

The Effectiveness of Marriage Dispensation Requests at the Religious Court of Palu

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Abstract

Dispensation to marry is a dispensation granted by the Religious Court to a bride and groom who are not old enough to enter into marriage for a man and woman who have not reached 19 (nineteen) years of age. If the two prospective husband and wife are both Muslims, then both of them can apply for marriage dispensation to the Religious Court. The formulation of the problem above is how the increase in applications for dispensation of marriage after the enactment of Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 that occurred in the Palu Religious Court and what factors submitted applications for dispensation of marriage at the Palu Religious Court. The purpose of this study was to determine the increase in marriage dispensation at the Palu Religious Court and to find out what factors submitted to marriage dispensation at the Palu Religious Court. The research method used is empirical juridical. Based on the results of the study, there is an increase in marriage dispensation in the Palu Religious Court due to several factors, namely: pregnancy, fear/fear, economy, culture/custom, and arranged marriage these factors occur because there are no detailed rules on the Marriage Law regarding the reasons that can be submitted to apply for marriage dispensation, lack of public understanding of the impact of marriage dispensation, and lack of counseling from related institutions to provide comprehensive socialization to various places about the Marriage Law. Whether or not this Marriage Law is effective can also be influenced by several factors, namely: legal factors, law enforcement factors and related institutions, facilities and facilities, community factors, and cultural factors.

Keywords: *Application, Marriage, Dispensation of Marriage*

1. INTRODUCTION

Indonesia is a country that is still very thick with its cultural traditions, including in terms of marriage. Marriage is a physical and mental bond between a man and a woman as husband and wife to form a happy and eternal family or household based on God Almighty. Everything in the world is created in pairs, as well as humans. God created humans in pairs through marriage. Marriage, which in religious terms is called "Nikah" by making a contract or agreement to bind a man and a woman to legalize bodily relations between the two parties, voluntarily and for the pleasure of both parties to realize a happy family life enveloped in love and tranquility in ways that are approved by Allah SWT. The purpose of marriage is worship to create a sense of happiness. Where husband and wife should give each other affection and feelings of security for each other. Marriage makes us get a best friend or life companion who is filled with affection and feelings of love.

One of the principles of marriage aims to create and realize a household life that is *Sakinah, Mawaddah, Warahmah* and form a generation that is beneficial for the future and maintain the views of society, and avoid sexual damage due to the current very free association because marriage is not just aimed at fulfilling lust (Hadikusuma, 2010).

The journey of a husband and wife's life in running a household is very dynamic, none of the families live as smoothly as desired without any problems in the family that are always changing. The ability of a family to deal with household problems is one of them with the maturity of husband and wife (Syamsu, 2010). This maturity can be seen from the adequacy of age and physical and mental preparation of both prospective partners because age is one of the things that affects the mentality and sense of responsibility of both prospective partners (Kurniawati, 2020).

However, there are many underage marriage practices, namely marriages carried out by a husband and wife, one of whom or both have not reached the age limit for marriage. In Indonesia itself, the practice of "marriage dispensation" is known, namely the granting of rights to a person to marry even though he has not reached the age limit for marriage due to background factors. Underage marriage is a familiar term. Underage marriage is still practiced by parents, especially in some parts of the archipelago due to the influence of local cultural customs. Children who are not yet mature in body and soul, are married off by their parents, without them knowing the meaning and meaning of the marriage they are entering into. This underage marriage is carried out by children who are in the transition period between childhood and adulthood where children experience rapid changes in all fields. They are no longer children, both in body shape, attitude, and way of thinking and acting, but not mature adults (Kurniawati, 2020).

Indonesia is a State of law, therefore everything is regulated according to the applicable law, where a marriage between a man and a woman will be considered valid if it is carried out according to the marriage law in accordance with their respective religions and beliefs and must be recorded in an authorized institution according to the applicable law. regarding marriage in Indonesia has been regulated by law. One of them is the age setting or age limit at which a person may marry. However, in emergency situations, marriage can be allowed in accordance with various special requirements and procedures. This means that if a man or woman has not reached the minimum age limit set by law, they must obtain a dispensation from a court or other official. marriage dispensation consists of two words. "Exception" refers to an exception to a rule due to special considerations, or an exemption from an obligation or prohibition. An application for dispensation to marry is submitted to the local Religious Court by the prospective bridegroom or the bride's parents or guardians.

After 45 years, Law No. 1/1974 on marriage has finally been refreshed. Article 7 paragraph (1), which originally stated that the minimum age limit for women to enter into marriage was 16 years old, was then changed by raising it to 19 years old on par with men. This change accommodates the Constitutional Court Decision No. 22/PUU-XV/2017 on the request for judicial review of Article 7 paragraph (1) because it is considered *unconstitutional* and *discriminatory*. The changes were officially outlined in Law Number 16 of 2019 concerning amendments to Law No. 1 of 1974 concerning Marriage which was promulgated on October 15, 2019. The government hopes that the amendment to the Marriage Law can reduce the number of underage marriages (Ilma, 2020).

With these factors, it is hoped that the purpose of marriage, namely to form a family that is *Sakinah, Mawaddah, and Rahmah*, can be realized (Tulab, 2022). There are other things that encourage the amendment of the Marriage Law because the Constitutional Court considers that Indonesia has been in the emergency phase of child marriage. UNICEF research data in 2016 states that Indonesia ranks 7th among countries in the world that have the highest level of early marriage and ranks 2nd in ASEAN after Cambodia (Tempo, 2019).

The government's response in issuing PERMA Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications to regulate all rules regarding marriage dispensation. Starting from General Provisions, Principles and Objectives, Scope and Administrative Requirements, Submission of Applications and Case Examination, legal remedies, and until the closing provisions, everything has been arranged in such a way as to regulate the process of running a marriage dispensation (Court, 2019).

But in reality, even though the government has set a minimum age limit for marriage, the community still practices underage marriage. This phenomenon does not only occur in rural communities, which basically still adhere to traditional beliefs, but also in communities in big cities.

The law has not been effective because it has increased the number of marriages of minors in Indonesia, both those carried out by applying for marriage dispensation and those carried out by Sirri,

because of the various reasons for the application for marriage dispensation submitted by the interested parties. Among them are children who will enter into marriage expressing their desire to marry with all the consequences or being ready physically and mentally, feeling that they are not violating religious law because they have reached puberty, have been proposed to or are fiancées and are worried that they will fall into acts prohibited by religion, parents are ready to support morally and materially and so on (Yunus, 2019).

So the government's step in raising the age limit for marriage to 19 years is arguably not effective enough in dealing with the large number of underage marriages in Indonesia, supported by the looseness of marriage dispensation applications and several factors that do not run smoothly (Syukriyyah, 2023). The facts that occurred in the Palu Religious Court after the enactment of Law Number 16 of 2019 have increased. Before Law Number 16 of 2019 came into force, the submission of applications from 2015 to 2023 before October 14, the enactment of the Law was not like after the enactment of Law Number 16 of 2019 since the date of enactment there was an increase in cases entering the Palu Religious Court.

Observing the increasing cases of child marriage in Indonesia, one of which is in the city of Palu, raises its own unrest and concern. To anticipate this, various preventive measures must continue to be carried out by the local government together with related Ministries / Institutions and all parties, especially parents, to provide education to children related to reproductive health and the quality of formal education so that children's rights are fulfilled so that children can grow optimally, children can get access to the highest possible education as well as the mandate of Law Number 23 of 2002 jo. Law Number 35 of 2014 concerning child protection.

Based on the background above, the marriage dispensation case at the Palu Religious Court has seen an increase in marriage dispensation cases of approximately 200 cases from 2019 to 2023. Based on the description above, the authors are interested in conducting research with the title "The Effectiveness of Marriage Dispensation Applications at the Palu Religious Court".

2. LITERATURE REVIEW

A. Studies on Marriage

Marriage is the gathering of 2 (two) individuals who were originally separate and independent into one. Marriage is a general Sunnatullah and applies to all creatures (Abror, 2017). Sometimes the word marriage is referred to as marriage. In the Indonesian language, "marriage" comes from the word "Kawin", which according to the language, means forming a family with the opposite sex; having sex, or having intercourse.

The term "mating" is used generically, for plants, animals, and humans, and denotes the natural generative process. In contrast, *nikah* is only used for humans because it implies validity in national law, customs, and especially according to religion. After all, the meaning of *nikah* is a contract or bond, whereas, in a marriage process, there is *Ijab* (a statement of submission from the woman) and *Kabul* (a statement of acceptance from the man). In addition, marriage can also be interpreted as intercourse (Abror, 2017). Therefore, marriage is an important event for human life, besides that, marriage is an act of worship to Allah SWT because with marriage we avoid sinful acts. Marriage is required for people who can marry (Rosdiana, 2022).

Marriage is a physical and mental bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on the Almighty God above, also included in the definition of the Marriage Law in this discussion are rules or provisions that Judges has effectively used in Religious Courts as guidelines that must be followed in resolving marriage cases, namely the Compilation of Islamic Law in Indonesia, whose dissemination was carried out through Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (Lestari, 2018).

B. Factors of Marital Effectiveness

Changes to Law Number 1 of 1974 into Law Number 16 of 2019 can be seen in Article 7, namely, the age limit for marriage between women and men is equal, namely both 19 years

old. At the age of 19, it is considered that a person is much more mature both physically and mentally. The revision of the age limit for marriage in children is due to a number of reasons, the main purpose of which is to protect children's rights and minimize the number of domestic violence and divorce (Baihaqi, 2019). Whether or not the new law governing marriage is effective can be influenced by some main factors. If seen from the existence of five factors that can assess how the effectiveness of a law. Among them are:

1. Legal Factors

Article 7 of Law No.16 of 2019 states that if a person who adheres to Islam does not meet the legal age requirements for marriage that have been regulated, he or she can apply for dispensation to marry to the Religious Court, however, the law has shortcomings because it does not regulate in detail the reasons that can be submitted to apply for dispensation when wanting to get married.

2. Factors of Law Enforcement and Related Institutions

Law enforcers and related institutions have the task of implementing the intent of the laws and regulations that have been determined, including the KUA (Office of Religious Affairs) and other institutions that determine the success of the modification of the issuance of this new law governing marriage issues. Socialization and counseling carried out by KUA employees is one of the implementations to prevent early marriage, but these activities do not run optimally due to the minimum number of instructors. In addition, we can see that law enforcement officials are considered to be more inclined to a culture that they only hold in resolving a marriage case, they do not see the actual substance and structure of the law. The reason is that they have cultivated quoting from the centuries-old classical yellow book rather than quoting from the KHI (Compilation of Islamic Law) which has indeed been codified. For this reason, it is difficult for judges to decide cases because of the development of legal *positivism* so that the decisions they make come from different laws that see the need to strictly separate the law and morals (between the applicable law and the law that should be, between *das sein* and *das sollen*) (Zainudin, 2021).

3. Facilities

Facilities and facilities are a supporting tool to assist law enforcers in carrying out their duties. Standardization of supporting tools is usually such as electronic devices, waiting rooms, chairs, round tables, computers, and so on which are concerned with making it easier to carry out the continuity of the process of Law No.16 of 2019. However, in fact, the KUA in various regions, especially in rural areas, is still not far from the maximum, which means that it is not adequate and has many shortcomings (Andriati, 2022).

4. Community Factors

Regulations in a country are made solely for the benefit of its people, as is the case with changes to the law governing new marriages made to protect the rights of children. Therefore, public awareness is needed to comply with the regulations of the existing law. Public compliance can be measured through the number of early marriages every year, because every year it increases, it means that the regulation is still not effective because the awareness of the legal community is not optimal and realized. Besides that, there may be several factors that cause early marriage to be carried out by the community (Andriati, 2022).

5. Cultural Factors

Culture is a behavior that will usually become a habit when studying customary science, it can be seen that community culture is the result of the work, creation, and taste of the laws they adhere to, namely their own customs. Therefore, people who adhere to their customary law will obey it. With the enactment of the new marriage law, it can be realized if the rules describe the values of customary law life. These values are such as the value of order and the value of justice (Wijaya, 2020).

However, in reality, despite the age restriction by law, underage marriages still occur in several regions of Indonesia and this cannot be avoided because of the background factors.

Marriages that are carried out underage even though they have been regulated in the Law, the parties still have a legal loophole, or in other words, the Law still provides an opportunity to be able to legalize the couple, namely by applying for marriage dispensation to the Religious Court even though the Law allows marriage dispensation, not all marriage dispensations are accepted by the Religious Court, this has consequences and implications for minors who want to apply for marriage dispensation (Datin, 2023).

C. Application for Dispensation of Marriage

Marriage dispensation is a legal policy that provides leeway for minors who fulfill the rules stipulated in the dispensation to be able to enter into a legal marriage in Indonesia. Where in fact by the regulations of the Marriage Law Number 16 of 2019 their age is still below the maturity limit and of course, they cannot marry. The case that often occurs and the background of this marriage dispensation is the large number of pregnancies outside of marriage in adolescence. Dispensation of marriage is given with the main objective of providing legal certainty for the baby to be born (Bahroni, 2019).

The existence of the dispensation norm has an impact on the exclusion of the command norm. In the context of marriage dispensation, the setting aside of the command norm is reflected in Article 7 paragraph (1) of Law Number 16 of 2019, in principle, marriage is only permitted if the man and woman have reached the age of 19 years, but in Article 7 paragraph (2) the provisions on the minimum age of marriage can be set aside by requesting dispensation to the Religious Court because of very urgent conditions and reasons. Dispensation for marriage must be interpreted as an emergency door that should not be used unless there is no other way. All *stakeholders* involved, including the government, parents, community organizations, and the courts, must have the same voice to make underage marriage more difficult. The government must formulate, regulate, and implement policies to mature the age of marriage (Kurniawan, 2022).

Although the law allows marriage dispensation, not all marriage dispensations are accepted by the Religious Courts, this has consequences and implications for minors who want to apply for marriage dispensation. because the dispensation of marriage of minors through the process of legalizing marriage through an application for marriage dispensation at the Religious Court also raises a concern, one of which is that promiscuity is increasingly widespread and the potential for divorce can occur due to a lack of harmony in the household, especially in terms of the economy (Nakir, 2016).

D. The Role of Relevant Institutions Regarding the Impact of Marriage Under Age by Applying for Marriage Dispensation

1. Impacts related to marriage dispensation

Marriage is a provision for life that must be carefully prepared. In that case, there needs to be awareness for the community to further optimize a good life that is in harmony with existing rules, to create a prosperous life and a good society. In addition, the marriage law in Islamic law is to obtain offspring and future generations. Therefore, marriage must be a mature consideration before deciding to marry so that no marriage is not by the basic purpose of marriage itself. One of these considerations is age maturity (Khusna, 2020).

Underage marriage used to be considered commonplace. In the past, parents wanted their children to marry underage for various reasons, but now there are many teenagers, not only rural teenagers but also teenagers in big cities, who want to marry underage. Underage marriage is just a slice of the social reality facing society today. Among teenagers, this underage

marriage is considered a way out to avoid free sex. There are also those who do it because they are forced and because they are pregnant outside of marriage, they must be married by applying for marriage dispensation first to the Religious Court. However, marriage is certainly not just uniting oneself in marriage as an answer to the life problems that are being faced because it must have many considerations for marriage (Khusna, 2020).

In this regard, the maturity of the age of the prospective bride and groom is closely related to population issues. The restriction is expected to reduce the high birth rate because the time span for a woman to become pregnant is longer (Muhammad, 2010). Then, physical immaturity and unstable personalities make the goals and missions of marriage difficult to realize. In addition to affecting the children who will be born, it is also risky for pregnant women at a young age. The maturity of age and maturity of the prospective bride and groom is also very necessary to minimize the problems that arise in married life, maturity and stable personal integrity will be very influential in solving every problem that arises in facing the twists and turns and household storms (Rofiq, 2015). However, age in relation to marriage is not enough if it is only related to physiology, but also needs to be related to psychology and sociology because these things are not separated in terms of marriage (Walgito, 2010).

2. Role of Related Institutions

Of course, underage marriage by applying for marriage dispensation cannot be separated from the role of related institutions, namely the Office of Religious Affairs and the Religious Court in refusing marriage registration before applying for marriage dispensation for children who want to get married, it is very important to consider the dispensation in order to prevent the impacts that can occur for children who marry, The Office of Religious Affairs (KUA) plays an important role in responding to cases of underage marriage as well as to minimize the occurrence of underage marriages, namely by checking all the requirements for each prospective bride and groom who will carry out a marriage which if there is one or both of the bride and groom have not fulfilled the syatat, for example the prospective bride and groom are still underage, the KUA firmly rejects the marriage proposal, and directs the prospective bride and groom to apply for marriage dispensation to the Religious Court by bringing supporting evidence.

The way the Office of Religious Affairs minimizes underage marriage by socializing Law Number 16 of 2019 concerning marriage by providing counseling and socialization such as advice or short lectures on marriage in order to provide understanding and awareness to the community regarding the Law on marriage.

In an underage marriage that is rejected by the Office of Religious Affairs, of course, it will bring the prospective bride and groom to the Religious Court to submit an application for dispensation of marriage because people who wish to marry but are constrained by age limits, so the Law accommodates these needs through article 7 paragraph (2). In addition, PERMA Number 5 of 2019 emphasizes that if this article is chosen to obtain marriage dispensation, its implementation is required to fulfill the best interests of the child. All actions taken are considered to ensure the protection, care, welfare, survival growth, and development of the child in accordance with Article 1 paragraph 5 of PERMA Number 5 of 2019. Whether or not the request is granted depends on the judge's consideration after conducting a series of examination processes for the candidates. Because the power to examine and decide cases and resolve cases is in the authority of the Court and given to the Judge who is assisted by the Registrar.

3. RESEARCH METHOD

4. RESULTS AND DISCUSSION

A. Increase in Marriage Dispensation Applications After the Enactment of Law No. 16 of 2019 Concerning the Amendment to Law No. 1 of 1974 Occurring in the Religious Court of Palu

The Religious Courts have the duty and authority to examine, decide, and resolve cases between people of the Muslim religion in the fields of marriage, inheritance, wills, grants, waqf, zakat, Infaq, sadaqah, and sharia economy as stipulated in Article 49 of Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts.

Of course, the Religious Courts have handled many marriage cases, especially marriage dispensation, where the age limit in marriage is related to the social maturity of the husband and wife, with the intention that the social responsibility of the husband and wife within the age limit can be carried out properly in fostering family welfare and social life. The Religious Courts Agency reported that there were 50,673 marriage dispensations decided in 2022. This number is 17.54% lower than in 2021, which was 61,449 cases, and the number can also be said to have increased from the number before the issuance of Law No. 16 of 2019.

The number of cases for dispensation of marriage above is quite a large number because at this time an uncontrolled association has no boundaries between a man and a woman so unwanted accidents occur, accidents such as free sex and pregnancy outside of marriage. Accidents that occur make parents very worried about their children. This accident also does not recognize young or old age, this is caused by promiscuity. Therefore, parents prefer to marry off their children to avoid embarrassment in the family and community.

In the jurisdiction of the Palu Religious Court, families built by married couples who obtain approval for marriage dispensation have had a negative impact, namely because of frequent arguments, jealousy, and the husband's harsh attitude towards his wife, which has led to domestic violence. The wife's lack of knowledge in educating and teaching children and in caring for children will ultimately result in the child's psychological weakness and mental and physical poverty. When emotionally stable, even wives allow a lot of arguments in the family.

One of the consequences of quarrels in the family is that one's maturity in organizing a household has not been fulfilled in marriage. So the size of a person who is said to be mature is not only seen in how old he is but there are other elements that can be estimated to support a person's level of maturity that is seen mentally, namely family, with whom when hanging out, level of intelligence, to the level of education. The more mature people are the more they can balance their emotions and proportions, people who like to fight are often naive and cannot hold their emotions.

Therefore, the role of law enforcers and related institutions is very important in the task of implementing the intent of the laws and regulations that have been determined, including the KUA (Office of Religious Affairs) employee institutions and other related institutions that determine the success of the issuance of this new law governing marriage issues. because the Office of Religious Affairs has the main task of carrying out community service and guidance in its working area.

B. Factors that led to Dispensation of Marriage in the Religious Court of Palu

Based on the results of interviews conducted with Shiyamus Shidqi, S.H.I., M.H. as the Deputy Registrar of Applications, he said that dispensation of marriage can have a negative impact on children because they do not yet have the ability to generate sufficient income to meet their daily needs. This can cause them to experience poverty and economic dependence on their families and of course there are things that make marriage dispensation occur, where there are several factors for submitting a marriage dispensation application to the Palu Religious Court, namely as follows:

1. Pregnant

Promiscuity that can lead to pregnancy has led to the dispensation of marriage submitted to the Palu Religious Court, where the prospective bridegroom and prospective bride in their daily lives are

on average still students who are still studying or children who have dropped out of school and are still minors, but because they have had intercourse and then experience pregnancy, they decide to apply for dispensation of marriage.

The reason for pregnancy in filing an application for dispensation to marry to the Court is the first order, whether filed by the male or female party and usually, the gestational age is between two months and six months.

2. Concern/Fear

Technological developments also demand advances in the field of entertainment and the way young people socialize today, which is certainly a concern of many parents. Seeing the growth of children who are increasingly curious and whose friendships are not easily supervised will certainly cause concern. Worrying about the child's condition in making friends and building communication with his friends, especially with his male friends, is a separate problem that needs to be overcome.

The emergence of worry and fear in parents about the development of their children, especially those who have daughters about life in associations with their friends, will certainly lead them to different life situations and can lead to negative things so it is not uncommon to fall into promiscuity if it is completely out of parental control. This situation will certainly be a problem for parents so to end the movements and steps of children that cause parents' concerns about unwanted things, underage marriage seems to be a good antidote that cannot be avoided.

3. Economy

Apart from promiscuity in this case, pregnancy has occurred on the female side and there is a deep sense of worry, which is also not uncommon as a problem/factor in the occurrence of underage marriage is economic problems. Having a background of poor economic conditions. This can encourage underage marriage with the aim and hope that the occurrence of marriage will reduce the economic burden on families who are considered less capable.

Underage marriage can cause them to experience poverty and economic dependence on their families because they will find it difficult to get a job due to dropping out of school and the situation of poor parents, odd jobs, and uncertain income so in providing a living in meeting their daily needs it will be difficult because of the poor economic situation and increasingly high needs.

4. Culture and Customs

Culture and customs are also one of the causes of underage marriage. Although it is widely opposed, the habit of underage marriage still occurs in several areas known as the habit of marrying young. There are areas where girls marry at an average age of 14-15 years, some even marry after the first day of menstruation on average they marry for the reason that the purpose of marriage in customary law is to maintain and continue the next generation so that it does not become extinct from the explanation above the purpose of marriage is clear and can be understood. Because Indonesia consists of various regions, tribes, cultures, customs, and religions, marriage in customary law is carried out in different ways.

Based on research in the jurisdiction of the Palu Religious Court, namely the court used as a place to obtain data on the occurrence of marriage dispensation, namely the Palu Religious Court, it shows that underage marriage is due to the culture or custom among these families to immediately marry their children even though they are still at a young age. The considerations that are very striking and very often used by the Religious Courts in considering granting are for the sake of social benefit and justice (*social justice*), that with such circumstances it is certainly impossible to be left without a legally correct basis, which is also important in relation to its position in society.

5. Matchmaking

In practice, this is preceded by an engagement between the man and woman from both parties which is carried out at a young age because most of the time in the case of engagement without asking for the consent of sons and daughters who still have kinship ties, this is usually done to maintain family relationships and so that the family ties remain, which in customary law is known as *endogamy* where a person's marriage can only / is allowed to marry someone from his own family tribe.

Most people still adhere to the *endogamy* system in marriage on the grounds of maintaining offspring from their own family, but there are also those who marry outside their own tribe called *eleuthero gamy*, this happens to people with a high level of education and people in urban areas but it

does not rule out the possibility that urban people also still marry fellow tribesmen because basically, one's marriage adheres to the *endogamy* system.

Based on the results of the study, despite these factors, basically, the mechanism for filing a marriage dispensation case is the same as other cases, except that there must be a rejection certificate from the Religious Affairs Office and the one who handles this marriage dispensation application is a single judge.

With the enactment of Law Number 16 of 2019, the procedure has been tightened, it can be said that it is also more difficult for applicants who must be present, such as the applicant must be both parents, even though the parents are divorced, even though the parents are out of town, it is still the parents who must come to the trial to provide testimony. The judge examines the above-mentioned people and asks for their testimony. For witnesses, the judge only asks for testimony. The judge used in the marriage dispensation trial is a single judge. Before the enactment of Law No. 16 of 2019, the examination of cases still used a panel of Judges, but after the enactment of Law No. 16 of 2019, it has been changed to use a single Judge.

The marriage dispensation permit granted by the Religious Court is one of the allowances for marriage because the couple will not marry if they do not first apply for marriage dispensation to the Religious Court. Because the Office of Religious Affairs will not marry children who are underage to perform marriage. In this case, the Judge in the Religious Court not only grants dispensation to marry for children who are not yet 19 years old on urgent grounds, but the Judge cannot be arbitrary or only look at small factors in deciding or granting the parties' requests in consideration. For this reason, with the existence of PERMA Number 5 of 2019, the requirements, and procedures for applying for marriage dispensation are tightened again so that it is not so easy to grant permission for marriage dispensation to the applicant.

Judges as executors of justice who still consider decisions where Judges who do not depend on anyone and are authoritative in carrying out their duties, Judges are not influenced by any institution in carrying out their duties, because Judges are only subject to law and justice. There are many cases governed by the law, and the judge must explore and find the law as much as possible, and use existing evidence to analyze and apply it in the case.

The decision made by the judge must consider the legal facts at trial. So the Judge at the Palu Religious Court has several considerations in deciding to grant marriage dispensation to the applicant. Among them, the Judge considers based on existing evidence as well as presenting witnesses because the determination of marriage dispensation in the judge's decision must be related to the evidence and witness testimony, then the testimony of the witnesses is compared with the applicant's testimony, usually the Judge who asks for testimony from two witnesses as support in granting marriage dispensation. Judges at the Palu Religious Court also certainly take several considerations in the applicable regulations rather than the Judges' considerations in making decisions because decisions must be in accordance with applicable law.

Regarding marriage dispensation, it is still very necessary to have counseling from related institutions to the community in cities and villages so that people can understand how important the role of parents is in seeing and paying attention to the development of children so that they do not fall into promiscuity which can have a negative impact and also in order to reduce the decline in the marriage dispensation rate (Shidqi, 2024).

5. CONCLUSION

There has been an increase in marriage dispensation applications at the Palu Religious Court due to the issuance of Law No. 16 of 2019. Previously, marriage dispensation amounted to approximately 15 cases each year and after the issuance of Law No.16 of 2019 it became 20-60 cases each year, of course, it was higher than before. The increase is due to the lack of public understanding of the socialization of the Marriage Law carried out by related institutions and law enforcers regarding the age at which marriage is permitted because after being revised many people do not know about these changes, initially made the age of a woman 16 years old change to 19 years old to be allowed to marry.

Factors that cause underage marriage by applying for marriage dispensation include pregnancy, fear/fear, economy, culture/custom, and arranged marriage, marriage dispensation still occurs in several regions in Indonesia, especially in the Palu Religious Court and this cannot be avoided for the protection of children and unborn children. Because of these factors, the dispensation of marriage for children is a form of protection for children.

The effectiveness Marriage Law is not effective enough, it can be seen from the increasing number of marriage dispensation applications each year and several factors that have not run smoothly, namely: legal factors, law enforcement factors, related institutions, facilities and facilities, community factors, cultural factors.

5.1 Advice

The importance of the role and assertiveness of law enforcement and related institutions must further tighten the procedures for applying for marriage dispensation, and disseminate counseling and socialization for people in cities and villages directly or through social media. detailed rules on the Marriage Law regarding the reasons that can be submitted to apply for marriage dispensation when wanting to marry this is solely for the sake of realizing what the Marriage Law aspires to. The importance of public awareness in understanding the applicable rules, especially parents in carrying out all their roles and responsibilities, as well as children who want to get married to think further, not only about property, but also physical and mental maturity must be considered.

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