

## Children's Legal Status in Kediri Religious Court Marriage Dispensation Cases

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### Abstract

Marriage is permitted for individuals who meet the legal requirements as stipulated in the applicable laws and regulations. The minimum age for marriage for both male and female prospective spouses is 19 years. For those who have not yet met the minimum age requirements, marriage may still proceed after obtaining a marriage dispensation from the court. Data shows that the number of marriage dispensation applications in Indonesia is very high, with a significant increase each year. In the Religious Court of Kediri City, which serves only three districts, 69 marriage dispensation cases were accepted in 2022. The most common reasons cited are the close relationship between the prospective groom and bride, and parents or guardians fearing that the couple might become further involved in morally or religiously inappropriate behavior. Additionally, a considerable number of prospective brides are already pregnant before the marriage. In adjudicating cases of marriage dispensation applications, the court often weighs two harms: the consequences of early marriage and the consequences of denying the marriage dispensation. It is particularly interesting to examine the practice and the legal standing of children in conflict with the law within marriage dispensation cases at the Religious Court of Kediri City. The practice of submitting requests for marriage dispensations has been in accordance with civil procedure law and relevant legislation, particularly Law No. 16 of 2019, Law No. 23 of 2002, and Supreme Court Regulation No. 5 of 2019. The examination of such cases follows the principles regarding children in conflict with the law, where every case involving children is required to consider and apply a best needs of the child, carried out comprehensively.

**Keywords:** *Children, Marriage Dispensation, Law, Religious Court.*

### Abstract

*Pernikahan diperbolehkan bagi individu yang memenuhi persyaratan hukum sebagaimana diatur dalam peraturan perundang-undangan yang berlaku. Usia minimum untuk menikah bagi calon pasangan pria dan wanita adalah 19 tahun. Bagi mereka yang belum memenuhi persyaratan usia*



minimal, pernikahan tetap dapat dilaksanakan setelah mendapatkan dispensasi nikah dari pengadilan. Data menunjukkan bahwa jumlah permohonan dispensasi nikah di Indonesia sangat tinggi, dengan peningkatan yang cukup signifikan setiap tahunnya. Di Pengadilan Agama Kota Kediri, yang hanya melayani tiga kecamatan, terdapat 69 permohonan dispensasi nikah yang diterima pada tahun 2022. Alasan yang paling sering dikemukakan adalah hubungan yang dekat antara calon mempelai pria dan wanita, dan orang tua atau wali yang khawatir pasangan tersebut akan terlibat dalam perilaku yang tidak pantas secara moral atau agama. Selain itu, sejumlah besar calon pengantin perempuan sudah hamil sebelum menikah. Dalam mengadili kasus-kasus permohonan dispensasi nikah, pengadilan sering kali menimbang dua bahaya: konsekuensi dari pernikahan dini dan konsekuensi dari penolakan dispensasi nikah. Sangat menarik untuk melihat praktik dan kedudukan hukum anak yang berkonflik dengan hukum dalam perkara dispensasi nikah di Pengadilan Agama Kota Kediri. Praktik pengajuan permohonan dispensasi nikah telah sesuai dengan hukum acara perdata dan peraturan perundang-undangan yang berlaku, khususnya UU No. 16 Tahun 2019, UU No. 23 Tahun 2002, dan Perma No. 5 Tahun 2019. Pemeriksaan perkara tersebut mengikuti prinsip-prinsip mengenai anak yang berhadapan dengan hukum, di mana setiap perkara yang melibatkan anak wajib mempertimbangkan dan menerapkan prinsip-prinsip terbaik bagi anak yang dilakukan secara komprehensif.

**Kata kunci: Anak, Dispensasi Nikah, Hukum, Peradilan Agama**

## INTRODUCTION

Marriage is only permitted for those who have met the marriage requirements as stipulated in the laws and regulations. Among the marriage requirements in Indonesia according to Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage, concerns the minimum age for marriage. Both male and female prospective spouses must be at least 19 years old to legally marry.

For those who have met the age requirement, marriage can be conducted as it should be. However, for those who have not met the minimum age requirements, marriage can still take place after obtaining a marriage dispensation from the court. Marriage dispensation is the granting of permission by the court to prospective spouses who have not yet reached the age of 19 to proceed for marriage (Hidayatulloh & Janah, 2020). Parents or guardians of prospective spouses who have not yet reached the legal minimum age may submit a marriage dispensation request to the court, the Religious Court for those who are Muslim and the District Court for those of other religions. The report data from the Directorate General of Religious Courts in 2021 indicates that marriage dispensation requests in Indonesia are notably high, with a significant increase each year. According to the report, by the end of 2020, there were 595 pending marriage dispensation cases, and an additional 62,913 cases were filed in 2021. It was resulting in a total workload of marriage dispensation cases in 2021 amounting to 63,508 cases.

The Religious Court of Kediri City, which covers only three districts, recorded in 2022 that the number of marriage dispensation cases received reached 69 cases, according to

the 2022 Case Report of the Religious Court of Kediri. Among the reasons often cited in marriage dispensation requests is the close relationship between the prospective groom and bride, leading parents/guardians to fear that their children may become further involved in actions contrary to moral or religious values. Additionally, there are cases where the prospective bride is already pregnant before marries (Case Decision No. 286/Pdt.G/2022/PA.Kdr, 2022; Case Decision No. 402/Pdt.G/2021/PA.Kdr, 2021; Case Decision No. 517/Pdt.G/2022/PA.Kdr, 2022; Case Decision No. 618/Pdt.G/2020/PA.Kdr, 2020; Case Decision No. 635/Pdt.G/2020/PA.Kdr, 2020).

Considering the high number of cases and to prevent disparities in the handling of marriage dispensation requests, the Supreme Court of the Republic of Indonesia has established Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Requests. The objectives of this regulation are: (1) to apply the established legal principles; (2) to ensure the implementation of a judicial system that protects children's rights; (3) to enhance parental or guardian responsibility in preventing child marriages; (4) to identify whether there is coercion behind the marriage dispensation request; and (5) to establish standardized procedures for adjudicating marriage dispensation requests in court (Hadaiyatullah & Huda, 2020; Rachmatulloh & Syaifuddin, 2022). In adjudicating marriage dispensation cases, the court often weighs two potential harms: the consequences of marriage at a young age (early marriage) and the possible outcomes if the dispensation is denied. This is interesting, how the practices and the legal standing of children facing the law in marriage dispensation cases at the Kediri Religious Court.

Several previous studies have explored this topic, highlighting both similarities and differences, ensuring that no repetition or duplication occurs. First, Rio Satria's research emphasizes that marriage dispensation requests are examined based on the principle of the best needs of the child. During the examination process, the court must hear statements from the applicant, the child, the prospective bride/groom, and the parents/guardians of the prospective spouses (Satria, 2019). Second, Syeh Sarip Hadaiyatullah and Nurul Huda's study highlights that setting the minimum marriage age for both men and women at 19 years, which is considered mature enough to achieve the goals of marriage effectively without ending in divorce and to have healthy and quality offspring, in order to fulfill children's rights in optimizing their growth and development (Hadaiyatullah & Huda, 2020).

Third, the research by Mochammad Agus Rachmatulloh and Chafidz Syaifuddin reveals that courts grant marriage dispensation with the intent to prevent child marriage, considering various factors such as emotional, psychological, health, religious, moral, cultural, and customary aspects, as well as other potential consequences that may arise. (Rachmatulloh & Syaifuddin, 2022). Fourth, the research by Vily Easter and Mia Hadiati indicates that Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 on Marriage is considered less effective in its implementation. Although the law was designed to reduce child marriages, there has been an increase in the number of marriage dispensation

requests since its enactment. Furthermore, nearly 99% of the submitted requests have been approved by judges. This is seen as ineffective because child marriages continue to occur in Indonesia (Easter & Hadiati, 2022).

The four studies mentioned above share similarities with this research, particularly regarding the practice of marriage dispensation applications. However, the difference is that the four studies only discuss guidelines for handling, procedural law, and practices related to marriage dispensation cases, as well as the implementation of the law, without providing prescriptions regarding the legal status of children in marriage dispensation applications. Thus, this article presents a novel perspective and distinction, serving as a continuation and further exploration of the previous research.

This study is a legal research (Setiawan, Mochammad Agus Rachmatulloh, 2022), employing a normative legal approach. It concerns the disclosure of truth *ipso jure*, truth according to the necessity of a rule or teaching (Sovia et al., 2022). The author will provide a prescriptive analysis of the issues formulated (Shidarta, 2022). The research employs three approaches. First, the statutory approach, which examines legislation relevant to the issues addressed (Marzuki, 2017), focusing on regulations related to marriage dispensation applications. Second, the case approach, which reviews cases from court decisions that have attained legal force (Marzuki, 2017), to understand and analyze the judicial considerations leading to the decisions, specifically the decisions on marriage dispensation cases in the Religious Court of Kediri City. Third, the conceptual approach, which explores legal doctrines that have developed in the field of law (Marzuki, 2017). The concept of the legal standing of children in conflict with the law will be used as a benchmark to provide prescriptive legal arguments that can be applied.

The data sources used in this research are secondary data, including primary legal materials, secondary legal materials, and non-legal materials (Sovia et al., 2022). Data were also collected through interviews and focus group discussions (FGD). The data collection process involved three techniques: literature review to obtain primary and secondary legal materials as well as non-legal materials; interviews with experts who have competence in applying the principles of children in conflict with the law in marriage dispensation cases; and focus group discussions (FGD). The truth is disclosed through a coherence analysis, in which the formulated legal issues are analyzed based on relevant legal rules and concepts or theories. In the final section, conclusions are drawn as answers to the formulated legal issues, along with prescriptive recommendations that can be applied.

## **DISCUSSION**

### **The Practice of Marriage Dispensation Applications in the Religious Court of Kediri City**

The administrative requirements for submitting a marriage dispensation application in the Religious Court of Kediri City include: (1) Marriage dispensation application letter; (2) Copy of the ID card (KTP) of both or one of the

parents/guardians; (3) Copy of the family card (KK); (4) Copy of the child's ID card (KTP) or child identification card and/or birth certificate; (5) Copy of the prospective spouse's ID card or child identification card and/or birth certificate; and (6) Copy of the child's latest educational diploma and/or a certificate of enrollment from the child's school. However, if these requirements cannot be met, other documents explaining the identity of the parents/guardians as well as the child's identity and educational status may be used.

In addition to the aforementioned requirements, it is also necessary to provide supporting documents, including a statement from a healthcare professional that corroborates the parents' assertion that the marriage is urgent and must be conducted promptly. A letter of commitment from the parents/guardians of the child, affirming their shared responsibility regarding the economic, social, health, and educational issues of the child. In accordance with the provisions regarding written evidence, all administrative requirements must be duly stamped and registered at the post office. The original letter must be presented to the Judge during the hearing for verification against the original document. All actions are taken to ensure that the written evidence is formally accepted as valid evidence, meaning that the document was created by an authorized official and meets the requirements to be considered an authentic deed, thus constituting valid evidence under the law, in accordance with the provisions of Article 165 HIR.

The marriage dispensation application, along with its supporting documents, is submitted to the competent court. It must be addressed in writing to the court's chief judge and signed by the applicant(s) or their authorized representative. If the applicant is illiterate and unable to read or write, they may submit the application orally before the chief judge, who will then record it, or the appointed judge will do so. The court clerk or the appointed officer conducts an examination of the administrative requirements for the marriage dispensation application as regulated by law. If the application does not meet the specified requirements, the application file will be returned to the applicant for completion. Once the application meets the requirements, the applicant is required to pay an advance on court fees, the amount of which is determined by the court. After payment, the application will receive a registration number and be recorded in the main register of application cases. For applicants who are financially unable, they may submit their marriage dispensation application *pro bono* (free of charge). There are two types of *pro bono* cases: pure *pro bono* (which incurs no costs at all) and *pro bono* cases funded by the state through the Local Court Implementation Budget (DIPA) (Harahap, 2019).

The judge presiding over the marriage dispensation application is the Single Judge at the Court. This provision serves as an exception to the general principle, which stipulates that trials must be conducted by a panel of judges. The classification of judges authorized to adjudicate applications for marriage dispensation includes judges who possess a Decree from the Chief Justice of the Supreme Court as Child Judges, have

undergone training and/or technical guidance on women in conflict with the law, hold a certificate in the Juvenile Justice System, or have experience in adjudicating marriage dispensation applications. However, if there is no Judge as referred to, then any Judge present at the designated court may adjudicate the application for marriage dispensation.

In the examination of the marriage dispensation application, the Judge and the Clerk/Deputy Clerk accompanying them must not wear court attire, such as robes for the judge and jackets for the deputy clerk. In court proceedings, judges must communicate using language and methods that are easily understood and comprehensible by children. On the first day of the hearing, the applicant(s) must be present. If they are absent, the judge is required to postpone the hearing, with the agenda of officially summoning the applicant(s) again. If there is still no attendance on the second hearing day, the application for marriage dispensation will be declared null and void.

In addition, the applicant is also required to present the child for whom the marriage dispensation is requested, the prospective spouse, and the parents of the prospective spouse. If the Applicant fails to present the parties as specified on the first day of the hearing, the Judge will postpone the proceedings and instruct the Applicant to ensure the presence of those parties. If in the second hearing the Applicant is still unable to present, the Judge will postpone the proceedings again and instruct the Applicant to bring the parties back. If by the third hearing, the Applicant is still unable to present, then the application for marriage dispensation cannot be accepted. The presence of these parties is not strictly required at the first hearing, as long as they are brought in by the maximum limit of the third hearing or after two summons have been conducted.

During the hearing, the judge is obligated to first provide advice to the applicant, the child for whom the marriage dispensation is requested, the prospective spouse, and the parents/guardians of the prospective spouse. This advice is imperative, ensuring that they understand the risks associated with marriage, including the potential interruption of the child's education during the mandatory 12-year schooling period, the immaturity of the child's reproductive organs, the economic, social, and psychological impacts on the child, as well as the high potential for conflict and domestic violence.

Considerations for the advice given by a judge include (Hadaiyatullah & Huda, 2020; Rachmatulloh & Syafiuddin, 2022):

- Education: Advising on the importance of education for the child's future, emphasizing that education is a fundamental right that must be fulfilled, and discussing the negative impacts of early marriage related to the potential for school dropout (Sari et al., 2023);
- Health: Raising awareness among the relevant parties about the readiness of the child's reproductive organs, the dangers of pregnancy when these organs are not

fully developed, and the risks not only to the mother but also to the unborn child (Amdadi et al., 2021);

- Economics: Helping the parties understand that marriage requires more than just love; it also necessitates financial stability. The male partner has the responsibility to provide for and meet the needs of his wife and children (Kushendar & Deddy Effendy, 2023);
- Social and Psychological Factors: Marriage at a young age can set a negative precedent in society, preventing children from expressing themselves and thinking in accordance with their age, as they are compelled to fulfill the duties of a husband or wife, head of household, or homemaker (Umah, 2020);
- Potential for Conflict: The reality of household life is not as simple as it may seem; numerous challenges and obstacles will arise in navigating married life. Therefore, both the prospective husband and wife must be prepared emotionally, physically, financially, socially, psychologically, and as well as in terms of health factors (Suharti, 2023). If either party is not ready, it can lead to disputes and arguments within the household, which, if unresolved, may ultimately result in divorce.

Following the provision of advice, the Judge proceeded to read the application submitted by the Applicant. If the content remains unchanged by the Applicant, the Judge will continue with the examination of the case. Listening to the statements of several parties: the applicant (the parent/guardian of the child for whom marriage dispensation is requested), the child for whom the marriage dispensation is requested, the prospective husband/wife, and the parents/guardians of the prospective husband/wife.

The advice given by the judge, as well as the statements made during the hearing by the applicant, the child for whom the marriage dispensation is requested, the prospective spouse, and the parents/guardians of the prospective spouse, must be considered in the decision. If the judge fails to include these elements in the considerations, it may result in the decision being declared null and void by law (Santosa, 2015).

In the process of examining the case in court, while gathering information from the parties involved, the Judge identifies several aspects, including: (1) Whether the child is aware of and consents to the marriage plan; (2) The health, psychological condition, and readiness of the child to enter into marriage and establish a family; and (3) Any physical, psychological, sexual, or economic coercion against the child and/or the applicant and their family to marry or arrange the marriage of the child. As part of a thorough effort to conduct identification, the judge must pay attention to the best needs of the child during the examination of the case. This includes: (1) Carefully studying the applicant's request; (2) Examining the legal standing of the applicant; (3) Investigating the background and reasons for the child's marriage; (4) Gathering information regarding any obstacles to the marriage; (5) Exploring the child's understanding and

consent regarding the marriage; (6) Considering the age difference between the child and their prospective spouse; (7) Hearing statements from the applicant, the child for whom the dispensation is requested, the prospective spouse, and the parents/guardians of the prospective spouse; (8) Considering the psychological, sociological, cultural, educational, health, and economic conditions of the child and parents based on recommendations from relevant authorities; (9) Taking into consideration the presence or absence of any physical, psychological, sexual, and/or economic coercion; and (10) Ensuring the parents' commitment to share responsibility for the child's education, health, social, and economic well-being.

In examining the child for whom the marriage dispensation is requested, the judge may, if deemed necessary and appropriate, take the following actions: (1) Hear the child's testimony without the presence of the parents/guardians; (2) Listen to the child's testimony via audiovisual means remotely in the local court or another location; (3) Recommend that the child be accompanied by a support person; (4) Request recommendations from a psychologist, doctor/midwife, professional social worker, social welfare worker, Integrated Service Center for Women and Children Protection (P2TP2A), or the Indonesian/Regional Child Protection Commission (KPAI/KPAD); and (5) Provide a translator or someone who can effectively communicate with the child.

All civil procedural laws, whether in the general courts or specifically within religious courts, serve as guidelines for adjudicating marriage dispensation requests during the examination process, as long as they are not specifically regulated by the Supreme Court Regulation No. 5 of 2019. Based on this provision, the rules of evidence in civil cases, including general principles of proof, types of evidence, and the minimum thresholds and evidentiary strength, continue to apply and serve as a reference for judges when analyzing the evidence presented by the applicant(s). If the written evidence and the testimonies of the parties, which must be heard during the examination of the marriage dispensation request, are insufficient, additional evidence may be provided through witness testimonies.

Marriage dispensation requests can be registered and processed electronically through e-Court, which includes: e-Filing (online registration of cases in court), e-Payment (online payment of case fees), e-Summons (online summons of the parties), and e-Litigation (online hearings). Information and case documents, from registration to the register, minute-taking, reporting, and archiving, are managed comprehensively within the Case Information Tracking System (SIPP). The existence of the principle of legal certainty serves as a form of protection for parties seeking justice, indicating that an individual will and can obtain what is expected under certain circumstances (Julyano & Sulistyawan, 2019).

Children are the future generation of the nation and a vital component in the journey of a country in the years to come; therefore, they should receive protection. In



every case involving children, the best needs of the child must be considered which includes all actions that should be taken to ensure the child's care, protection, welfare, survival, and development. Consequently, the decision on marriage dispensation requests must be made with a comprehensive approach that prioritizes the best needs of the child

The key legal considerations that a judge must include in the decree of marriage dispensation following Law No. 16 of 2019 and Supreme Court Regulation No. 5 of 2019 are as follows:

- The judge's consideration includes having provided advice to the applicant(s), the child for whom the marriage dispensation is requested, the prospective spouse, and the parents/guardians of the prospective spouse;
- The judge's consideration includes having heard the statements of the child for whom the marriage dispensation is requested, the prospective spouse, the parents/guardians of the child, and the parents/guardians of the prospective spouse;
- Consideration of the results of the identification, including whether the child is aware of and consents to the planned marriage; the child's health, psychological condition, and readiness to enter into marriage and build a family; and any physical, psychological, sexual, or economic coercion against the child and/or the parents/family to marry or arrange the marriage of the child;
- Considerations regarding the protection and best needs of the child in accordance with statutory regulations and unwritten law in the form of legal values, local wisdom, and the sense of justice that exists within society, as well as conventions and/or international agreements related to child protection;
- Considerations regarding the urgent reasons, the lack of alternative options, and the necessity of proceeding with the marriage, along with sufficient evidence supporting these reasons;
- Consideration that the marriage between the applicant(s) and the prospective spouse does not involve any prohibited relationships (by blood or breastfeeding) and that neither party is engaged to someone else, with no other obstacles related to the conditions and requirements of marriage or administrative requirements, except for not having reached the age of 19;
- Consideration regarding the analysis of the evidence presented by the applicant(s) and the strength of such evidence;
- Consideration regarding the formulation of legal facts based on the statements of the applicant(s), the child requesting marriage dispensation, the prospective spouse, and the parents/guardians of the prospective spouse, along with documentary evidence and witness statements, ensuring that all elements are consistent and not contradictory;

- Legal consideration of the benefits and harms (*maslahat* and *madharat*), as well as Islamic law and statutory regulations regarding the legal marriage age and marriage dispensation;
- Legal consideration regarding each aspect of the marriage dispensation application, determining whether the request is granted in full, partially granted, denied, or not accepted.

The application for marriage dispensation is voluntary, resulting in a legal product in the form of a court determination. The court is obligated to deliver a copy of this decision to the parties involved within a maximum period of 14 days from the announcement of the decision. However, with the advancement of information technology, in practice, the copy can be provided to the parties in a much shorter time frame, even possibly received immediately after the decision is read. In the judicial system, the term "one day minute, one day publish" is well-known (Rahayu, 2022), The term "one day minute" refers to the requirement that a case that has been resolved must be documented on the same day, while "one day publish" indicates that a decision must be published immediately on that day in Case Tracking Information System (SIPP) and the Decision Directory.

The legal recourse available to the Applicant, should they be dissatisfied with the determination of the marriage dispensation, can only be pursued through a cassation appeal.

### **The Compatibility of the Examination of Marriage Dispensation Applications at the Religious Court of Kediri City with the Principles of Children Legal Standing**

The requirement for a statement from a healthcare professional supporting the parents' assertion that the marriage is urgent must serve as evidence, as explained, to fulfill the provisions of Article 7, paragraph (2) of Law No. 16 of 2019 concerning the Amendment to Law No. 1 of 1974 on Marriage. Additionally, it must be supported by other relevant documents that can demonstrate the existence of "very urgent reasons."

The requirement for a statement of commitment from the child's parents or guardians, affirming their responsibility regarding the child's economic, social, health, and educational issues. This aligns with the mandate outlined in the Child Protection Law, which states that "Parents are obligated and responsible for: (a) Raising, nurturing, educating, and protecting their children; (b) Fostering the development of children in accordance with their abilities, talents, and interests; (c) Preventing child marriage; and (d) Providing character education and instilling moral values in children." This serves as evidence in the implementation of Article 59 paragraph (2) letter b of the Child Protection Law, which states that special protection is provided to children who are in conflict with the law.

The examination is conducted by a Single Judge who possesses a Decree from the Chief Justice of the Supreme Court as a Child Judge, having undergone training and/or

technical guidance on women in conflict with the law, or certified in the Juvenile Justice System, or has experience in adjudicating marriage dispensation applications. This indicates that there are specific considerations in adjudicating marriage dispensation requests.

Judges and substitute clerks must not wear courtroom attire, and during the proceedings, they should use language and methods that are easy for children to understand and comprehend. This is a form of psychological protection for children.

In the proceedings, the Judge must first and is obligated to provide advice to the Applicant(s), the child for whom the marriage dispensation is sought, the prospective spouse, and the parents/guardians of the prospective spouse. The advice provided is imperative, aimed at ensuring that they understand the risks associated with marriage, including the potential interruption of children's education during the mandatory 12 years of schooling, the readiness of children's reproductive organs, the economic, social, and psychological impacts on children, as well as the high potential for conflict and domestic violence. The advice provided by the Judge, along with the statements made during the proceedings must be considered in the decision. If the Judge fails to do so and does not include this in their considerations, it may render the decision null and void.

In the process of examining cases in court, when gathering information from the parties, the Judge identifies several factors: (1) Whether the child is aware of and agrees to the marriage plan; (2) The child's health, psychological condition, and readiness to enter into marriage and build a family; and (3) Any physical, psychological, sexual, or economic coercion on the child and/or the applicant or their family to marry or force the child into marriage. Maximum effort in conducting identification must still prioritize the best needs of the child. (1) Carefully and thoroughly reviewing the application from the Applicant(s); (2) Examining the legal standing of the Applicant(s); (3) Investigating the background and reasons for the child marriage; (4) Identifying any potential barriers to the marriage; (5) Gathering information regarding the child's understanding and consent to the marriage; (6) Taking into account the age difference between the child and the prospective spouse; (7) Hearing the statements of the Applicant(s), the child for whom the dispensation is sought, the prospective spouse, and the parents/guardians of the prospective spouse; (8) Considering the psychological, sociological, cultural, educational, health, and economic conditions of the child and the parents based on recommendations from the relevant authorities; (9) Considering whether there is any element of physical, psychological, sexual, and/or economic coercion; and (10) Ensuring the parents' commitment to take responsibility for the child's education, health, social, and economic matters.

In examining a child for whom a marriage dispensation is requested, the Judge may, if deemed necessary and required, undertake the following actions: (1) Hear the child's testimony without the presence of the parents/guardians; (2) Hear the child's

testimony through remote audiovisual means, either in the local court or at another location; (3) Suggest that the child be accompanied by a support person; (4) Request recommendations from a psychologist, doctor/midwife, professional social worker, social welfare officer, Integrated Service Center for the Protection of Women and Children (P2TP2A), or the Indonesian/Regional Child Protection Commission (KPAI/KPAD); and (5) Provide an interpreter or someone capable of communicating with the child.

The obligation to provide counsel and hear testimony, by thoroughly exploring and identifying all relevant factors, and even allowing special measures to be taken for the child if deemed necessary, is evidence that the examination of marriage dispensation applications at the Religious Court of Kediri City has taken into account the best needs of the child, in order to provide protection and legal certainty for children in conflict with the law. Every case involving a child is required to consider the best needs of the child, which means that all actions must be aimed at ensuring the child's care, protection, welfare, survival, and development. Therefore, decisions on marriage dispensation applications must be made with a comprehensive approach, prioritizing the best needs of the child.

## CONCLUSION

The practice of handling marriage dispensation applications at the Religious Court of Kediri City, encompassing the requirements, examination, and determination, has been conducted in accordance with general civil procedural law and relevant legislation, particularly Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 on Marriage, Law No. 23 of 2002 on Child Protection, and the Supreme Court Regulation of the Republic of Indonesia No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. The examination of the marriage dispensation application at the Religious Court of Kediri City aligns with the principles concerning children in conflict with the law. In every case involving a child, it is imperative to consider the greatest needs of the child, which includes all actions necessary to ensure their care, protection, welfare, survival, and development. The determination of marriage dispensation applications utilizes a comprehensive approach centered on the best needs of the child.

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