

**TINJAUAN YURIDIS KOMPARATIF TERHADAP PENGATURAN
PEMBERIAN DISPENSASI KAWIN DI INDONESIA DAN *KEBENARAN
BERKAHWIN* BAWAH UMUR DI MALAYSIA**

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ABSTRAK

Penelitian ini bertujuan untuk menganalisis dan membandingkan pengaturan mekanisme dispensasi kawin di Indonesia dengan *Kebenaran Berkahwin* Bawah Umur di Malaysia, mengidentifikasi bentuk kekaburan norma beserta konsekuensi yuridisnya terhadap perlindungan hak anak, serta mengkaji unsur-unsur *Standard Operating Procedure* (SOP) *Perkahwinan* Bawah Umur Jabatan Kehakiman Syariah Malaysia (JKSM) Tahun 2018 yang dapat diadaptasi untuk memperkuat Peraturan Mahkamah Agung Nomor 5 Tahun 2019. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, perbandingan hukum, dan konseptual. Bahan hukum diperoleh melalui studi kepustakaan terhadap peraturan perundang-undangan, doktrin, serta literatur ilmiah yang dianalisis secara deskriptif, komparatif, dan preskriptif. Hasil penelitian menunjukkan bahwa kedua negara sama-sama memiliki kekaburan norma yang memperluas ruang diskresi hakim sehingga berpotensi menimbulkan ketidakseragaman putusan dan mengurangi kepastian hukum. Indonesia unggul dalam penguatan prinsip *the best interest of the child*, namun Malaysia memiliki mekanisme pemeriksaan yang lebih terstruktur melalui SOP JKSM 2018. Penelitian ini merekomendasikan penyempurnaan PERMA Nomor 5 Tahun 2019 dengan mewajibkan asesmen psikologis, laporan sosial, pemeriksaan kesehatan reproduksi, serta verifikasi profesional guna memperkuat perlindungan hak anak dalam perkara dispensasi kawin.

Kata Kunci: dispensasi kawin, perlindungan hak anak, perbandingan hukum.

***A COMPARATIVE JURIDICAL REVIEW OF THE REGULATION ON THE
GRANTING OF MARRIAGE DISPENSATION IN INDONESIA AND CHILD
MARRIAGE AUTHORIZATION IN MALAYSIA***

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ABSTRACT

This study aims to analyze and compare the legal framework governing marriage dispensation in Indonesia and child marriage authorization in Malaysia, identify the legal ambiguity and its juridical consequences for child rights protection, and examine the elements of the 2018 Standard Operating Procedure (SOP) on Child Marriage issued by the Malaysian Syariah Judiciary Department (JKSM) that may be adapted to strengthen the Indonesian Supreme Court Regulation Number 5 of 2019. This research employs a normative juridical method using statutory, comparative, and conceptual approaches. Legal materials were collected through library research consisting of legislation, legal doctrines, and scholarly literature, and analyzed using descriptive, comparative, and prescriptive methods. The findings reveal that both legal systems contain ambiguous legal norms that broaden judicial discretion, potentially leading to inconsistent decisions and legal uncertainty. Indonesia provides stronger normative protection through the best interest of the child principle, whereas Malaysia offers a more structured assessment mechanism through the JKSM SOP 2018. The study recommends revising Supreme Court Regulation Number 5 of 2019 by mandating psychological assessments, social reports, reproductive health examinations, and professional verification to enhance child protection in marriage dispensation cases.

Keywords: marriage dispensation, child protection, comparative law.