passing elementary school is enough. The children themselves do not have the desire or aspiration to continue their education to a higher level.

#### d. Culture and Tradition

In big cities, there are a tendency for women to marry at adulthood and often becomes a kind of life game. In another place, there are the underage women or still in children married by their parents (Hardianti & Nurwati, 2020). For instance, in certain areas like in Malang, there are still influenced by cultural or traditional factors in society. There is still some understanding of the practice of underage marriage. The custom of marrying their underage children is often carried out by people who are still commonly done by the people in accordance with the existing customs and traditions (Mubasyaroh, 2016).

According to Putra (2013), nearly 40 percent of the population of Malang City came from the Madurese community or there were still influenced by Madurese culture. Madurese are more likely to marry their underage children. They feel ashamed if their daughter is not proposed. The parents urge that their children to get married. They are also used to marrying their children in a young age, even though they are still in the underage children but they are deemed fit for be married. Therefore, they are more likely to marry their children after graduating from elementary school.

According to him, the Madurese people often match their children from a very young age to avoid feeling embarrassed. In the case of matchmaking, they choose according to the social level or strata possessed by each prospective bride

who wants to marry. The social level or strata is seen from the lineage of each candidate, assets, and social status owned by the family wishing to match their child.

Munasik also added that the average age of prospective brides wishing to marry is 15 years old or when they have finished elementary school. They think that getting married young or below the minimum age of marriage is better than being spinster. So, if a woman remains single at the age above about 15 years, it is usually considered late in marriage. This is what encourages parents to encourage their children to marry underage. From the perspective of custom, often underage marriages occur because of a cultural drive in a community that positions women as second class. People tend to avoid the stigma of being called old maidens so they try to speed up marriage for various reasons.

## **2. Marriage Dispensation Regulation in Indonesian Marriage Law**

The decision of the Indonesian Constitutional Court has granted the lawsuit regarding the regulation on the marriage age limit for women in Indonesia. It is still considered relatively difficult to reduce the number of child marriages. The Indonesian Constitutional Court's decision which partially granted the judicial review lawsuit the Marriage Law Number 1 of 1974. However, it reminded about a dispensation provision that is often used to get around the marriage age limit. It means that the Constitutional Court's decision must be intervened quickly (Putra, 2013).

The marriage dispensation has actually caused violations, proclamation, and even omission of child marriages and this case is not small. For instance, the number of marriage dispensations reached 135 times a year in Surakarta. This shows that marriage dispensation is still easily given to tolerate the child marriage. This is already an emergency so that strategic steps to advocate for amendments to the Marriage Law Number 1 of 1974 must close ranks as well as monitoring the dispensation of marriage (Kartiwan, 2020).

Meanwhile, the Indonesian Child Protection Commission has the same opinion. For her, the marriage dispensation is the biggest obstacle to preventing child marriage in Indonesia. She reminded that it is not easy to suppress the child marriage because this dispensation tends to be popular in society. This means that the Constitutional Court's decision must be socialized in order to comply with the decision (Affandy, 2020).

Referring to the marriage law in Indonesia, the marriage dispensation is possible to do based on Article 7 paragraph 2 of the Marriage Law Number 7 of 1974. This regulation is clarified through Article 13 of the Regulation of the Minister of Religion of the Republic of Indonesia Number 3 of 1975. The regulation instructs prospective husbands who have not reached the age of 19 years and prospective wives who have not reached 16 years must receive marriage dispensation from the

religious court (Affandy, 2020). In this case, the Constitutional Court previously granted a lawsuit in regulating the age limit of 16 years for women to marriage because it was considered discriminatory. The panel of judges considered that the age limit seemed to contradict the 1945 Constitution and the Anal Protection Act. The Child Protection Law states that children are those under 18 years of age. However, the authority needs to change the age limit regulation is said to remain the responsibility of the People Representative Council as the legislators which the Constitutional Court has also gave them a maximum of three years (Mustopa, 2021).

Regarding on the foregoing, Indri also explained that that the time span cannot be said to be long or short. According to her, this is related to the members of parliament who will be elected after the 2019 Election. Hopefully the political constellation will provide support, meaning that many are young people, many people have been supporting the enforcement of human rights, especially the rights of women and children. If it is compared with the legal system in the other countries, the marriage legal system in Indonesia is inconsistent. On the one hand, the provisions in article 6 paragraph (2) emphasize that in order to marry a person who has not reached the age of 21 years old must get parental consent. On the other hand, the provisions in Article 7 paragraph (1) state that marriage is only permitted if the male party has reached the age of 19 and the woman has reached 16 years, the difference is if it is less than 21 years, then what is needed permission from parents, and if less than 19 years old, permission from the court is required. This is further strengthened by the provisions in Article 15 paragraph (2) the Compilation of Islamic Law (Effendy, 2021).

Every region and era have abnormalities with the other regions and eras, which greatly affect the age of maturity of a person. According to Tahir Mahmud (1998), it can be compared to the age limit of the prospective bride and groom in several Muslim countries, which Indonesia is definitely not the highest.

Table 1The Comparison of the Marriage Age Limits in Several Muslim Countries

Number	Country	Age (Man)	Age (Women)
1	Aljazair	29	18
2	Bangladesh	21	18
3	Indonesia	19	16
4	Iraq	18	18
5	Egypt	18	16
6	Libya	18	16
7	Malaysia	18	16
8	Pakistan	18	16
9	Marocco	18	15
10	Turkiye	18	15
11	Algeria	21	18



12	Yordania	16	15
13	Libanon	18	17
14	North Yaman	15	15
15	South Yaman	18	16
16	Somalia	18	18
17	Syria	18	17

Of course, the limit on the age of marriage can be measured based on the physical and mental maturity in general in each country. The problem of physical and mental maturity in Islamic law seems to be emphasized more on the physical aspect. To find out the age limit of maturity in Islamic marriage law, one of which can be seen in the legal imposition (*taklif*) for a person, which is technically called *mukallaf*, which must be considered capable of bearing legal burdens (Wafa, 2017).

Relating to the marriage regulation in Indonesia, the state and government should be more firm in making the minimum age limit for a person to be married, because it has both an interest and an obligation to guard and direct marriage as a social institution that protects and at the same time enhances the dignity of women. In Indonesia, to provide protection and to ensure that a marriage can run well, be healthy and maintain its permanence, the Marriage Law Number 1 of 1974 has given the age limit for a person to be married, so that an ideal marriage with a mature age can be realized (Mustopa, 2021).

The normative provisions regarding the legal age limit of marriage are 19 for men and 16 for women, as stated in Article 7 paragraph 1 of the Marriage Law Number 1 of 1974. The article clearly contains several principles to ensure the noble ideals of marriage, namely the principle of voluntary, family participation and maturity of the prospective bride (the physical and mental maturity of the two prospective brides). The physical and mental maturity of the two prospective brides which is urgent because in marriage, maturity and a great sense of responsibility are needed in forming a family (Syalis & Nurwati, 2020). This maturity is applied with an equal relationship pattern and considers the partner as a partner, so that communication in the household goes according to expectations. The principle of the prospective bride and groom's maturity also means that the prospective husband and wife must be physically and spiritually mature to carry out the marriage, in order to fulfill the noble purpose of marriage (Effendy, 2021).

Besides that, there are several reasons or factors behind the phenomenon of the dispensation of the age of marriage, the application for a permit for dispensation of marriage age at the Religious Court continues to increase from year to year. While at the same time legal protection for leaders has not been fully regulated in a firm and detailed manner, so it is necessary to have firm and clear laws and regulations, one of which is that it needs to be regulated through a government regulation of the Republic of Indonesia on the procedures for implementing marriage dispensation.

### 3. The Universal Legal Norms for Marriage Dispensation Regulation

Principles are the general foundation of law, abstract and the most common basis for the application of law (Budiono, 2017). Meanwhile, the principles are the legal foundations that are specific, concrete, and the clearest basis for the application of law. In order to formulate the Government Regulation of the Republic of Indonesia on the procedures for implementing applications for dispensation and prevention of child marriage can refer to several principles of legal norm such as.

a. Divinity

According to this principle, all human beings have the obligation to submit and obey His Lord, and stay away from his prohibitions. Everyone who adheres to a religion has an obligation to obey his own religious rules.

b. Justice

According to this principle, all human beings have the obligation to uphold the law fairly. On that basis, every citizen has the obligation to enforce the law fairly in accordance with applicable legal provisions. This is in accordance with the theory of law: where the law no longer matters, tyranny will emerge there, where the law is end, there are tyranny.

c. Freedom

According to this principle, all human beings have the right and freedom to choose their life, but rights and freedoms are limited by the rights and freedoms of others. This principle is in line with the theory of the rights and obligations that the rights and freedoms of a person are limited by the rights and freedoms of the others.

d. Equality

According to this principle, all human beings are equal in the right and dignity. This principle is in line with the nature (*fitrah*) in which everyone has the same social status and dignity, which naturally everyone is born to be free and also equal in the rights and dignity.

e. Willing to Goodness

According to this principle, all human beings have an obligation to obey the laws, call on the good and prevent from the bad. This principle is in line with the ethical theory developed the study of law that the concept of the rights and obligations is related to the ethical values.

b. Mutual Help

According to this principle, all humans have an obligation to help each other in goodness and are prohibited from helping in evil. This principle is in line with the theory of law that naturally, everyone is born to be free and also equal in the right and dignity.

c. Consensus

According to this principle, all human beings have an obligation to discuss each other and to reach a consensus in solving various problems. This principle is

also in line with theory of law that a person will be bound to his rights and obligations as a human being.

d. Tolerance

According to this principle, all human beings are obliged to be tolerant in respecting the differences in belief and religion and have the right or freedom to choose their respective beliefs.

Referring to the essence of marriage dispensation in the Indonesian marriage law perspective as the gateway to the future for all human beings, of course having a legal partner is a sacred bond and to knit true happiness in the future. There are many aspects that need to be considered in determining the minimum age limit for marriage. In addition, to ensure the effectiveness of the implementation of the marriage law amendment in Indonesia, especially related to the regulation of minimum age limit for marriage, it certainly requires various fulfillments, such as the government should first provide education services that are evenly distributed to all people in remote villages such as the nineteenth years old compulsory for education properly. completely applicable, and it must also be accompanied by a significant and comprehensive increase in community economic security and socialization that touches. The important aspect for proposing the marriage dispensation to the court is the parents and the judges have to consider the principle of the interest of the child.

#### **4. The Best Interest of the Child in Marriage Dispensation Regulation**

Marriage dispensation is the granting of relief for someone who wants to get married but he or she has not yet reached the age requirement for marriage in accordance with the marriage law. All citizens who want to get married but they are still a minor must obtain a marriage dispensation from the court. For example, the marriage dispensation from the Religious Courts is a decision in the form of stipulating a dispensation for prospective brides who have not yet reached the age of 19 for both men and women to carry out marriages in accordance with the Marriage Law Number 16 of 2019 (Mustopa, 2021).

In practice, the application for a marriage dispensation to the court can be submitted by the parent or guardian whose child is still below the minimum age for marriage as stated in Article 7 Paragraph (1) of the Marriage Law Number 1 of 1974 Jo. Number 16 of 2019, whether the parent of male or female to the Head of the Religious Court in the area of residence of the Petitioner. The applicant of marriage dispensation must pay attention to the order in which the people are deemed to be allowed to apply. For example, the applicant for a marriage dispensation from the woman's side is the father. If there is no father, then the mother and then the grandparents arrive at the person who is the current guardian. As for the applicant for a marriage dispensation from the male side, it can be anyone, he can be the

father or mother or guardian (Effendy, 2021).

Referring to the Supreme Court Regulation Number 5 of 2019, there are several requirements that must be completed to apply a marriage dispensation to the religious court, such as letter of application, photocopy of identity card of the parent or guardian concerned, photocopy of applicant's family card, photocopy of birth certificate of the child, photocopy of identity card or birth certificate of the prospective husband or wife, photocopy of the child's latest education certificate and/or certificate of still schooling from the child's school, photocopy of rejection letter from the district office of religious affairs, and paying down-payment fees for the case, petitioners who are unable to apply for a marriage dispensation free of charge (*prodeo*) (Effendy, 2021).

Until now, the Indonesian Supreme Court is very concerned with the implementation of the Marriage Law Number 1 of 1974 Jo Number 16 of 2019. The change specifically concerns the marriage age for men and women, which is 19 years. When the age of the prospective bride and groom has not reached that age, the marriage registrar can only register the marriage after there is a decision to grant dispensation by the religious court. The Indonesian Supreme Court is also having the opinion that the children are a mandate and gift from God Almighty who has the dignity and worth as a whole human being and has the same rights to grow and develop. Based on the reason, all actions regarding the children carried out by social welfare institutions, the state or the private sector, including the courts have to be carried out in the best interests of the child.

In addition, on the one hand, marriage can only be permitted for those who have met the age requirements, but in certain circumstances the court may grant a marriage dispensation in accordance with the applicable laws and regulations. On the other hand, a number of laws and regulations governing the provision of marriage dispensation have not been regulated explicitly and clearly. Therefore, the Supreme Court issued a regulation as a guideline for judges in court to hear cases of applications for dispensation for marriage. This provision is regulated in Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation.

Marriage dispensation regulations is not meant to provide the widest possible opportunities for boys and girls under the age of 19 who have the desire to get married. Marriage dispensation is understood as an exception to the provisions on the age limit for marriage, as regulated in Article 7 Paragraph (1) and Paragraph (2) of Marriage Law Number 16 of 2019. Based on this reason, the role of district court judges and religious courts is a key-actor in approving marriage dispensation applications. The decision must consider urgent reasons and the judge is obliged to listen to the opinions of both parties from the prospective bride who intends to carry out the marriage. Child marriage has a long impact that is often not realized by the community. Both physical and mental health. A woman who marries at the age of a child will face various limitations and risks. For example, the risk of getting pregnant and giving birth at a

very young age, limited education so they cannot earn income to contribute to the family, limited caring for children, have little voice in household decision-making and are less able to advocate for themselves. Shortly, the Indonesian Supreme Court Regulation Number 5 of 2019 is not only aimed for regulating the marriage dispensation by taking into account the principle of the best interests of the child, but also to prevent and limit the number of underage marriages in Indonesia.

#### **D. Conclusion**

Referring to the results and the discussion of the research, at the end of the article, can be concluded: first, the determination of the age limit for marriage does not conflict with the legal norms prevailing in society; second, dispensation for marriage is the granting of a marriage permit by the court to a prospective husband/wife who is not yet 19 years of age to marry; Third, the application for dispensation for marriage aims to apply the principles (the best interests of the child, the right to life and child development, respect for the opinion of the child, human dignity, non-discrimination, gender equality, equality before the law, justice, benefit and legal certainty). , ensure a judicial system that protects children's rights, increases parental responsibility in the context of preventing child marriage and identifies the presence or absence of coercion against children; Fourth, in adjudicating cases of application for dispensation for marriage, the court must present considerations from various aspects, such as religion, sociological, psychological, juridical, and health aspects. In addition, the court must also consider various aspects, such as economic, educational, social, cultural, health, and others that do not conflict with applicable legal norms; and fifth, the regulation of marriage dispensation not only considers the principle of the best interests of the child, but also to prevent and limit the number of underage marriages in Indonesia.

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