

Legal Consequences of Child Marriage Judging from Law No. 35 of 2014 Concerning Child Protection

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ABSTRACT

This study aims to analyze the legal consequences of child marriage in terms of law no. 35 of 2014 concerning child protection. The research method used is normative law, namely the library research method. The results of the analysis show that the legal consequences of underage marriages have an impact on their marital status; child's position; assets in marriage and children who receive a marriage pension. Efforts to prevent child marriage from occurring are by not asking parents for a marriage dispensation for any reason, unless it is really an emergency such as getting pregnant out of wedlock to save the child they are carrying. consequence, the opening of dispensation opportunities may worsen the condition of the quality of children's growth in Indonesia because they lose access to education and the opportunity to develop and understand responsibilities in marriage prior to marriage. child rights. In relation to underage marriages that can hinder child protection, it is necessary to improve the Child Protection Act in regulating the protection of children from underage marriages. Due to the threat that endangers the child's self and soul in the period of growth and development, special protection has the right to be given to the child.

ABSTRAK

Penelitian ini bertujuan untuk menganalisis akibat hukum perkawinan anak dibawah umur ditinjau dari undang-undang no. 35 tahun 2014 tentang perlindungan anak. Metode penelitian yang digunakan adalah hukum normatif yaitu metode penelitian kepustakaan (Library Research). Hasil analisis menunjukkan bahwa akibat hukum dari perkawinan dibawah umur tersebut yakni berdampak terhadap status perkawinannya; kedudukan anak; harta kekayaan dalam perkawinan dan anak yang mendapat dispensasi kawin. Upaya mencegah agar tidak terjadinya perkawinan anak tersebut yaitu dengan cara orang tuanya jangan meminta permohonan dispensasi nikah dengan alasan apapun, terkecuali benar-benar darurat seperti hamil di luar nikah untuk menyelamatkan anak yang dikandung. Konsekuensinya, dibukanya peluang dispensasi bisa saja dapat memperparah kondisi kualitas pertumbuhan anak di Indonesia karena kehilangan akses terhadap pendidikan dan kesempatan untuk dapat berkembang dan memahami tanggung jawa dalam perkawinan sebelum melakukan perkawinan tersebut. karena praktek. Berkaitan dengan perkawinan di bawah umur yang dapat menghambat perlindungan anak perlu adanya perbaikan UU Perlindungan Anak dalam mengatur perlindungan anak dari perkawinan di bawah umur. Karena adanya ancaman yang membahayakan diri dan jiwa anak dalam masa tumbuh kembangnya, perlindungan khusus berhak diberikan kepada anak.

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I. INTRODUCTION

The phenomenon of underage marriage is prevalent in Indonesian society and poses a serious problem due to the controversy it generates. There are numerous reasons for the marriage, including family economic problems, low education, social and cultural factors, and the child's promiscuity and lack of parental control, which frequently result in her being pregnant. In the Marriage Law, it is explained that what is meant by marriage is an outer and inner bond between a man and a woman so that they become a legal couple, which intends to build an eternal family. Marriage regulations in Indonesia have been regulated by the State, in which the State pays attention to the process of controlling as well as giving direction that marriage is a social institution in upholding human dignity. Therefore, the Government and the State make provisions regarding the minimum age limit for their citizens in carrying out a marriage. The provisions regarding these rules have been explained in Law/No. 16/2019 concerning Marriage, which explains the age limit in carrying out marriages, in order to achieve a prosperous marriage (Bahroni et al., 2019).

Judicially, the varying definitions of "child" in various Indonesian statutes contribute to the controversy surrounding child marriage. According to Law Number 35 of 2014 regarding Amendments to Law Number 23 of 2002 regarding Child Protection, children are defined as individuals under the age of 18 and parents are required to prevent early marriage. Law No. 1 of 1974 pertaining to Marriage stipulates that the minimum age for marriage is 16 for women and 19 for men. This demonstrates that the age limit is not coordinated. Nonetheless, these regulations are ineffective in preventing the escalation in the number of underage marriages and even in halting their occurrence. Due to the absence of detailed regulations regarding underage marriages and the fact that Indonesian criminal law does not regulate the prohibition of underage marriages, there are no criminal sanctions that can be used to prosecute perpetrators of underage marriages or parties who support the implementation of underage marriages. age. Current criminal law, in particular Article 288 of the Criminal Code, only regulates criminal acts that occur within the marriage bond, such as underage marriage.

Research report by the Center for Research and Advocacy on the Protection and Quality of Life of Children (Puskapa) with UNICEF, the Central Statistics Agency (BPS), and the National Development Planning Agency (Bappenas) in 2020. Child marriage in Indonesia is not the only time this has happened. Citing the official website of the Ministry of Social Affairs, Indonesia ranks 10th in the highest number of child marriages in the world. The research report states that around 1,220,900 Indonesian children have early marriages (Farisa, 2022). Given the increasing prevalence of underage marriages that occur in Indonesia, many problems or social problems occur in the community, including the social problems in question are the vulnerability or the ease with which divorce occurs and the wheels of the household do not run properly in a household. Sometimes it's because of the uncontrolled emotions carried by married couples.

In terms of the risks that occur if this underage marriage is carried out. So, the implementation of this Child Protection Act needs to be improved by parents as someone who is responsible and has an obligation for such protection. This should also be supported by the Government as the regulator, so that the objectives of the regulation are achieved in accordance with what has been planned. The government can also make new rules that contain the prohibition of underage marriages or revise one of the laws that are contradictory to the objectives of the Child Protection Act.

This is in line with the opinion Kurnia (2021) which mentions that Underage marriage is considered more negative than positive. Underage marriages are feared to shackle children's rights and stop children's hopes to live, grow, develop, and achieve. Although in a religious perspective it is a must, but that does not mean that you have to ignore the dangers and risks that will arise. While the research results Prakoso (2019) shows that in the Marriage Law, marriage dispensation is regulated in Article 7 paragraph (2) while according to the Child Protection Law there is no recognition of underage marriages, namely parents are obliged to prevent underage marriages,

because they have a negative impact on children. It is hoped that there will be an update on the age limit for marriage to protect children's rights. Based on the various problems above, this study aims to analyze the legal consequences of child marriage in terms of Law No. 35 of 2014 concerning child protection.

Child Marriage, A child marriage is a formal or informal union in which one or both parties are younger than 19 years old. Child marriage is inseparable from what is known as the age limit of a child. The child's age limit is the maximum age grouping as an indication of the child's legal capacity. This causes a change in the child's age status, such that he or she becomes an adult or a legal subject who can act independently and assume responsibility for his actions and legal actions. In this case, the reference is Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage in Article 7 Paragraph (1), which states that marriage is only allowed between a man and a woman. Women have attained the age of 19 years old. Child marriage is a violation of human rights that robs children of opportunities for education, health and safety. Child brides often drop out of school and lose opportunities to achieve a better economy. Children who are forced to marry or because of certain conditions must be married under the age of 19 years will have a greater vulnerability in terms of access to education, quality of health, potential to experience violence, and live in poverty. The results of several studies show that child marriage is proven to be one of the risk factors for maternal and child health and nutrition problems, low education levels, and domestic violence. The impact of child marriage will not only be experienced by children who are married (Muqaffi et al., 2022; Utomo, 2020).

Child Protection, Children as generations and successors of the ideals of the nation's struggle must be protected from all threats, obstacles that exist, because the protection also concerns children's rights, children's rights to obtain education are hampered due to early marriage, their rights are neglected and getting worse. whereas a child must be protected under any conditions and needs to be given special and humane treatment (Eleanora & Sari, 2020). Regarding the definition of child protection. Gultom & Sumayyah (2014) Child protection is all efforts made to produce a situation where children can exercise their rights and obligations, so that the process of growth and development of a child can be passed naturally, physically, mentally and socially. He further explained that child protection is a form of embodiment of justice in society, so that in various fields of state and social life, efforts must be made to protect children (Erdianti, 2020).

Fundamentals of child protection, Regarding the various forms of child protection in Indonesia, there are guiding principles that serve as protection guidelines. This is also based on the Convention on the Rights of the Child, which was subsequently adopted in Law No. 23 of 2002 concerning Child Protection, which was replaced by Law No. 35 of 2014; there are four general principles of child protection that serve as the foundation for every country in implementing child protection, including: **Principle of Non-Discrimination** The principle of non-discrimination provides an understanding that every child has the right to protection without any discrimination within a child. **The Best Interests Of The Child Principle** In this second principle, all forms of protection for children should aim at the best interests of the child. **Principles of the Right to Life, Survival and Development (The Right to Life, Survival and Development)** The message of the principle is very clear that the state must ensure that every child will be guaranteed their survival because the right to life is something that is inherent in him, not a gift from the state or individuals. **Principle of Respect for the views of The Child** In this last principle, CRC pays attention to the opinion of children in the process of fulfilling the rights they receive.

Responsive legal theory is a legal theory that contains a critical view initiated by Philippe Nonet & Philip Selznick. This theory holds that the law is a means to an end. Responsiveness can be interpreted as serving social needs and interests that are experienced and discovered, not by officials but by the people. Responsiveness implies a commitment to "the law in the consumer's perspective" (Ariyanto 2010, in Muqaffi et al. 2022)

Theory of Harmonization and Law Synchronization, harmonization of laws and regulations can be interpreted as a process of harmonization or harmonization of laws and regulations that are to be or are being drafted, so that the laws and regulations produced are in accordance with the principles of law and good laws and regulations (Gultom & Sumayyah, 2014).

II. METHODS

Based on the problems studied by the authors using normative legal research methods, namely library research methods (Library Research). The normative legal research method or library law research method is a method or method of researching existing library materials, with a statutory approach, namely an approach using legislation and regulations (Marzuki Mahmud, 2009).

III. RESULT AND DISCUSSION

1. Factors Affecting Minors Marriage

Based on Law no. 16 of 2019 concerning marriage. This law explains the conditions that must be met by the prospective bride and groom before getting married, according to Article 6 paragraph 1 of Law no. 1 of 1974: marriage must be based on the approval of the two prospective brides, Article 6 paragraph 2 of Law No. 16 of 2019: to hold a marriage someone who have not reached the age of 21 years, Article 7 of Law no. No. 16 of 2019 : marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 19 years. In the meantime, according to the state, the minimum age for marriage for citizens is intended to ensure that those who are about to wed have sufficient mental maturity, emotional stability, and physical strength. Couples who have a more mature awareness and understanding of the purpose of marriage, which emphasizes aspects of inner and outer happiness, are less likely to experience domestic disputes that result in divorce.

In addition, parents and their families have obligations and responsibilities towards children as stated in Article 26 paragraph 1 of Law no. 35 of 2014 concerning Child Protection, parents are obliged and responsible to:

- a. Nurturing, nurturing, educating and protecting children.
- b. Growing children's development according to their abilities, interests and talents.
- c. Preventing child marriages.

In addition, based on Law no. 35 of 2014 concerning Child Protection prevents marriage at the age of the children where in Article 1 concerning child protection, the definition of a child is someone who is not yet 18 years old, including children who are still in the womb. Every child has rights and obligations as stated in: Article 4

"Every child has the right to be able to live, grow, develop, and participate fairly in accordance with human dignity and dignity, and to receive protection from violence and discrimination"

Article 9 paragraph 1

"Every child has the right to receive education and teaching in the context of his personal development and level of intelligence in accordance with his interests and talents"

Article 11

"Every child has the right to rest and take advantage of free time, hang out with children of the same age, play, and have recreation according to their interests, talents, and intelligence levels for self-development"

Article 13 paragraph 1

"Every child while in the care of parents, guardians, or any other party who is responsible for the care, has the right to protection from discrimination, exploitation, neglect, cruelty, violence, persecution, injustice, and other mistreatment".

The explanation of Law Number 35 of 2019 Article 40 paragraph 2 explains that what is meant by readiness is defined if it is psychologically and psychosocially estimated that the child is ready. This can usually be achieved when the child is approaching the age of 18 years. Even though it has been regulated by the Marriage Law, there are still numerous deviations in practice. One of the deviations relates to the age limit, specifically when a dispensation is granted by the marriage registrar by controlling the age of the couple's parents. In the case of Law No. 1 of 1974 regarding marriage, since marriage is only permitted if both the man and the woman have reached the age of 19 and 16, respectively.

Therefore, there are no firm sanctions for violators of the law against marriages between minors. The government must immediately revise the marriage law, particularly regarding marriages between minors. The issue must be regulated in greater detail so that it can serve as a guide for judges when evaluating cases and as community legal education. In addition, it is necessary to impose sanctions on those who engage in early marriages and those who allow them to occur, particularly parents who do not prevent underage marriages. Several aspects of the marriage of a person who has not yet reached adulthood must be reviewed and carefully considered, particularly their parents' roles. Because parental influence greatly determines the direction of a child's life path while he is still developing during childhood. Article 6 paragraph 2 of the Marriage Law specifies, with regard to the conditions of marriage, that a person under the age of 21 must obtain the consent of both parents in order to enter into a marriage.

There are several things obtained through the results of research in the field that there are several factors that influence the phenomenon of child marriage. Several factors presented by Hollean are: First, economic problems in the family. Second, the parents of women ask for public consideration, to the male family when they want to marry off their daughter. Third, with the marriage of the daughter, it also reduces the burden on the parents' family from the aspect of education, economy, social, necessities of life, mental and so on (Soerjono, 2004). Of the factors mentioned, what often happens is in unstable economic factors, when in a family that does not have a good economy then in the view of parents it will arise to marry off their daughter in order to reduce the economic, social, educational burden and so on. In addition, indeed in our society in general the factors that cause child marriages, including: First, Education, in this aspect when at a low point both from the parents, children or society, it raises an easy view to marrying their children although still not of sufficient age. Education lasts a lifetime in order to transfer knowledge from one person to another. If someone who receives higher education tends to be able to think rationally and will more easily accept new things that are considered to be beneficial for him (Nasution, 2020; Yati & Citra, 2020). On the other hand, if a person's education is low, it will be more difficult to accept new things compared to respondents with higher education. The lower the education of women, the more they have a higher risk of early marriage compared to women who have higher education. Early marriage often causes children to no longer go to school because the wife has new responsibilities, namely as a wife and mother-to-be.

Second, Economics, this aspect also includes having a major influence on the phenomenon that causes cases of child marriage. When in a family with a low economic status, this is very vulnerable and may happen because parents will assume that by marrying their child, it means at the same time reducing the economic burden on the family. Work is an activity or activity carried out to earn an income. The lower the level of employment, parents tend to immediately marry off their children at an early age. Because if the level of work of the parents is low, the economic needs are not fulfilled, so to reduce the burden on the parents, the parents decide to marry off their children who are still at an early age.

Parent's employment status is closely related to parental education, parental income, number of dependents in reflecting the socioeconomic status of the family. Families with working parents will have a better economic status than parents who do not work. Because young women with parents who do not work are more at risk. The higher the knowledge of young women about early

marriage, the better the attitude about early marriage that can be prevented or smaller. On the other hand, the less knowledge of young women about early marriage, the less attitude of young women towards early marriage (Agtikasari, 2017).

Third, the condition of the child, this aspect includes several things, such as disgrace or the situation and condition of her daughter who is known to have a romantic relationship with a man, finally in order to avoid the disgrace, the woman's parents immediately marry off their child on the grounds that it will not cause disgrace to the child. family in society.

Fourth, social media, the more information about sexual behavior, or things that contain it, the more it immediately affects a child's mind. Fifth, Adat, the phenomenon of marriage at a young age also occurs a lot because there is a cultural factor that has been widely practiced among the surrounding community, it also affects parents' views on the marriage of their children. Peer influence increases during adolescence as they seek independence from parental control. Support from peers is a form of encouragement or acceptance that affects adolescents in their development where if the support is positive then adolescents will tend to behave positively and vice versa if the support given by peers is negative then adolescents will tend to behave negatively as well. (Arikhman et al., 2019).

2. Legal Consequences of Minors Marriage

Law Number 35 of 2014 Amendments to Law Number 23 of 2002 concerning child protection by applying the principles of non-discrimination; the principle of the best interests of the child, the principle of the right to life, survival, and development, and the principle of respect for the opinion of the child, explain clearly in Article 26 Paragraph point c that parents are obliged to prevent their underage children from marrying. Furthermore, it is explained in Article 26 Paragraph that it is reaffirmed that if parents are unable to attend due to death or do not know their whereabouts, the responsibility is carried out by their relatives. (Tirmidhi, 2020). So the effort to prevent child marriage from happening is by not asking parents for a marriage dispensation for any reason (Iskandar et al., 2021), unless it is really an emergency such as getting pregnant out of wedlock to save the child they are carrying.

Whereas in Law Number 35 of 2014 there are also criminal sanctions in Article 82 especially in carrying out child marriages, namely Article 82 Anyone who violates the provisions as referred to in Article 76E shall be punished with imprisonment for a minimum of 5 years and a maximum of 15 years and a maximum fine of Rp. 5,000,000,000.00. In the event that the criminal act as referred to in paragraph is committed by a parent, guardian, child caretaker, educator, or education staff, the punishment shall be added to 1/3 of the criminal threat as referred to in paragraph , which in Article 76E states that everyone is prohibited from committing violence or threats of violence, coercion, trickery, committing a series of lies, or persuading the child to commit or allow obscene acts to be carried out. So the age limit in Article 7 paragraph is normative. If examined more deeply, it means that the consistency of Article 7 is still ambiguous. This reason is reinforced by the absence of the sanctions mentioned in the paragraph if it is violated. Whereas the Supreme Court also issued Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation.

From a legal perspective, the harm/danger that occurs if the application for a marriage dispensation for reasons of pregnancy out of wedlock is not granted, namely the fear that it will add to the sin of adultery, the potential for an underhanded marriage that will trigger various legal problems in the future and the loss of rights. child born law. From a social perspective, marriage is considered as a solution to solve social problems due to pregnancy out of wedlock with the aim of covering disgrace and shame. This is also done to minimize social sanctions where usually women who are pregnant without a husband will be humiliated and ostracized by the community which results in psychological pressure that makes them not want to socialize and close themselves off. Such psychological pressure is feared will also have a negative impact on the child being born. The

legal consequences of underage marriages have an impact on their marital status; child's position; assets in marriage and children who receive a marriage pension.

Emotional maturity is a very important aspect to maintain the continuity of marriage. The success of the household is very much determined by the emotional maturity, both husband and wife. With the marriage, the social status in social life is recognized as a married couple, and legally valid. Therefore, the age limit for marriage should be very important to be considered further in order to further explore psychological maturity. The consequences of underage marriage include:

The age of marriage is too young can lead to an increase in divorce cases because of the lack of awareness to be responsible in married life for husband and wife. Successful marriages are often marked by a willingness to take responsibility. Once they decide to get married, they are ready to bear all the burdens that arise as a result of the marriage, whether it involves providing a living, children's education, or relating to protection, education, and good relationships.

Another purpose of marriage is to produce good offspring. However, with marriage at a too young age, it is impossible to obtain quality offspring. Maturity of the mother is also very influential on the development of children, because mothers who have matured psychologically will be more controlled in their emotions and actions, when compared to young mothers. As for teenagers, they are not yet said to be adult humans who have mature minds. Do not have the mature ability to resolve the conflicts faced, and do not have mature thoughts about a good future, will greatly affect the psychosocial development of children, in this case the ability to conflict at an early age will affect the young mother. consequence, the opening of dispensation opportunities may worsen the condition of the quality of children's growth in Indonesia because they lose access to education and opportunities to develop and understand responsibilities in marriage prior to marriage. . Situations like this will illustrate the increasing relevance of underage marriage due to the large number of pre-marital pregnancies in childhood due to the development of a free sex culture. because the practice of dispensation in Indonesia is no longer relevant and against the spirit of fulfilling children's rights. Situations like this will illustrate the increasing relevance of underage marriage due to the large number of pre-marital pregnancies in childhood due to the development of a free sex culture. because the practice of dispensation in Indonesia is no longer relevant and against the spirit of fulfilling children's rights. Situations like this will illustrate the increasing relevance of underage marriage due to the large number of pre-marital pregnancies in childhood due to the development of a free sex culture.

Other impacts that arise from the health side more broadly, such as the increase in maternal mortality during pregnancy or childbirth due to a very young age. Because from a medical point of view, underage marriages have a negative impact on the mother and child. Vulnerable to reproductive health disorders, such as cervical cancer and other sexually transmitted diseases. Because women who married under the age of 20 years, 58.5 percent more susceptible to cervical cancer. Reproductive organs that are not ready or mature to reproduce, are at risk of bleeding and organ damage that can cause death, tend to have abortions that are often accompanied by complications and death.

In UNICEF's view, childbearing is not recommended. Dr. Julianto Witjaksono, who was an expert witness in the judicial review of the Marriage Law at the Constitutional Court, stated that if the reproductive function is performed under the age of 20, it will be at high risk of disease and even death.¹⁹⁰ In the phase of human growth, there is a strategic phase that occurs twice in a lifetime, namely the in the womb when the fetus is in the last four months and the adolescent phase, which is the age of 12-19 years. ¹⁹¹ If in these two phases the nutrients needed are not fulfilled, then there is a risk to the health of the mother and fetus and can even harm one or both of them. Born imperfect, brain development is not perfect, low body weight to experience a disability is the impact that can befall the fetus.

As well as the impact in terms of education, namely losing educational opportunities because marrying children at a young age will cause the child to lose the opportunity to get an education,

because the child will be hampered from getting an education. If children are prevented from getting an education, they can also lose the opportunity to develop and express themselves according to their age, because they will be charged with responsibilities in the family as husband/wife and as father/mother.

Marriages that give rise to new roles and responsibilities are vulnerable to eliminating the roles that children should have played in their developmental age. The role of children, especially girls, which is often neglected due to underage marriage is education. The Girls Not Bride report shows that 60% of women aged 20-24 are married under the age of 18 (eighteen) with a low level of education. (Atim, 2017). In line with UNICEF research, there is a correlation between marriageable age and education level, namely women who marry underage tend to have low education levels and conversely women with higher education levels tend to marry over the age of 18 (eighteen) years.

The practice of underage marriage which results in the loss of opportunities for children to get education violates the protection of children in the field of education, namely the right to education in the context of development and the right to the widest possible education. However, with regard to marriage dispensation, if it is considered a practice that does not conflict with parental prevention to prevent underage marriage as an effort to protect children, in reality it is difficult to find. Moreover, legally, the marriage dispensation has not been comprehensively regulated, especially regarding the minimum age limit and the conditions for the marriage dispensation to be granted. Mardi Candra stated that the marriage dispensation regulated in the Marriage Law had not prioritized the interests of the child and tended to ignore the rights of the child and even ignored the child's rights because the norms of child protection in the marriage dispensation were not in accordance with the objectives of child protection.

From a social perspective, domestic violence is also vulnerable. Due to limitations and immaturity to marry, the girl who was forced to become a wife at a very young age did not have a strong bargaining position with her husband, so she was very vulnerable to becoming a victim and target of domestic violence.

Likewise, boys who marry at a young age, because of limitations and emotional immaturity for marriage, will tend to become perpetrators of violence. So, with regard to underage marriages that can hinder child protection, it is necessary to improve the Child Protection Act in regulating the protection of children from underage marriages. Several things need to be included in the regulation of the Child Protection Law in the future, among others: First, including "children with underage marriages" as a form of special protection that children are entitled to receive. Due to the threat that endangers the child's self and soul in the period of growth and development, special protection has the right to be given to the child. As a practice that is vulnerable to physical and psychological threats to children because it causes harmful effects and violates children's rights, underage marriage should be an act that is classified as special protection. Because special protection provides protection from both sides, namely preventive and repressive.

In the case of acts that place children as victims of criminal acts, special protection does not only regulate repressive protection through monitoring, reporting, and imposing sanctions, but also preventive protection. Preventive protection is provided through the dissemination of relevant laws and regulations, education to the community, counseling, assistance, and social rehabilitation. These preventive efforts are needed for the practice of underage marriage because (1) it prevents children from marrying underage. In the context of marriage that has not yet occurred, socialization and education efforts about underage marriage are aimed at preventing parents from knowing dangerous things that are vulnerable to endangering children in underage marriages. For children, it serves as a preparation so that those who will get married can prepare physically and psychologically carefully. (2) Minimize and avoid the harmful effects of marriage on children. In the context of underage marriages, preventive efforts aim to prevent children from the negative impacts of underage marriages, both in the context of self and family harmony. (3) Guaranteeing the fulfillment of children's rights in underage marriages up to the age of 18 (eighteen) years. The

concept of dispensation for marriage is given when a child is under 18 (eighteen) years old, at which age the child should have had rights in the process of growth and development. On the other hand, the Religious Courts as the party providing the dispensation do not provide obligations and guarantees so that children's rights are maintained.

Second, sanctions for neglecting the obligations and responsibilities of parents. That the Child Protection Law provides obligations and responsibilities to parents towards their children, one of which is preventing underage marriages. However, there is no accountability for these norms if they are not implemented. In Hans Kelsen's view, the form of legal obligations must be followed by legal sanctions as a consequence of not carrying out these obligations. Of course, sanctions in this case are not given just like that, as reminded by (Packers, 1964) to use criminal sanctions carefully and humanely. At least in the event that the actions of parents do not prevent underage marriages and in the marriage there are acts that are prohibited by criminal law. Considering that parents have involvement in underage marriage when the child's condition is not yet fully able to make a decision what is best for him. Regarding the type of sanctions that should be given, this cannot be determined in passing, but requires careful and strategic planning.

Third, specific and firm regulation of criminal acts relevant to underage marriage. Underage marriage as a practice that is dangerous for children is vulnerable to crime, including violence, exploitation, and child trafficking.

IV. CONCLUSION

Efforts to prevent child marriage from occurring are by not asking parents for a marriage dispensation for any reason, unless it is really an emergency such as getting pregnant out of wedlock to save the child they are carrying. As a consequence, the opening of dispensation opportunities may worsen the condition of the quality of child growth in Indonesia due to loss of access to education and opportunities to develop and understand responsibilities in marriage prior to marriage. children's rights. In relation to underage marriages that can hinder child protection, it is necessary to improve the Child Protection Act in regulating the protection of children from underage marriages. Due to the threat that endangers the self and the soul of the child in the period of growth and development, special protection has the right to be given to the child.

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