

Out-of-Court Assistance Based on the Principle of the Best Interests of the Child: Study on Examination Process of Marriage Dispensation Cases

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Abstract: This research aimed to elaborate the legal phenomenon of marriage postponement proposed by the applicant in the examination process of marriage dispensation cases at the Religious Courts of Bukittinggi. The decision is taken after the applicant receives out-of-court assistance in marriage dispensation cases by other institutions that has been explicitly regulated in the Supreme Court (PERMA) Number 5 of 2019. The purpose of the assistance is to ensure the children's readiness in entering marriage and the follow up to limited amendment of Article 7 Marriage Law on age limit. This phenomenon is intriguing due to a sizeable finding on previous marriage dispensation cases where most applicants insisted on getting married soon. This field study is descriptive qualitative research applying the descriptive-analysis method. The empirical-juridical approach was employed, analyzing primary and secondary data sourced from interviews and documentations. The collected data were subjected to Creswell's technique starting from data processing to data interpretation. The results showed that the assistance practice has successfully encourage many child applicants to make decisions based on their best interests, namely postponing the marriage that is facilitated through an integrated system that includes psychological examination, legal approach, and religious approach. Indeed, this system is non-existent in the previous examination process of marriage dispensation cases. Interpretation and realization of Article 15 of PERMA are perceived to have contributed to the decreasing number of marriage dispensation cases in the Religious Courts of Bukittinggi, and establishing PERMA Number 5 of 2019 as the law that guarantees the prevention of child marriage.

Keywords: Assistance; Marriage dispensation; the Religious Courts; The best interests of the child.

Introduction

Dispensation for child marriage made available by the state must be proven by very urgent reasons. If the previous regulation stipulated that the proof must be written as 'urgent reasons', the addition of 'very' to create 'very urgent reasons' editorial is closely associated with the procedural law of marriage dispensation cases stipulated in the Supreme Court (PERMA) Number 5 of 2019 on Guideline for Adjudicating Application for Marriage Dispensation Cases. Previous studies have reported that the before amendment, the regulation that implicitly contained the 'urgent reasons' editorial is suspected to have contributed to how easily the judge at Religious Courts granted marital permits for the applicants of marriage dispensation (Nurmila & Windiana, 2023; Rohman et al., 2023; Yazid, 2023). Parental concerns about their children's social interaction that potentially violates Sharia law, children's experience of having intercourse, or being pregnant are among the reasons for granting marriage dispensation (Fadhli & Warman, 2021). Additionally, children's confession of being pregnant and the strict enforcement of moral customs have encouraged the judges of the Religious Courts to immediately issue the marriage permit (Husni & Mustofa, 2023; Lahilote et al., 2022). Consequently, the convenient process of marriage dispensation for applicants to obtain marriage permits may have led to poor marital quality of life. To

mitigate this issue, the editorial “Very Urgent Reason” is written in PERMA Number 15 of 2019 to prevent child marriage.

Instead of achieving the country's vision of preventing child marriage through the amendment of Marriage Law Number 1 of 1974 Article 7 on the age limit for marriage as well as the birth of PERMA Number 5 of 2019, this strategy has presumably caused a new problem as indicated by the upsurge of applicants for marriage dispensation cases year by year (Amaliya & Dewi, 2021). A total of 23,216 marriage dispensation cases were granted in 2019, and the figure almost tripled to 64,211 cases in 2020 but fell slightly to 59,709 cases in 2021 (Komnas Perempuan, 2022). In the adjudication of marriage dispensation cases in the Religious Courts of Bukittinggi, the statistics show an upward trend of applicants for marriage dispensation cases by 200%, from 10 cases in 2019 to 31 cases in 2020, 33 cases in 2021, and 29 cases in 2022.

Furthermore, information that we obtained from the Religious Courts of Bukittinggi shows that in mid-2021, the Religious Courts of Bukittinggi planned to involve the Department of Women's Empowerment and Child Protection, Population Control and Family Planning (DP3APPKB) of Bukittinggi City as an out-of-court institution to realize PERMA Number 5 of 2019 Article 15 paragraph (d) by seeking a recommendation to out-of-court experts whose professions have been stated explicitly. The involvement of out-of-court institutions in the examination process of marriage dispensation cases is intended to ensure the readiness of a child who wants to get married soon. Also, it is believed that engaging these out-of-court institutions potentially maximizes the role of the judge in probing deeper into the reasons for marriage dispensation pleadings and in providing recommendations, insights, and education in perspective of the child's best interests.

In case evident readiness is found in the child, the child's family, and the child's social environment that gives assurance that the child is genuinely ready to get married and start a family, the out-of-court institutions or DP3APPKB of Bukittinggi City will issue a recommendation letter for marriage as a proof of having partaken and completed the assistance.

Based on the results of assistance provided by DP3APPKB of Bukittinggi City to many applicants of marriage dispensation, there has been a significant change in the knowledge and decision-making of the children after partaking in the assistance program. Some applicants eventually decide to postpone their marriage as the middle ground to avoid the consequences of child marriage, such as school dropout, imperfect development of reproductive organs (especially for girls), economic implications, and the tendency of conflicts and domestic violence (Aziz et al., 2023; Gunawan & Bahri, 2023). Similarly, child marriage relation tends to experience gender bias that affects the imbalance of roles between men as the husbands and women as the wives in the household. It is a fact that women tend to be dominated by patriarchal practices due to a lack of knowledge before they get married (Asman & Muda, 2023; Warman, Zainuddin, et al., 2023).

In curbing the aforementioned risks, assistance offered by out-of-court institutions is perceived to contribute positively to assisting the judge's role in the adjudication of marriage dispensation cases. Similarly, new insights and knowledge offered in the assistance have helped the applicants to take a stand and make the right decision without any prompts or coercion. In other words, assistance is equal to an act of strengthening the spirit of preventing child marriage that has been explicitly stipulated in PERMA Number 5 of 2019.

Accordingly, the decision of some applicants of marriage dispensation cases to postpone marriage has become a new legal phenomenon that emerged after the realization of PERMA Number 5 of 2019 at the Religious Courts of Bukittinggi. This research aims to probe deeper into how Article 15 of PERMA is understood and interpreted by the Religious Courts in terms of implementation and implication of the preventive measures for child marriage. Therefore, we seek to answer the questions on (1) Why is Article 15 of PERMA perceived as very important to involve the out-of-court institutions in the assistance? (2) How is the assistance carried out in the examination of marriage dispensation cases at the Religious Courts? and (3) What is the implication of the assistance to the applicants and the Religious Courts? As we analyze the objectives of the limited amendment to Article 7 of the Marriage Law concerning the age limit

for marriage and the background of PERMA Number 5 of 2019, we found that child marriage is a legal phenomenon that can be done only for a very urgent reason. Although child marriage is legal, it implies the need to understand that preventing child marriage is the first and foremost task.

Literature Review

The decision of the Constitutional Court to increase the age limit for marriage to 19 years and Law Number 16 of 2019 on Amendment to Law Number 1 of 1974 on Marriage are essentially preventive measures against child marriage (Syufa'at, 2022; Warman, Jafar, et al., 2023). Other considerations imply that different age limits imposed on men and women have implicitly sparked discrimination in fulfilling their rights as regulated in the 1945 Constitution Article 28 paragraph (1) and (2) on starting a family and procreating through a marriage legalized by the state. When discrimination occurs, the first victim of the gap is the woman (Muniri et al., 2023). Women who are married or betrothed earlier in their childhood tend to have a higher risk of being discriminated against than adult women. Being subjected to violence and intimate conflicts in family relations are perceived to be a common occurrence for underaged spouses (Collier et al., 2023). Therefore, from the perspective of child protection, child marriage is believed to inhibit the child's biological and psychological growth and development (Suadi & Candra, 2022). Apart from the different age limits for marriage, the Decree of the Constitutional Court Number 22/PUU-XV/2017 concerning the minimum age limit for women to enter marriage has emphasized that imposing different age limits for men and women by the law does not fulfill the minimum basic criteria for marriage.

Unlike the assumptions that base the proposal to amend the minimum age limit for marriage, increasing the age limit without incurring significant risks is not seemingly easy to realize. The increased minimum age limit for marriage to 19 (nineteen years old) has been a reality and a polemic among the community and even the courts. Since this regulation came into effect, the number of marriage dispensation cases ruled by the judge has multiplied, even to three or four times compared to prior regulation. In turn, since the Religious Courts receive and rule in many cases on marriage dispensation, the Religious Courts are labeled as the institution enabling or legalizing child marriage (Rasyid et al., 2024; Tim Penyusun, 2020). Accordingly, the judges are expected to exercise caution in examining and ruling marriage dispensation cases because the judges carry the absolute responsibility to give the best ruling for the sake of the children's future (Atikasari et al., 2020; Nasrulloh et al., 2024).

The arguments above are the reasons why every judge's ruling must carry legal consideration based on correct and appropriate legal basis and reasoning. In this study, the main principle in approaching marriage dispensation cases is the *ratio decidendi* or reasoning that refers to the court's consideration to rule a decision (Pudjosewojo, 2004), or *obiter dicta* clarifies legal principles and regulations taken into the judge's consideration in his ruling. The implication of these main principles is evident in the procedural law of marriage dispensation at the Religious Courts based on the spirit of preventing child marriage (Hadaiyatullah & Huda, 2020).

Method

This qualitative study employed field research to obtain direct information and was subjected to a descriptive-analytical approach (Sugiyono, 2009). We applied the juridical-empirical approach that analyzes the law based on a legal phenomenon in the community (Ngani, 2012). The primary data was obtained from interviews, observation, and documentation with relevant stakeholders, including the Religious Courts offices at Bukittinggi and DP3APPKB of Bukittinggi City. The secondary data were the Law Number 16 of 2019 as the amendment to Law Number 1 of 1974 on Marriage, PERMA Number 5 of 2019 on Guidelines for Adjudicating the Applications of Marriage dispensation, Law Number 35 of 2014 on Child Protection, and books, articles and publications on relevant law. As data collection was completed, all data were processed and described using a set of methods by Miles and Huberman, namely data reduction, data presentation and verification, and finally, conclusion.

Results and Discussion

The Involvement of Out-of-Court Institutions in the Assistance

The limited amendment made to Law Number 1 Article 7 of 1974 on Marriage by increasing the minimum age of women for marriage from 16 years to 19 years implied the expectation to substantially reformulate the regulation of marriage dispensation. The government's commitment to impose a new substantive law on the minimum age for marriage and the examination process of marriage dispensation cases is embodied in PERMA Number 5 of 2019 on Guidelines for Adjudicating the Applications of Marriage Dispensation Cases. In realizing the mandate outlined in Law Number 16 of 2019 and PERMA Number 5 of 2019, the Religious Courts of Bukittinggi perceives the need to create intersectoral coordination by involving the out-of-court institutions in the adjudication of marriage dispensation cases. It aims to attain justice with roles and objectives in child protection based on the best interests of children and to ensure children's readiness in terms of education, health, economy, and social aspects for marriage, as well as to protect the children from any form of harassment, violence, and risks of divorce (Nur & Abdullah, 2022; Yetta et al., 2024). Although the country has provided an absolute guarantee for fulfilling the children rights in Law 35 of 2014 on Child Protection, the content of Law Number 1 of 1974 juncto Law Number 16 of 2019 on Marriage should emphasize the efforts to prevent child marriage and avert any opportunity of child marriage. In other words, child marriage does not align with children's best interests because it potentially abuse the children's rights, so it must be averted (Fausi & Asmuni, 2024; Miqat et al., 2023).

The importance of involving out-of-court institutions in the adjudication process of marriage dispensation cases at the Religious Courts of Bukittinggi is based on PERMA Number 5 of 2019 Article 15 letter (d) on the recommendation of experts concerning the children's readiness to get married. Article 15 letter (d) has explicitly emphasized that the recommendation can be obtained from psychologists, medical doctors/midwives, professional social workers, social welfare workers, Integrated Service Center of Women's Empowerment and Children (P2TP2A) and Indonesia/Regional Child Protection Commission (KPAI/KPAD). In this study, the corresponding out-of-court institution is DP3APPKB of Bukittinggi City which plays roles and duties at the Government of Bukittinggi City in providing services, mitigation, and empowerment to women and children in Bukittinggi City.

Based on the information we obtained in July 2022 from Isrizal Anwar, the Head of the Religious Courts of Bukittinggi, the regulation stipulated in PERMA Number 5 of 2019 Article 15 letter (d) has been followed up by the Religious Court of Bukittinggi as it involved relevant institution under the City Government of Bukittinggi, namely DP3APPKB of Bukittinggi City. Meanwhile, assistance given to children as the applicants of marriage dispensation cases is in line with the medium-term objectives and targets of DP3APPKB of Bukittinggi City to achieve justice and gender equality by improving life quality of women and children and by increasing protection for women and children. Accordingly, it is vital to involve the out-of-court institutions in the process of examining marriage dispensation cases to prevent child marriage in Bukittinggi. It is evident that preventing child marriage is a crucial element in the objectives of child protection, and child protection agenda is impossible to accomplish if there remain countless cases that put women and particularly children in disadvantage at Bukittinggi City. This issue can be categorized into several aspects, including the fulfillment of children's rights, the embodiment of a decent life for children growth and development, and child protection from any form of harassment and violence (Godfrey et al., 2023; Utari et al., 2024). When the children's needs are fulfilled, the objectives of child protection to improve children's life quality will be accomplished.

For children who are planning to get married, they must understand that marriage will bring new roles and responsibilities to the married people. As reported in the previous studies, marriage as institution is substantially presenting new roles, responsibility, and authority (Warman, Elimartati, et al., 2023). In terms of roles and responsibilities, children shift their focus from merely studying and playing to cohabiting with a husband or wife as a married couple. Indeed, from the perspective of child protection, children should not live in this condition in their childhood (Chusnida & Anggriawan, 2022). Therefore,

to arrive at considerations that are relevant and aligned with the children's interests, the Religious Courts facilitate every applicant receive assistance in marriage dispensation at DP3APPKB of Bukittinggi City. Although marriage dispensation reflects children's obedience to their parents or children's strong desire to get married because they assume they have found their soulmate, letting children enter marriage is essentially exposing them to multifarious risks (van Baak & Hayes, 2023). It means that letting children get married will bring consequences upon themselves in which they are stripped of most of their rights. Essentially, the objectives of protecting children's rights and improving their life quality are the main reasons and foundation why DP3APPKB of Bukittinggi City is involved as the out-of-court institution in assisting the applicants of marriage dispensation.

Assistance in Marriage Dispensation Cases

In the adjudication of marriage dispensation cases, the judge of the Religious Courts of Bukittinggi has implemented the examination process based on the Guidelines for Adjudicating the Applications of Marriage Dispensation Cases stipulated in PERMA Number 5 of 2019. In this process, the judge is required to identify the purpose of the children getting married, their psychological conditions, health, and readiness to enter marriage. Readiness to enter marriage indicates the actualization of marriage goals (Iswantoro & Tobroni, 2022). Any indications of coercions used on the physical, psychological, sexual, and economical being of the children and/or their family to make the children enter marriage, the judge is obligated to probe deeper while adhering to the children's best interests (Hasan & Yusup, 2021). In terms of coercion, arranged marriages since infancy have been practiced by Islamic religious leaders in the hope of keeping the pure blood or NASA B of the religious leaders (Imron et al., 2023).

To ensure that children's rights and interests are not marginalized by any desires, coercions, or interests that do not lean towards the children's, the judge can seek recommendations from institutions outside of the Religious Courts to provide assistance. Assistance is perceived to be effective in enabling children's welfare while securing the children's rights and preventing any violations of human rights and other chronic problems (Das, 2023; Muharrani et al., 2024; Purnamawati et al., 2024). Assistance refers to an effort to embody child protection through harmonization and coordination based on regulations and policies on fulfilling children's rights (Amberi, 2023). In giving assistance, DP3APPKB of Bukittinggi City as the out-of-court institution is referred by the Religious Courts of Bukittinggi to impose an obligation on the applicants to complete the administrative requirements on the form of application for marriage dispensation letter f "Recommendation from Psychologist/Department of Woman and Child Protection regarding children's readiness to get married." The recommendation is the basis on which DP3APPKB of Bukittinggi City provides assistance in the form of debriefing and strengthening aspects such as psychology marriage and religious law – individually or in groups – to both children and their parents. When the assistance process has been completed and the applicants insist on getting married regardless of their readiness, a recommendation will be issued in a notice bearing the assistance record and the current condition of the applicants' readiness. It is important to note that the issued recommendation letter is not the guarantee of the marriage permit granted by the Religious Courts (Nawawi et al., 2022).

Although the involvement of DP3APPKB of Bukittinggi City in the examination process of marriage dispensation cases with the Religious Courts of Bukittinggi is relatively a new practice, independent assistance has been in place for a long time. Since 2017, assistance in marriage dispensation cases has been held independently by DP3APPKB of Bukittinggi City. The current assistance based on the recommendation of the Religious Courts of Bukittinggi was initiated during the COVID-19 pandemic in 2021. The comparison of the assistance process before and after the Religious Courts of Bukittinggi established a coordination with P3PPKB of Bukittinggi is illustrated in Table 1 below.

Tabel. 1 Assistance Process for Marriage Dispensation Cases before and after Coordination with the Religious Courts of Bukittinggi

No	Aspects	Assistance Process For Marriage Dispensation	
		Before	After

1	Implementation Year	2017-2020	2021-2023
2	Legal Basis	<ol style="list-style-type: none"> 1. Mayor Decree Bukittinggi Number 51 of 2016 on Position, Organizational Structure, Duties and Functions and Service Work Procedures of P3PPKB Bukittinggi City 2. Law Number 35 of 2014 on Child Protection 3. Law Number 1 of 1974 on Marriage 	<ol style="list-style-type: none"> 1. Mayor Decree Bukittinggi Number 51 of 2016 on Position, Organizational Structure, Duties and Functions and Service Work Procedures of P3PPKB Bukittinggi City 2. Law Number 35 of 2014 on Child Protection 3. Law Number 16 of 2019 on Marriage 4. PERMA Number 5 of 2019 on Guidelines for Adjudicating the Applications of Marriage Dispensation Cases 5. Law Number 36 of 2009 on Health 6. Regulation of Minister of Health of the Republic of Indonesia Number 4 of 2019 On Technical Standards for Fulfilling Basic Service Quality in Minimum Service Standards for Health Sectors
3	Involvement of Professional Experts	<ol style="list-style-type: none"> 1. Marriage Law Counselor 2. Religious Counselor 3. Psychologist 	<ol style="list-style-type: none"> 1. Marriage Law Counselor 2. Religious Counselor 3. Psychologist
4	References	<ol style="list-style-type: none"> 1. Family Resilience Concept 2. Child Protection Concept 	<ol style="list-style-type: none"> 1. Family Resilience Concept 2. Child Protection Concept 3. PERMA Number 5 of 2019 on Guidelines for Adjudicating the Applications of Marriage dispensation Cases
5	Background	<ol style="list-style-type: none"> 1. Report from the community, Suburb, or intersectoral city government of Bukittinggi 2. Personal initiatives 	<ol style="list-style-type: none"> 1. Report from the community, Suburb, or intersectoral city government of Bukittinggi 2. Personal initiatives 3. Recommendation from The Religious Courts of Bukittinggi
6	Targets	<ol style="list-style-type: none"> 1. The community of Bukittinggi City proven by citizen card (KTP) and family card (KK) 2. Children and Parents as the applicants of marriage dispensation 	<ol style="list-style-type: none"> 1. The community of Bukittinggi City proven by citizen card (KTP) and family card (KK) 2. The applicants of marriage dispensation referred to by the Religious Courts
7	Goals	<ol style="list-style-type: none"> 1. Fulfil children's basic rights 2. Fulfil decent life and for children's growth and development 3. Avoid children from any forms of harrasment and violence 	<ol style="list-style-type: none"> 1. Fulfil children's basic rights 2. Fulfil decent life and for children's growth and development 3. Avoid children from any forms of harrasment and violence 4. Recommend children's readiness for marriage 5. Complete administrative conditions for application of marriage dispensation cases

8	Outputs	1. Referral Letter	1. Referral Letter and/or
		2. Foster good relationships	Recommendation Letter
		2. Foster good relationship	
Total Cases		3 cases	5 cases

Source: Research Data, 2023

Assistance in marriage dispensation cases above explicitly emphasizes that the coordination between the Religious Courts of Bukittinggi and DP3APPKB of Bukittinggi City has fostered optimum assistance. Coordination should be in place based on applicable authority. It is important to highlight that the Religious Courts of Bukittinggi also established intersectoral partnerships with the Department of Population Control, Family Planning, Women's Empowerment and Child Protection (DPPKBPP and PA) of Agam Regency. The partnership is evident from the intersectoral coordination in handling many child marriage reports by providing assistance until the final judgment at the court (Fadhli & Kahfi, 2023). In other words, building intersectoral partnerships is a potential success indicator of preventing child marriage as exemplified by 14 (fourteen) Religious Courts and the Ministry of Health as a progressive measure to reduce the number of child marriages (Mustofa, 2023) in Indonesia. In turn, establishing intersectoral coordination is an efficient effort to prevent child marriage (Darmawan et al., 2022).

The assistance is provided in several sessions. The *first* session is psychological assistance, which is important to evaluate the children's readiness as a prospective marriage couple, their parents, and their relatives based on the concept of family resilience. Children's readiness will affect their social conditions that include readiness in self-adaptation and emotional regulation (Fadhli et al., 2023). The *second* session is marriage law assistance which is based on the Marriage Law, PERMA Number 5 of 2019, and the Concept of Building Family Resilience. The Religious Courts must be perceived as the sole public institution that endows validation and legal certainty through the stipulation of dispensation marriage law for the community who want to get married but are constrained by the age factor (Hidayah & Alaklabi, 2023). The *third* session is religious assistance. Religious screening carries high importance considering the submaximal pre-marital screening to prospective married couples who are still underage. Furthermore, most of participants in the assistance have a bare minimum knowledge and understanding of their religion. Therefore, religious assistance aims at preparing the marital life of the prospective couple by implanting religious values. Overlooking the state law on marriage will trigger disorder in implementing marriage law (Agustina, 2022). Accordingly, the services encompass the strengthening of religious values that align with the marriage law by offering suggestions, advice, and inputs according to the conditions of respective applicants.

Decision to Postpone Marriage after the Assistance Program

Based on the service registry for women and children in child marriage cases reported to the P3PPKB of Bukittinggi City, there were cases of child marriage and/or marriage dispensation cases reported either independently or by referral of the Religious Courts of Bukittinggi.

Tabel. 2 Service Registry for Women and Children in Child Marriage Cases Reported to The P3PPKB of Bukittinggi City

Case Number	Age		Referral	Follow Up
	M	F		
6/P2TP2A/SEK-A/II-2019	19	15	Independent	Postpone Marriage
28/LPPA-BKT/LN-A/VII-2021	19.1	18.8	The Religious Courts	Postpone Marriage
46/LPPA-BKT/LN-P/IX-2021	21	16	Satpol PP	Postpone Marriage
37/LPPA-BKT/Psi-P/IV-2022	17	18	Independent	Postpone Marriage
99/LPPA-BKT/LN-A/XI-2022	19	17	The Religious Courts	Postpone Marriage
101/LPPA-BKT/LN-A/XI-2022	29	18	The Religious Courts	Referred to DPPKBPP and PA of Agam Regency
01/PHA/GP/PK-A/I-2023	20	18.3	The Religious Courts	Postpone Marriage
02/PHA/GP/PK-A/II-2023	23	17	The Religious Courts	Discontinued

Source: Research Data, 2023

Based on the cases illustrated in Table 2, not all applicants who partook in the assistance sessions decided to continue their plan to get married. Six out of eight cases decided to postpone the marriage, one case was referred to DPPKBPP and PA of Agam Regency, and the other case was discontinued.

It is evident that as the counselor strengthened the social aspects and human resources of children and/or applicants during the assistance sessions, it significantly affected their decision to postpone the marriage. Case number 6/P2TP2A/SEK-A/II-2019 was a case reported independently by the child's parents who, in this case, acted as the applicants of marriage dispensation at the Religious Courts of Bukittinggi due to concerns about their daughter's social interactions that started to go beyond control. It was known that 1Y (15 years) discontinued her education after completing Primary School (SD). In her daily life, 1Y worked as a shop attendant at Aur Kuning Market, while 1X (19 years) worked in the confection sector. The concerning close relationship between 1Y and 1X had motivated 1Y's parents to apply for marriage dispensation. During the assistance process, it was found that 1Y was not ready to get married. Despite having a job, 1Y often quitted and changed jobs for multiple excuses. Also, 1Y was unable to act maturely. After the assistance, 1Y decided to discontinue the marriage. Education on unpreparedness for marriage and the risks lurking in child marriage relations are presumably the contributing factors that strengthen 1Y decision to discontinue the marriage. 1Y realized that domestic violence that he often witnessed in his parents' marriage had become a heavy burden to him which evolved into fear.

Case number 28/LPPA-BKT/LN-A/VII-2021 is initiated by a man's parents to betroth their 19-year-old son (2X) with his girlfriend (2Y) aged 18.8 years old. It is known that 2X and 2Y had a close romantic relationship. Family conflicts, poor economy, lack of motivation to study, and lack of parenting are the driving factors to 2Y's decision to cohabit under one roof with 2x. Feeling affectionate and concerned about 2Yd, 2X's parents decided to marry them to prevent them from committing religious taboos. The applicants assumed that marriage was the best solution for 2Y's problem. After several assistance sessions, the applicants were educated about the importance to consider many other aspects besides marriage itself. 2Y realized that her decision to cohabit with 2X was unreasonable and inappropriate. Upon realizing her mistake, 2Y decided to return to her parents' house and promised to improve her communication with her parents. Following this decision, the applicants and 2Y agreed to wait for approximately four months until 2Y was 19 years old.

Decision to discontinue the trial and postpone the marriage was taken by applicants in case number 46/LPPA-BKT/LN-P/IX-2021 after being provided with assistance. After 3X and 3Y completed the several sessions of assistance, 3X and 3Y initially decided to proceed with the marriage. However, when given the chance to continue with the trials, this couple never really wanted to continue their plan to get married. According to the counselor's information, the couple were reluctant to complete the registration and resume their trials at the Religious Courts of Bukittinggi. It was later known that both parties decided to have an unofficial marriage. Soon after their marriage, they were often caught in lengthy conflicts that climaxed with physical and psychological abuses, and economic neglect. Disharmonious family of both 3X and 3Y's parents have negatively contributed to domestic conditions of both parties who had to move houses multiple times because they could not afford the rent. The complexity and chaos in 3X and 3Y household was assumed to stem from the reluctance of both parties that led to the decision to discontinue their marriage.

In case number 99/LPPA-BKT/LN-A/XI-2022, it was known that the prospective groom (4X; 19 years) and the prospective bride (4Y; 17 years) were eager to get married soon. Although during the early assistance session 4X and 4Y insisted on getting married, 4Y decided to postpone the marriage after being advised on the potential risks of child marriage. 4Y's parents' high hopes for her pursuing education to university level is assumed to partly motivated and inspired 4Y to postpone the marriage. If they had got married soon, there would have been a very small chance for 4Y to achieve this dream. 4Y and 4X were advised that educational factor significantly affected their mindset about marriage institutions. Losing

education at a young age means losing some significant assets that are useful for their future, and after they have children and get involved in parenting.

Case number 01/PHA/GP/PK-A/I-2023 was directly reported by 5Y (18.3 years) as the child applying for marriage dispensation by referral of the Religious Courts of Bukittinggi. 5Y admitted not knowing the purpose of the Religious Courts of Bukittinggi referring her to P3PPKB of Bukittinggi City. 5Y assumed that she would immediately be given the recommendation letter of marriage readiness and would be granted permission to get married with 5X (20 years) whom she knew from online media. Busy with work, 5X could not join the assistance program and had 5Y make all decisions and arrangements for their marriage. The counselor suggested that if they did not mind waiting for 9 months, 5Y and 5X could get married in a regular procedure. Soon after that, 5Y received the suggestion then contacted her parents and 5X. 5Y said that all parties could receive her decision and agreed to postpone the marriage.

Depart from the case findings above, postponing marriage can be among many implications of assistance given to applicants of marriage dispensation who were referred to by the Religious Courts of Bukittinggi to DP3APPKB of Bukittinggi City. In fact, the decision to postpone marriage is the manifestation of awareness of all parties, including the applicants, the applicants' children, and applicants' entire family to understand that marriage can be held when the children are mature enough and/or have readiness in many aspects. Interestingly, religious values that perceive child marriage as something that can be done become irrelevant in today's context (Salenda, 2016). Even when children seem prepared and have met the readiness criteria to understand the risks of child marriage outlined in Article 12 paragraph (2), it is important to emphasize that child marriage can be held only in a very urgent condition and relevant with the principle of child's best interests (Kurniawan & Refiasari, 2022). The indicator to this is a guarantee that the child's education is not terminated, the fulfillment of mandatory 12-year education, the maturity of child's reproductive organs, understanding of economic risks and conflicts, social and psychological being of the children and the household, and the potential domestic violence. In order to ensure this readiness, the reasons for marriage dispensation must be backed up with sufficient proofs in the form of a recommendation letter and a statement of marriage readiness (Amania, 2022).

Emotional outbursts embodied in the desire and haste of the prospective child groom and child bride to get married were evident in the assistance process, but it changed as they learned the negative side of child marriage that disadvantages them, especially the girls (Fadhli et al., 2022). The consideration taken into the decision to not get married is a learning process that children can accept after considering many conflicts and hard decisions. The decision to postpone marriage was expressed by the girls upon the realization that they were not ready for marriage.

In child marriage relations, the risks of harassment and abuse increase due to the immature mentality and lack of maturity of the married children (Steel et al., 2024). Accordingly, postponing marriage to better prepare physically and psychologically and be more responsible is believed to be the best decision to enter marriage life. The strong desire to get married which then changed into rejection is proof that the assistance sessions to prevent child marriage are an opportunity to build awareness and knowledge and improve human resources personally and socially. It takes media and education to increase knowledge and positive attitudes in children to enable them to make decisions and take a stand (Meilani et al., 2023).

In terms of marriage dispensation case that is strongly driven by parental desires, case number 6/P2TP2A/SEK-A/II-2019, 28/LPPA-BKT/LN-A/VII-2021 indicates a factual issue of one-sided parental involvement in planning the marriage. Empirically, the parents' desire to betroth their underage children seems to be an obsolete problem, but this problem is taken as a textbook habit, tradition, or an urgent decision. It is considered obsolete because the tradition of child marriage historically started in the colonial era, and it is considered a tradition or cultural heritage by the community of certain ethnic groups (Bemmelen & Grijns, 2018). The Javanese community in the colonial era tended to betroth their children at the age of 10 or 12 years old, and it became a tradition that goes beyond the post-independence era (Poesponegoro & Notosusanto, 1993). The *kawin gantung* (living apart together) tradition in Javanese culture and *merariq* tradition that refers to a man kidnapping a woman in the hope for them to get betrothed

is a picture of a habit/tradition where parents betrothing their children has become the value and norm of a particular culture. Therefore, parents is always found as the driving factor of child marriage, either legal, documented marriage (Horii, 2020) or illegal, undocumented marriage (Susilo et al., 2022). Different studies found that the decision to have undocumented marriage (Idrus, 2022) is the couple feels reluctant to arrange their marriage dispensation as we found in case number 46/LPPA-BKT/LN-P/IX-2021 and 37/LPPA-BKT/Psi-P/IV-2022.

We also found that it was the parents – as the applicants of marriage dispensation – who wanted their children to get married, and some parents were motivated by religious values in which the Prophet Muhammad SAW married his wife young-aged Siti Aisyah RA. Regardless of the applicants' understanding of the Prophet's marriage context, the excuse that the Prophet Muhammad SAW married the 9- or 10-year-old Siti Aisyah RA was used as a weapon to strengthen their religious belief and conviction to institutionalize the jurisprudence of marriage (Adawiyah et al., 2022). This perspective has partly caused the persistent cases of child marriage. This religious misunderstanding is found not only in Indonesia but also in some Muslim-majority countries (Samuri et al., 2022).

Accordingly, postponing marriage decisions made by six applicants of marriage dispensation in this study can be perceived as the success of pre-marital assistance conducted by the Religious Courts Bukittinggi and DP3APPKB of Bukittinggi City. This success is based on the fact that the amended minimum age for marriage has not produced results as expected (Batyra & Pesando, 2021; Idris et al., 2024). In fact, marriage dispensation cases at the Religious Courts are claimed to have increased (Hasan & Yusup, 2021). However, the number of marriage dispensation cases at the Religious Courts of Bukittinggi shows a decreasing trend, even as of July 2023, none of the four cases filed to the court are registered by applicants from Bukittinggi City.

To make this change sustainable, it takes law enforcement and monitoring by optimizing the coordination between the Religious Courts of Bukittinggi and DP3APPKB of Bukittinggi City to foster assistance for marriage dispensation cases. The state considers that prioritizing the fulfillment of children's rights to prevent them from the risks of child marriage should be upheld in enabling the children's best interests.

Conclusion

The Department of P3APPKB of Bukittinggi City, as the out-of-court institution, is an institution referred to by the Religious Courts of Bukittinggi that plays a role in providing assistance for marriage dispensation cases. As a follow-up measure upon the amendment of the Marriage Law and the birth of PERMA Number 5 of 2019, the Religious Courts of Bukittinggi has mandated all applicants of marriage dispensation to partake in the assistance as an administrative condition stated in the "Recommendation from Psychologist/Department of Woman and Child Protection regarding children's readiness to get married" of the registration form for marriage dispensation. The Religious Courts of Bukittinggi perceive that involving out-of-court institutions to provide assistance is important because it aligns with the goal of child marriage prevention as stipulated in PERMA Article 2 on the principles and goal of achieving children's best interests. The assistance aims to evaluate the psychological, legal, and religious aspects of the prospective marital couple. The participation of marriage dispensation applicants in the assistance is proven by the issuance of a recommendation about marriage readiness that will be forwarded to the case filing division. During the assistance in marriage dispensation cases, we found interesting phenomena where almost all participants of the assistance decided to postpone their marriage. From a total of eight child marriage cases between 2019 and 2023 that received assistance sessions, six (three independent cases and three referral cases) decided to postpone their marriage. The other two cases continued to different follow-ups, and one case was referred back to DPPKBPP and PA of Agam Regency because the applicant was a resident of Agam Regency, and the last case discontinued the trial process. Assistance in marriage dispensation also contributes to helping the judge of the Religious Courts ensure the readiness of children who want to enter marriage. The awareness of the marriage dispensation applicants to postpone their

marriage has positively affected the declining number of marriage dispensation cases submitted to the Religious Courts of Bukittinggi between 2021 and 2022. In fact, as of July 2023, there were 0 (zero) marriage dispensation case filed by the Bukittinggi community to the Religious Courts of Bukittinggi. It proves that realizing PERMA Article 15 in the form of assistance is perceived as very important and effective in preventing child marriage.

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