

# Legal protection for minors age of applicant marriage dispensation reviewed from Law Number 16 of 2019 concerning changes to the Law Number 1 of 1974 concerning marriage

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## ABSTRACT

The issue of underage marriage remains a significant challenge that affects the well-being of individuals and families within society. Law Number 16 of 2019, which amends Law Number 1 of 1974 on Marriage, sets the minimum legal age for marriage at 19 years for both men and women. Despite this provision, the law still allows minors to marry through a court-granted marriage dispensation. While the law aims to offer legal protection, in practice, the availability of dispensations has increased the occurrence of underage marriages. This research adopts both normative juridical and sociological juridical methods. It involves literature review as well as fieldwork, including interviews and analysis of the law's role and impact in society. The main objectives of the study are to explore the factors leading to underage marriages, their societal impacts, and efforts to provide legal protection for children involved in such marriages. Data were collected through library research reviewing books, legislation, and legal documents and field research, including direct interviews with relevant stakeholders such as the Head of the Medan Amplas Office of Religious Affairs (KUA). The findings reveal that applications for marriage dispensations for minors remain frequent in Medan Amplas District. One of the primary reasons for this trend is pregnancy outside of marriage. In conclusion, while the revised marriage law raises the legal age of marriage, the ease of obtaining marriage dispensations undermines its protective intent. This situation highlights the lack of effective legal protection for children. Therefore, a stronger synergy among government institutions, society, and families is essential to tackle the root causes of underage marriage and to enhance the effectiveness of legal safeguards for minors.

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## 1. INTRODUCTION

Children are a mandate and a gift from God Almighty who must always be guarded and protected because children have inherent dignity, honor and rights as human beings which must be upheld. (Adebayo, 2020) . Children are seen as valuable assets for a nation and country in the future whose

rights must be guarded and protected considering that children are the weakest human beings who are very dependent on adults, vulnerable to acts of violence by adults and are still psychologically stable so that special protection is needed for children (Bywaters et al., 2016) .

Underage marriage is an event that is considered normal by some Indonesian people (Kusmayanti & Mulyanto, 2020) . However, underage marriage can be an issue that attracts public attention and continues to become a legal case. In Indonesia, cases of underage marriage are not a new problem. This practice has been going on for a long time with many perpetrators not only in the interior, but also in big cities.

In Indonesian Positive Law which regulates marriage and is stated in Law No. 1 of 1974, it states that "marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God (Harley et al., 2024) .

Provision minimum age to carry out marriages in Indonesia are numerous cause polemic among public (Kusmayanti & Mulyanto, 2020) Finally after 45 years has get point bright with improved minimum age to carry out marriage for woman to be 19 years old equivalent with men and above change the in a way official poured out in Law No. 16 of 2019 concerning change on Law No. 1 of 1974 concerning marriage , ( next referred to as Law No. 16 of 2019) which was enacted on October 15 , 2019, with hope that amendment to Law No. 1 of 1974 can emphasize number marriage child brought age (Safira et al., 2021) .

Law Number 16 of 2019 Amendment to Law Number 1 of 1974 concerning Marriage covers the age limit for marriage, improving norms by increasing the minimum age limit for marriage for women (Adebayo, 2020) . In this case, the minimum age limit for marriage for women is the same as the minimum age limit for marriage for men, which is 19 (nineteen) years (Supriyanto et al., 2024) . The age limit in question is considered to be mature in body and soul to be able to carry out marriage in order to realize the goals of marriage properly without ending in divorce and having healthy and quality offspring. It is also hoped that increasing the age limit higher than 16 (sixteen) years for women to marry will result in a lower birth rate and reduce the risk of maternal and child mortality. In addition, children's rights can also be fulfilled so as to optimize children's growth and development including parental assistance and providing children with access to the highest possible education.

The change in the minimum age for marriage raises high expectations in order to minimize underage marriage in Indonesia (Rumble et al., 2018) , however, the marriage dispensation clause is still included in the provisions of Article 7 paragraph 2 of Law No. 16 of 2019, giving the impression of a loss of government legal firmness regarding the eradication of underage marriage. The provisions of the latest Marriage Law do not include sanctions or laws for couples who marry underage (Grijns & Horii, 2018) .

Marriage dispensation according to Hilman Hadikusuma is a marriage that occurs where the bride and groom or one of them has not reached the age required by applicable law (Perkasa & Hakim, 2024) . The definition of marriage dispensation based on article 1 number 5 of PERMA No. 5 of 2019 is "the granting of marriage permission by the court to prospective husband/wife who are not yet 19 years old to enter into marriage . Court moment This become the only one institutions that receive legitimacy absolute in Law no. 16 of 2019 in give permission deviation age marriage Where for public adherents of Islam so dispensation marry can submitted to religious court , while for other religions can submitted to District Court (Judiasih, 2023) .

Supreme Court views Serious to problem dispensation marry so that in a way special emit instruction technical Handling case dispensation marry in the form of regulation Supreme Court No. 5 of 2019 concerning guidelines to judge application dispensation married, with objective For ensure standardization to judge dispensation married in court. This is intended so that with existence standardization the judge will serious and careful in inspect case dispensation (Marwiyah et al., 2023).

Criteria consideration giving dispensation marry has set up in PERMA No. 5 of 2019 but the reality Still clash with the phrase " dispensation" marry submitted with very urgent reasons and sufficient evidence " in article 7 paragraph 2 Law no. 16 of 2019 though own good meaning in give limitation dispensation application , but during throughout No There is clear explanation about meaning phrase the (Hidayat et al., 2024) . This matter the cause multi- interpretable and impressive understanding Still gray because in the end matter the will depends on the subjectivity of the judge with all consideration the law determines Because No existence clear and consequential regulations No existence certainty law (Ilma, 2020).

## 2. METHOD

In this study, the research method used is to use the empirical legal approach method. The empirical legal approach is a research method in legal science that combines analysis of legal norms with observations of social practices and realities. The main objective of this approach is to understand the relationship between written (normative) law and existing social realities. So, the empirical legal approach intended in this study is that in analyzing the problems that have been formulated, it is carried out by combining primary, secondary and tertiary legal materials (which are secondary data) with primary data obtained in the field, namely regarding legal protection for minors who apply for marriage dispensation as reviewed from Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage.

The focus of this study is intended to limit qualitative studies as well as limit research in order to choose which data is relevant and which is not relevant. The focus of the study is expected to make researchers focus on the research topic, so that researchers can also focus more on finding and collecting data, and conducting data analysis according to the research topic. This study will focus on the title "Legal Protection for Minors Applying for Marriage Dispensation Reviewed from Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning marriage", and using the Regulation of the Supreme Court of the Republic of Indonesia Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications.

## 3. RESULTS AND DISCUSSION

### 3.1 Factors Causing Underage Marriage

Underage marriage is a marriage carried out by individuals who have not reached adulthood according to applicable law. However, underage marriages now often occur in society even though they legally violate statutory regulations. Based on the results of the study, the author clarifies several factors that cause underage marriages, namely:

#### a. Mass Media Factors

Based on the results of the interview with Mrs. Nurbaiti Lubis as an instructor at the Medan Amplas KUA, she stated that the incident of underage marriage in Amplas District was the impact of the mass media. The advancement of globalization such as television, magazines, and cellphones and the existence of globalization factors that influence the lives of teenagers, stories in films, soap operas, or reality shows that highlight the theme of young marriage can influence the mindset of teenagers making them more likely to see marriage at a young age as a legitimate goal without educating about the risks of marrying at a young age (SNA Hikmah, 2023) .

#### b. Factors of pregnancy outside marriage

Adolescence is a transition period between childhood and adulthood. During adolescence, many teenagers experience changes both physically and psychologically, resulting in changes in attitudes and behavior such as starting to pay attention to their appearance, starting to be interested in the opposite sex, trying to attract attention and feelings of love, sexual urges will arise (Rijal, 2017) .

#### c. Parental Concerns

Based on the results of an interview with Mr. M. Tholib Harahap, as the head of the Medan Amplas KUA, one of the causes of underage marriage is the parents' concerns about their children. One of the concerns of parents about their children is violating religious norms (Napitupulu *et al.* , 2022) . Or sometimes the woman's family has accepted a proposal from the man and the proposal has been going on for quite a long time. Parents who know about their children's relationships with the opposite sex will of course always monitor their behavior (Wajdi & Arif, 2021) .

#### d. Economic Factors

The increasing number of young marriages and requests for applications at the Medan Amplas District Religious Court are increasingly triggering the low economic capacity of the community, the weak economic conditions of the community cause parents to be unable to send their children to higher education. Parents assume that marrying off their children is one solution to lighten the burden of family life (Hikmah, 2019) .

#### e. Education Factor

In various regions, especially in rural areas, access to good education is still limited. Poor families often choose to prioritize work over children's education, especially for girls who are considered

more valuable if married (Khaerani, 2017). Lack of education makes adolescents, especially girls, not understand their rights, including the right to postpone marriage (Pamessangi *et al.*, 2024). They may also lack knowledge about reproductive health which is important in understanding the consequences of underage marriage (Isnaini & Sari, 2019).

### 3.2 Impact Marriage Under Age

Every action Certain will give birth to A impact, or consequences that must be covered (Lismi Salis, 2022). Like as it is with a marriage, which aims to for build a eternal, happy family as well as as receptacle for carry out descendants. And for realize objective said, the person who wants to carry out marriage must must be aware of their respective status, rights and obligations in House stairs, if the one doing it marriage the is a child whose age Still relatively young, before they do marriage so they must know the impact that will occur happen later day. Impact marriage under age divided in two impacts that is:

#### a. Impact Positive

One of the reasons for early marriage is to prevent young individuals from engaging in free social interactions that may lead to immoral behavior or adultery. Additionally, early marriage is often seen as a way to ease the financial burden on families. By allowing a young couple to marry, the responsibility for the child's life and well-being is partially transferred to the spouse, thereby reducing the family's obligations. This is especially common in situations where the female partner is considered not yet fully responsible, and marriage is viewed as a solution to secure her future. Furthermore, early marriage is believed to foster a sense of responsibility within the family, as marriage fundamentally serves to unite two individuals both physically and psychologically into a committed and interdependent partnership.

#### b. Impact Negative

Early marriage poses a variety of negative impacts, particularly on biological, psychological, sociological, and economic aspects. Biologically, young women who marry in their teenage years are at high risk during pregnancy, as their reproductive organs are not yet fully developed. This lack of physical readiness can lead to complications during sexual intercourse, pregnancy, and childbirth. Psychologically, marriage requires emotional and mental maturity, which children or teenagers often lack. This can lead to psychological trauma, especially when they are unprepared for intimate relationships, resulting in long-lasting emotional scars that are difficult to heal. Sociologically, early marriage can disrupt family harmony due to unstable emotions, impulsive behavior, and immature thinking among young couples. From a demographic perspective, early marriages continue to be viewed as an alternative for young people, contributing to population growth, especially in rapidly developing areas. Education is also adversely affected, as underage marriage often leads to children dropping out of school, limiting their access to knowledge and information. Economically, young couples typically lack a stable income or employment, which can lead to financial hardship and continued poverty. In many cases, early marriage also increases the risk of domestic violence, as emotional immaturity can lead to conflict and abusive behavior within the household. Lastly, the psychological health of children born from early pregnancies is also at risk. Young mothers may suffer from prolonged trauma, social withdrawal, and a crisis of self-confidence, all of which can negatively impact both their well-being and that of their children.

### 3.3 Form Legal Protection for Children Who Are Carrying Out Marriage Under Age at KUA Medan Amplas

#### 3.3.1 Submission Marriage Dispensation at the Medan Amplas Religious Affairs Office

According to Constitution Number 16 of 2019 concerning Change on Constitution Number 1 of 1974 concerning marriage Article 7, Marriage only allowed if men and women Already reach 19 years old. In case happen deviation to provision age, parents party man and parents party woman can request dispensation to Religious court with very urgent reasons accompanied by evidence sufficient support

Summary table the child who filed dispensation wedding under age at the KUA Medan Amplas District as following:

**Table 1.** Summary Table of Children Who Filed Marriage Dispensation

No	Year	Amount Submission	Average Age	Average Education
1	2020	22 people	17 Years - 19 Years	Middle and High School
2	2021	25 people	16 Years - 18 Years	Middle and High School
3	2022	18 people	18 years	Junior High School and Senior High School
4	2023	24 people	16 Years - 19 Years	Middle and High School
5	2024	6 people	16 Years - 19 Years	Middle and High School
Total = 95 people				

From the data above Head of the Religious Affairs Office of Medan Amplas District say wedding under age Still Lots happen final This there are 3 couples who applied dispensation marriage. He revealed that in the rule wedding under age This moreover formerly get recommendation from Religious Court. Its Purpose For prevent a number of things that are not desired.

### 3.3.2 Factors the Office of Religious Affairs Provides Marriage Dispensation

Rule about dispensation marry written in regulation Government Number 9 Year 1975 about implementation Constitution Number 1 of 1974 concerning marriage. In the regulations This No detailing reasons about giving dispensation marry for child under age. Regulation This only mention that, the marriage official must researching with carefully about the necessary conditions For carry out marriage, specifically in Article 6 paragraph (2) letter e.

The KUA factors provide marriage dispensation for child under age as following:

- application letter that has been made and signed submitted clerk Religious Court, letter application submitted to subv secretariat application, applicant facing the table First will estimate the magnitude deposit cost case and write it in the Power of Attorney for Pay (SKUM).
- Prospective applicants Then facing to cashier with deliver letter application and SKUM. Pay deposit cost cases at the designated bank Religious Court according to with that stated in the SKUM, then deliver proof banking sector at the cashier Religious courts.
- Prospective applicants Then facing to table II with deliver letter applicant and SKUM that have been paid then table II input letter application the in the File folder Matters and submission to clerk for delivered to Chairman Religious Court through clerk.
- During no later than 1 (one) day, chairman pointing Panel of Judges for examine and judge matter, in A determination panel of judges
- The Panel of Judges then make PHS no later than 30 days after case registered.
- Based on Judge's order or Chairman Assembly in PHS, Bailiff or Bailiff Replacement carry out summons to the party submitting the application marriage dispensation so that be present at the hearing on the day, date and time as the in PHS on site the trial that has been determined.

### 3.3.3 Efforts of the Medan Amplas District Religious Affairs Office in Prevention Wedding Under Age

District Religious Affairs Office Sandpaper is one of the competent and instrumental institutions in prevention marriage under age in sub-district Medan sandpaper. Prevention efforts can done with method as following:

- Do counseling to public  
Based on the Decree of the Minister of Religion (KMA) Number 79 of 1985, " Religious Instructors have role as mentor society, as role model and as connector task government ".
- Counseling and Socialization Constitution Marriage  
In terms of this the KUA party socializes Constitution Number 16 of 2019 concerning change on Constitution Number 1 of 1974 concerning marriage to public through many media, especially article 7 paragraph 1 regarding age limits somebody may married, namely 19 years old for male and 19 years old For woman. Apart from that, the KUA held counseling to public about impact negative marriage under age from aspect legal, psychological, biological, and other aspects others, so that public realize importance Marry in accordance age determined by law.

### 3.3.4 Obstacles to the religious affairs office in processing submission dispensation wedding

Based on results interview with Mr. M. Tholib Good luck as the head of KUA said that in processing submission dispensation wedding under age also faces various constraints. One of obstacles faced that is parental unwillingness for accompany his son and the requirements No fulfilled. Pregnancy out of wedlock often considered as taboo in Lots culture so that cause various consequence severe social. Society often judges and gives negative stigma to pregnant woman outside wedding.

Obstacles faced by KUA in processing submission dispensation wedding under age often related with incompleteness the requirements set. Requirements This designed for ensure that wedding done with legal and responsible way answer, and for protect rights individual especially for the child who filed application wedding under age. One of the condition main is document valid identity, such as a National Identity Card (KTP) or deed birth.

### **3.3.5 Function Legal Protection for Children in Dispensation Wedding Under Age**

In general general, function protection law to child in marriage dispensation is guard child for reach their rights, as well as protect child from wrong treatment or not his arbitrariness parent or his guardian for to marry his son Good with reason economy or with reason other.

Protection law in marriage dispensation aims For ensure that child still protected and able undergo healthy and productive life. Protection law to child in marriage dispensation has a number of function important that is Marriage dispensation serves as a legal mechanism designed to protect children's rights, particularly their right to grow and develop in a healthy and supportive environment. The law sets age limits for marriage to prevent children from being trapped in harmful or unfavorable situations. One of its primary purposes is to prevent underage marriages, which can negatively affect children's physical and mental health, disrupt their education, and threaten their future prospects. Additionally, the law aims to ensure the overall welfare of children who marry under special circumstances, guaranteeing access to proper education, healthcare, and general well-being even when a dispensation is granted. Legal protection also includes monitoring the marriage dispensation process to ensure that any decisions made prioritize the best interests of the child. Moreover, the law functions to prevent the exploitation of children whether sexual or economic by safeguarding them from being forced into marriage for the benefit of adults.

### **3.4 Legal Actions Against Children Who File Marriage Dispensation Reviewed from Law Marriage**

Legal remedies to the child who filed Marriage dispensation is a process that allows child under age For Marry in a way legitimate although violate provision minimum age set in Law. Legal remedies This aiming for protect right children and make sure that the marriage that took place is based on agreement and not harm one party.

Legal remedies to the child who filed marriage dispensation in Indonesia is regulated in Constitution Marriage, in particular through changes that exist in Constitution Number 16 of 2019. In accordance with regulation latest Law No. 16 of 2019, that There is increasing the age limit for marriage for women from 16 years to be 19 years old use for fulfil need Indonesian society, where Lots happen case wedding child with level high divorce rate, yet There is readiness in give birth to children, and also many happen discrimination to Woman.

## **4. CONCLUSION**

The phenomenon of underage marriage in Medan Amplas District is a complex and multidimensional issue. Factors such as media influence, family pressure, economic hardship, and limited access to education act as significant triggers. The consequences of early marriage are extensive, encompassing psychological trauma, health risks, social instability, and economic vulnerability.

The Office of Religious Affairs (KUA) has played an important role through its educational outreach and administrative oversight in handling marriage dispensation requests. However, these efforts alone are insufficient. Optimal and sustainable prevention requires the active participation of various stakeholders including schools, community leaders, and religious figures to foster a cultural shift toward valuing education, delaying marriage, and protecting children's rights.

Future research can support the development of science by exploring the long-term psychological and socioeconomic impacts of early marriage on minors. It can also evaluate the effectiveness of legal and community-based interventions and propose policy innovations that better safeguard children's welfare while aligning with local cultural contexts. A multidisciplinary approach involving legal, educational, psychological, and sociological perspectives is essential to deepen understanding and craft more effective preventive strategies..

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