

# THE COMPETENCE OF AGAMA COURT AND ITS RELATION WITH THE PROTECTION OF CHILDREN'S RIGHTS (STUDY OF MARRIAGE DISPENSATION IN THE CLASS I-B AGAMA COURT KISARAN)

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## Abstract

This article aimed to examine the legal position of *Agama* Court in their authority to determine marriage dispensations at the Kisaran Class I-B of *Agama* Court. By using normative legal research methods, collecting data obtained from library sources. This research found that a marriage dispensation is a legal space to ensure legal justice for the community to obtain legal certainty for marriages conducted under the age of 19, as stipulated in the Indonesian Marriage Law No. 1 of 1974, as Amended by Law No. 19 of 2024. The Supreme Court promulgated Perma No. 5 of 2019 concerning Guiding Adjudication of Marriage Dispensation Application, which emphasizes that, in principle that the best interests of the child are the primary consideration. Of course, the courts are seen as perpetuating child marriage. However, this judicial mechanism actually demonstrates that the courts must adjudicate properly and carefully to ensure that the principle of the best interests of the child in cases where the marriageable age limit deviates from the marriageable age, fulfilling the requirements for establishing a household.

**Keywords:** *marriage dispensation, the best interest of the child, Agama court.*

## INTRODUCTION

One of the executors of judicial power in Indonesia is the *Agama* Court. Its long history of formation and development in Indonesia reflects that the *Agama* Court is a system of enforcing Islamic Sharia law that is inherent and inseparable from the development of Islam in Indonesia. The real need of Indonesian Muslims to seek and discover legal truth is a fundamental need to manifest their faith in Allah SWT. Furthermore, this is a crucial part of strengthening Islamic faith in addressing legal challenges within society. The institution of *Agama* courts emerged as a historical necessity to address, decide, and establish legal justice based on Islamic Sharia law (Hooker, 2003, pp. 19–20). In other words, *Agama* Courts are the practice of Islamic law as a law that truly lives within Indonesian society. The use of the word “*Agama*” alongside the words “judicial” and “court” is intended to facilitate the strengthening of religious identity and its authority. This diction also avoids semantic errors in the English translation of “religious.” If this term were used, it would tend to be interpreted as referring to religious courts or religious judicial. It tends to relating to or believing in religion (Lubis, 1994, p. 40). This is not the case. The term “*Agama* court” or “*Agama* judicial” refers to an Islamic personality that possesses unique and specific characteristics in exercising its authority to adjudicate and decide on certain cases related to the enforcement of Sharia law (Lubis, 1994). Naturally, the dynamics of a progressive society will also tend to encourage relevant and progressive changes in legal materials to achieve legal certainty, justice, and benefit. The term “*Agama*” can also be interpreted as encompassing many religions in Indonesia. However, the term “*Agama*” is the term officially adopted in the Indonesian legal system to refer to Indonesian Islamic courts (Cammack & Feener, 2012). One important legal issue that falls under the jurisdiction of *Agama* Courts is marriage dispensation requests filed by individuals who fall below the marriageable age limit stipulated in applicable laws and regulations. This legal loophole exists to address legal challenges arising from urgent needs justified by law (Rismana et al., 2024). A marriage is a legal act that binds a man and a woman as life partners to form a household. The legal bond in marriage indicates a civil relationship between two parties bound in marriage between husband and wife. Unlike other civil relationships that refer to complete freedom for the parties, the bond of marriage is determined by law and legislation. This legal act gives rise to the rights and duties of each spouse. The legal act of marriage is regulated by statutory regulations to ensure that it is not only legally valid, but also capable of protecting the interests of the parties concerned, both as

husband and wife, as well as the extended family members of each spouse. Actually, a marriage dispensation is an interesting legal issue. Marriage dispensation manifests the intervention of the state, through the authority of the judiciary, in determining the legal status of marriages to be permitted by parties who have not yet reached the age stipulated in the Law No. 1 of 1974 concerning Marriage Law, as Amended by Law No. 16 of 2019 (Hereinafter Marriage Law). The judiciary mechanism within a marriage dispensation is a legal breakthrough created by the judges to realize legal certainty, justice, and legal benefits for members of society. However, the practice of marriage dispensation in Indonesia has emerged legal debates. In one hand, this practice must be implemented in the best interests of the child, while, on the other hand, it has in fact given rise to child marriage practices that create a significant risk to the future of households, families, and the well-being of society.

The physical and mental maturity of members of society who will marry can be identified from the marriage requirements, including parental permission and age limits. The Constitutional Court of the Republic of Indonesia (MKRI) has decided to set the age limit for marriage for men and women at 19 years. MKRI Decision No. 22/PUU-XV/2017 annulled the implementation of the age limit of 16 years for women and 19 years for men stipulated in previous legal norms, as contained in the provisions of Article 7 paragraph (1) of Law No. 1 of 1974. However, if there is a deviation from this age limit of 19 years or, in other words, under the age of 19 years, then a marriage dispensation can be requested from the court. Furthermore, the legal norms governing marriage dispensations stipulated in Marriage Law, provide a strong legal framework. To ensure the smooth running of legal processes and mechanisms, the Supreme Court issued Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. This provision further strengthens the state's role in positive legal intervention through equitable legal mechanisms to protect children's rights. In addition, this provision is legal mechanism to overcome the confusing of legal certainty in member of society who wants to marry under the marriagable age.

In fact, Indonesia remains the fourth-highest country in the world for legalizing child marriage. UNICEF data from 2023 indicates that 25.53 million women in Indonesia were married under the age of 18. This data places Indonesia fourth in the world for child marriage, after India, Bangladesh, and China (Putri, 2025). It's important to understand that Indonesia's large population means that the high number of child marriages contributes to the global burden of child brides (the highest burdens of child marriage in the region and contributes substantially to the overall global burden of child brides) (Rumble et al., 2018). Meanwhile, the Indonesian Judicial Research Society (IJSR) noted that between 2019 and 2023, 95% of marriage dispensation requests were granted by *Agama* and District Courts. One-third of the reasons cited for these dispensations were pregnancy (Putri, 2025). This represents a dismal picture, one that is not solely related to legal factors but also to numerous social factors. According to the Deputy Speaker of the People's Consultative Assembly (MPR), Lestari Moerdijat, preventing early marriage must focus on increasing public understanding of the negative impacts of children under the legal age to marry. She considers that early marriage is a form of violence against children impacts them physically, sexually, mentally, and socially. Therefore, she urged consistent education regarding women's reproductive rights so that existing policies to prevent early marriage can be effective (Putri, 2025).

A marriage dispensation is requested from the court because the age of the parties who will be married is under 19 years old, both male and female. On that basis, the legal interest of a marriage dispensation is to obtain legal recognition and certainty to carry out the legal act of marriage. Within this framework, the authority to examine, decide, and grant marriage dispensation requests submitted by members of the community rests entirely with the judicial institution. For Indonesians who are Muslim, the authority to grant marriage dispensations lies entirely with the *Agama* Court system. In practice, the *Agama* Court has power and authority to address the requests based on clear and strong legal provisions. In a period of four years since 2021 until 2024, *Agama* Court of Kisaran Class I-B settled 256 cases and most of them is accepted. This paper focuses to examine the power and authority of the *Agama* Court in addressing marriage dispensations and its relation with the protection of children's rights. As one of the judicial authorities in Indonesia, the position of the Kisaran Class I-B *Agama* Court is very strategic in the implementation of the protection of children's rights, which prioritizes the best interests of the child in determining marriage dispensations. Dealing with the protection of children rights, *Agama* Court must decide the request of marriage dispensation with the deliberative legal reasonings which uphold the children rights.

## LITERATURE REVIEW

In Islamic law perspective, as confirmed in Article 2 of Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (KHI), marriage is a very strong contract or *mitssaqan ghalidzan* to obey Allah's commands and carrying it out is an act of worship (perkawinan adalah pernikahan, yaitu akad yang sangat kuat atau *mitssaqan ghalidzan* untuk mentaati perintah Allah dan melaksanakannya merupakan ibadah). In the perspective of

the KHI, marriage is a manifestation of faith in Allah SWT. Marriage not only contains a primordial bond between humans, but is also an act of worship or a form of servitude to Allah SWT. Thus, marriage as stated in Article 3 of KHI must be aimed at realizing a household life that is tranquil (*sakinah*), affectionate (*mawaddah*), and merciful (*rahmah*). In the perspective of national law, the legal act of marriage contains sacred ideals or spiritual values, namely happiness and eternity based on the One Almighty God, so that it is recognized that marriage is truly a physical and spiritual bond. In the provisions of Article 1 of Marriage Law, it is stated that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God (*perkawinan adalah ikatan lahir bathin antara seorang pria dengan seorang wanita sebagai suami isteri dengan tujuan membentuk keluarga (rumah tangga) yang bahagia dan kekal berdasarkan Ketuhanan Yang Maha Esa*).

It must be understood that legal acts of marriage have legal implications in many other aspects of legal protection, such as private property, joint property, gifts, inheritance, and others. Therefore, compliance in carrying out legal acts of marriage becomes a *conditio sine qua non* (absolute condition) for the parties to obtain privileges over legal rights that must be protected and fulfilled, not only by the parties to the marriage, but also by state authorities (Rizani et al., 2024). Within this framework, national marriage law norms, as stipulated in the Marriage Law, emphasize that age limits and dispensations for marriage fall within the role and responsibility of parents and the authority of the courts. This is emphasized as follows:

- (1) Marriage is only permitted if the man and woman have reached the age of 19 (nineteen); (2) In the event of a deviation from the age requirement referred to in paragraph (1), the parents of the man and/or the parents of the woman may request a dispensation from the Court on the grounds of urgent necessity, accompanied by sufficient supporting evidence; (3) The granting of an exemption by the Court as referred to in paragraph (2) must take into account the opinions of both prospective spouses who will be getting married; (4) The provisions regarding the circumstances of one or both parents of the prospective bride and groom as referred to in Article 6 paragraph (3) and paragraph (4) also apply to the provisions regarding requests for dispensation as referred to in paragraph (2) without prejudice to the provisions referred to in Article 6 paragraph (6) (Law No. 1 of 1974 concerning Marriage Law, as Amended by Law No. 16 of 2019).

In the context of marriage dispensation, it is actually related to four dominant legal functions, namely (1) the facilitating function; (2) the repressive function; (3) the ideological function; and (4) the reflective function (Candra, 2018, p. 190). In addition, the function of child protection in marriage dispensation is to save a child from the negative impacts of child marriage. Therefore, a fair law enforcement process is needed that is able to ensure the protection of children's rights in the mechanism for adjudicating marriage dispensation applications (Candra, 2018, p. 190). However, dynamic social realities have a major influence in shaping the knowledge, experience, and expectations of society regarding the practice of child marriage. *Agama* Courts have a strategic role in efforts to minimize the practice of child marriage and tighten marriage dispensation (Kania et al., 2021). The mechanism for obtaining a marriage dispensation through the *Agama* Courts proposed by the parties, including parents, families, and the government, demonstrates the unique reasons for pressing for the marriage dispensation to be properly tested by linking it to the best interests of the child, namely for the commitment of his new family and his future in the midst of community life. In a more strategic context, the determination of the marriage age limit of 19 years through the Constitutional Court Decision No. 22/PUU-XV/2017 must be interpreted as an effort to realize gender equality (Rosa et al., 2024).

## **METHOD**

The type of research in this study is a normative legal research. This normative legal research is a method or way used in legal research by examining existing library materials such as books, journals, dictionaries, etc (Soekanto & Mamudji, 2009). This type of normative legal research relates to the analysis of applicable laws and legal norms in the context of marriage dispensation applications in court. The approach used in this research is a statute approach. This approach is carried out by analyzing various laws, regulations, and regulations governing marriage dispensation in *Agama* Courts. The laws and regulations used include the *Agama Courts Law*, the *Marriage Law*, the *Human Rights Law*, the *Child Protection Law*, and Supreme Court Regulation Number 5 of 2019. Furthermore, this approach also utilizes laws and regulations concerning the ratification of international human rights instruments.

## **RESULTS AND DISCUSSION**

### **Marriage Right as a Human Rights**

In its development, the essence of marriage law is to implement and enjoy the right to a household, which is seen as a fundamental right, namely human rights. It is acknowledged that marriage rights, from the perspective of international human rights law, have in their development given rise to transformations and even biases in thinking that tend toward ambiguity (Wolfson et al., 2022). It must be understood that the legal act of marriage has legal implications for many other aspects of legal protection such as ownership of personal property, joint property, gifts, inheritance and others. Thus, compliance in carrying out the legal act of marriage becomes a *conditio sine qua non* (absolute requirement) for the parties to obtain privileges over legal rights that must be protected and fulfilled, not only by the parties themselves, but also by state authorities (Rizani et al., 2024). Marriage is an inherent right of every person. However, this statement has sparked a long debate regarding the various interpretations of marriage in the United States Constitution. As early as 1877, Justice Strong asserted that marriage is everywhere regarded as a civil contract (Pull, 2006). The 14th Amendment to the United States Constitution of 1866 became the basis for every American citizen to freely determine his or her choices, including marriage and this was recognized as a fundamental right and freedom.

In practice, American constitutionalism has a long history of interpreting and enforcing beliefs about marriage and its legality in judicial practices. The same is true in the United Kingdom. In addition to referring to the Human Rights Act of 1998, the United Kingdom also adheres to Article 12 of the European Convention on Human Rights, which can be narrowly interpreted to cover only marriages between different-sex couples and does not confer rights on unmarried couples or children (although this right has been interpreted narrowly, as covering only marriages between different-sex couples and conferring no rights on unmarried couples or children) (Douglas, 2023). In fact, the right to establish a household is also known as the right to form a family, namely the right to choose and establish a life partner to raise children and achieve happiness. From the perspective of the 1948 United Nations Universal Declaration of Human Rights (UDHR), it is emphasized that the right to establish a household is a human right that cannot be reduced or set aside under any circumstances (non-derogable rights). The provisions of Article 16 of the UDHR state the following:

*(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution; (2) Marriage shall be entered into only with the free and full consent of the intending spouses.*

Based on this provision, it is understood that marriage to form a family must be conducted based on free will and without coercion or pressure from any party. This free will reflects that marriage arises from the personal desires of each partner for the noble purpose of realizing the goodness of establishing a household. This emphasis on the age limit for adulthood demonstrates that child marriage is not encouraged, but rather should be prevented and prohibited. Therefore, the implementation of legal norms limiting the age of marriage must be understood as another form of legal protection by the state and society for children to avoid engaging in legal marital acts. In other words, fulfilling marriage rights from a human rights perspective is the state's effort to ensure that marriage must be respected as a choice based on freedom for everyone, while respecting the age limit for full adulthood. The United Nations consider it crucial to follow up on Article 16 of the UDHR by strengthening the global community's commitment to preventing and eliminating child marriage. This effort has resulted in international legal norms in the form of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. This Convention is based on United Nations General Assembly Resolution 1763A (XVII), on November 7, 1962. In this regard, child marriage can only be carried out with the dispensation of an authorized official, and for fundamental reasons and in the interests of the couple. The provisions of Article 2 of the Convention state in full as follows:

*States Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses* (Crawshaw & Holmström, 2001; Schabas, 2013).

In this regard, William A. Schabas explains that the *travaux préparatoires* (background to the formulation) of Article 16 of the 1948 UN Universal Declaration of Human Rights was motivated by the idea of equality. The discourse on the right to marriage in this provision is explained as having the following meaning:

*Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses.*



This emphasis on the age limit for adulthood demonstrates that child marriage is not encouraged, but rather should be prevented and prohibited. Therefore, the implementation of legal norms limiting the age of marriage must be understood as another form of legal protection by the state and society for children to avoid engaging in legal marital acts. In other words, fulfilling marriage rights from a human rights perspective is the state's effort to ensure that marriage must be respected as a choice based on freedom for everyone, while respecting the age limit for full adulthood. The UN considers it crucial to follow up on Article 16 of the Universal Declaration of Human Rights by strengthening the global community's commitment to effectively preventing and eliminating child marriage. This effort has resulted in international legal norms in the form of the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages. This Convention is based on UN General Assembly Resolution 1763A (XVII), on November 7, 1962. In this regard, child marriage can only be carried out with the dispensation of an authorized official, and for fundamental reasons and in the interests of the couple. The provisions of Article 2 of the Convention state in full as follows:

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In that position, according to Manfred Nowak, an international human rights law expert, marriage is a legal institution, which regulates matters of marital legal acts based on national legal mechanisms capable of guaranteeing justice and equality of rights and obligations of married couples (Nowak, 2015). The provisions of Article 23 of the Covenant on Civil and Political Rights, as ratified by the Indonesian Government through Law No. 12 of 2005, elaborate on the right to marriage in international legal norms, namely as follows:

- (1) *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State;*
- (2) *The right of men and women of marriageable age to marry and to found a family shall be recognized.*
- (3) *No marriage shall be entered into without the free and full consent of the intending spouses;*
- (4) *States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.*

### **Marriage Dispensation in the Competence of Agama Court**

Within this corridor, the *Agama* Courts, as one of the executors of judicial power in Indonesia, have the constitutional position and authority to uphold law and justice based on the constitutional mandate and laws and regulations. Now entering its 142nd year since its inception on August 1, 1882, the *Agama* Courts are a legal and judicial practice that has a long history in the Indonesian legal and judicial system and is an integral part of the living and genuine legal practice in Indonesian society. The constitutionality of the PA in carrying out its judicial power function is to examine and decide cases related to the legal interests of Indonesian Muslims based on national legal sources. The position and authority of the *Agama* Courts are regulated in Law No. 7 of 1989 concerning *Agama* Courts, as amended by Law No. 3 of 2006 and the latest amendment by Law No. 50 of 2009 (hereinafter referred to as the PA Law). Under the provisions referred to, the *Agama* Court has the authority to adjudicate cases involving marriage, inheritance, testament, and bequest, charitable (*waqf*) and alms (*shadaqah*), as well as other authorities based on applicable laws.

In this regard, the position and authority of the *Agama* Court in the field of marriage are based on the jurisdiction of Islamic personality within the scope of marital legal acts, including marriage dispensations. According to the Marriage Law, a marriage dispensation occurs when there is a deviation from the minimum age limit for marriage, and is submitted to the Court by the parents of the groom and/or the parents of the bride for urgent reasons and supported by sufficient evidence. In the Islamic teachings emphasize and reinforce the need to fulfill legal capacity in marriage to avoid the detrimental impacts of early marriage. Therefore, family planning and efforts to maintain reproductive health are essential efforts that require serious attention from all parties, including regulations regarding the age limit for marriage that can ensure reproductive health and the common good. In the Quran, child marriage should actually be prevented because it results in legal incompetence, as stated in Surah *an-Nisa* verse 6 (3:6), which reads, "Test the orphans (in managing their wealth) until they are old enough to marry. Then, if you judge them capable (of managing their wealth), hand them over to them."

The same point is emphasized in *Surah an-Nur* verse 32, which reads: "Marry those who are single among you and those who are worthy of marriage from your slaves, both male and female. If they are poor, Allah will enrich them from His bounty. Allah is All-Encompassing and All-Knowing." This Quranic verse states that marriage is an important life solution, but within the appropriate capacity and maturity, both in age and other dimensions. The essence of marriage dispensation reflects a certain conditionality within the legal sphere of society on the one hand, and the presence of the state, through the courts, in protecting and fulfilling the right to marry on the other. In this context, *Agama* Courts examine and rule on applications from Indonesian Muslim citizens through standard court procedures to examine the basis of the reasons and evidence presented. In other words, *Agama* Courts have the authority to ensure and determine the legal validity of deviations from the minimum age for marriage, based on the judge's considerations and convictions.

As previously emphasized, child marriage must be avoided. The state is obliged to ensure, through clear and firm policies and regulations, that all forms of child marriage are prohibited. Through various rational reasons, such as protecting health, education, and employment, child marriage has negative implications for the health and integrity of households, as well as for social order and even for a nation's civilization. Child marriage is a discriminatory global practice and is therefore prohibited and condemned by the international community. In an effort to protect children, Indonesia has established Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and most recently amended by Law No. 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law (Perpu) No. 1 of 2016 concerning the Second Amendment to Law No. 23 of 2002 concerning Child Protection to Become Law (hereinafter Child Protection Law). In the provisions of Article 26 paragraph (1) of the Child Protection Law, it is emphasized that parents are obliged and responsible for: a. caring for, maintaining, educating, and protecting children; b. developing children according to their abilities, talents, and interests; c. preventing marriage at a young age; and d. providing character education and instilling moral values in children (Arthur et al., 2018).

However, it must be acknowledged that, for a very long time, from the enactment of the 1974 Marriage Law to 2019, the legal age for marriage in Indonesia actually fell into the category of child marriage. The minimum age for marriage, stipulated in Article 7 paragraph (1) of the Marriage Law, is 16 for women and 19 for men. The provisions of the Child Protection Law further emphasize the prohibition of child marriage in Indonesia and the responsibility of the family, society, and the state. Based on these provisions, the practice of child marriage has a long history in the development of marriage law in Indonesia. Furthermore, there is a clause that allows for marriage dispensations arising from deviations from the marriage age limit. Social factors, including religious understandings and practices, influence the behavioral climate and legal culture of society, resulting in a significant prevalence of child marriage (Marshan et al., 2013).

Based on the practice of minimum age limits in the category of child marriage in marriage law, the government and the House of Representatives amended the Marriage Law, as mandated by the decision of the Constitutional Court of the Republic of Indonesia (MKRI) Number 22/PUU XV/2017. Interestingly, the birth of the clause amending the Marriage Law did not originate from the political will of the government and the House, but rather was the impact of the legal product of the legal consequences of the MKRI decision. This is a legal consequence that the MKRI decision product is at the same level as the hierarchy of legal norms at the level of law. However, it must be understood that the change in the age limit in the Marriage Law can be interpreted as a serious effort by the state to ensure that policymakers, including the courts, the government, and the public, take steps to prevent child marriage. Furthermore, according to Dina Arfianty, the Constitutional Court's ruling not only changes the fate of thousands of Indonesian girls but also confirms Indonesia's commitment to human rights and equality. She further explained:

*In this context, the result in the Constitutional Court is a major step forward. Not only because it will help change the lives of thousands of Indonesian girls, but because it also signals a commitment to universal human rights and equality – a commitment sorely lacking in many other Indonesian government institutions (Arfianty, 2019).*

According to data from the *Agama* Courts Agency of the Supreme Court of the Republic of Indonesia (Badilag MARI), nationally, there were 43,083 marriage dispensation cases in 2023, with 42,907 decisions made. Of these, 39,706 requests were granted, or approximately 92.2%. This number of cases at the national level decreased from previous years, namely 65,299 in 2020, 63,360 in 2021, and 52,395 in 2022 (Hidayat, 2014).

# THE COMPETENCE OF AGAMA COURT AND ITS RELATION WITH THE PROTECTION OF CHILDREN'S RIGHTS (STUDY OF MARRIAGE DISPENSATION IN THE CLASS I-B AGAMA COURT KISARAN)

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Within the Kisaran Class IB *Agama* Court within the jurisdiction of the Medan High *Agama* Court, which covers the legal community in two regencies, Asahan Regency and Batu Bara Regency, the number of marriage dispensations has consistently decreased over the past four years. The prevalence of child marriage, with various motives for submitting marriage dispensations, is influenced by several factors. Interestingly, the number of granted requests remains relatively high, although further testing is needed to understand the objective circumstances of such cases. In an effort to prevent child marriage in the jurisdictions of Kisaran and Batu Bara, the Kisaran Class IB *Agama* Court is encouraging collaboration with relevant institutions, such as the Asahan Regency Government and the Batu Bara Regency Government. This collaborative commitment is made to ensure outreach to the community and legal discussions are conducted in collaboration with educational institutions and government agencies. Over the past five years, data shows a decrease in marriage dispensation requests, with varying resolutions, including revocation, rejection, and rejection in the case quo. This can be seen in the following table.

**Table 1.** Marriage Dispensation Data in Religious Courts, 2021-2024

No	Years	Registered	Revoked	Accepted	Rejected	Not Accepted	Fall	Removed from Register	Total
1	2021	101	6	95	-	-	-	-	101
2	2022	71	5	62	-	3	-	1	71
3	2023	57	5	50	1	1	-	-	57
4	2024	27	-	25	-	1	1	-	27

**Source:** *Agama* Court Kisaran Class I-B 2025

Based on the above data, the Kiaran Class I-B Religious Court environment continues to ensure a just legal mechanism to reduce the number of child marriages. The significant decline in the number can be seen as evidence that the mechanism for adjudicating child marriage applications is carried out based on the principle of the best interests of the child, as emphasized in Supreme Court Regulation No. 5 of 2019. This data also shows that the judges of the Kiaran Class I-B Religious Court have issued legal products in the form of legal decisions accepting or granting and not being accepted (Case Number 51/Pdt.P/2022/PA.Kis, Case Number 145/Pdt.P/2022/PA.Kis, Case Number 182/Pdt.P/2022/PA.Kis, Case Number 121/Pdt.P/2023/PA.Kis, Case Number 100/Pdt.P/2024/PA.Kis), but also the Decisions are rejected (Case Number 22/Pdt.P/2023/PA.Kis), there are even applications that have failed (Case Number 17/Pdt.P/2024/PA.Kis), and withdrawn from the register (Case Number 25/Pdt.P/2022/PA.Kis).

To boost national strength in preventing early marriage or child marriage, the Supreme Court has committed to realizing the SDGs as a national commitment that must be implemented (Bappenas, 2020). Strengthening efforts to ensure legal certainty and justice in marriage dispensation cases, the Supreme Court issued Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. In addition, this provision strengthens the legal protection measures of the Supreme Court, particularly the Religious Courts, to adjudicate marriage dispensation cases based on strong legal principles and with careful consideration. This Supreme Court regulation serves as a guideline for adjudication to ensure the realization of a judicial system that protects children's rights by standardizing the process of adjudicating marriage dispensation applications in court.

In the capacity of strengthening the legal mechanism, through a single judge (*Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin*, n.d.) in the Kisaran Class I-B Religious Court, it is mandatory to pay attention to the best interests of children. The classification of the single judge in question is (1) a judge who already has a Decree from the Chief Justice of the Supreme Court as a Juvenile Judge, has attended training and/or technical guidance on Women in Conflict with the Law or is certified in the Juvenile Criminal Justice System or has experience in adjudicating applications for Marriage Dispensation; (2) if there is no Judge, as referred to, then any Judge can adjudicate on Marriage Dispensation (Supreme Court Regulation Number 5 of 2019 Concerning Guidelines for Adjudicating Marriage Dispensation Applications).

Those who have the right to submit an application are parents and are required to present the child for whom the marriage dispensation application is requested, the prospective husband/wife and the parents/guardians of the prospective husband/wife and the Judge to hear their statements. The Judge must also provide advice to the applicant, child, prospective husband/wife, and parents/guardians of the prospective husband/wife. The judge's advice is taken into account in the judge's decision. In the case examination process, the judge identifies that: (1) the child submitted in the application knows and agrees to the marriage plan; (2) the psychological condition, health and readiness of the child to enter into marriage and build a household life; and (3) psychological, physical, sexual, or economic coercion against the child and/or family to marry or marry off the child.

To ensure legal justice for the community, a legal mechanism for adjudicating violations of the marriage age limit, as revised in the 2019 Marriage Law, was established and serves as the legal basis for marriage. *Agama* Courts play a crucial role in resolving legal violations of the marriage age limit. The Kisaran Class I-B *Agama* Court issues marriage dispensations based on the adjudication guidelines stipulated in Supreme Court Regulation No. 5 of 2019, which was enacted on November 20, 2019, one month after the 2019 Marriage Law came into effect (Supreme Court Regulation Number 5 of 2019 Concerning Guidelines for Adjudicating Marriage Dispensation Applications).

The Kisaran Class I-B *Agama* Court examines and decides marriage dispensation applications based on key principles related to protecting children's rights, particularly the principle of the child's best interests. Judge classification is also determined by considering the judge's skills, knowledge, and experience in adjudicating marriage dispensation applications. This ensures the reality and expectations of the vulnerable age status of children applying for marriage dispensations.

## CONCLUSION

The right to marriage is a human right. The right to marriage is inherent in adults who are legally eligible for marriage according to applicable national laws. The age of marriage varies from country to country. However, universal human rights standards set the minimum age for children at 18 years. Constitutional Court Decision No. 22/PUU-XV/2017 stipulates that the minimum age for marriage for men and women is 19 years, as reinforced by Law No. 16 of 2019, while also revoking the provisions of Article 7 of Law No. 1 of 1974, which had stipulated that the minimum age for marriage for women is 16 years and for men is 19 years. This deviation reflects a constantly changing social reality. The judges at the Kisaran Class I-B *Agama* Court, within its authority, consider the principle of the best interests of the child as the primary consideration when examining and ruling on marriage dispensation requests. The Kisaran Class I-B *Agama* Court's marriage dispensation determination is a legally binding legal instrument and serves as the legal basis for the community. In its mechanism, the Kisaran Class I-B *Agama* Court is subject to the procedural law and adjudication guidelines stipulated in Supreme Court Regulation No. 5 of 2019. By using Single Judge, the court continues to be encouraged to more thoroughly ensure that child marriage is stopped. Marriage dispensation signifies the responsibility of the parties, especially parents, family and society to help young couples to undergo the marriage they desire based on strong legal considerations and permitted by the panel of judges in the court. The Decisions reflect the strong mechanism to enable accepting the request of Marriage Dispensation with the fully considerations, including legal, culture, economic, health, psychology and etc.

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# THE COMPETENCE OF AGAMA COURT AND ITS RELATION WITH THE PROTECTION OF CHILDREN'S RIGHTS (STUDY OF MARRIAGE DISPENSATION IN THE CLASS I-B AGAMA COURT KISARAN)

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