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THE ROLE OF EDUCATION AS A PREVENTIVE MEASURE AGAINST EARLY MARRIAGE: A FAMILY LAW PERSPECTIVE

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ABSTRACT

Strengthening legal protections while ensuring the right to education for children can help address this issue. Early marriage remains a critical legal and social issue in Indonesia, particularly because of the increasing number of marriage dispensation requests submitted to Religious Courts. This study aims to analyze the role of education in reducing such applications and evaluate the legal effectiveness of Indonesia's marriage dispensation system in protecting children's rights. Using a normative legal research method, the study applies statute, conceptual, case, and comparative approaches, including a comparison with Malaysia. The findings show that limited access to education significantly influences the rate of marriage dissolutions, as confirmed by official statistics and court decisions. Moreover, inconsistencies in the judicial interpretation of "very urgent reasons" weaken the enforcement of child protection norms. To address these challenges, this study recommends integrating reproductive health and rights education into school curricula, enhancing coordination among the Ministry of Education, Religious Affairs, and the judiciary, and establishing standardized judicial guidelines for dispensation cases. Strengthening these legal and educational measures will better protect children's rights and substantially reduce the prevalence of early marriages in Indonesia.

Keywords: Education, Marriage Dispensation, Child Protection

Perkawinan usia anak masih menjadi persoalan hukum dan sosial yang mendesak di Indonesia, terutama dengan meningkatnya permohonan dispensasi kawin di Pengadilan Agama. Penelitian ini bertujuan untuk menganalisis peran pendidikan dalam menekan jumlah permohonan dispensasi kawin serta mengevaluasi efektivitas sistem hukum Indonesia dalam melindungi hak anak. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, kasus, dan perbandingan, termasuk analisis terhadap sistem hukum di Malaysia. Hasil penelitian menunjukkan bahwa keterbatasan akses pendidikan secara signifikan memengaruhi tingginya tingkat dispensasi kawin, sebagaimana terlihat dalam data resmi dan putusan pengadilan. Selain itu, inkonsistensi dalam penafsiran yudisial terhadap frasa "alasan sangat mendesak" melemahkan penerapan norma perlindungan anak. Untuk mengatasi hal

tersebut, penelitian ini merekomendasikan integrasi pendidikan kesehatan reproduksi dan hak anak dalam kurikulum sekolah, peningkatan koordinasi antarinstansi, serta penyusunan pedoman yudisial yang terstandarisasi dalam penanganan perkara dispensasi kawin. Penguatan sinergi antara pendidikan dan penegakan hukum akan lebih menjamin perlindungan hak anak serta menurunkan angka perkawinan usia dini di Indonesia.

Kata Kunci: Pendidikan, Dispensasi Perkawinan, Hak Anak

INTRODUCTION

Marriage is more than just a declaration allowing a couple to engage in sexual relations; it is a central aspect of societal life. The sanctity of marriage is rooted in its spiritual significance. Consequently, adherence to these rules is essential.¹ The sacredness of marriage has been undermined by the increasing instances of early marriage. Early marriage serves as a means for girls to steer clear of foreign cultural influences. In certain rural areas, parents often opt for early marriage to prevent unwanted pregnancies, as it is seen as a way to conceal family disgrace and is regarded as the most effective solution.²

According to Article 1 of the Convention on the Rights of the Child, the legal age for marriage is 18 years. The International Planned Parenthood Federation and Forum on Marriage and Rights of Women and Girls define child marriage as a union before the age of 18 or when the individual is not yet physically, physiologically, or psychologically prepared for marriage and parenthood. Child marriage involves a legal or social agreement between a man and a woman to marry, executed by someone who has not yet reached the legal age stipulated by Indonesian law.³

The purpose of a marriage dispensation is to allow individuals who have not yet reached the legal age for marriage to still be able to wed. This application was submitted urgently and must be supported by adequate evidence. It involves gathering information from the parents or guardians of the child seeking dispensation, the child themselves, the parents or guardians

¹ Hasan Ashari, "Rekonstruksi Pertimbangan Alasan Sangat Mendesak Pada Perkara Dispensasi Kawin Di Pengadilan Agama," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 18, no. 2 (October 4, 2024): 1087, <https://doi.org/10.35931/aq.v18i2.3389>.

² Fresty Kartika Fitri, Intan Rahmawati, and Siti Kholifah, "Analisis Kelonggaran Dispensasi Kawin Dalam Pernikahan Dini Menggunakan Vos- Viewer," *Brawijaya Journal of Social Science* 3, no. 01 (October 4, 2023), <https://doi.org/10.21776/ub.bjss.2023.003.01.4>.

³ Sonny Dewi Judiasih, Susilowati Suparto Dajaan, and Bambang Daru Nugroho, "Kontradiksi Antara Dispensasi Kawin Dengan Upaya Meminimalisir Perkawinan Bawah Umur Di Indonesia," *Acta Diurnal* 3, no. 2 (2020).

of the intended spouse, and the intended spouse themselves. In deciding whether to grant a marriage dispensation, the court considers various factors, including emotional, psychological, health, religious, moral, customary, and cultural aspects, as well as the potential impact of child marriage. These considerations aim to ensure that the marriage is successful and that the family experiences happiness and tranquility, both in this life and beyond.⁴

Child marriage is not a remedy for economic and social issues; in fact, it exacerbates the challenges faced by children. Despite efforts to lower the national marriage rate to 7.5 percent by 2023, Indonesia continues to grapple with child marriage-related issues. Numerous children under 18 have been wed for various reasons, including financial difficulties. According to BPS data, the incidence of underage marriage has increased over the past decade. Approximately 10.4% of child marriages occur annually in Indonesia. Last year, West Nusa Tenggara had the highest rate at 17.32%, followed by South Sumatra at 11.41% and West Kalimantan at 11.29%. Indonesia ranks among the countries with the highest rates of child marriage globally.⁵

In 2023, UNICEF data revealed that Indonesia held the fourth position worldwide, with approximately 25.53 million girls married. This figure also highlights Indonesia as having the highest number of child marriages in ASEAN. This situation is undoubtedly concerning. Children who marry before turning 18 years old encounter a multitude of difficulties. Komnas Perempuan has pinpointed six risks linked to child marriage that could threaten the future development of Indonesia's human resources.⁶

The factors influencing early marriage include: 1) social pressures, which account for up to 28% of early marriages; 2) family dynamics, such as children experiencing divorce, lack of affection, and insufficient attention; 3) health issues, encompassing both mental health and psychological challenges faced by children; 4) economic factors, which can mitigate the difficulties associated with child marriage; 5) accessibility to information, with the Director General of Badilag noting 34,000 marriage dispensation applications

⁴ Mochammad Agus Rachmatulloh and Chafidz Syafiuddin, "Praktik Permohonan Dispensasi Kawin Di Pengadilan (Studi Peraturan Mahkamah Agung Nomor 5 Tahun 2019)," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 9, no. 1 (October 4, 2022): 1-15, <https://doi.org/10.24252/al-qadau.v9i1.23752>.

⁵ Yulius Budianto, "Tingginya Angka Perkawinan Usia Anak Di Indonesia," *Kompas*, July 2, 2024, <https://www.kompas.id/artikel/tingginya-angka-perkawinan-usia-anak-di-indonesia>.

⁶ Intan Eka Mufrida, "RI Peringkat 4 Jumlah Perempuan Yang Menikah Di Bawah Usia 18 Tahun," *GoodStats*, July 2, 2024, <https://data.goodstats.id/statistic/ri-peringkat-4-jumlah-perempuan-yang-menikah-di-bawah-usia-18-tahun-JkHnB>.

from January to July 2020, 97% of which were approved, and 60% involved girls under 18; 6) traditions and cultural norms, which can be misinterpreted, leading to stigma, values, beliefs, and social labeling of unmarried children; 7) education, which pertains to knowledge, learning, and communication; 8) religion; and 9) legal aspects.

Children who marry at a young age often discontinue their education. Such early unions frequently initiate a cycle of poverty that is just beginning to develop. According to the UNICEF Global Database (2020), early marriage can negatively affect at least 1.7% of a nation's GDP. Furthermore, early marriages are more prone to issues such as infidelity, domestic violence, and divorce, largely due to the lack of psychological support for the young individuals involved. Additionally, marrying too young can adversely affect the health of the prospective mother, as her body may not be prepared for pregnancy and childbirth, leading to complications. Infants born to young mothers face a 1.5 times greater risk of death within the first 28 days of life. Moreover, inadequate education and low-paying jobs contribute to early marriage. Wijayati notes that parents with limited financial resources are more likely to see their children marry early, as economic constraints hinder their ability to provide higher education, thus reducing the financial burden on the family. Consequently, we are keen to explore the critical role of education in curbing the rise in marriage dissolution.

RESEARCH METHODS

This study employs a normative legal research methodology, incorporating statute, conceptual, case, and comparative approaches. The statute approach focuses on examining significant legal documents, including Law No. 16 of 2019 on Marriage, the Child Protection Law, and Supreme Court Regulation No. 5 of 2019. The conceptual approach delves into legal doctrines concerning children's rights and education as preventive measures against child marriage. Meanwhile, the case approach scrutinizes court rulings (*inkracht*) to comprehend the judicial reasoning behind granting marriage dispensations. Additionally, a comparative approach with Malaysia is utilized to discern similarities and differences in the regulation and judicial practice of marriage dispensation, offering insights into enhancing Indonesia's legal framework on child protection and education-based prevention of early marriage.

RESULTS AND DISCUSSION

The Urgency of Education to Reduce Applications for Marriage Dispensations

Education is vital in curbing child marriage, as explained by the Empowerment Theory. This theory highlights that education goes beyond imparting knowledge; it fosters critical awareness, boosts self-confidence, and enhances an individual's capacity to make independent choices. In terms of preventing early marriage, education acts as a tool for social empowerment, enabling children, particularly girls, to comprehend their rights, withstand societal pressures, and thoughtfully plan their futures. By providing critical thinking abilities and decision-making skills, education helps disrupt the cycles of poverty and reliance that often result in early marriage. Consequently, education-based empowerment should be viewed as a strategic approach to reducing the number of marriage dispensation applications in Indonesia. This viewpoint offers a normative and conceptual framework for analyzing how Indonesia's legal system governs and limits underage marriage in accordance with child protection principles.⁷

Moreover, the empowerment perspective highlights the link between education and legal awareness. Educational achievements not only affect personal decision-making but also influence how communities understand children's rights and marriage laws. Individuals with sufficient educational backgrounds are likely to view the legal minimum age for marriage not merely as a bureaucratic limitation but as a safeguard intended to protect the child's best interests. This perception demonstrates the alignment between education and legal awareness, ensuring that the goals of marriage laws to enhance child welfare and uphold human dignity are effectively achieved in practice.⁸

Law Number 16 of 2019, which revises Law Number 1 of 1974 on Marriage, establishes the minimum marriage age for both genders at 19 years. This age is considered suitable for individuals to be adequately mature, both mentally and physically, to marry and have healthy offspring. Children are regarded as a divine blessing and responsibility from Allah, God Almighty, and they hold the same dignity and rights as others, including the right to procreate. Actions by social welfare organizations, whether state or private, as well as by judicial, administrative, or legislative bodies concerning children, prioritize the child's best interests, as highlighted in the Convention on the Rights of the Child, which Indonesia has ratified.

⁷ Cecep Tedy Siswanto, "Analisis Kebijakan Dispensasi Kawin Di Indonesia," *Jurnal Hukum Caraka Justitia* 5, no. 1 (October 15, 2025): 91–106, <https://doi.org/10.30588/jhcj.v5i1.2197>.

⁸ Alfi Husni and Latif Mustofa, "Ambiguitas Norma Dan Problem Teknikalitas Dispensasi Kawin Pada Peradilan Agama Di Indonesia," *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 21, no. 1 (October 15, 2023): 42–60, <https://doi.org/10.32694/qst.v21i1.2457>.

Regarding marriage, only those who meet the age requirement are allowed to marry in the Philippines. Those who satisfy the age criteria can marry as expected, while those who do not can proceed with marriage if the court grants a marriage dispensation in accordance with the law.⁹

Marriage Law regulations have led to a surge in applications for marriage dispensation, which, in turn, raises the likelihood of child marriage due to a lack of public awareness. Judges who approve these dispensations are significantly influenced by legal considerations and relevant laws. Soerjono Soekanto identified four factors that influence law enforcement: legal norms, facilities and infrastructure, the law enforcement process itself, and societal factors.¹⁰

According to Article 3 of Law No. 23 of 2002, the aim of child protection is to uphold children's rights to live, grow, develop, and engage fully, honoring their human dignity while shielding them from violence and discrimination. This legal framework aspires to nurture skilled, virtuous, and thriving Indonesian children. Within this context, it is essential to reevaluate the rights of children who marry at an early age. Nonetheless, there is no assurance that these rights will be upheld if children are confronted with the choice of marrying too soon due to parental pressure.¹¹

Following the amendment of Article 7, paragraph (2) in the most recent Marriage Law, both the male and female parties' parents must seek a marriage dispensation, which can only be granted by a court. Article 7, paragraph 2 specifies that this dispensation can be requested "for very urgent reasons accompanied by sufficient supporting evidence," indicating that such applications are restricted. Consequently, requests must be backed by clear evidence and compelling reasons. However, the current legislation lacks precise guidelines for interpreting this phrase, leading to potential variations in its understanding. Therefore, it is the responsibility of the judge to interpret the meaning of the phrase.¹²

While Indonesia's legal framework seems thorough in setting the minimum marriage age and ensuring procedural safeguards for child protection, its application in the judiciary is inconsistent and largely reliant on judicial discretion. The vague term "very urgent reasons" in Article 7(2) of

⁹ Zahra Erma, *Perlindungan Terhadap Hak Anak Dalam Pelaksanaan Dispensasi Perkawinan Di Pengadilan Agama* (Zahira Media Publisher, 2023).

¹⁰ Syaiful Huda Arief Budiono, *Praktik Profesional Hukum Gagasan Pemikiran Tentang Penegakan Hukum* (Muhammad University Press, 2022).

¹¹ Hasyim Ismail Abror, *Dispensasi Perkawinan Di Bawah Umur* (DIVA Press, 2019).

¹² Abror.

the Marriage Law has led to interpretative uncertainty that varies by region. As demonstrated in court rulings such as Case No. 215/Pdt.P/2024/PA and Case No. 6/Pdt.P/2024/PA, judges use varying standards to determine if the reasons given such as psychological readiness, pregnancy, or parental pressure meet the criteria of "urgent." In one instance, a dispensation was denied based on a psychosocial evaluation from the local child protection service, whereas in another instance, similar evidence was overlooked. This inconsistency highlights that the lack of standardized evidentiary criteria and limited coordination among institutions have allowed social and cultural factors to take precedence over legal principles, thereby diminishing the law's predictability and effectiveness in safeguarding children's rights.

From the perspectives of law enforcement and child protection, these inconsistencies reveal a significant gap between ideal standards and practical realities within the judicial system. The absence of uniform procedures for evidence verification, coupled with inadequate training for judges in child welfare evaluation and the lack of a centralized database for marriage dispensation cases, obstructs accountability and policy evaluation. Moreover, insufficient collaboration among courts, social services, and educational institutions results in fragmented recommendations that do not adequately reflect a child's best interests. To improve legal enforcement, it is vital to establish clearer guidelines for interpreting "very urgent reasons," require psychosocial evaluations, and enhance judges' skills through continuous professional development. Implementing an integrated reporting system for dispensation rulings would ensure transparency, promote consistency, and align judicial practices with the core principle of child protection under Indonesian law..

Table 1. Comparison between Indonesia and Malaysia

No	Aspect	Indonesia	Malaysia
1.	Legal Basis	Law No. 16/2019 (Amendment to Law No. 1/1974 on Marriage)	Shariah Law (Muslim), Civil Law (non-Muslim)
2.	Minimum Marriage Age	19 years for both genders (with exceptions)	16 years (girls), 18 years (boys) with dispensations
3.	Role of Court	Religious Court (Pengadilan Agama) for Muslims	Shariah Court (Muslims), Civil Court (non-Muslims), Special

			Body (evaluates dispensations)
4	Criteria for Dispensation	Exceptional circumstances (e.g., health, family situation)	Exceptional circumstances (e.g., pregnancy, social reasons), Special Body evaluates if dispensation is justified
5	Approval Process	Parents/guardians apply; court reviews urgency and conditions	Parents/guardians apply; court and special body assess based on welfare and social considerations

Source: Data analysis by the author

Ministerial Regulation No. 5 of 2019 mandates that judges presiding over marriage dispensation cases employ language and methods that are comprehensible to children when posing questions or eliciting information from minors seeking marriage dispensation or from prospective spouses who are still classified as children. During such proceedings, judges and clerks are not required to wear traditional judicial attire, such as robes and ties, when interacting with children, including those seeking dispensation or prospective spouses. This measure aims to alleviate the psychological pressure. The regulation's intent is to ensure that children do not experience undue stress or burdens when providing information. It is important to note that judges and substitute clerks only dispense with trial attire when the individual being examined is a child. However, when examining the parents or guardians of the child, the parents or guardians of the prospective spouse, and adult spouses (not children), the judge is required to wear traditional trial attire. The primary objective of foregoing trial attire is to mitigate the psychological pressure on the child who is to provide testimony in the courtroom.¹³

The extent of educational attainment is reflected in the average duration of schooling. This average duration refers to the total number of years an individual spends in education, excluding any repeated years and the year when the average person leaves school. individuals aged 20-24 who marry after turning 18 tend to spend more time in school than those who marry before 18. Among women in the 20-24 age group, there is an almost

¹³ Fitri Raya et al., "Urgensi Pendidikan Tekan Pernikahan Dini," *Jurnal Dedikasi* 15, no. 1 (2022).

two-year difference in schooling between those who married as minors and those who married at 18 or older. Figure 7 indicates that women who marry before 18 typically only reach the 7th grade, whereas those who marry between 20-24 years old usually complete junior high school. Similarly, men who marry before 18 years of age generally finish only elementary school, while those marrying at 20-24 years old typically complete junior high school. In Malaysia, compared to 1 in 30 young males, those aged 20-24 married before reaching 18 years. Annually, 12 million girls under 18 get married, which equates to 23 girls every minute. As of 2018, at least 1,500 children are married annually in Malaysia.

Evidence supports the normative and theoretical connection between education and a decrease in early marriage. According to data from the Central Statistics Agency (BPS), areas with higher average years of schooling generally exhibit lower rates of marriage dispensation. Similarly, UNICEF (2023) notes that girls who finish secondary education are 60 percent less likely to marry before turning 18 compared to those who only complete primary education. Additionally, an analysis of Religious Court decisions, such as Decision No. 215/Pdt.P/2024/PA and No. 6/Pdt.P/2024/PA, shows that limited educational achievement is frequently mentioned as a significant factor in marriage dispensation requests in the region. These normative findings, backed by official statistics and judicial practices, illustrate that access to education and legal literacy greatly affect judicial outcomes and help reduce the incidence of early marriages in Indonesia.¹⁴

Child marriage remains a significant concern in Indonesia and Malaysia, particularly in rural and economically challenged areas. While specific data on school attendance rates for underage children in Indonesia are lacking, it is evident that child marriage frequently disrupts their education, leading many girls to leave school after getting married. Efforts to tackle this problem include initiatives that promote school attendance, offer support for married students to continue their education, and emphasize the importance of delaying marriage to complete education. It is widely recognized that marriage often hinders educational pursuits, with numerous girls leaving school post-marriage, especially during high school. Ongoing research aims to understand the impact of education on child marriages. In the process of forming couples, the gender roles and educational backgrounds of partners

¹⁴ Siswanto, "Analisis Kebijakan Dispensasi Kawin Di Indonesia."

play crucial roles.¹⁵

Prospective brides or parents of minors who are not yet eligible for marriage can seek marriage dispensation from the Religious Court in their area. Upon reviewing the case, the Religious Court for Muslims and the State Court for non-Muslims make a decision approved the marriage dispensation. This request must be filed by the parents or guardians of the future bride and accompanied by specific and well-defined reasons and interests.¹⁶ In Malaysia, the authority to grant marriage permits to minors is vested in Shariaa judges.¹⁷

Before an applicant can file an application with the Religious Affairs Office or the Court, they must first submit it to the Office of Religious Affairs. If the Office of Religious Affairs rejects the application due to non-compliance with the requirements, the applicant may then request a marriage dispensation from the Religious Court. This dispensation can be authorized by the father, guardian, or parent of an individual who has not yet reached the age of majority. Additionally, in the process of handling marriage dispensation applications, the head judge and the panel of judges review the submitted files once they are received. They then determine the date and time for the hearing and notify the involved parties to attend the specified schedule. The parties are also informed that they should prepare any evidence they wish to present during the trial.¹⁸ Indonesian laws governing child marriage include the following:

1. Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage: The minimum age for marriage is 19 years for both men and women. Underage marriage may be permitted with parental consent or the special permission of religious courts.
2. Child Protection Act: This law prohibits child marriage and defines a child as anyone under the age of 18 years. The law aims to protect children from

¹⁵ Abror, *Dispensasi Perkawinan Di Bawah Umur*.

¹⁶ Gios Adhyaksa, Anthon Fathanudien, and Winayanti Nurohmahwati, "Implementasi Dispensasi Perkawinan Di Bawah Umur Berdasarkan Undang-Undang No.16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Studi Kasus Di Kabupaten Kuningan)," *Jurnal Kajian Hukum Islam* 6, no. 1 (2021): 42-54.

¹⁷ Nik Rahim Nik Wajis et al., "Perkahwinan Kanak-Kanak Di Malaysia: Had Umur Minimum Dan Implikasinya: Children's Marriage In Malaysia: Minimum Age Limit And Its Implications," *Malaysian Journal of Syariah and Law* 8, no. 2 (October 4, 2020): 15-30, <https://doi.org/10.33102/mjsl.vol8no2.252>.

¹⁸ Adhyaksa, Fathanudien, and Nurohmahwati, "Implementasi Dispensasi Perkawinan Di Bawah Umur Berdasarkan Undang-Undang No.16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Studi Kasus Di Kabupaten Kuningan)."

exploitation, including early marriage, and to protect children's rights and welfare.

3. Islamic Family Law (Compilation of Islamic Law): This law regulates matters related to family and marriage for most of Indonesia's Muslim population. This allows underage marriage with the permission of a religious court and parental consent to marry.
4. Supreme Court Regulation Number 5 of 2019, concerning Guidelines for Adjudicating Marriage Dispensation Applications.¹⁹

Another study found that early marriage reduced women's chances of obtaining a decent education, and thus reduced their chances of obtaining a decent life. This leads to a vicious cycle: poverty and low literacy coupled with religious, social, and cultural influences that encourage early marriage.²⁰ Despite the law, child marriage still occurs in Indonesia, especially in rural and economically disadvantaged regions. Efforts are being made to enforce current laws, raise awareness of the negative effects of child marriage, and provide assistance to at-risk children and families. One study discusses the reasons for child marriage in the district of Assam, India. Studies have shown that factors such as the economic conditions of low-income families contribute to the increase in child marriage rates; low parental education levels correlate with higher rates of child marriage; social norms and norms related to child marriage; and large family sizes contribute to child marriage. In addition, research has shown an increase in the misuse of modern technologies, such as mobile phones and televisions.²¹ Those who marry after 18 tend to have higher rates of educational attainment than those who marry under 18.²² Nonetheless, involvement in educational institutions such as schools can provide protection for women in terms of their decision to marry at a young age.²³

¹⁹ Fahadil Amin Al Hasan and Deni Kamaluddin Yusup, "Dispensasi Kawin Dalam Sistem Hukum Indonesia: Menjamin Kepentingan Terbaik Anak Melalui Putusan Hakim," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 14, no. 1 (October 4, 2021): 86–98, <https://doi.org/10.14421/ahwal.2021.14107>.

²⁰ Heribertus Rinto Wibowo et al., "One Household, Two Worlds: Differences of Perception towards Child Marriage among Adolescent Children and Adults in Indonesia," *The Lancet Regional Health - Western Pacific* 8 (October 4, 2021): 100103, <https://doi.org/10.1016/j.lanwpc.2021.100103>.

²¹ Maila D H Rahiem, "COVID-19 and the Surge of Child Marriages: A Phenomenon in Nusa Tenggara Barat, Indonesia," *Child Abuse & Neglect* 118 (October 4, 2021): 105168, <https://doi.org/10.1016/j.chiabu.2021.105168>.

²² Badan Pusat Statistik, *Pencegahan Perkawinan Anak: Percepatan Yang Tidak Bisa Ditunda* (Puskapa, 2020).

²³ Marsha Habib, "Risalah Kebijakan Pencegahan Perkawinan Anak Untuk Perlindungan Berkelanjutan Bagi Anak," *PUSKAPA*, 2023.

Two instances exemplified decisions in which marriage dispensation applications were not accepted. In the first case, decision number 215/Pdt. P/2024/PA involves the applicant's daughter, an 18-year-old woman with a primary education, who intends to marry a 17-year-old man with a junior high school education and an income of Rp. 1,500,000. The judge's decision to reject the dispensation application was influenced by counseling conducted at the Integrated Service Center for Women & Children Empowerment (P2TP2A), which concluded that the applicant's daughter was psychologically unfit for marriage. Similarly, in decision number 6/Pdt. P/2024/PA. Skg, the applicant's son, is a 17-year-old male with seven months of primary education and is employed as a farmer earning Rp. 2,500,000, sought to marry a 19-year-old woman with a junior high school education and no employment. The judge's refusal to accept the marriage dispensation application was based on a certificate from the Social Service of Population Control, Family Planning, Women's Empowerment, and Child Protection of Wajo district, indicating that the child was not suitable for marriage.

Analysis of the aforementioned rulings indicates that parents seeking marriage dispensation often neglect their children's educational needs. Education is a significant determinant of an individual's earning potential. Consequently, it is imperative that children receive a quality education rather than being prematurely directed towards marriage. The introduction of a recommendation or certificate of ineligibility may serve as a catalyst to enhance public awareness and understanding of underage marriage. This, in turn, could foster greater recognition among parents and children of the importance of prioritizing education before marriage.

Several typical reasons for seeking a marriage dispensation in court are quite similar: concerns about engaging in promiscuous behavior, apprehension about breaching religious or societal standards, both individuals having been in a close relationship prior to legal marriage, the bride-to-be being pregnant, or the bride-to-be being an orphan left without support. If further investigation is conducted regarding these reasons in connection with Article 7 of the Marriage Law and its explanation, the likelihood of the court approving the marriage dispensation request will be significantly restricted. Due to the stringent criteria, the sole acceptable and irrefutable reason for a positive result is if someone has engaged in sexual

activity and is now pregnant.²⁴

Gustav Radbruch introduced an innovative perspective on the purpose of law, aiming to harmonize different legal aims, such as certainty, justice, and utility. In his work "Das Recht Idee," Radbruch outlines that law fulfills three main purposes: justice, utility, and certainty. He argues that legal certainty and utility are two of the three core values that define legal identity. However, these three legal aims cannot be achieved simultaneously, leading to an inherent conflict among them, which he terms "Spannungsverhältnis." This term describes the tension between justice, utility, and certainty in law enforcement. To resolve this issue, Radbruch suggested the principle of priority, which states that when conflicts arise among these legal purposes, justice should be given the highest priority, followed by utility and certainty.²⁵

According to this theoretical framework, it can be inferred that the utility of the law, when aligned with specific circumstances and legal considerations, may compromise legal certainty. However, the principles of justice remain integral. Therefore, in accordance with the prevailing legal provisions (*ius constitutionis*), and in conjunction with the perspectives of prior scholars and legal theories pertinent to the Indonesian legal system, it is posited that if a marriage dispensation is granted in compliance with the relevant laws and regulations and yields greater benefits for the prospective bride than its prevention, then such a dispensation is legally valid. The application for marriage dispensation is subject to a comprehensive evaluation by a panel of judges, who consider various factors, including contextual and legal facts.

Every child is constitutionally guaranteed the right to receive suitable and comprehensive education to equip them for the future. Education is a lifelong journey that takes place in the home, school, and community. When children who should still be in school get married and start families, they risk losing their educational rights due to early marriage.²⁶

A recent study in low- and middle-income countries revealed that the connection between child marriage and poor economic outcomes for children

²⁴ Rachmatulloh and Syafiuddin, "Praktik Permohonan Dispensasi Kawin Di Pengadilan (Studi Peraturan Mahkamah Agung Nomor 5 Tahun 2019)."

²⁵ Ardiansyah Iksaniyah Putra, "Menakar Kepastian Dan Kemanfaatan Hukum Dalam Dispensasi Perkawinan," *Badilag Mahkamah Agung*, July 2, 2024, <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/menakar-kepastian-dan-kemanfaatan-hukum-dalam-dispensasi-perkawinan-oleh-ardiansyah-iksaniyah-putra-s-h-m-h-6-6>.

²⁶ Raya et al., "Urgensi Pendidikan Tekan Pernikahan Dini."

is primarily attributed to the limited education of women who marry as children. This indicates that the adverse economic consequences of child marriage primarily aim to restrict girls' educational achievements and skill development. Evidence from successful interventions to postpone marriage supports this finding. While there is limited information on the causes and effects of child marriage among young men, some research suggests that it is more prevalent in rural areas and is linked to poverty and low educational levels.²⁷

A contributing factor to early marriage is insufficient awareness of the significance of education. Parents who only ensure that their children complete elementary education often feel content when their children find a promising partner, without understanding the implications of marrying at a young age. Moreover, financial instability and a lack of education among parents can result in a limited perspective, influencing their decision to marry their children off early. Education not only offers formal learning but also plays a crucial role in shaping children's character and personality through school assignments and community interaction. As children navigate and resolve their challenges, they develop a greater maturity. Additionally, education has an underlying goal of postponing marriage. By requiring 12 years of schooling, children are encouraged to prioritize educational pursuits over early marriage.²⁸

Girls often receive more emphasis on higher education than boys due to the low education factor for girls. This is seen as a foundation for women's lack of knowledge and is why parents believe that higher education does not ensure that girls can escape the duties of being housewives. Consequently, education is viewed as a reason for parents to permit their daughters to marry before reaching maturity. Social factors contribute to reducing the productive age of both women and men during their school years. To integrate into society, social institutions and marriage are deemed necessary. Close associations often lead people to perceive this behavior as taboo, prompting societal pressure that can also drive young individuals to avoid actions that negatively impact their social lives. There are exceptions to the disagreements

²⁷ Agnes Ferusgel and Endang Dwi Esti, "Efektivitas Penyuluhan Terhadap Peningkatan Pengetahuan Dalam Upaya Pencegahan Pernikahan Dini Pada Remaja" 3, no. 4 (2022): 659–64.

²⁸ Jaenal Jenuri and Ahmad Najib, "Pernikahan Dini Dalam Perspektif Hukum Islam Dan Hukum Di Indonesia," *Jurnal Al-Maslahah* 11, no. 2 (2023), <https://doi.org/https://doi.org/10.30868/am.v11i02.4519>.

regarding legal protection provisions for children.²⁹

Knowledge emerges from the perception of a phenomenon. The five human senses, including touch, taste, smell, and sight, play crucial roles. A significant portion of human knowledge is gained through hearing and seeing, and Green's Theory supports the notion that knowledge acts as a predisposing factor that shapes an individual's behavior. Information about innovation, serving as a stimulus, is absorbed by a person during the learning process until they respond by accepting or rejecting the innovation. Learning takes place when a stimulus triggers a reaction or response, thereby providing adolescents with information about the physical and psychological changes they experience, as well as the consequences of lacking knowledge about the appropriate age for marriage. The study revealed that adolescents have a limited understanding of reproductive health and ways to prevent early marriage. Educational factors and misleading information contribute to adolescents' lack of knowledge about reproductive health. Consequently, it is crucial for adolescents to receive accurate education and information to develop a comprehensive understanding of the subject, enabling them to correctly interpret what they learn.³⁰

A younger age at marriage is inversely related to the educational attainment of children. After getting married, children often leave school to fulfill new roles, such as becoming future spouses and parents, or as potential family leaders who are expected to shoulder more responsibilities, acting as the family's main support and earning a living. Additionally, some children drop out of school due to the prohibitive costs of education. In such cases, they might be asked to assume parental responsibilities to support their classmates in school.³¹

The advanced education levels in middle and upper finance are attributed to early development and a conscious effort to avoid negativity in relationships, unlike the advanced education levels in middle and lower

²⁹ Muh Nizar Zulmi, Nur Mohamad Kasim, and Dolot Alhasni Bakung, "Pemberian Dispensasi Kawin Dibawah Umur Oleh Hakim Pasca Perubahan Undang-Undang Perkawinan," *Doktrin: Jurnal Dunia Ilmu Hukum Dan Politik* 2, no. 1 (October 4, 2023): 262-70, <https://doi.org/10.59581/doktrin.v2i1.1952>.

³⁰ Vicente Llorent Bedmar and Verónica Cobano-Delgado Palma, "The Main Socio-Educational Factors in the Present-Day Evolution of Marriage in Morocco," *Procedia - Social and Behavioral Sciences* 15 (October 4, 2011): 2264-70, <https://doi.org/10.1016/j.sbspro.2011.04.091>.

³¹ Dita Angraini et al., "Konseling Pranikah Dalam Meredukasi Budaya Pernikahan Dini," *Consilia: Jurnal Ilmiah Bimbingan Dan Konseling* 5, no. 1 (October 4, 2022): 56-65, <https://doi.org/10.33369/consilia.5.1.56-65>.

finance, which are driven by personal ambitions and parental influence due to financial factors. Individuals in the middle and upper financial sectors are motivated by personal interest in gaining extensive knowledge about financial matters, influenced by their family financial circumstances. This analysis suggests that early marriage is often a result of prevailing social customs within the community. Additionally, educational attainment and family financial conditions play a role in encourage young people to marry early. Therefore, it is crucial to enhance adolescents' awareness through communication, information, and education (KIE) about early marriage and its impact on young couples' lives.³²

To successfully complete a marriage dispensation application, it is crucial to provide education that enables individuals to make informed decisions about their relationships. This entails understanding the responsibilities and consequences associated with marriage. Education imparts the necessary knowledge and skills to foster relationships, communicate effectively, and make decisions that align with one's personal goals and values. By promoting education, communities can reduce their reliance on marriage dispensation applications by fostering relationships based on mutual respect and understanding.

Education can help prevent early marriage in the following ways:

1. Raising Awareness: Education helps children understand their rights and the consequences of early marriage, which helps them make informed decisions about their lives.
2. Empowerment: Education, especially for girls, reduces the pressure to marry early and provides them with the skills and confidence to achieve their goals.
3. Community Involvement: Education can allow families and communities to talk about the importance of postponing marriage and planning for children's future education.
4. Legal Literacy: Teaching children about laws that prohibit early marriage can help them obtain legal protection if they are at risk or are already affected by it.
5. Access to Resources: Education can open up opportunities such as job training, scholarships, and support networks that fight against early marriage.

³² Angraini et al.

6. Sexual Health Education: Comprehensive education on sexual and reproductive health can help children make informed decisions about relationships and marriage.
7. Support Systems: Schools and educational programs can provide children with a safe place to seek help and support if they face the pressure of an early marriage. By incorporating these elements into the education system, we can protect children from early marriage and help them build better futures.

In Indonesia, married students, particularly girls, frequently encounter challenges in pursuing their education, especially at the secondary and high school levels. Numerous schools have rules that prevent married students from attending classes, or they may experience social stigma or discrimination from classmates and educators. These factors can lead to married students, especially girls, leaving school prematurely.

Efforts are currently underway to address these issues. Certain educational institutions have adopted flexible policies to accommodate married students, such as offering evening classes and distance learning opportunities. Additionally, campaigns are being conducted to raise awareness of the importance of education for all individuals, irrespective of marital status, and to advocate for the rights of married students to pursue their education. Despite existing challenges, progress is being made to ensure that all individuals, including those who are married, have the opportunity to learn and realize their full potential. It is crucial to acknowledge that, although advancements have been achieved in some areas to reduce the incidence of child marriages, challenges persist, and conditions may vary across different regions and communities. To effectively combat child marriage and safeguard the welfare and rights of children in Indonesia, ongoing monitoring and intervention efforts are essential.³³

CONCLUSION

Enhancing the role of education as a preventive measure against early marriage necessitates more than mere normative affirmation; it requires tangible legal and policy interventions. The Indonesian government should incorporate reproductive health and human rights education into the national curriculum, particularly at the secondary level, to improve children's awareness and decision-making capabilities. Institutionalized coordination among the Ministry of Education, Ministry of Religious Affairs, and judiciary is essential to monitor

³³ Raya et al., "Urgensi Pendidikan Tekan Pernikahan Dini."

marriage dispensation trends and ensure data-driven policy evaluation. Additionally, Religious Courts should implement standardized guidelines for evaluating "very urgent reasons" and mandate psychosocial assessments prior to granting dispensations. Community-based educational initiatives and parental counseling programs must also be reinforced to alter the socio-cultural perceptions that normalize early marriage. By aligning legal enforcement with educational empowerment, Indonesia can more effectively safeguard children's rights and reduce the prevalence of marriage dispensations that undermine the objectives of child welfare and sustainable human development.

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