

PAPER NAME

**39. LEGAL IMPLICATIONS OF MARRIAG
E.pdf**

AUTHOR

Zainuddin Zainuddin

WORD COUNT

8406 Words

CHARACTER COUNT

43897 Characters

PAGE COUNT

14 Pages

FILE SIZE

269.7KB

SUBMISSION DATE

Nov 22, 2023 4:13 PM GMT+8

REPORT DATE

Nov 22, 2023 4:14 PM GMT+8**● 19% Overall Similarity**

The combined total of all matches, including overlapping sources, for each database.

- 11% Internet database
- 15% Publications database
- Crossref database
- Crossref Posted Content database
- 14% Submitted Works database

● Excluded from Similarity Report

- Bibliographic material
- Quoted material
- Cited material
- Manually excluded sources

Authors

¹ Firlyanti Komalasari. M
² Syahrudin Nawi
³ Zainuddin

Affiliation

^{1,2,3} University Muslim Indonesia

Email

komala.fyan@yahoo.com,
sahrudin.nawi@umi.ac.id,
zainuddin@umi.ac.id

Date Submission

26 August 2023

Date Accepted

15 September 2023

Date Published

30 Septemeber 2023

DOI

10.52249

LEGAL IMPLICATIONS OF MARRIAGE DISPENSATION POST AMENDMENT TO ACT NUMBER 1 OF 1974 CONCERNING MARRIAGE

Abstract

This study aims to explore what factors are used as urgent reasons in filing a Marriage Dispensation case, including examining the extent to which the Marriage Dispensation case examination process determines the fulfillment of urgent reasons as a requirement for deviations from the minimum age limit for marriage and to find out what are the legal impacts/implications that arise regarding the Dispensation Marriage at the Mamuju Religious Court after the amendment to the Marriage Law. The research method used in this study is empirical legal research, which is carried out using an approach to legal reality in society based on the presence of symptoms in the form of a gap between expectations (*das solen*) and reality (*das sein*) in the field of law, where the data collected or collected from the field used to obtain valid information and data needed to answer the problems in this study. The results of this study show that since the amendment to the Marriage Law, applications for Marriage Dispensation have increased, which are dominated by prospective brides. The reasons for filing Dispensation for Marriage by litigants from 2017 to 2022 are pregnancy and a very close relationship between the two prospective brides, where this is also in line with the considerations in the decisions of the Mamuju Religious Court Judges who granted many requests for Dispensation of Marriage.

Keywords: *Changes to the Marriage Law, Marriage Dispensation, Religious Courts*

Abstrak

Penelitian ini bertujuan untuk menggalikan faktor-faktor apa saja yang dijadikan alasan mendesak dalam pengajuan perkara Dispensasi Nikah, termasuk mengkaji sejauh mana proses pemeriksaan perkara Dispensasi Nikah menentukan terpenuhinya alasan mendesak sebagai syarat penyimpangan batas minimal usia menikah dan untuk mengetahui dampak/implikasi hukum apa saja yang timbul terhadap Perkawinan Dispensasi di Pengadilan Agama Mamuju pasca perubahan UU Perkawinan. Metode penelitian yang digunakan dalam penelitian ini adalah penelitian hukum empiris, yang dilakukan dengan menggunakan pendekatan terhadap realitas hukum yang ada di masyarakat berdasarkan adanya gejala berupa kesenjangan antara harapan (*das solen*) dan kenyataan (*das sein*) dalam masyarakat. bidang hukum, dimana data yang dikumpulkan atau dikumpulkan dari lapangan digunakan untuk memperoleh informasi dan data yang valid yang diperlukan untuk menjawab permasalahan dalam penelitian ini. Hasil penelitian ini menunjukkan bahwa sejak adanya perubahan UU Perkawinan, permohonan Dispensasi Perkawinan mengalami peningkatan yang didominasi oleh calon pengantin. Alasan diajukannya Dispensasi Nikah oleh pihak yang berperkara pada tahun 2017 sampai dengan tahun 2022 adalah kehamilan dan hubungan kedua calon pengantin yang sangat erat, dimana hal ini juga sejalan dengan pertimbangan dalam putusan

Hakim Pengadilan Agama Mamuju yang banyak mengabulkan permohonan Dispensasi. Pernikahan.

Kata Kunci : Dispensasi Pernikahan, Perubahan UU Perkawinan, Pengadilan Agama

INTRODUCTION

Marriage, as stated in Article 1 of Law Number 1 of 1974, is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a family (a happy and eternal household based on Belief in the One Supreme God). The further explained in the article that as a country based on Pancasila, marriage is very closely related to religion because it is not only about physical relations but also involves spiritual relations so that the goal of marriage can be achieved by forming a happy family accompanied by offspring where maintenance and education Children are the rights and obligations of parents. Forming a family certainly requires a strong commitment between the couple, so in this case, marriage in Indonesia is regulated by Law Number 1 of 1974 concerning Marriage. Therefore, the same law stipulates that a marriage is valid if it is carried out according to the laws of each religion and belief and has been recorded according to the applicable laws and regulations. The basis of religious law in carrying out marriage is very important in Law Number 1 of 1974 concerning Marriage so that the determination of whether or not marriage is permissible depends on religious provisions. This also means that religious law states that marriage is not permissible, so it is also not permissible according to state law, (Andika Prawira Buana,2017). Article 2 Paragraph 1 of Law Number 1 Year 1974 Concerning marriage firmly states that marriage law, in principle, depends on the religious law adhered to by those who are going to get married, so for Muslims, a marriage is valid if it has fulfilled the pillars of marriage, namely: the prospective bride, marriage guardian, witness and dowry. If all the pillars of marriage are fulfilled, then the marriage is valid as stipulated in Article 2 Paragraph 1 of the Marriage Law. However, the law also regulates the conditions for marriage that must be met, as stated in Article 7, that marriage is only permitted for those who have met the marriage age limit (16-year-old women and 19-year-old men). This provision is not regulated in the pillars of marriage, especially for Muslims, because according to Islam, marital prowess is not seen from the point of view of age but from a person's maturity. This is a separate problem because, in the same rule/law, there are two legal provisions that apply simultaneously, namely the legal provisions of a marriage based on religious law, while on the other hand, the law also regulates the conditions for marriage to take place which depend on the minimum limit the age that must be met for the prospective bride and groom. This condition, according to the author, is the basis for the permissibility of deviating from marriage requirements related to the minimum age limit for marriage through the Dispensation of Marriage, which is also regulated in Article 7 of the Marriage Law as a legal solution for people related to marriage. The birth of the Marriage Law that regulates in detail matters related to marriage is the State's effort to provide legal protection to the community that will marry while also ensuring the protection of legal identity for their descendants, bearing in mind that the purpose of marriage according to the Marriage Law is to form a happy family which is eternal, where every marriage bond is certainly oriented towards the formation of a sakinah mawaddah warrahmah family that is eternal until death separates. In addition to the formation of a happy family that lasts from marriage, it is also expected to be able to give birth to offspring, so Allah

SWT established marriage as a way for people to get together and have relationships, and for that marriage, Allah SWT has established good rules, so that by applying those rules human beings will have offspring born and raised under the protection of parents who love him, nurtured in a family environment that always cares and supports him with perfect supervision and prosperous education. After being enacted for a period of 45 (forty-five) years, Law Number 1 of 1974 concerning Marriage finally changed the Marriage Law with the enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning marriage, which was approved on 14 October 2019. It becomes interesting because Law Number 16 of 2019 Concerning Amendments to Law Number 1 of 1974 Concerning Marriage only changes 1 article (Article 7) and adds 1 article (Article 65A), while what is contained in the amendment to Article 7 is a change in the age limit minimum for women who were initially at least 16 (sixteen) years old and then changed to 19 (nineteen) years if there is a deviation from the minimum age limit, then the parents can ask for Dispensation of Marriage from the court which must be accompanied by urgent reasons accompanied by evidence -the evidence, as well as the court through the case examining judge, is obliged to hear the opinions of the two prospective brides and groom in examining the Dispensation of Marriage case at trial.

Whereas Article 65A only confirms that the enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage is not retroactive so that marriage registration carried out based on Law Number 1 of 1974 concerning marriage can continue at the time of this law is established. So, from the changes to the two articles mentioned above, it can be concluded that changes to the Marriage Law are, in principle, only related to the minimum age limit for marriage for women, where there has been a change in norms regarding the age limit for a person who is capable of carrying out legal actions (marriage), that is if he is 19 (age 19). nineteen) years for both prospective grooms and prospective brides, including tightening the granting of Marriage Dispensation for prospective brides who are not yet 19 (nineteen) years old with the condition that filing for Marriage Dispensation must be accompanied by an urgent reason that can be proven, and accommodates the right -children's rights in court with the obligation to listen to the opinion of the prospective bride and groom in court in every examination of Dispensation of Marriage cases.

The change in the minimum age limit for marriage to 19 (nineteen) years for both men and women means that the birth of changes to the Marriage Law is based on the spirit of gender equality where the normative size of the legal age of maturity for women and men to marry is the same everywhere. The age of 19 (nineteen) years is very different from the size of the mature age contained in the previous Marriage Law, which still distinguished the minimum age limit for men and the minimum age limit for women. The minimum age of 19 (nineteen) years for the bride and groom is certainly expected to be one of the efforts to reduce the rate of increase in the divorce rate in Indonesia, bearing in mind that this minimum age is considered mature enough to be able to create a harmonious family and produce offspring who are physically and mentally healthy without ended in divorce. In addition, of course, changes to the Marriage Law are closely related to the issue of preventing child marriage. Child marriage is a complex issue because it is suspected to be triggered by several factors, including poverty, geography, lack of access to education, gender inequality, and social norms that reinforce certain gender stereotypes. (For example, women should marry young or marry

early), and culture (for example, girls who marry young can make their family proud because they quickly find a mate). In addition, matchmaking and community acceptance of child marriage are also often the driving factors for early marriage.

In his research in Bantaeng Regency, Yuli Adha et al. stated that there were several factors causing underage marriages, namely: first, legal knowledge, where there is still low public knowledge regarding the minimum age limit for marriage, second, legal apparatus, where one of the causes of underage marriages is because there are still officers. The wedding leader cooperates with the prospective bride's family to manipulate the age so that the marriage can take place, the three legal cultures where the prevailing culture in society is very closely related to the habits of the members of the community concerned in their legality which will ultimately determine the value system that applies in society, where in general the community positions the behavior/actions of officials (Penghulu KUA) as applicable law compared to written law such as the act, the fourth is pregnancy out of wedlock where during adolescence physical and psychological changes occur which result in changes in attitudes and behavior such as starting to pay attention to self-appearance and starting to be interested in the opposite sex which encourages sexual desire which then leads to intimate relationships even though they are not yet married which can have an impact on pregnancies outside of marriage and the fifth economy where underage marriages are increasing due to the low economic capacity of the community, the weak economic conditions of the community cause parents to be unable to sending their children to a higher level so that parents think that marrying off their children is a solution to lighten the burden on family life, (Yuli Adha Hamzah at. All,2020).

This is in line with the research results of Dachran S Bustami et al in Sidenrenrappang District that there are several factors that influence the implementation of Article 7 paragraph (1) of Law Number 16 of 2019 concerning the minimum age limit for marriage from the people found in this study are as follows: firstly the cultural factor where underage marriage is a culture because there is an assumption that marriage is one of the elements of happiness, getting married quickly is considered to be able to elevate the degree of the family and there is a burden on parents if their child is 17 years old and not yet married, secondly social environmental factors where underage marriages occur because rampant promiscuity which ultimately encourages parents to marry their children at a young age, three educational factors where the child's low education makes it more risky to carry out underage marriages due to lack of activity or child activity and fourth economic factor where the lack of economy causes parents to choose to marry their children even though they are under the age of 19 even though legally this is not allowed. Parents think that if their child gets married, it can reduce the economic burden, (Dachran S Busthami at. all,2021)

Conclusion of their research at the Makassar Religious Court enriched the factors that influence applications for marriage dispensation; they stated that there were 11 factors that influenced applications for marital dispensation, namely: factors of physical maturity of children, community culture, community education, pregnancy out of wedlock, environment association, social media, family economic needs, community habits, ease of process, low costs and public legal awareness, (Syahrudin Nawi and Salle 2020).

Fatimah Hs et al. have also conducted research on the Juridical Review of Marriage Age Limits Based on Law Number 16 Concerning Marriage, which in her research conclusions states that the urgency of changing the age limit for marriage is due to the increasingly

widespread practice of child marriage occurring in Indonesia. In addition, the urgency of changing the marriage law, which only regulates the age limit, was born in the framework of synchronization with other laws. In terms of legal benefits, this amendment to the Marriage Law, specifically related to Article 7, has not been able to guarantee the achievement of benefits, such as the aim of increasing the age limit for marriage, namely to reduce child marriage practices. Because of the change to law no. 16 of 2019 actually has an impact on increasing the application for marriage dispensation at the Religious Courts, (Fatimah Hs, at. All,2019).

One of the efforts to suppress the number of underage marriages apart from changing the minimum age limit for marriage can also be seen by tightening the procedure for filing a Dispensation of Marriage case at the court, which requires that every filing of a Dispensation of Marriage case must be accompanied by urgent reasons that can be proven in court and there is also an obligation to hear the opinion of the two prospective bride and groom at the trial which in Law Number 1 of 1974 has not been regulated at all. In its explanation of Law Number 16 of 2019, it states that what is meant by urgent reasons in Article 7 Paragraph 2 is a situation where there is no other choice, and it is very forced to have a marriage. Meanwhile, what is meant by sufficient supporting evidence is in the form of a statement proving that the age of the prospective bride and groom is still under the provisions of the law and a statement from a health worker supporting the parents' statement that the marriage is very urgent.

Judging from the elucidation of Article 7, paragraph 2, the urgent reasons referred to cannot stand alone but must be coupled with the supporting evidence explained in the elucidation of the article so that when viewed from the limitations of the evidence contained in the explanation, the "urgent reasons" referred to are very closely related to the authority of health workers in issuing certificates as a formal requirement which is legally stated as supporting evidence in filing cases of Dispensation of Marriage in Court.

Even though it was not explicitly found which conditions/factors were included in the "urgent reasons" variable in the Marriage Law, if it is related to the authority of health workers, a temporary conclusion can be drawn that the only variables included in the "urgent reasons" category are those related to the health of the prospective bride, which in practice in many courts is interpreted as the condition of being pregnant for the prospective bride because health workers have the authority to issue a statement regarding a person's pregnancy, because the condition of the pregnancy of the prospective bride who is still below the marriage age limit can be proven by having a pregnancy certificate from health workers and also relevant as an "urgent reason" given that this condition is closely related to legal protection for children to be born and also given the culture that develops in Indonesia which in general will never accept the existence of children born out of wedlock.

Based on this, for the time being, the author only makes the condition of the prospective bride who is already pregnant the only variable for fulfilling "urgent reasons that can be proven" in the legal considerations of the judge in deciding the Dispensation of Marriage case at court.

The court, as the organizer of judicial power in Indonesia as mandated by Law Number 48 of 2009 concerning Judicial Power, plays an active role in implementing the rule of law (law), including the Marriage Law, by which the Supreme Court pays extraordinary attention to the issue of child marriage due to marriage. Children in Indonesia are a very serious problem and have an impact on the quality of life of women, children and future generations.

We can see this from the Regulation of the Supreme Court of the Republic of Indonesia (PERMA) Number 5 of 2019 concerning Guidelines for Trying Dispensation of Marriage Cases, which in detail regulates the procedures for filing cases, including regulating the formal law of examining cases of Dispensation of Marriage in Courts, even in 2020 the Supreme Court in responding to changes to the Marriage Law, immediately publish a Pocket Book of Guidelines for Adjudicating Applications for Marriage Dispensation which is expected to become a guideline for all court apparatus in accepting cases of Marriage Dispensation as well as a unification of perceptions/viewpoints for all judges in Indonesia in examining and deciding on Dispensation of Marriage cases, bearing in mind that judges are human resources who determine the judicial process of the Marriage Dispensation case filed at the court.

Of course, the amendment to the Marriage Law and the issuance of Supreme Court Regulation (PERMA) Number 5 of 2019 concerning Guidelines for Trying Dispensation of Marriage Cases are expected to reduce the rate of marriage under the age of 19 (nineteen) years, but it cannot be denied that after the issuance of Law Number 16 2019 concerning Amendment to Law Number 1 of 1974 Concerning Marriage which changed the minimum age of marriage for women from 16 (sixteen) years to 19 (nineteen) years has not prevented the filing of a marriage dispensation case at the Mamuju Religious Court.

Based on the results of pre-research at the Mamuju Religious Court, it was found data on the handling of Dispensation of Marriage cases in 2017; there were 7 cases; in 2018, there were 14 cases; in 2019, there were 49 cases; in 2020, there were 62 cases, in 2021 there were 39 cases, and in 2022 there were 42 cases. Of all these cases, there were several factors that prompted the submission of a Marriage Dispensation at the Mamuju Religious Court, namely economic factors, educational factors, pregnancy factors out of wedlock and customs (culture/tradition) factors. It is this marriage dispensation case data from 2017 to 2022 that will later become the source of data in this study for further analysis.

The data shows that in addition to the high number of filings for Dispensation of Marriage at the Mamuju Religious Court, it even tends to increase after the amendment to the Marriage Law and provides a brief description that economic factors, educational factors, factors of pregnancy out of wedlock and factors of customs (culture/tradition) are still used as as a factor of urgent reasons for marrying after the amendment to the Marriage Law.

The high handling of Dispensation of Marriage cases at the Mamuju Religious Court after the amendment to the Marriage Law, which later became the concern of the authors in the preparation of this thesis, the authors are interested in examining what factors are used as urgent reasons in filing a Dispensation of Marriage case at the Mamuju Religious Court after the amendment of the Law -The Marriage Law includes examining the extent to which the process of examining the Marriage Dispensation case at the Mamuju Religious Court determines the fulfilment of urgent reasons as a requirement for deviations from the minimum age limit for marriage and knowing what are the legal impacts/implications related to the Marriage Dispensation at the Mamuju Religious Court after the amendment to the Law Marriage. Based on the things mentioned above, the writer is interested in studying it through research with the thesis title "Legal Implications of Dispensation of Marriage After the Amendment to Law Number 1 of 1974 Concerning Marriage".

RESEARCH METHODS

In principle, legal research is divided into 3 (three) types of research, namely doctrinal legal research or normative legal research, non-doctrinal legal research or social legal research, which is often called empirical legal research and other types of research. Combines the two types. The research design used in this research is empirical legal research; the research is conducted with an approach to legal reality in society. This research is based on the presence of symptoms in the form of a gap between expectations (*das solen*) and reality (*das sein*) in the field of law, where data collected or collected from the field is used to obtain valid information and data needed to answer the problems in this research. The nature of the research used is descriptive-analytic, namely research to solve problems by describing problems through collecting, compiling, and analyzing data, then explaining and then giving an assessment of the research problem. This research will provide a systematic, careful description of the procedure for filing a marriage dispensation case and the judge's legal considerations in giving a determination or decision regarding the marriage dispensation application submitted by the parties to the Mamuju Religious Court, whether granted or rejected. So, the data generated in this study are not in the form of numbers but in symbolic form in the form of written or written words, nonverbal responses, literal speech or in the form of descriptive.

In this study, the approach method that the author uses is multi-disciplinary, including:

a. Normative Theological Approach (*sari*)

This approach is used to analyze *fiqh* provisions originating from the Koran and hadith on the age of marriage.

b. Juridical approach (statute approach)

This approach is used to review all laws and regulations related to the discussion. In this case, the provisions of Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law, especially the articles related to the provisions on the age limit for marriage and dispensation for marriage. In addition, this research is focused on the considerations of religious court judges in determining the dispensation of marriage.

c. Sociological Approach

That is an approach that uses the perspective of social science in order to obtain concrete boundaries regarding the object of research in society. This approach is necessary because this study will also observe the factors causing the application for a marriage dispensation. This approach is also used to examine whether the provisions on marriage are relevant to the conditions of the community if they are related to the provisions on marriage dispensation.

RESULTS AND DISCUSSION

Procedure for Examination of Marriage Dispensation Cases.

Before entering the case examination stage, it is first necessary to explain briefly the procedure for filing a case at the Mamuju Religious Court, which is the initial series that must be carried out by the parties with the dispute before the case filed is examined by the judge at trial. Information regarding the procedure for filing cases at the Mamuju Religious Court can be found on the official website of the Mamuju Religious Court and brochures on general requirements for filing cases in the one-stop integrated service room at the Mamuju Religious

Court as well as from explanations by information officers at the Mamuju Religious Court. Based on information from the website, brochures and explanations from the Information Officer, information is obtained that each case submission, including Marriage Dispensation, is first served by the Information Officer, who will provide an explanation regarding the requirements for filing a Marriage Dispensation case, including examining the required documents. Must be fulfilled in filing cases, and also provide directions if there are still document requirements that have not been fulfilled.

The documents that must be prepared by the parties submitting the Marriage Dispensation case as a condition for registering a case are as follows:

1. Photocopy of Identity Card.
2. Photocopy of Marriage Certificate.
3. Photocopy of Family Card
4. Photocopy of the bride's birth certificate
5. Photocopy of the diploma of the bride and groom
6. Original Letter of Rejection of Marriage Registration from the local KUA.
7. Original application letter for Marriage Dispensation.

After all the information has been deemed sufficient to be given to the applicant for the Marriage Dispensation case and the required documents have been deemed sufficient, the information officer will direct the parties to the Legal Aid Post (POSBAKUM) located at the Mamuju Religious Court which has the role of providing assistance to the community in making letters application for Dispensation of Marriage, after conducting brief interviews and formulating events and also the wishes of the parties in a letter of application in writing, the Posbakum will ask the parties to sign the application letter, and after that the Posbakum will direct the parties to register the case.

At the Mamuju Religious Court, after the signing of the Cooperation Agreement between the Mamuju Religious Court and the Mamuju Regency Women's Empowerment and Child Protection Service concerning the Protection of Women and Children in Mamuju Regency on 07 July 2023, every filing for a marriage dispensation case at the Mamuju Religious Court must be accompanied by a letter of recommendation from The Office of Women's Empowerment and Child Protection regarding the readiness of children to enter into underage marriages, these provisions come into force since the signing of the cooperation agreement. Before the case is registered, the parties are first ordered to pay court fees through the virtual account of Bank BRI Mamuju Branch, a bank that cooperates with the Mamuju Religious Court to accommodate all case fees processed by the Mamuju Religious Court, where the case fee provisions are contained in the Decree of the Chief Justice Mamuju Religion so that in determining the cost of the case must be based on the decision letter. After the case filer completes the down payment of the case fee, the case is registered in the case tracking information system (SIPP) of the Mamuju Religious Court and is given a case number, and then the parties wait for the date of the trial to be determined. Notified further by officials of the Religious Court who were given the authority to summon/notify, namely, the bailiff/bailiff in lieu of the Mamuju Religious Court.

Based on Perma Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marital Dispensation, it has been stipulated regarding the procedure for submitting and examining cases related to Marital Dispensation in Article 6 stated that those who have the right to apply for Marital Dispensation are the parents of the prospective bride who are not

old enough and if both parents If the child dies, the person who submits the application is the guardian of the child and if there is a difference in religion between the parents and the prospective bride and groom who are not old enough, then the application for marriage dispensation is submitted to the court in accordance with the child's religion. After the administrative completeness of case registration is declared complete by the Registrar, the case can be registered at the case registration service at the One-Stop Integrated Service (PTSP) of the Mamuju Religious Court, then the Chairperson of the Court appoints the judge examining the case while the Registrar appoints a Substitute Registrar and Bailiff / Substitute Advocate for the case. Then, the appointed judge determines the day for the examination of the case and, at the same time, orders the Bailiff / Substitute Advocate who has been appointed to summon the parties regarding the schedule for examining the case.

On the appointed trial day, the judge first checks the identities of the parties at trial, provides direction and advice regarding the impacts that will arise on child marriage and then proceeds with reading the application letter. If the parties still state that they will continue the application for Marriage Dispensation that they have submitted, the judge orders the parents of the prospective bride and groom, who will be the spouse of the child being applied for Marriage Dispensation, to enter the courtroom, then an examination is carried out as well as counselling and directions related to the problems of early marriage that will arise and listen to the commitment of parents in household assistance both mentally and economically for their children. Then, the two prospective brides are ordered to enter the courtroom to hear their opinions as well as dig deeper into the reasons they are willing to marry at an age that has not fulfilled the statutory provisions. After these stages are completed, the trial continues with an examination of all evidence submitted by the parties, and if the stage of examining the evidence has been completed, then the judge will pass a decision on the case. In examining each case, apart from listening to the statements of the parents of the prospective bride and groom and the opinions of the two prospective brides accompanied by evidence submitted by the parties, before passing a decision, the examining judge is also expected to consider recommendations from relevant agencies who are concerned on the protection of women and children as stated in Article 16 of Perma Number 5 of 2019 concerning Guidelines for Trial Applications for Dispensation of Marriage. Related to this, since July 2023, the Mamuju Religious Court has entered into a Cooperation Agreement between the Mamuju Religious Court and the Mamuju Regency Women's Empowerment and Child Protection Service concerning the Protection of Women and Children in the Mamuju Regency. Regarding the procedure for examining cases at the Mamuju Religious Court, researchers have also conducted a survey by distributing questionnaires to 10 respondents who are users of the services of the Mamuju Religious Court, which in this case are parties who have filed a marriage dispensation case at the Mamuju Religious Court, from the results of the survey data obtained that 40% of the parties stated that the litigation procedure at the Mamuju Religious Court was easy and 40% said it was quite easy while 10% said it was difficult and the other 10% said it was very difficult. In addition, data was also obtained that as a party filing a case, 40% of the respondents knew the consequences of filing a marriage dispensation case, 30% said they really knew, while 20% said they did not know, and the other 10% said they knew enough about the consequences of filing a marriage dispensation case.

Factors/Variables Reasons for Urgent Submission of Marriage Dispensation Cases.

Dispensation of Marriage cases that entered the Mamuju Religious Court in 2017 There were 7 cases registered, of which 6 cases which were not old enough were prospective grooms with the reason for filing Dispensation of Marriage was 4 cases to avoid things that were not desirable while 3 cases because the prospective bride is already pregnant. Regarding these cases, the examining judge, in his decision, granted all of these cases with the consideration that 5 cases were because the prospective bride was proven to be pregnant while the other 2 cases were to avoid sin and harm. In 2018, there were 14 cases of Dispensation of Marriage registered at the Mamuju Religious Court, of which 11 cases were not old enough were prospective grooms with the reason for submitting Dispensation of Marriage was 6 cases to avoid things that were not desirable while 3 cases were due to both the prospective bride and groom are consensual, and 4 cases are because the prospective bride is already pregnant while one other case is because the prospective bride has left home. Regarding these cases, the examining judge, in his decision, only granted 10 cases with consideration of 6 cases because the prospective bride was proven to be pregnant, while the other 4 cases were to avoid sin and harm. Whereas in 2019, there were 49 cases of Dispensation of Marriage registered at the Mamuju Religious Court, of which 25 cases were not old enough were prospective brides with the reason for filing Dispensation of Marriage was 4 cases to avoid unwanted things, while 27 cases were due to prospective brides already pregnant and 31 other cases because the two bride and groom are often alone together and even sleep together. Regarding these cases, the examining judge, in his decision, granted 40 cases with consideration of 27 cases because the bride-to-be was proven to be pregnant, while the other 13 cases were to avoid sin and harm.

In 2020, there were 62 marriage dispensation cases registered at the Mamuju Religious Court, of which 50 cases were not old enough were prospective brides with the reason for filing a marriage dispensation, 30 cases already had a very close relationship, while 15 cases were because the two prospective brides had already really want to get married and 7 cases because the prospective bride is already pregnant while the other 10 cases are because the two prospective brides often go out together. Regarding these cases, the examining judge, in his decision, only granted 53 cases with consideration of 17 cases because the prospective bride was proven to be pregnant, while the other 36 cases were to avoid sin and harm.

In 2021, there were 39 cases of Dispensation of Marriage registered at the Mamuju Religious Court, of which 30 cases were not old enough were prospective brides filing for Dispensation of Marriage, 19 cases because the two prospective brides often went together and even committed immorality and 15 cases because the prospective bride is already pregnant while the other 5 cases are because the two prospective brides already have a very close relationship. Regarding these cases, the examining judge, in his decision, only granted 33 cases with consideration of 18 cases because the bride-to-be was proven to be pregnant and some had even given birth, while the other 15 cases were to avoid sin and harm. In 2022, there were 42 cases of Marriage Dispensation registered at the Mamuju Religious Court, of which 30 cases were not old enough for prospective brides to file for Marriage Dispensation, 28 cases because the two prospective brides often go together and even commit immorality and 10 cases because the prospective bride is already pregnant while the other 4 cases are because the application ceremony has been carried out by the two families of the prospective bride and groom. Regarding these cases, the examining judge, in his decision, granted all of these cases with consideration of 12 cases because the prospective bride was proven to be pregnant, while the other 30 cases were to avoid sin and harm. From the data above, it can be concluded

that from 2017 to 2018, applications for dispensation for marriage at the Mamuju Religious Court were registered against prospective bridegrooms who were not old enough (age 19 years), while from 2019 to 2022, cases were filed on the application for a marriage dispensation at the Mamuju Religious Court is dominated by prospective brides who are not old enough (19 years old). The change in the minimum age limit for marriage in the Marriage Law after the amendment in 2019 turned out to be the trigger for the high registration of Marriage Dispensation Cases at the Mamuju Religious Court because, from the above data, the number of prospective brides who are not old enough is more than prospective grooms from 2019 to 2022. Apart from that, from the above data, it can also be concluded that the reason for filing a Marriage Dispensation by the litigants from 2017 to 2022 is almost the same, namely because of the pregnancy of the prospective bride and the very close relationship between the two prospective brides, This is also in line with the decisions of the Mamuju Religious Court Judges who granted many requests for Dispensation of Marriage with the consideration that the prospective bride's pregnancy is proven and to avoid sin and harm as a result of the very close relationship between the two prospective brides.

In addition to processing the data mentioned above, the researcher has also conducted a survey by distributing questionnaires to Mamuju Religious Court service users, in this case, the parties submitting marriage dispensation cases and to Mamuju Religious Court judges who examine each marriage dispensation case registered at the court. Mamuju Religion.

The respondents from the distribution of the questionnaire were ten people who filed the case with an age range of 33 years to 54 years; of the ten respondents, there were lawyers, housewives, entrepreneurs, civil servants and farmers. Meanwhile, from the judge's side, there were only three judges involved in filling out the questionnaire, considering that currently, there are only three judges at the Mamuju Religious Court. From the results of the questionnaires that were distributed, information was obtained that the reason for filing a marriage dispensation at the Mamuju Religious Court was 40% because of pregnancy, 40% to avoid adultery and 20% because of promiscuity. The results of the questionnaire turned out to be in sync with the data obtained at the Mamuju Religious Court regarding the reasons for filing a Marriage Dispensation, as well as the results of a survey distributed to Judges showing that the factors underlying the application for Marital Dispensation were 66.7% due to pregnancy and 33, 3% due to promiscuity.

In addition, the results also obtained that in granting the Marriage Dispensation case, the Judges made the variable pregnancy 66.7% and the variable 33.3% due to promiscuity, while what the Judges used as considerations for rejecting the Marriage Dispensation case were cultural variables 33.3% and 33.3% promiscuity and 33.3% health and education.

The Impact of the Decision on the Frequency of Marriage Dispensation.

From the data obtained at the Mamuju Religious Court, which has been processed by researchers, so far, the judge's decision regarding the application for Marriage Dispensation has not had any impact on either increasing or decreasing cases because from the data obtained, it turns out that the frequency of filing for Marriage Dispensation at the Mamuju Religious Court has increased after the stipulation of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, this was triggered by a change in the minimum age limit for marriage for prospective brides who were originally 16 (sixteen) years old and then changed to 19 (nine) fifteen years). From the results of the survey through distributing questionnaires to judges, data was also obtained that 100% of judges stated that

there was an increase in the frequency of filing cases of marriage dispensation at the Mamuju Religious Court after the enactment of changes to the Marriage Law, these results indicate that the data contained in the Mamuju Religious Court and the results a survey conducted with judges regarding the frequency of filing cases of marriage dispensation at the Mamuju Religious Court equally showed that the filing of marriage dispensation cases at the Mamuju Religious Court experienced a very significant increase after the amendment to the Marriage Law. The consistency of the Judges of the Mamuju Religious Court from the decision data from 2017 to 2022, which made pregnant and efforts to avoid acts of sin and harm as the judge's considerations in granting the application for Marriage Dispensation shows that there was no change in the considerations in the judge's decision both before the change in the Marriage Law took place, or after the amendment to the Marriage Law, the only factor driving the increase in the frequency of marriage dispensation applications at the Mamuju Religious Court is the provision for changing the age of marriage for women contained in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.

Relation of Research Results with Theory

The amendment to the Marriage Law comes with the hope that it can serve as a driving force and pioneer to change people's lives to things that are better and beneficial for all parties in terms of emphasizing the rate of child marriage, whereas in a modern view related to the theory of legal change, it is explained that the law must play a role in moving society towards planned change so that it can be used as a social engineering tool (law a toll of social engineering). Based on the data that the researchers have processed above, we can see that after the enactment of the amendment to the Marriage Law, the application for a Marriage Dispensation has actually increased, while on the other hand, the amendment to the law was born as a legal tool to reduce the rate of child marriage at a lower age. In this position, changes to the Marriage Law with the central issue of emphasizing child marriage have not been effective, so this amendment to the Marriage Law needs to be accompanied by concrete actions from related parties to provide clearer information regarding the minimum age limit for marriage. That has been stipulated in the Marriage Law, as well as the impacts that will arise as a result of child marriage. The minimum age for marriage, as stipulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, should be obeyed by both the marriage executor, the public, and law enforcers (judges) as a person because of his position and the orders of the law given the power to legalize deviations from the age of marriage. The role of the judge as an apparatus of judicial power in principle is nothing other than carrying out the function of the judiciary in accordance with the provisions of the applicable regulations, where in carrying out its functions, every decision that the judge wants to make in ending and resolving a case needs to pay attention to three very essential things, namely justice (*gerechtigheit*), expediency (*zwachmatigheit*) and certainty (*rechtsecherheit*). These three things must receive professionally balanced attention, even though, in practice, it is very difficult to make it happen. In addition, it should be remembered that the judge's decision, besides functioning to resolve disputes, also has a control function on social variables where the judge's decision is the answer to the principal dispute of the parties so that it becomes a patron for the community in acting and interacting with each other and functions to integrate (integrating) various interests in which the judge's decision is expected to be able to integrate and harmonize the different interests between the parties, and perhaps also social interests as stated by Roscoe Pound. In addition, the judge's

decision functions as a reformer, not only in the normative order (legal norms) but also in the practical order (the legal dynamics of society). The judge's decision functions to renew the existing legal rules if the legal rules are no longer in accordance with the feelings of justice in society. From the consideration data of the Judges of the Mamuju Court in granting the request for Dispensation for Marriage from 2017 to 2022, which researchers have processed, both based on existing documents at the Mamuju Religious Court and from the results of a survey of respondents conducted by researchers, it is known that the judge's considerations in deciding Dispensation for Marriage cases are only based on two factors/variables, namely the pregnancy of the prospective bride and avoiding the act of sin and harm is a concrete manifestation of legal certainty that is to be applied in the Mamuju Religious Court so that the judge's decision does not change in consideration either before the amendment to the Marriage Law or after the enactment of the Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning marriage.

CONCLUSION

The factors that are used as urgent reasons in applying for a Marriage Dispensation by litigants from 2017 to 2022 at the Mamuju Religious Court are almost the same, namely because of the pregnancy of the prospective bride and the very close relationship between the two prospective brides. The process of examining the Marriage Dispensation case carried out by the Judges at the Mamuju Religious Court was in accordance with the provisions of the laws and regulations, including complying with the contents of Perma Number 5 of 2019 concerning Guidelines for Trialing Dispensation of Marriage Cases. There is consistency in the considerations of the Mamuju Religious Court Judges who examined the Dispensation of Marriage case from 2017 to 2022 by making the factors/variables of the pregnancy of the prospective bride and avoiding acts of sin and harm as reasons for granting the application for Dispensation of Marriage; this shows the application of the principle of certainty law related to the urgent reason variable that must be fulfilled in granting the marriage age deviation at the Mamuju Religious Court. The stipulation of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning marriage, which changed the age of marriage for prospective brides from 16 years to 19 years, was the main trigger for the increase in the frequency of applications for marriage dispensation at the Mamuju Religious Court.

Bibliography

- Ade Maman Suherman and J. Satrio, (2010). *Legal Explanation Regarding Age Limits (Skills and Authority to Act Based on Age Limits)*, National Legal Reform Program (NLRP), Jakarta.
- Andika Prawira Buana, (2017). *Consistency and Influence of Implementation of Law Number 1 of 1974 Concerning marriage on the Practice of Interfaith Marriage in Makassar*, *Journal of Ham*, Volume 8 Number 2, accessed 08 June 2023.
- Askari Razak, A. Sakti R.S Rakia and A Darmawansya, (2022). *Constitutional Legal Protection of Freedom of Religion and Worship in Indonesia*, *Justisi*, Volume 8 Number 3, access 08 June 2023.
- Dachran S Busthami, Munarsi Sunusi and Syahrudin Nawati, (2021). *The Effectiveness of Implementing the Marriage Law Regarding the Minimum Age for Marriage*, *Journal of Lex Generalis*, Volume 2 Number 9, accessed 08 June 2023.

- Fatimah Hs, Hambali Thalib and Zainuddin, (2020), Juridical Review of Marriage Age Restrictions Based on Law No. 16 of 2019 Concerning Marriage, *Meraja Journal*, Volume 3 Number 2, access 08 June 2023.
- Gusrianto, (2016), Sociological Review of underhanded marriage (a case study in Gonjen Hamlet, Tamantirto Village, Kasih District, Bantul Regency, Special Region of Yogyakarta), Thesis, Yogyakarta, UIN Sunan Kalijaga Postgraduate Program.
- Mutsla Sofyan Tasfiq, (2018), Dispensation of Marriage in Article 7 of Law Number 1 of 1974, which is used for marriage due to Pregnancy: A Study of the Views of Judges in the Religious Courts of Regency and City of Malang Perspective of Legal Effectiveness, Thesis: State Islamic University of Maulana Malik Ibrahim.
- Sonny Dewi Judiasih et al., (2018), Underage Marriage in Indonesia and Comparison of Age of Marriage and Practice of Underage Marriage in Several Countries, Refika Aditama, Bandung.
- Syahrudin Nawawi and Salle, (2021). *Sociology of Law and Theory of Legal Effectiveness*, Kretakupa Print, Makassar.
- Syahrudin Nawawi and Rahman Syahrudin, (2022), *Normative Legal Research Versus Empirical Legal Research*, Kretakupa Print, Makassar
- Syahrudin Nawawi and Salle, (2020), Analysis of the Influence of Various Variables on Requests for Marriage Dispensation, *Journal of Philosophy*, Volume 1 Number 2, accessed 08 June 2023.
- St. Sariroh, (2017), Early Marriage from the Perspective of Structural Functionalism (Case study in Porej Village, Lenteng District, Sumenep Regency, Madura), Thesis, Malang, Maulana Malik Ibrahim State University Graduate Program.
- Yuli Adha Hamzah, Arianty Anggraeny Mangerangi and Andika Prawira, (2020). Juridical Analysis of Underage Marriage Through the Authority of the Office of Religious Affairs, *Plenary Jure Journal*, Volume 9 Number 2, access 08 June 2023.
- Zanariah Noor, (2013). Child Marriage and the Minimum Age of Marriage in Islamic Family Law, *Syariah Journal*, Volume 21 Number 2, accessed 29 May 2023.

● **19% Overall Similarity**

Top sources found in the following databases:

- 11% Internet database
- 15% Publications database
- Crossref database
- Crossref Posted Content database
- 14% Submitted Works database

TOP SOURCES

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	Mohamad Nuralim Supu. "The Judge's Consideration In Granting The A...	<1%
	Crossref	
2	Srirahma Srirahma, Sri Nanang Meiske Kamba. "Effectiveness of Articl...	<1%
	Crossref	
3	Universitas Muhammadiyah Purwokerto on 2023-06-27	<1%
	Submitted works	
4	jurnal-umbuton.ac.id	<1%
	Internet	
5	hukum.studentjournal.ub.ac.id	<1%
	Internet	
6	legal.isha.or.id	<1%
	Internet	
7	IAIN Pekalongan on 2022-04-07	<1%
	Submitted works	
8	UIN Syarif Hidayatullah Jakarta on 2018-03-13	<1%
	Submitted works	

- 9

Noverman Duadji, Novita Tresiana. "Analysis of Child Marriage and Rel...

Crossref

<1%
- 10

Universiti Utara Malaysia on 2022-10-23

Submitted works

<1%
- 11

journal.iainlangsa.ac.id

Internet

<1%
- 12

atlantis-press.com

Internet

<1%
- 13

jurnalhukumdanperadilan.org

Internet

<1%
- 14

Muhammad David Test Account on 2023-06-27

Submitted works

<1%
- 15

Nabilah Luthfiyah Chusnida, Teddy Prima Anggriawan. "Dispensation o...

Crossref

<1%
- 16

Rifanto Bin Ridwan, Ifnaldi Ifnaldi, Jahidin Jahidin. "Early Marriage in M...

Crossref

<1%
- 17

ijsshr.in

Internet

<1%
- 18

jsss.co.id

Internet

<1%
- 19

Alfha Sulindra, M. Darudin, Sirman Dahwal. "STUDY ON UNDERAGE MA...

Crossref

<1%
- 20

M Junaedi, L Muntaqo, S Haryanto, A Khoiri, N K Khanifa. "The Role of ...

Crossref

<1%

- 21

Sri Nosita, Syaifuddin Zuhdi. "Determination of Adult Status in Positive ...

Crossref

<1%
- 22

jilc.e-science.space

Internet

<1%
- 23

Ayu Asmara. "Legal Protection Perspective of Underage Marriage", Da...

Crossref

<1%
- 24

Universitas Airlangga on 2022-12-20

Submitted works

<1%
- 25

Wardin Tolodo, Muhammad Akbar, M. Taufan B.. "Socio Juridical Analy...

Crossref

<1%
- 26

Universitas Muhammadiyah Purwokerto on 2023-06-27

Submitted works

<1%
- 27

Nur Mohamad Kasim, Indra Saputra Daud. "Application of The Concept...

Crossref

<1%
- 28

Nasta'in Nasta'in, Taufikur Rohman. "RELEVANSI ANTARA PENOLAKA...

Crossref

<1%
- 29

Sri Karyati, B. Farhana K.Lestari. "Legal Policy Model for Prevention Ch...

Crossref

<1%
- 30

digilib.uin-suka.ac.id

Internet

<1%
- 31

jurnal.asy-syukriyyah.ac.id

Internet

<1%
- 32

UIN Sunan Gunung Djati Bandung on 2018-10-25

Submitted works

<1%

33	journal.trunojoyo.ac.id	Internet	<1%
34	repository.ubharajaya.ac.id	Internet	<1%
35	repository.unissula.ac.id	Internet	<1%
36	Zainuddin Zainuddin, Zaki Ulya. "Recording Siri's Marriages In Obtainin...	Crossref	<1%
37	Universitas 17 Agustus 1945 Surabaya on 2019-07-17	Submitted works	<1%
38	lawjournal.ub.ac.id	Internet	<1%
39	proceedings.unisba.ac.id	Internet	<1%
40	Sriwijaya University on 2019-03-21	Submitted works	<1%
41	journal.laaroiba.ac.id	Internet	<1%
42	jurnal.radenfatah.ac.id	Internet	<1%
43	repository.uph.edu	Internet	<1%
44	Universitas International Batam on 2018-03-09	Submitted works	<1%

45	doaj.org Internet	<1%
46	jurnalfsh.uinsby.ac.id Internet	<1%
47	repository.unib.ac.id Internet	<1%
48	Muhammad David Test Account on 2023-06-26 Submitted works	<1%
49	d.researchbib.com Internet	<1%
50	merajajournal.com Internet	<1%
51	neliti.com Internet	<1%
52	Restu Anandya Palupi, Wahyu Sulistiadi, Al Asyary. "Public Health Polic... Crossref	<1%
53	repository.unsoed.ac.id Internet	<1%
54	Dr. H. Umar. "ACTUALIZATION OF ISLAMIC LAW IN MODERN LEGISLA... Crossref	<1%
55	Muhammad David Test Account on 2023-06-27 Submitted works	<1%
56	Universitas 17 Agustus 1945 Semarang on 2023-09-24 Submitted works	<1%

57	Universitas Islam Indonesia on 2021-04-14	<1%
	Submitted works	
58	jurnal.uinsu.ac.id	<1%
	Internet	
59	lamlaj.ulm.ac.id	<1%
	Internet	
60	grafiati.com	<1%
	Internet	
61	Arifin Faqih Gunawan. "Law and Social Affairs; An Analysis of Early Ma...	<1%
	Crossref	
62	Daniel Hendrawan, Christian Andersen, Theodora Novia Tjasa. "Legal P...	<1%
	Crossref	
63	Jamaluddin T. "MOBILE MARRIAGE ITSBAT SESSION: ITS IMPORTAN...	<1%
	Crossref	
64	Mutia Cherawaty Thalib. "Implications of Mixed Marriage in the Perspe...	<1%
	Crossref	
65	Universitas Muhammadiyah Yogyakarta on 2022-06-22	<1%
	Submitted works	
66	Universiti Utara Malaysia on 2022-12-20	<1%
	Submitted works	
67	pujastawa.files.wordpress.com	<1%
	Internet	
68	afdhalilahi.com	<1%
	Internet	

- 69

Achmad Yustian Jaya Sesunan. "Penegakan Hukum Pidana Terhadap ...

Crossref

<1%
- 70

Dedi Sumanto, Titin Samsudin, Fikri Hi. Asnawi Amirudin. "The Existen...

Crossref

<1%
- 71

Muhammad Sabir, Aris Aris, Iin Mutmainnah. "THE PROBLEMS OF THE ...

Crossref

<1%
- 72

Nazar Fuadi Nur, Azhari Yahya, Efendi Idris. "Maqashid Shariah Study o...

Crossref

<1%
- 73

Purnama Hidayah Harahap, Asmuni, Akmaluddin Syahputra, Ahmad R...

Crossref

<1%
- 74

Saji Saji, Liliana Tedjosaputro. "JURIDICAL ANALYSIS LOSS OF AB INT...

Crossref

<1%
- 75

Universitas Dian Nuswantoro on 2023-11-03

Submitted works

<1%
- 76

Zed Bachmid, Malkan Malkan, Ali Imron. "Sociologies Perspectives on ...

Crossref

<1%
- 77

article.sciencepublishinggroup.com

Internet

<1%
- 78

core.ac.uk

Internet

<1%
- 79

idr.uin-antasari.ac.id

Internet

<1%
- 80

ijmmu.com

Internet

<1%

81	knepublishing.com	Internet	<1%
82	M. Bahtiar Tahir, Sahabuddin Sahabuddin, Marzuki Marzuki. "Juridical ...	Crossref	<1%
83	Rahli Lamatande, Saifullah Bombang, Akbar Akbar. "The Approval of th...	Crossref	<1%
84	Massey University on 2018-05-28	Submitted works	<1%
85	Muhammad David Test Account on 2023-06-27	Submitted works	<1%
86	Taufik Hidayat Simatupang. "Adult Age in Marriage in Indonesia (Theor...	Crossref	<1%
87	Universitas Palangka Raya on 2022-12-12	Submitted works	<1%
88	dinamikahukum.fh.unsoed.ac.id	Internet	<1%