

Child Protection In Marriage Dispensation: Harmonization of Regulations From The Perspective of The Child Protection Law

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ABSTRACT

Child marriage remains a legal and social issue in Indonesia despite the existence of regulations regarding child protection in the national legal system. Law Number 35 of 2014 concerning Child Protection expressly requires parents to prevent child marriage as a form of protection for children's rights to growth and development. However, on the other hand, Law Number 16 of 2019 concerning Marriage still provides space through the marriage dispensation mechanism that can legalize child marriage through a court decision. This condition creates disharmony in regulations and impacts legal uncertainty in child protection. This study aims to analyze the harmonization of marriage dispensation regulations from the perspective of the Child Protection Law and examine legal certainty regarding child protection in the practice of marriage dispensation in Indonesia. This study uses a normative legal research method with a conceptual approach and a case approach. The legal materials used include laws and regulations, court decisions, scientific journals, and legal literature analyzed using grammatical and systematic interpretation methods. The research results indicate that there is a dualism in the regulations between the Child Protection Law and the Marriage Law, resulting in weak legal protection for children. Furthermore, the ambiguity of the phrase "very urgent reasons" in the marriage dispensation creates multiple interpretations and high levels of judicial discretion in granting marriage dispensation requests. Therefore, regulatory harmonization, strict limitations on marriage dispensations, and strengthening of the child protection paradigm in judicial practice are needed to achieve legal certainty oriented toward the best interests of children.

Keywords: Child Protection, Marriage Dispensation, Legal Certainty, Legal Harmonization, Best Interests of the Child.

1. INTRODUCTION

Child protection is a constitutional mandate that holds a crucial position in the Indonesian legal system (Asshiddiqie, 2018; Fajlurrahman Jurdi, 2016). The state places children as legal subjects who must be guaranteed the right to life, the right to grow and develop, and the right to receive protection from various forms of violence and discrimination. In this context, child marriage is seen as a serious problem because it has the potential to eliminate children's basic rights, both in the areas of education, health, and psychological development. Therefore, the enactment of Law Number 35 of 2014 concerning Child Protection is a form of the state's commitment to guaranteeing comprehensive child protection. The Child Protection Law expressly regulates the obligations of parents to prevent child marriage (Ahmad Kamil & Fauzan, 2008; Philipus M. Hadjon, 1987). This provision is contained in Article 26 paragraph (1), which emphasizes that parents have the responsibility to care for, educate, protect, and prevent child

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marriage. This regulation shows that preventing child marriage is not merely a moral appeal, but a legal obligation that must be fulfilled by every parent and the state.

Regulations concerning child protection essentially aim to ensure the fulfillment of the best interests of children. This principle requires that all policies and actions related to children prioritize their future, safety, and well-being. From a child protection law perspective, child marriage is seen as hampering a child's development and increasing the risk of exploitation and violence against children, particularly girls. Therefore, the state has an obligation to create a legal system capable of preventing this practice. In addition to its legal impact, child marriage also has serious social and health consequences. Children who marry at an early age are more likely to drop out of school, face economic dependence, and face high reproductive health risks. Child pregnancy can lead to medical complications that endanger the safety of both mother and child. These conditions demonstrate that child marriage is not merely a cultural or moral issue, but also a human rights issue that must be addressed seriously by the state.

In practice, child protection is not sufficient through a purely normative approach. The state also needs to implement preventive policies capable of reducing the factors causing child marriage, such as poverty, low levels of education, and limited public understanding of reproductive health. Therefore, child protection must be implemented through a multisectoral approach involving the government, the community, educational institutions, and law enforcement officials. Although the Child Protection Law explicitly prohibits child marriage, the Indonesian legal system still allows for this practice through marriage dispensation mechanisms. This is evident in Law Number 16 of 2019 concerning Marriage, which maintains the provisions for marriage dispensations for minors.

Article 7 paragraph (2) of the Marriage Law stipulates that the parents of the groom and/or bride may apply for a dispensation to the court if there are very urgent reasons accompanied by sufficient evidence. This provision is basically intended as a limited exception. However, the existence of dispensation actually opens up opportunities for the legalization of child marriage through the court mechanism. The existence of marriage dispensation creates a dualism of regulations in the Indonesian legal system. On the one hand, the Child Protection Law requires the prevention of child marriage. However, on the other hand, the Marriage Law provides legal space for child marriage to occur through dispensation. This dualism indicates a lack of regulatory harmony which has implications for legal uncertainty in child protection.

To tighten the practice of marriage dispensation, the Supreme Court issued Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. This regulation is intended to make judges more careful in granting marriage



dispensation and to take the best interests of the child into account. However, the implementation of this PERMA still faces various problems in judicial practice. The phrase "very urgent reasons" in Article 7 paragraph (2) of the Marriage Law is often interpreted broadly by judges. In many cases, reasons such as concerns about adultery or pregnancy outside of marriage are used as grounds for granting marriage dispensation. As a result, dispensations that should be exceptional have become instruments for legalizing child marriage.

This practice demonstrates that the child protection approach in marriage dispensation cases is still not optimal. Judges in some decisions prioritize social and moral considerations over protecting children's long-term rights. This has resulted in the primary goal of marriage law reform, which is to reduce the number of child marriages, not being effectively achieved. The high rate of marriage dispensations in Indonesia demonstrates that child marriage remains a serious problem. According to data from the Directorate General of Religious Courts, as of September 2024, the number of marriage dispensation cases received reached 52,093, with 50,746 granted by the courts. This high rate of grants indicates that marriage dispensations have become a common practice in Indonesia's religious court system.

The data shows that courts tend to grant ample leeway to requests for marriage dispensations. However, dispensations should be considered a last resort, a case-by-case basis, and are very limited. The high rate of grants indicates a tendency to normalize child marriage through legal mechanisms. This phenomenon is also evident in several religious court decisions that grant marriage dispensations, citing concerns about violating religious and social norms. In Decision Number 1050/Pdt.P/2025/PA.Kab.Mlg, for example, the court granted a marriage dispensation for an 18-year-old girl to a 20-year-old man. Similarly, in Decision Number 1296/Pdt.P/2025/PA.Kab.Mlg, an 18-year-old girl to marry a 23-year-old man was granted.

The judges' considerations in these cases generally relate to concerns about violations of religious and moral norms. Such considerations demonstrate that child protection is often trumped by prevailing moral and social approaches. Consequently, the child's best interests are not optimally addressed. The inconsistency between the Child Protection Law and the Marriage Law ultimately creates serious problems in law enforcement. The two regulations have different perspectives on child marriage. The Child Protection Law considers child marriage a violation of children's rights, while the Marriage Law still provides for legalization through marriage dispensations.

This issue is closely related to the interpretation of the principle of the best interests of the child. From a child protection perspective, best interests means preventing child marriage to ensure the child's future. However, in the practice of marriage dispensation, best interests is often



interpreted as granting permission for marriage to avoid social and moral harm. The principle of the best interests of the child is actually a universal principle stipulated in the Convention on the Rights of the Child, which Indonesia ratified through Presidential Decree No. 36 of 1990. The Convention emphasizes that all actions related to children must prioritize the child's best interests. Therefore, any form of policy and legal practice that legalizes child marriage is in fact contrary to the spirit of universal child rights protection.

The disharmony in these regulations indicates that the Indonesian legal system still lacks strong synchronization in protecting children from marriage dispensation practices. This disharmony results in legal uncertainty, inconsistent law enforcement, and weak protection of children's rights. If this situation continues, the state's goal of reducing the number of child marriages will be difficult to achieve. Based on this explanation, harmonization of regulations between the Child Protection Law and the Marriage Law is an urgent need. Harmonization is necessary to create a consistent norm regarding marriage dispensation and the protection of children's rights. With this harmonization of regulations, it is hoped that the Indonesian legal system will be able to provide more comprehensive, consistent, and best-interest-oriented protection for children as the nation's future generation.

2. RESEARCH METHODS

The research method used in this study is normative legal research (Soerjono Soekanto & Sri Mamudji, 2015; Peter Mahmud Marzuki, 2021) with a focus on the study of legal norms related to the harmonization of child protection regulations in marriage dispensation based on the perspective of the Child Protection Law. This normative legal research was conducted through a library approach by examining various primary, secondary, and tertiary legal sources relevant to the legal issues studied. The primary legal materials used include the 1945 Constitution of the Republic of Indonesia, Law Number 35 of 2014 concerning Child Protection, Law Number 16 of 2019 concerning Marriage, Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, Constitutional Court Decision Number 22/PUU-XV/2017, as well as several court decisions and rulings related to marriage dispensation. In addition, this study also uses secondary legal materials in the form of legal literature, scientific journals, and academic works related to child protection and marriage dispensation, as well as tertiary legal materials such as the Big Indonesian Dictionary and legal dictionaries to strengthen understanding of the legal terms used.

The approaches used in this research consist of a conceptual approach and a case approach. The conceptual approach is used to analyze the legal concepts underlying the regulation of



marriage dispensation in the Marriage Law and the obligation to prevent child marriage in the Child Protection Law. Meanwhile, the case approach is carried out by examining various court decisions regarding marriage dispensation to understand the application of the law in judicial practice. The legal material search technique is carried out through documentation studies and literature studies by inventorying and classifying all laws and regulations, court decisions, and literature relevant to the research. Furthermore, the analysis of legal materials is carried out using grammatical interpretation and systematic interpretation methods. Grammatical interpretation is used to understand the meaning of the marriage dispensation norm based on the applicable legal language, while systematic interpretation is carried out by connecting the provisions in the Child Protection Law with the practice of marriage dispensation in the Marriage Law to find harmonization of child protection regulations in the Indonesian legal system.

3. RESULTS AND DISCUSSION

Harmonization of Marriage Dispensation Regulations from the Perspective of the Child Protection Law

The regulation regarding the obligation to prevent child marriage in the Child Protection Law is essentially a form of state protection of children's rights as part of human rights. Children are seen as individuals who do not yet have physical, mental, and social maturity and therefore require special protection from the state, family, and society. In this context, the state places the prevention of child marriage as a legal obligation that must be implemented comprehensively to ensure the fulfillment of children's rights to grow and develop. Law Number 35 of 2014 concerning Child Protection expressly regulates the obligation of parents to prevent marriage at a young age. This provision is stated in Article 26 paragraph (1) letter c which states that parents are obliged and responsible for preventing marriage at a young age. This norm shows that the state has a strong orientation in efforts to eliminate the practice of child marriage in Indonesia.

Philosophically, the prohibition on child marriage stems from the recognition that children are the nation's future generation, whose quality of life must be guaranteed. Child marriage is seen as hindering the educational process, reducing health quality, and increasing the risk of structural poverty. Therefore, child protection must be placed above social and cultural interests that legitimize child marriage. The principle of child protection in Indonesian law is also inseparable from the principle of "the best interests of the child." This principle stems from the Convention on the Rights of the Child, which Indonesia ratified through Presidential Decree No. 36 of 1990. This principle emphasizes that all policies and actions related to children must prioritize the child's best interests over all other interests.



From a child protection perspective, the best interests of the child mean ensuring that the child enjoys the right to education, health, growth and development, and protection from all forms of exploitation. Therefore, child marriage is seen as contradictory to this principle because it deprives the child of the opportunity to develop optimally. Children who marry at an early age tend to lose access to education and experience psychological and economic pressure. However, these child protection regulations face challenges when confronted with the marriage dispensation provisions in Law Number 16 of 2019 concerning Marriage. Although the Marriage Law has raised the minimum age for marriage to 19 for both men and women, the law still provides space through the marriage dispensation mechanism.

Article 7 paragraph (2) of the Marriage Law states that in the event of a deviation from the marriage age limit, parents may request a dispensation from the court on urgent grounds accompanied by sufficient supporting evidence. This provision normatively opens up the opportunity for legalization of child marriage through a court decision. The existence of marriage dispensations creates dualism in the Indonesian legal system. On the one hand, the Child Protection Law requires the prevention of child marriage. However, on the other hand, the Marriage Law actually provides legal space to legalize child marriage through dispensation. This condition indicates a disharmony of legal norms in the legal regulatory system.

Theoretically, legal harmonization is necessary to avoid conflicts between norms within a legal system (Maria Farida Indrati Soeprapto, 2017; Bagir Manan, 2004). Harmonization aims to create conformity, harmony, and balance between laws and regulations, thereby providing legal certainty. In the context of marriage dispensation, harmonization is crucial because two legal regimes have differing orientations toward child marriage. The Child Protection Law focuses on absolute prevention of child marriage to guarantee children's rights. Conversely, the Marriage Law still tolerates the practice through the marriage dispensation mechanism. This difference in orientation creates legal issues in judicial practice.

The problem is further complicated by the lack of a clear definition of the phrase "urgent reasons" in Article 7 paragraph (2) of the Marriage Law. This lack of clarity in the norm leaves judges with extensive discretion in granting marriage dispensation requests. Consequently, many dispensation requests are granted for social and moral reasons. In religious court practice, the reasons often cited for granting marriage dispensations include parental concerns about their children's social relationships, the potential for adultery, or pregnancy outside of marriage. These considerations demonstrate that moral and social approaches are more dominant than those focused on protecting children's rights.



This situation demonstrates that the principle of the best interests of the child often experiences a shift in meaning in the practice of marriage dispensation. From a child protection perspective, best interests means preventing child marriage. However, in judicial practice, best interests are interpreted as granting marriage permission to avoid certain social impacts. These differing interpretations demonstrate the lack of a uniform understanding of the concept of the best interests of the child. As a result, judges, when deciding marriage dispensation cases, often do not prioritize the protection of children's rights. This has implications for the high rate of marriage dispensation grants in Indonesia.

Data from the Directorate General of Religious Courts shows that the number of granted marriage dispensations remains very high. This high rate of grants indicates that marriage dispensations have shifted from an exceptional instrument to a common practice. This situation demonstrates that the goal of limiting child marriage through the revision of the Marriage Law has not been effectively implemented. From a child protection law perspective, the high number of marriage dispensations indicates the weak implementation of child protection principles in judicial practice. Judges still tend to consider sociological aspects rather than the long-term impact on a child's future. Yet, child marriage has serious consequences for a child's reproductive health, education, and well-being.

From a health perspective, child marriage increases the risk of pregnancy complications and maternal and child mortality. Girls who marry at an early age are not biologically prepared for pregnancy and childbirth. Therefore, child marriage is a public health issue that must be prevented by the state. Furthermore, child marriage results in a loss of access to education for children. Many married children end up dropping out of school due to the need to fulfill their roles as wives and housewives. This situation deprives children of opportunities to improve their quality of life through education.

Child marriage also has the potential to lead to domestic violence due to the emotional immaturity of couples who marry at an early age. Psychologically immature children are vulnerable to mental stress and domestic conflict. Therefore, child protection must be prioritized over temporary social interests. In legal protection theory, the state has an obligation to provide both preventive and repressive protection for children. Preventive protection is implemented through the establishment of regulations prohibiting child marriage, while repressive protection is carried out through consistent law enforcement against violations of children's rights. However, the existence of marriage dispensations actually weakens this preventive protection.

When viewed from the principle of *lex superior derogat legi inferiori*, protection of children's rights guaranteed by the constitution should be a top priority in the formation and



implementation of laws. Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia affirms that every child has the right to survive, grow, and develop and has the right to protection from violence and discrimination. Therefore, any form of regulation that has the potential to reduce child protection should be interpreted strictly. In addition, the state must also pay attention to the doctrine of *parens patriae* which places the state as the primary protector for children who are not yet able to protect themselves. This doctrine requires the state to take action in the best interests of the child, including in preventing the practice of child marriage.

In the context of legal harmonization, marriage dispensation regulations should be strictly limited and used only in extraordinary circumstances. Courts must prioritize the protection of children's rights when deciding marriage dispensation cases. Thus, dispensation should no longer be used as an instrument for normalizing child marriage. Harmonization between the Child Protection Law and the Marriage Law must also be achieved by establishing clear parameters regarding the urgent reasons for marriage dispensation. The absence of clear parameters leads to multiple interpretations and inconsistent court decisions. Therefore, legal policy reformulation is needed to better support child protection.

In addition to regulatory harmonization, strengthening public education is also a crucial step in preventing child marriage. Many child marriages occur due to cultural and economic factors, as well as low levels of public education. Therefore, child protection efforts must be implemented through a simultaneous legal and social approach. Therefore, it is understandable that the provisions on the obligation to prevent child marriage in the Child Protection Law are fundamentally inconsistent with the authority to grant marriage dispensations in the Marriage Law, when viewed from the principle of the best interests of the child. This dualism of norms creates legal uncertainty and has the potential to weaken the protection of children's rights. Therefore, regulatory harmonization and more consistent law enforcement are needed so that the best interests of children truly become the primary foundation of every policy related to marriage dispensations.

Legal Certainty Regarding Child Protection in Marriage Dispensation Practices in Indonesia

Legal certainty is one of the primary objectives in establishing a national legal system (Gustav Radbruch, 1950; Sudikno Mertokusumo, 2019). In a state based on the rule of law, every statutory regulation must provide clarity, consistency, and protection for citizens' rights, including children's rights. Legal certainty is crucial because without it, the law will not be able to fulfill its function as a means of protection and social control in society. In the context of child protection, legal certainty is closely related to the state's guarantee of the fulfillment of children's rights as stipulated in the constitution and various national and international legal instruments. Children are a vulnerable group requiring special protection because they are physically and psychologically



unable to protect themselves. Therefore, the state is obliged to establish a legal system capable of ensuring comprehensive child protection.

Protection of children in the Indonesian legal system is constitutionally regulated in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that every child has the right to survive, grow, develop, and receive protection from violence and discrimination. This provision shows that child protection is a constitutional right that must be guaranteed by the state. The implementation of child protection is then realized through Law Number 35 of 2014 concerning Child Protection. This law emphasizes that the state, government, family, and society have a responsibility to guarantee the protection of children. One form of this protection is the obligation to prevent child marriage. Article 26 paragraph (1) letter c of the Child Protection Law expressly states that parents are obliged and responsible for preventing child marriage. This provision shows that the state has a clear legal orientation to protect children from the practice of early marriage. Preventing child marriage is seen as an important part of ensuring the future of children.

Philosophically, regulations regarding the prevention of child marriage are born from the awareness that children have the right to grow and develop optimally. Children who marry at an early age are at risk of losing their right to education, experiencing reproductive health problems, and facing economic and psychological pressures. Therefore, child protection must be placed as a top priority in the formulation of legal policies. However, legal certainty regarding child protection is problematic when faced with the regulation of marriage dispensations in Law Number 16 of 2019 concerning Marriage. Although the law has raised the minimum age for marriage to 19 for both men and women, the state continues to provide space through the marriage dispensation mechanism.

Article 7 paragraph (2) of the Marriage Law states that the parents of the groom and/or bride may apply for a dispensation to the court if there are very urgent reasons accompanied by sufficient supporting evidence. This provision shows that the state still opens the opportunity for legalizing child marriage through a court decision. The existence of marriage dispensations creates a dualism of regulations in the Indonesian legal system. On the one hand, the Child Protection Law requires the prevention of child marriage. However, on the other hand, the Marriage Law still provides legal space to legalize child marriage through dispensations. This condition creates legal uncertainty in the protection of children.

This regulatory disharmony has led to conflict in the application of the principle of the best interests of the child. From the perspective of the Child Protection Law, best interests means preventing child marriage to ensure the child's future. However, in the practice of marriage



dispensation, best interests is often interpreted as granting permission for marriage to avoid certain social impacts. These differing interpretations demonstrate the lack of consistent legal standards for viewing marriage dispensation. As a result, judges have extensive discretion in granting marriage dispensation requests. This results in a lack of uniform legal certainty in child protection.

Legal certainty essentially demands clear rules that are not open to multiple interpretations. According to Gustav Radbruch, legal certainty is one of the basic values of law, along with justice and expediency. The law must be able to provide definite guidelines for the public and law enforcement officials in carrying out their obligations. In the context of marriage dispensations, legal certainty has not been achieved because the phrase "very urgent reasons" in Article 7 paragraph (2) of the Marriage Law does not have clear parameters. This lack of clarity opens up the opportunity for different interpretations in judicial practice. In practice, reasons such as fear of adultery, social pressure, or pregnancy outside of marriage are often used as the basis for granting marriage dispensations. Even though these reasons are not expressly regulated in the law. This condition indicates that judges' decisions are heavily influenced by subjective considerations.

Unclear legal norms cause inconsistent marriage dispensation decisions between courts. Even in cases with similar characteristics, judges' decisions can differ depending on how they view the child's best interests. This demonstrates the lack of legal certainty in the practice of marriage dispensation. The Supreme Court has actually issued Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. This regulation aims to provide guidance for judges to be more cautious in granting marriage dispensations and prioritize child protection. PERMA Number 5 of 2019 stipulates that judges must consider educational, health, psychological, social, cultural, and best interests aspects of the child before deciding on a marriage dispensation case. This regulation demonstrates the state's efforts to tighten the granting of marriage dispensations.

However, in practice, the Supreme Court Regulation has not been able to reduce the high rate of marriage dispensations in Indonesia. Many judges continue to grant dispensations on social and moral grounds. This indicates that the guidelines are not yet fully effective in creating legal certainty that favors child protection. Data from the Directorate General of Religious Courts shows that the rate of granting marriage dispensations remains very high. This high rate demonstrates that marriage dispensations have transformed from an exceptional instrument to a common practice in the religious court system.

This phenomenon demonstrates that courts still tend to view marriage dispensations as a solution to social problems. However, legalizing child marriage has the potential to create new, more serious problems for children's futures. Child marriage has a far-reaching negative impact on



children's lives. Children who marry at an early age are more likely to drop out of school and miss out on opportunities for a proper education. As a result, children struggle to improve their quality of life in the future. In addition to impacting education, child marriage also poses risks to girls' reproductive health. Early pregnancy can increase the risk of medical complications, maternal mortality, and stunting in the unborn child. Therefore, child marriage is also a public health issue.

Psychologically, children who marry at an early age lack the emotional maturity to navigate family life. This situation has the potential to lead to domestic conflict, domestic violence, and even divorce. This demonstrates that child marriage impacts not only the individual but also the resilience of the family. From a human rights perspective, child marriage is a violation of a child's right to freely determine their own future. Children who marry at an early age lose the opportunity to enjoy childhood and develop their full potential.

The state should be the primary protector of children through legal policies that support the protection of children's rights. Under the doctrine of *parens patriae*, the state has an obligation to protect children who are unable to protect themselves. Therefore, the state must not merely legitimize social practices that harm children. Legal certainty regarding child protection must also be achieved through regulatory harmonization. Synchronizing the Child Protection Law with the Marriage Law is a crucial step in eliminating conflicting norms within the Indonesian legal system.

In addition to regulatory harmonization, stricter restrictions on the grounds for granting marriage dispensations are needed. The state needs to formulate clear parameters regarding conditions that can be categorized as urgent reasons. With these parameters, judges' discretion can be limited, thereby creating consistency in court decisions. Legal certainty must also be strengthened by improving the quality of judges' reasoning in deciding marriage dispensation cases. Judges must prioritize a child protection approach over a purely social morality approach. The best interests of the child must be placed as the primary consideration in every decision. Furthermore, the state needs to strengthen preventive measures by educating the public about the negative impacts of child marriage. Many child marriages occur due to economic, cultural, and low levels of education. Therefore, child protection must be implemented through a simultaneous legal and social approach.

From a progressive legal perspective, law should not be understood solely in textual and formalistic terms. It must be able to provide substantive justice for vulnerable groups, including children. Therefore, the implementation of marriage dispensations must truly consider the future and long-term well-being of children. If legal uncertainty surrounding marriage dispensations is allowed to persist, the practice of legalizing child marriage will continue in Indonesia. This situation has the potential to weaken the state's commitment to protecting children's rights and



achieving the goal of quality human development. Therefore, legal certainty regarding child protection in the practice of marriage dispensations still faces various normative and practical issues. Disharmony in regulations, multiple interpretations of legal norms, and high levels of judicial discretion mean that child protection is not yet optimal. Therefore, harmonization of laws and regulations, stricter restrictions on marriage dispensations, and strengthening of the child protection paradigm in judicial practice are needed so that legal certainty regarding children's rights can truly be realized in the Indonesian legal system.

4. CONCLUSION

Based on the discussion regarding the harmonization of marriage dispensation regulations from the perspective of the Child Protection Law, it can be concluded that there is a disharmony of norms between Law Number 35 of 2014 concerning Child Protection and Law Number 16 of 2019 concerning Marriage. The Child Protection Law emphasizes the obligation to prevent child marriage as a form of protection for children's rights to growth and development, while the Marriage Law still provides room for legalization through the marriage dispensation mechanism. This condition has led to a dualism of regulations in the Indonesian legal system, which has resulted in weak implementation of the principle of the best interests of the child. In practice, marriage dispensation, which should be an exception, has instead been normalized through the high rate of granting dispensation requests by religious courts. Therefore, regulatory harmonization is needed that places the protection of children's rights as a top priority in every policy and legal practice related to marriage dispensation.

Furthermore, legal certainty regarding child protection in the practice of marriage dispensation has not been optimally realized. The ambiguity of the phrase "very urgent reasons" in Article 7 paragraph (2) of the Marriage Law gives rise to multiple interpretations and provides wide discretion for judges in granting marriage dispensation. As a result, court decisions often consider social and moral aspects more than the long-term protection of children's rights. This condition leaves children vulnerable to losing their rights to education, health, and future due to early marriage. Therefore, the state needs to reformulate legal policy by strictly limiting marriage dispensation, establishing clear parameters regarding urgent reasons, and strengthening the child protection paradigm in judicial practice. In this way, legal certainty regarding child protection can be realized more consistently and oriented towards the protection of children's human rights in the Indonesian legal system.

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