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Underage Marriage Registration at the Office of Religious Affairs in Ambon City: A Legal Certainty Perspective

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Abstract

This study aims to analyze the implementation of underage marriage registration at the Office of Religious Affairs (KUA) in Ambon City, specifically evaluating the normative and functional limitations of its administrative authority in ensuring legal certainty.

The research method employed a normative-empirical approach. The empirical approach was used to obtain primary data through interviews with informants and document review, while the normative approach was used to obtain secondary data from books, journals, and online sources. The data obtained were analyzed qualitatively using a descriptive-analytical method.

The novelty of this study lies in the conceptualization of structural regulatory gaps: although the KUA has fully fulfilled its administrative mandate, this institution lacks jurisdiction over unregistered underage marriages, thereby revealing institutional limitations in addressing socio-religious practices within society

The results of the study indicate that although the KUA strictly enforces the minimum age requirement by refusing to register marriages without a marriage dispensation issued by the Religious Court, this strict administrative compliance does not automatically result in preventive effectiveness, given that informal religious marriages continue to take place outside state oversight.

This study concludes that child marriage is a complex legal and sociocultural challenge, not merely an obstacle to administrative registration. Although the KUA has functioned as an effective gatekeeper in maintaining administrative order, strengthening cross-sectoral child protection mechanisms and public legal awareness is essential to align administrative certainty with the substantive objectives of the Marriage Law.

Keywords : Marriage Registration; Legal Certainty; Office of Religious Affairs

Abstrak

Penelitian ini bertujuan untuk menganalisis pelaksanaan pencatatan perkawinan di bawah umur pada Kantor Urusan Agama (KUA) di Kota Ambon, secara eksplisit mengevaluasi batasan normatif dan fungsional dari kewenangan administratifnya dalam menjamin kepastian hukum.

Metode penelitian menggunakan penelitian normatif empiris. Pendekatan empiris dilakukan untuk memperoleh data primer melalui wawancara dengan informan dan dokumentasi, sedangkan pendekatan normatif digunakan untuk memperoleh data sekunder melalui buku, jurnal, dan sumber internet. Data yang diperoleh dianalisis secara kualitatif dengan metode

deskriptif-analitis.

Kebaruan penelitian ini terletak pada konseptualisasi kesenjangan regulasi struktural: meskipun KUA telah sepenuhnya memenuhi mandat administratifnya, institusi ini tidak memiliki yurisdiksi atas perkawinan di bawah umur yang tidak dicatatkan, sehingga memperlihatkan keterbatasan kelembagaan dalam menghadapi praktik sosial-keagamaan dalam masyarakat.

Hasil penelitian menunjukkan bahwa meskipun KUA secara tegas menegakkan syarat batas usia minimum dengan menolak pencatatan tanpa adanya penetapan dispensasi kawin dari Pengadilan Agama, kepatuhan administratif (*administrative compliance*) yang ketat ini tidak secara otomatis menghasilkan efektivitas preventif (*preventive effectiveness*), mengingat perkawinan agama informal tetap berlangsung di luar pengawasan negara.

Penelitian ini menyimpulkan bahwa perkawinan anak merupakan tantangan hukum dan sosial-budaya yang kompleks, bukan sekadar hambatan pencatatan administratif. Meskipun KUA telah berfungsi sebagai penjaga gerbang (*gatekeeper*) yang efektif dalam menjaga ketertiban administrasi, penguatan mekanisme perlindungan anak lintas sektoral dan kesadaran hukum masyarakat sangat esensial untuk menyelaraskan kepastian administratif dengan tujuan substantif Undang-Undang Perkawinan.

Kata Kunci: Pencatatan Perkawinan; Kepastian Hukum; Kantor Urusan Agama

1. INTRODUCTION

Child marriage remains a complex legal and social dilemma within the Indonesian legal system. Marriages contracted during childhood consistently yield severe socio-economic consequences, including educational disruption, intergenerational poverty, economic vulnerability, domestic violence, and heightened maternal and infant mortality rates. In response, the state strengthened its legal framework through Law Number 16 of 2019, amending Law Number 1 of 1974 on Marriage, which equalized the minimum marriageable age for both men and women to 19 years.¹

The statutory age increase was intended to curb child marriage and ensure that prospective spouses possess physical, psychological, emotional, social, and economic readiness prior to assuming marital responsibilities.² Nevertheless, changes in legal norms have not fully contained early marriage practices within society. Persistent catalysts include economic distress, low educational attainment, entrenched socio-cultural norms, premarital pregnancies, and heavy familial intervention in marital decision-making.³

Within the statutory framework governing marriage, the state provides a judicial dispensation mechanism for prospective spouses who have not attained the statutory minimum age. Marriage dispensation (*dispensasi kawin*) constitutes a form of legal

¹ Darania Anisa, "Perubahan Usia Minimum Perkawinan sebagai Upaya Mencegah Diskriminasi Gender terhadap Perempuan," *Jurnal AL-MAQASID: Jurnal Ilmu Kesyarifan dan Keperdataan* 9, no. 1 (Januari–Juni 2023): 161, <https://doi.org/10.24952/almaqasid.v9i1.7861>.

² Ahlun Nazi Siregar, "Usia Perkawinan Berdasarkan Mental Emosional Antara Pria dan Wanita," *EGALITA: Jurnal Kesetaraan dan Keadilan Gender* 15, no. 2 (2020): 27, doi:10.18860/egalita.v15i2.10836.

³ Mubasyaroh, "Analisis Faktor Penyebab Pernikahan Dini dan Dampaknya bagi Pelakunya," *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 7, no. 2 (Desember 2016): 400–402, <https://doi.org/10.21043/yudisia.v7i2.2161>

authorization granted by a court or designated authority upon parental application.⁴ Such exemptions are granted exclusively by the judiciary on compelling grounds and must strictly align with the best interests of the child.⁵

Child marriage refers to marital unions involving at least one party who has not reached legal adulthood. Functioning as a social "iceberg phenomenon," only a fraction of child marriages surface through official channels, while many remain concealed within the community. Underage marriages solemnized through religious or customary rites without court-issued dispensations or official registration at the Office of Religious Affairs (*Kantor Urusan Agama/KUA*) continue to occur. This creates severe legal ambiguity, as unregistered unions lack authentic documentary evidence namely, official marriage certificates thereby obstructing civil administration, compromising the child's legal status, and undermining family civil rights protection.⁶

The Office of Religious Affairs (KUA) occupies a strategic position as the state entity tasked with registering marriages for Muslim citizens. It serves as the primary administrative checkpoint, verifying compliance with statutory requirements, including age verification and document authenticity. However, KUA authority is strictly administrative and does not extend to directly halting or policing marriages performed outside state registration channels. This jurisdictional threshold raises significant legal questions regarding the actual efficacy of KUA administrative power in preventing child marriage, particularly when marital practices operate beyond state oversight.

Underage marriage practices persist in local communities. Statistics from the Central Bureau of Statistics (*Badan Pusat Statistik/BPS*) of Maluku Province (2022) reveal that the proportion of women contracting their first marriage before age 19 reached 17.57% statewide, with Ambon City recording 10.19%. These figures indicate that early marriage persists despite Ambon City being an urban center with superior access to education and public administrative services. This dichotomy prompts inquiry into how KUA offices in Ambon City specifically KUA Sirimau, KUA Nusaniwe, and KUA Teluk Ambon execute underage marriage registration, and the degree to which statutory Marriage Law provisions are operationalized to guarantee legal certainty.

Prior legal scholarship has broadly addressed early marriage, judicial dispensation, and the institutional role of the KUA. Rahmawati and 'Aina investigated the efficacy of early marriage prevention at KUA Gondomanan, Yogyakarta, emphasizing its preventive role through counseling, guidance, and inter-agency collabo.⁷ Amiri and Paputungan examined

⁴ Usanti, T. P., Nugraha, X., & Putri, D. E. K. (2021). Analisis Perubahan Politik Hukum Dispensasi Perkawinan Pasca Undang-Undang Nomor 16 Tahun 2019. *Journal Of Notarial Law*, 4(3), 467-488.

⁵ Hasan Yafiie, Fitriyah, dan Ainur Gufron, "Implementasi PERMA Nomor 5 Tahun 2019 tentang Dispensasi Kawin dan Implikasinya terhadap Perlindungan Hak Anak," *Eksekusi: Jurnal Ilmu Hukum dan Administrasi Negara* 4, no. 1 (2026): 204-210;

⁶ Ahmad Rofiq, *Hukum Perdata Islam di Indonesia* (Jakarta: Rajawali Pers, 2015), 107-110.

⁷ Theadora Rahmawati And Qorry 'Aina, "Efektivitas Pencegahan Pernikahan Dini Di Kantor Urusan Agama Kecamatan Gondomanan Yogyakarta Tahun 2014-2015," *Al-Manhaj: Journal Of Indonesian Islamic Family Law* 1, No. 2 (2019): 141-160, <https://doi.org/10.19105/al-manhaj.v1i2.3129>

KUA efforts to prevent early marriage in Lolak District, Bolaang Mongondow, focusing on community education and administrative rejection of non-compliant applications. Similarly, Sanjaya, Hak, and Ifrohati demonstrated that following Law Number 16 of 2019, the KUA assumed a pivotal role in preventing underage marriage through rigorous record-keeping and community legal outreach.⁸

Although previous studies have clarified the administrative and educational roles of the KUA, a critical gap remains underexplored: the operational limits of administrative authority when child marriage shifts entirely outside the state registration system. Addressing this gap is critical, as a structural divergence persists between the normative intent of the law, which mandates the absolute prevention of child marriage and social realities that enable informal marriages without state procedural compliance.

Bridging this gap, the present study introduces novelty by analyzing regulatory and institutional gaps within the child marriage prevention architecture post-Law Number 16 of 2019. Rather than viewing the KUA merely as a passive registration unit, this study evaluates the boundary of KUA preventive authority when confronted with unregistered child marriages. Consequently, this research contributes to a deeper understanding of the interplay between statutory marriage norms, administrative authority, and the structural imperatives required to safeguard women and children.

Accordingly, this study aims to analyze the implementation of underage marriage registration at KUA offices in Ambon City from a legal certainty perspective, while evaluating the limits of administrative authority in addressing unregistered underage marriages. Furthermore, it seeks to map out regulatory and institutional gaps in the marriage registration framework as a legal protection mechanism for women and children.

2. METHOD

This research adopts a normative-empirical legal design to examine underage marriage regulations both as statutory text (*law in books*) and operational reality (*law in action*).⁹ This hybrid approach is selected because the inquiry examines law not only as statutory text (law in books), but also as an operational reality implemented in field practice (law in action). The normative component analyzes primary and secondary legal materials concerning statutory age limits, administrative registration, and judicial dispensations. Concurrently, the empirical component investigates the practical application of these norms through field research at KUA Sirimau, KUA Nusaniwe, and KUA Teluk Ambon.

Normative aspect involves analyzing primary legal materials (statutes, court decisions) and secondary legal materials (scholarly literature, legal commentaries).¹⁰ Primary data were gathered through document analysis and semi-structured interviews, utilizing purposive

⁸ Jaka Sanjaya, Nurmala Hak, dan Ifrohati, "Peran KUA dalam Pencegahan Pernikahan di Bawah Umur Pasca Berlakunya UU Nomor 16 Tahun 2019," *Usroh: Jurnal Hukum Keluarga Islam* 6, no. 2 (2022): 101–123.

⁹ Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris*, cet. 1 (Yogyakarta: Pustaka Pelajar, 2010), 54–153.

¹⁰ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2015)

sampling to engage key actors directly involved in marriage administration, namely Head Officials (*Kepala KUA*), Marriage Registrars (*Penghulu*), and administrative officers.

The collected data were analyzed qualitatively using a descriptive-analytical approach to bridge empirical facts with applicable legal provisions. This analytical process is systematically executed in six stages: (1) identifying empirical factual patterns regarding the KUA's administrative responses to underage applicants; (2) establishing the foundational legal norms; (3) conducting a compliance test to evaluate the alignment of the KUA's actions with existing regulations; (4) identifying legal and institutional gaps when informal marriages bypass state registration; (5) interpreting the findings through the lens of legal certainty and Lawrence M. Friedman's legal system theory; and (6) formulating conceptual conclusions regarding the interplay between administrative compliance, legal effectiveness, and substantive child protection.

3. DISCUSSION

3.1 Institutional Compliance of the KUA is Not Identical to Legal Efficacy in Preventing Child Marriage

The Marriage Law positions legal registration as a cornerstone of marital governance. Article 2 Paragraph (1) mandates that a marriage is lawful if performed according to the laws of the respective religion and belief, while Article 2 Paragraph (2) dictates that every marriage must be registered in accordance with applicable laws and regulations. For Muslim citizens, this obligation is reinforced by the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*).¹¹ Article 5 of the KHI stipulates that to guarantee order, every marriage must be formally recorded, while Article 6 mandates that marriages occur under the direct supervision of an official Marriage Registrar (*Pegawai Pencatat Nikah*).¹²

Marriage registration represents state presence in establishing legal certainty within domestic relations. In the Indonesian legal order, registration serves not only as an administrative act, but also as a vital instrument of legal protection for women and children. Through official registration, the state issues authentic proof of marriage (*Buku Nikah*), which secures the legal status of spouses, legal recognition of offspring, maintenance rights, inheritance claims, and broader civil protections.¹³

Muslim population, registration authority is vested in the KUA as the executive administrative agency operating under statutory regulations. Pursuant to Regulation of the Minister of Religious Affairs (*Peraturan Menteri Agama/PMA*) Number 30 of 2024 on Marriage Registration, the registration process begins prior to the solemnization ceremony through formal notice of intent (*pendaftaran kehendak nikah*) and document verification (*pemeriksaan*

¹¹ *Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan*, Lembaran Negara Republik Indonesia Tahun 1974 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 3019, Pasal 2.

¹² *Kompilasi Hukum Islam*, Buku I tentang Hukum Perkawinan, Pasal 5–6, disebarluaskan melalui Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam

¹³ Wiranda Soraya, Bukhari Ali, and Muhammad Husnul, "Legal Protection of Women and Children in the Practice of Nikah Sirri (Unregistered Marriage)," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 271–286, <https://doi.org/10.38073/rasikh.3323>.

nikah). This verification phase is critical, as the KUA possesses explicit statutory authority to inspect administrative and substantive compliance, including the prospective spouses' legal age.

Following the enactment of Law Number 16 of 2019 amending Law Number 1 of 1974, the statutory legal age for marriage was set at 19 years for both men and women. This change eliminated the previous gender-based disparity in marriage age (19 for men, 16 for women). Equalizing the age threshold represents a intentional legal policy designed to strengthen child protection and curb practices harmful to a child's physical, psychological, educational, and social development.

However, amending legal norms does not automatically eradicate child marriage within society. Empirical evidence demonstrates that post-amendment, judicial dispensation remains a legal avenue enabling marriages for individuals under 19. Furthermore, effective prevention hinges on structural institutions and societal legal culture, including local customs, family honor considerations, and community attitudes toward early marriage.

Nevertheless, amendments to legal norms do not automatically eradicate the practice of child marriage in society. Studies indicate that following the increase in the minimum marriage age, marriage dispensations continue to serve as a mechanism enabling marriages for prospective couples who have not yet reached the age of 19.¹⁴ Other research indicates that the effectiveness of child marriage prevention is also closely linked to institutional structures and societal legal culture, including traditions, the imperative to preserve family honor, and prevailing social attitudes toward child marriage.

Table 1. The implementation patterns of each respective KUA are presented as follows:

KUA	Observed Empirical Condition	Institutional Response	Statutory / Customary Pathways Identified	Identified Institutional & Cultural Constraints
KUA Sirimau	Applicants under 19 years old; premarital pregnancy noted in observed cases.	Refusal to solemnize or register due to non-fulfillment of statutory age requirements.	Statutory resolution requires judicial dispensation; however, parties frequently resort to informal religious marriages (<i>nikah sir</i>).	Familial pressure, premarital pregnancy, social stigma, and shame.

¹⁴ Rafida Ramelan and Rahmi Nurtsani, "Disfungsi Dispensasi Kawin dalam Pencegahan Perkawinan Anak di Indonesia," *Usroh: Jurnal Hukum Keluarga Islam* 8, no. 1 (2024), <https://doi.org/10.19109/ujhki.v8i1.23274>.

KUA Nusaniwe	Underage marriages persist within the local community.	Formal declaration of non-involvement by KUA officials.	Marriages solemnized informally outside state oversight; legal status issues surface later when parties seek belated recognition.	Premarital pregnancy, family reputation concerns, high community tolerance for informal marriage.
KUA Teluk Ambon	Inquiries seeking administrative solutions for underage couples, including pregnancy cases.	Absolute refusal to register without an official court dispensation order.	Applicants are formally referred to file for marriage dispensation at the Religious Court.	Negative social stigma toward court proceedings and public reluctance to engage formal judicial processes.

Source: Primary Field Research Data (2025).

As illustrated in Table 1, the KUA offices in Ambon City exhibit high consistency in enforcing statutory age limits. Familial pressure, premarital pregnancy, and informal public requests are consistently rejected as grounds to bypass statutory age requirements. The KUA effectively operates as an administrative gatekeeper (legal gatekeeper), ensuring that only unions meeting statutory criteria enter the state registration system.¹⁵

This gatekeeping role underscores the KUA's importance in child marriage prevention through administrative oversight, legal counseling, and public information regarding judicial dispensation mechanisms. Nevertheless, our findings reveal a dimension underemphasized in previous studies, which primarily portrayed the KUA as a fully effective preventive actor through administrative and educational means. This research demonstrates that institutional effectiveness is structurally limited: while the KUA successfully enforces legal standards within formal administrative channels, its regulatory reach halts when child marriages pivot from formal legal spaces into unrecorded socio-religious domains. Thus, institutional compliance by the KUA does not, by itself, guarantee the total prevention of child marriage within the community.

In administrative law, KUA jurisdiction operates primarily at the verification and

¹⁵ Pijri Pajjar, "Kewenangan Pegawai Pencatat Nikah di Kantor Urusan Agama dalam Menolak Kehendak Nikah (Studi Kantor Urusan Agama Kecamatan Rancabali)," *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga dan Peradilan Islam* 5, no. 2 (2024): 187–200, <https://doi.org/10.15575/as.v5i2.31070>.

registration stages. The agency possesses clear powers to inspect applications, reject non-compliant files, and direct underage applicants toward the judicial dispensation process. However, this administrative authority loses traction when citizens bypass the state entirely and solemnize marriages informally before religious leaders. Consequently, the actual efficacy of child marriage prevention depends not only on institutional rule compliance, but also on public adherence to formal statutory legal frameworks.

Interviews conducted at KUA Sirimau¹⁶ and KUA Nusaniwe¹⁷ reveal that certain community members continue to seek informal religious solemnization (nikah siri) through local religious figures when faced with complex circumstances, particularly premarital pregnancy. This decision is typically driven by a desire to preserve family honor and avoid social stigma. However, under state law, such unrecorded unions possess no administrative legal standing and fail to generate official legal protections.

The phenomenon highlights a disconnect between the administrative mandate of the KUA and broader social realities. The KUA exercises its statutory mandate correctly, but that mandate only takes effect when citizens enter the state registration system. When citizens opt out of formal state mechanisms, administrative law instruments become functionally constrained.

From the perspective of Lawrence M. Friedman's legal system theory, this condition can be analyzed through the interplay among legal substance, legal structure, and legal culture.¹⁸ Regarding legal substance, the minimum age threshold is explicitly defined, and the exemption mechanism is firmly placed under judicial oversight. In terms of legal structure, the KUA in Ambon City demonstrates strict compliance by refusing to register prospective couples under the age of 19 without an official dispensation. Difficulties, however, arise within the domain of legal culture; familial pressure, the stigma surrounding out-of-wedlock pregnancies, deep-seated notions of shame, and the societal acceptance of unregistered religious marriages collectively drive communities to seek alternative pathways outside the formal system.

These three elements do not interact in a simple linear fashion. Clear statutory substance and compliant administrative structures do not automatically produce public behavior aligned with legislative intent. A resistant legal culture can create parallel social channels when formal legal pathways are restricted. Friedman's theoretical framework thus helps explain why institutional compliance by state agencies does not automatically produce complete legal efficacy in social practice.

These empirical insights define the functional boundary of KUA authority. While the KUA exercises strong powers at the administrative gateway, inspecting documents, rejecting invalid files, providing legal information, and directing applicants to court its capacity for direct intervention remains constrained when families bypass formal registration entirely.

This condition constitutes an institutional gap. This gap does not imply an absence of

¹⁶ Achmad Hamzah Waliulu (Kepala KUA Sirimau), Wawancara Oleh Penulis, Ambon, 29 September 2025

¹⁷ Hairun Abidin K (Penghulu KUA Nusaniwe), Wawancara Oleh Penulis, Ambon, 29 September 2025

¹⁸ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), 15–16, 193–221.

marriage legislation; rather, it indicates that an administrative institution's statutory mandate has defined jurisdictional limits. Rejection by an administrative registrar does not grant that agency the power to police or halt informal socio-religious practices occurring outside state channels.

Simultaneously, a regulatory gap emerges regarding the reach of state legal instruments. The registration framework effectively controls applications entering the formal system, but lacks regulatory control over unions deliberately conducted outside that system. This finding does not imply that the Marriage Law lacks legal certainty; statutory age thresholds and judicial dispensation rules remain clear. The issue lies in the divergence between normative legal certainty and practical legal efficacy within social reality.

The consequences of unregistered child marriages confirm that opting out of the formal legal system entails severe legal costs. Lacking authentic proof of marriage, parties face substantial evidentiary hurdles in establishing legal marital status and securing civil rights. In terms of child and women's protection, unrecorded marriages create acute vulnerabilities, making access to legal remedies, maintenance, and civil protections far more complex.

Therefore, child marriage prevention policy cannot rely on the KUA solely as a passive endpoint that accepts or rejects registration files. Preventive policy requires proactive intervention mechanisms that engage families before they exit the formal legal system. Recommended interventions include preliminary counseling, mandatory case referrals to the Religious Court when dispensation grounds exist, child risk assessments, and active coordination with local government agencies and child protection boards..

3.2 The Consistency of Law No. 16 of 2019 in Establishing Legal Certainty Regarding Child Marriage

Child marriage remains a critical global issue directly intersecting with child protection, gender equality, education, reproductive health, and intergenerational poverty. UNICEF reports that approximately 640 million women globally were married during childhood. This statistic highlights that child marriage is not merely a domestic concern, but a global challenge requiring sustained legal, social, and institutional commitments.¹⁹ This international consensus is reflected in the United Nations Sustainable Development Goals (SDGs), specifically Goal 5 (Gender Equality), Target 5.3, which mandates the elimination of all harmful practices, including child, early, and forced marriage.

In Indonesia, child marriage represents a multifaceted challenge tied to economic vulnerabilities, educational deficits, socio-cultural norms, and intra-familial power dynamics. It is driven not only by financial hardship, but also by limited access to secondary education, inadequate reproductive health awareness, patriarchal structures, and cultural views that treat marriage as a remedy for perceived moral risks.²⁰ Premarital pregnancy often serves as a

¹⁹ UNICEF, *Is An End To Child Marriage Within Reach? Latest Trends And Future Prospects* (New York: UNICEF, 2023)

²⁰ Kementerian PPN/Bappenas, Badan Pusat Statistik, UNICEF, And PUSKAPA, *Pencegahan Perkawinan Anak: Percepatan Yang Tidak Bisa Ditunda* (Jakarta: Kementerian PPN/Bappenas, BPS, UNICEF, And PUSKAPA, 2020), 18–23.

primary driver, with families resorting to early marriage to shield family reputation and mitigate social stigma. This demonstrates that early marriage cannot be evaluated solely as a statutory age violation, but must also be recognized as a broader social issue stemming from gaps in family guidance, protection, and education.

The Marriage Law establishes explicit boundaries regarding the minimum legal age for marriage. Article 7 Paragraph (1) of Law Number 16 of 2019 stipulates that marriage is permissible only if both the male and female parties have attained 19 years of age. This provision revised Law Number 1 of 1974, which had set minimum ages at 19 for men and 16 for women. This statutory shift was directly aligned with Constitutional Court Decision Number 22/PUU-XV/2017. In that ruling, the Constitutional Court determined that gender-differentiated age minimums constituted discriminatory legal treatment against girls. The court held that a legal age of 16 for females impaired fundamental rights, including access to education, health, personal development, and protection from premature marital burdens.

A core principle of marriage law is physical and psychological readiness. Maturity cannot be evaluated solely through biological capacity; it requires emotional, psychological, social, and economic stability. Marriages contracted prematurely carry elevated risks, including low readiness for marital responsibilities, increased divorce rates, economic vulnerability, educational disruption, and reproductive health complications. Consequently, the legal age requirement of 19 years under Law Number 16 of 2019 serves as a clear legislative policy designed to prevent early marriage and safeguard family welfare.²¹

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From a child protection perspective, statutory age limits are directly anchored in the principle of the best interests of the child. Minors lacking physical, psychological, and social maturity face severe adverse consequences when entering marriage prematurely. Thus, the statutory age minimum set by Law Number 16 of 2019 functions as a preventive legal safeguard, ensuring that marriage is restricted to individuals recognized by law as possessing full legal and social capacity.

However, this statutory age threshold is not absolute, as Law Number 16 of 2019 provides an explicit statutory exception via judicial dispensation under Article 7 Paragraph (2). This provision allows parents to petition the court for a marriage dispensation in cases of urgent necessity supported by adequate corroborative evidence.

The existence of judicial dispensation does not represent a statutory contradiction within

²¹ Munjilah, Andresya Barqiyyatul, et al. "Lelang Negara dalam Pemulihan Aset Korupsi: Studi Kasus Rafael Alun Trisambodo." *Journal Juridisch* 4.2 (2026): 226-246. <https://doi.org/10.26623/jj.v4i2.13589>

the Marriage Law. Legally, Article 7 Paragraph (1) functions as the general rule (general rule), while Article 7 Paragraph (2) operates as a narrow statutory exception (statutory exception) reserved for exceptional circumstances. Nevertheless, this exception creates an operational tension: while the state seeks to prevent child marriage by raising age limits, it simultaneously maintains a legal mechanism permitting marriage below the statutory threshold.

This operational tension requires careful management, as the efficacy of child protection depends heavily on how judicial exceptions are applied in practice. If courts grant dispensations loosely without comprehensive assessments of the child's circumstances, the dispensation process risks shifting from a narrow emergency exception into an alternative legal pathway that legitimizes child marriage.²²

To address this risk, the Supreme Court of the Republic of Indonesia issued Supreme Court Regulation (*Peraturan Mahkamah Agung/PERMA*) Number 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Petitions. This regulation mandates that judges look beyond parental assertions and actively prioritize the best interests of the child. Judges are required to hear the child directly, examine their psychological, educational, and medical status, and evaluate potential long-term risks arising from the proposed marriage.

Under PERMA Number 5 of 2019, judicial dispensation is structured not as an automatic marital permit for minors, but as a strictly limited judicial remedy applicable only under proven urgent conditions. Empirical studies on the implementation of PERMA Number 5 of 2019 confirm that embedding the best-interests-of-the-child principle into judicial evaluation is critical to preventing dispensation procedures from serving as a routine legalizer of underage unions.²³

In Ambon City, the institutional relationship between the KUA and the Religious Court is central to this legal framework. Field findings at KUA Teluk Ambon²⁴ confirm that administrative officers consistently direct underage applicants to the Religious Court to pursue formal dispensation. However, persistent public reluctance to engage with judicial proceedings remains evident, largely driven by perceived complexity and negative social stigma associated with court appearances. This creates an institutional challenge: while normative legal remedies are available, social barriers often deter citizens from utilizing formal judicial pathways.

When communities opt for informal marriages rather than seeking a judicial dispensation, the objective of vesting the courts with the authority to oversee child protection is ultimately undermined. Consequently, children are excluded from the very assessment process designed to safeguard them. In essence, the efficacy of judicial safeguards is fundamentally contingent upon the parties' engagement with the formal mechanism.

²² Fitriati Salamah, Indra Rahmatullah, and Nadia Hilali Zahra, "Implementasi PERMA No. 5 Tahun 2019 dalam Meminimalisir Perkawinan Anak: Studi di Pengadilan Agama Garut," *Jurnal Hukum Keluarga dan Administrasi Keperdataan Islam* 1, no. 1 (2023), <https://doi.org/10.15408/jhk-aki.v1i1.31180>.

²³ Hidaya, Wahab Aznul, et al. "Implementing Living Law under Article 2 of the Indonesian Criminal Code: The Maya Indigenous Community in Raja Ampat." *Vifada Assumption Journal of Law* 4.2 (2026): 1-24. <https://doi.org/10.70184/nwzphm18>

²⁴ Arifin Kabalmay (Kepala KUA Teluk Ambon), wawancara oleh penulis, Ambon, 1 Oktober 2025.

This dynamic illustrates that legal certainty encompasses two distinct dimensions. The first is normative certainty, characterized by explicit clarity regarding age thresholds, the jurisdictional authority of the KUA, and dispensation procedures. The second is implementative certainty, reflecting the legal system's capacity to ensure that communities genuinely engage with these mechanisms, thereby realizing the intended protective objectives²⁵. The research findings indicate that while the first dimension remains relatively robust, the second continues to encounter substantial challenges. The state has established clear procedural pathways: prospective spouses aged 19 and above may proceed with standard registration, whereas those under 19 require a judicial dispensation to solemnize their union through official channels. Nevertheless, this regulatory framework has yet to completely foreclose a third alternative: informal, unregistered marriages.

In this context, the legal challenge extends far beyond the dispensation clause itself. The more pressing concern is how the system can prevent underage prospective spouses from circumventing protective mechanisms by simply opting out of the formal framework. Consequently, policy focus must shift from merely tightening registration procedures toward establishing robust coordination mechanisms capable of detecting and mitigating child marriage risks at their earliest stages.

A viable coordination model should encompass at least four strategic intervention points. First, initial verification at the KUA upon identifying prospective spouses under the age of 19. Second, structured referrals to the Religious Court should the family persist in pursuing the marriage while meeting the prerequisites for a dispensation. Third, referrals to child protection services whenever there are indications of coercion, violence, exploitation, school dropout, or other vulnerabilities affecting the child. Fourth, social coordination with religious and community leaders to prevent informal marriages from being exploited as a loophole to circumvent formal protective frameworks.

Crucially, this model is not designed to vest the KUA with judicial authority; the institution remains entirely unauthorized to grant or deny dispensations. Rather, it seeks to fortify the KUA's role as a primary node for early detection and referral, ensuring that an administrative rejection does not inadvertently drive prospective couples out of the legal system altogether.

Within this framework, the relationship between the KUA and the Religious Court is complementary rather than substitutive. While the KUA is tasked with verifying registration prerequisites and identifying age-related non-compliance, the Religious Court adjudicates the applications for exemption. Ultimately, the effectiveness of these protective measures relies on a seamless bridge between these two institutions, alongside the active involvement of child protection agencies and the broader community.

Consequently, this study concludes that the core challenge to legal certainty does not stem from an absence of norms regarding age limits, but rather from the disconnect between

²⁵ Aliya Karima, Nabila Luthvia Rahma, Abdurrohman Kasdi, and Labib Nubahai, "Kepentingan Terbaik Anak Pemohon Dispensasi Pernikahan dalam Penafsiran Hukum oleh Hakim," *Al-Syakhsyiyah: Journal of Law and Family Studies* 5, no. 2 (2023), <https://doi.org/10.21154/syakhsyiyah.v5i2.7082>

normative certainty and institutional effectiveness. The law has established both general rules and exceptions, the KUA has executed its administrative duties, and the courts have been empowered to adjudicate dispensation requests. Yet, when communities opt for unregistered marriages, this entire protective apparatus risks failing precisely in the cases that constitute the primary object of its protection.

4. CONCLUSION

This study yields three primary findings. First, institutionally, the Offices of Religious Affairs (KUA) in Sirimau, Nusaniwe, and Teluk Ambon demonstrate administrative compliance with Article 7 of the Marriage Law by refusing to register underage marriages (under 19 years old) without a Religious Court dispensation. Second, such administrative compliance does not necessarily equate to preventive effectiveness, as state refusal frequently drives a shift toward unregistered religious marriages. Third, this phenomenon reveals regulatory and institutional gaps compounded by legal culture barriers, including social stigma, familial pressure, unplanned pregnancies, and an aversion to court proceedings. Consequently, Article 7 paragraphs (1) and (2) of the Marriage Law should be construed as a relationship between a general rule and a normative exception, rather than a conflict of norms. To mitigate the evasion of law through informal unions, KUAs must evolve from mere registration endpoints into proactive hubs for identifying and referring child marriage risks. This transformation demands structured cross-sectoral coordination among KUAs, the judiciary, local governments, and community leaders to effectively harmonize administrative certainty with substantive child protection.

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