

Polemic and Existence Marriage Dispensation given Marriage Law

Suaib Abdullah ¹, Nirwan Junus ², Dolot Alhasni Bakung ³

¹²³ Faculty of Law, State University of Gorontalo, Indonesia.

Korespondensi: rhmtlima@gmail.com

ARTICLE INFO

Keywords :

Dapak Marriage
Marriage Dispensary

How To Cite :

Suaib., Junus, N.,
Bakung, D. A. (2019).
Polemic and
Existence Marriage
Dispensation given
Marriage Law
Estudiante Law Journal.
Vol. 1 (3): 726-740

DOI :

ABSTRACT

Study this aim for knowing analysis juridical Impact Marriage Dispensation Against The existence of Law no. 16 of 2019 regarding Marriage (Study Analysis in the Legal Area of the Gorontalo Religious Court. the type which research _ used is research Law research empirial . Study law empirical or normal also called Research law sociological this dotted reject from primary data. Primary data is data obtaindirectlyect the from Publa ic as usourceirst with through study the field thbe analyzedanalyzed with use approach Later legislation _ described qqualityBased o ativeresults study that Impact marriage dispensation against existmarriageact ccould dd total happening marriage under ag . In position, Marriage dispensation is one of the legal instruments presented in Constitution purposeful marriage _ forgivingeforgett for citizens who are urgent focarryingry out marriage However still blocked with provision limit set age _ in Constitution mariagmarriageevHoweve rremovingside marriage dispensation canBecomes a reasonable justification for children under age for dodoingonnection forbidden although by law still belong to in child age early orunderagee. The reasons that become base consideration in grant application marriage dispensation at the Gorontalo Religious Court , namely: for preventing happening association free to be result in happening pregnancy out of wedlock which thing this Becomes parents ' worries to his son who has dating and often together so that big opportunity fall into it child in do connection sex outside _ legal marriage . _ where is Adalah Case this is a judgenoto only based on the la , but the judge tries to for perform ijthid in set something based on benefit mursalah The judge must notice the impact that will cbe aused by something that has it is set .

@2019 Suaib., Junus, N., Bakung, D. A.

Under the license CC BY-SA 4.0

Introduction

Wedding is *sunatullah* binding _ inner Among a tagged men and women _ with common contract _ originated from different families , especially _ originated from family the origin , the later tie herself Becomes one unity in bond family .¹

Marriage is also a akad or alliance for justify relationship sex between men and women in skeleton realize happiness live a family covered in a sense of peace as well as love Dear with the way it pleases AllahSWT .²

Marriage dispensation is for prospective marriage _ bride man or the girl still below _ age and not allowed _ for marry in accordance with regulation applicable legislation .³_

Age limit in do arranged marriage _ Constitution Number 16 of 2019 Amendment on Constitution Number 1 Year 1974 About Marriage contained in Article 7 Paragraph (1) concerning " Marriage " only allowed if party Men already reach age 19 (nine mercy year) and party woman already reach age 16 (six mercy year)." Then continue _ with Article 7 Paragraph (2), namely " In " Case deviation against Paragraph (1) article this could ask dispensation to Court or Other officials appointed by both parents _ party Men nor party woman ."

With existence limitation the age that has been set in Act _ of course just for limit happening marriage early , where second candidate who will do marriage still below _ predetermined age _ _ law . But if occur Case deviation inside _ societythen the parties concerned could submit or ask dispensation to Court or Other officials appointed by both parents _ party Men nor woman .

Monitoring from Both parents are needed so that children no fall into a deviant association or association that is not good . The environment can influence growth in children , growth that is meant is method children in socialize in society . Where in this modern era various advanced technology _ has circulating in society broad and has used by various circles , from the old to the young all could use technology. With existence state- of - the - art technology this naturally own impact to growth in children because all things whatever has n't it's time children know it could they look and seek alone by direct through technology .

Children who are too many look things that haven't been it's time they know for example porn videos, how to dating like western people and others then that will influence children for do things as it . things _ as this is what 's next will

¹ Department of Religion, Qur'an and Translation , (Semarang: PT Karya Toha Putra, 1971), p . 61

² Directoral General coaching Islamic Religious Institutions Ministry of Religion, Science Fiqih Volume II, (Jakarta, 1985), p. 49

³[Www.pa-tasikmalaya.go.id/sop-dispensasi-kawin](http://www.pa-tasikmalaya.go.id/sop-dispensasi-kawin) accessed on Wednesday 17 March 2021 at 18:20.

plunge they to association free . association free that happens among _ child young now naturally will impact negative . Impact one of the negatives that happened is wedding early caused pregnant from permissions .

Indeed , Islam has forbids adultery and the things that arouse it , such as forbidden associations and gatherings _ closed (seclusion) that has an impact

Table 1.1 Cases Marriage Dispensation every years at the Gorontalo Religious Court

Type		Remainder		Amount					Break			
Case	Year	Beginning	accept	(3+4)	unplug	Granted	reject	Not accept	Fall	cross out	Amount (7 SD 11)	Remainder End
Dispensation	2017	1	99	100	2	91	0	3	3	0	99	1
Marry	2018	1	96	97	0	97	0	0	0	0	97	0
	2019	0	71	71	5	5	66	0	0	0	71	0
	2020	0	189	189	0	184	0	0	5	0	189	0

negative . Islam forbids enter someone else 's house except after ask permission . Islam also demands husband and wife to teach to children they are good still small as well as those who have mature will importance ask permission before enter to mom dad 's room them , namely at times sleep and when let go fashion . Islam has oblige hijab (cover) aurat) above woman and tie her with various ethics , §

Sumber data: Perkara Dispensasi Nikah tiap tahun di Pengadilan Agama Gorontalo

Marriages carried out by couples who are less Age in the Gorontalo

Religious Court from year year experience bulge counted start year 2017 to 2020 total 450 applications _ dispensation of marriage that was terminated Case this means association free no only occur in the area urban just will but already penetrate remoteness rural with the more rampant application marriage dispensation , moreover because from the marriage dispensation majority because pregnant out of wedlock, so want to no want to they should operate wedding for take responsibility what have _ done , and the marriages performed by them should got marriage dispensation from Gorontalo Religious Court .

As we know that in Law no . 16 of 2019 regarding Marriage that age wedding for woman is "16 years old " , then revised to be "19 years old " with purpose

⁴Yahya Abdurahman Al-Khatib, 2003 , *The Laws of Pregnant Women (Worship, Civil , Criminal)* , East Java Al- Izzrah , p . 81

for hinder speed wedding below _ age , will but Case the turn around with state moment this a lot total wedding under age rather the more increase in viewing from some data that i earn from Gorontalo City Religious Court from know year the more increase . Could seen in Case this existence from the Marriage Law the no suitable in the goal and not give effect in level implementation .

order research this aim and get suitable picture _ with purpose current problem _ researched so need existence restrictions problem , limitation problem in discussion this is about location research , location study in the jurisdiction area Gorontalo Religious Court , currently the object regarding with continuity life House ladder couple husband wife who gets marriage dispensation from Gorontalo Religious Court , and based on the background the back that has been Writer put forward in front , then could formulated the trees problems that will discussed this article that is How impact marriage dispensation against existence marriage in the jurisdiction Gorontalo Religious Court ?

RESEARCH METHODOLOGY

In study this researcher will use type study empirical or study field (*field research*). Study field that is for learn by intensive about background behind from state moment this and interaction environment social , individual , group institution or society . Study this character qualitative .

DISCUSSION

1.1 Impact Marriage Dispensation Against Existence Wedding In the Legal Territory of the Gorontalo Religious Courts

Marry is one _ stages important in life someone . For that , wedding should prepared with ripe good from mental , economic , and so on . There is a term wedding in lower age appear in community whose connotation not enough good . Wedding below _ age considered as wedding done _ too beginning and without thorough preparation . _

The rise wedding under age that occurs in the jurisdiction Gorontalo Religious Court , in his existence give impact to position marriage especially could Becomes reason justification for children teenagers who have weave connection in a relationship for carry out marriage with conditions that are not pure again . It means marriage the by urge should got determination marriage dispensation from Religious Court .

Competence absolute Religious Court regulated in Article 49 of the Law Invite Number 7 of 1989 concerning Religious Courts that have changed second time with Constitution number 50 of 2009 which mentions that Religious Courts have the duty and authority check , disconnect , and complete things at level first between religious people Islam in the fields of :

- a. Marriage ;
- b. Inheritance , wills , and grants , performed based on Islamic law ;
- c. Waqf and shadaqah .⁵

That is meant area arranged marriages _ in Invite Invite N omor 1 of 1974 about marriage is :

- a. Permission beristri more from a person .
- b. Permission carry out marriage for people who haven't 21 years old (two twenty one) year , in parent thing _ or guardian or family in a straight line there is difference opinion .
- c. Dispensation marry .
- d. prevention marriage .
- e. Rejection Marriage by Officer Marriage Registrar .
- f. Cancellation marriage .
- g. Lawsuit negligence above obligations husband or wife .
- h. Divorce .
- i . Lawsuit divorce (divorce lawsuit).
- j. The solution treasure together .
- k. About mastery children .
- l. Mom can carry cost maintenance and education child when father who should responsible answer no fulfill it .
- m. Determination obligation give cost husband 's livelihood to used wife or determination something obligation for used wife .
- n. Decision about legitimate or whether or not a child .
- o. Decision about revocation parental power . _
- p. revocation power guardian .
- q. Appointment of others as a guardian revoked .
- r. Pointing a guardian in Case a child not yet enough the age of 1 (eighteen) years left both parents _ whereas no there is appointment guardian by his parents .
- s. Loading obligation change loss to guardian who has cause loss on treasure thing the child below _ _ his power .
- t. Determination origin suggestion child .
- u. Decision about Case rejection gift description for do marriage mix .
- v. Statement about It's legal the marriage that took place before Law No. 1 of 1974 on marriage and run according to the rules that another. Wedding below _ age according to Constitution Number 1 Year 1974 about wedding . Article 7 paragraph 1 states that age wedding for man is 19 years old and female minimum age 16 year . wedding below _ age means wedding where

⁵Article 49 Constitution Republic of Indonesia, *Law Number 7 of 1989 concerning Religious Courts* , Article

is one or second candidate bride under age _ age 19 or 16 years . Wedding below _ minimum age allowed by law with condition and conditions certain .⁶

There are several factors that cause happening wedding below _ age is one of them often found is factor economy . Many parents especially in the area villages in a hurry to get married her son because problem economy . parents _ feel not anymore capable again finance needs her son so that marriage is considered as the most appropriate way for lighten up parental burden . _

Besides that view society that thinks women over the age of 30 who have not marry as virgin old so that when the child still aged dozens parent year _ already try find a mate for his son . Wedding below _ age no always negative because there are also many couples who are married under age succeed shape a good and harmonious family .⁷ Origin done with good thought and preparation _ so wedding below _ age is something positive . _

Not there is stipulations governing _ about " not yet " mature and mature " in Constitution Number 1 of 1974 concerning this marriage and not there is ban for married under _ age by explicit . In Article 7 of the Law Number 1 of 1974 concerning wedding mentioned , for could married , boy should already reach 19 years old and female already reach 16 years old though Thus , deviation to limit age the could occur if there is the dispensation granted court or other officials who appointed by both parents _ from party man nor party women (article 7 paragraph 2).⁸

For apply authority absolute Religious Courts in Case dispensation marry based on the procedural law applicable to the Court General except those who have set by special in Constitution number 7 years 1989 about Religious Court . And with presence Compilation of Islamic Law that load set rules Islamic law compiled by systematic as law applied , known with term Indonesian fiqh . Legal Compilation Islam, one source Islamic law for Public Indonesian Muslims become guidelines law material and formal for Religious Courts in judge and complete case Marriage Dispensation .

Restrictions minimum age for marry for citizen of principle intended so that people who will marry expected already own maturity thinking , maturity soul and strength physical _ adequate . Possibility rift House stair ending _ with divorce could avoided , because couple the own awareness and more

⁶ UU no. 1 of 1974 *concerning wedding* .

⁷Yusuf Fatawie , Santri Lirboyo Kediri, *Early Marriage in Religion and State Perspective* , <http://www.pesantrenvirtual.com/index.php/islam-contemporary/124>. Downloaded 18-04-2018 at 11.55.

⁸ UU no. 1 of 1974 *About Wedding* Article 7 paragraph (2)

understanding _ ripe about purpose the wedding on aspect happiness outwardly and inwardly .⁹

Constitution wedding no want implementation wedding below _ age , so that husband and wife who are in wedding could guard his health and that of his offspring , for that need set boundaries age for candidate husband and wife who will carry out wedding .

But wedding below _ age could with forced done because of Law no. 1 year 1974 still give possibility deviation , in Article 7 paragraph (2) of the Law Number 1 Year 1974 about wedding , that is with existence dispensation from court for those who haven't reach limit the minimum age . Many reasons somebody married under _ age because woman already pregnant consequence behavior sex free , the solution are parents _ they should marry off they are at age young .¹⁰In the end many member Public request a Marriage Dispensation Letter with reason pregnant out of wedlock as a result association free . Situation sort of that illustrate relevance increase wedding below _ age because a lot pregnancy pre - marriage at age children consequence development culture sex free .

In Case draft dispensation wedding can beside because only character exception for legalize something the wedding done below _ age cause , enforcement dispensation no have reason by explicit . because of that , marriage below _ age according to draft Constitution Number 1 of 1974 concerning wedding only related with limitation age only . That solution will the more get justification if observing history formation Constitution Wedding where consideration limit marriage age is maturity biological someone (not maturity) .

Wedding below _ age according to Constitution Number 1 Year 1974 about wedding restricted with size age . It means that every men and women who have not reach set age _ no can carry out wedding , though there is institution dispensation wedding . What when want permanent carry out wedding the so second candidate husband wife should ask permission dispensation from court

Dispensation is deviation or exception a . Definition dispensation according to dictionary big Indonesian . is permission liberation from something obligation or prohibition . So, dispensation is leeway to something that actually no allowed Becomes allowed for done or implemented .¹¹

Dispensation in wedding below _ age is gift leeway to candidate bride those who haven't could fulfil terms wedding in accordance with provision Article 7 of the

⁹Abdul Bukhari Irwan Ibn Abbas, *Marriage Dini* , <http://wahdah.or.id/wahdah-wahdah> Islamiyah , Downloaded 18-04-2018 at 11.26.

¹⁰Bander Jonh Nasution and Sri Warijati , *Islamic Civil Law* , (Bandung: Mandar Maju , 1997), p . 18

¹¹Abdurrahman, *Compilation of Islamic Law in Indonesia* , (Jakarta: CV Akamemika Pressindo , 1995), p . 121-123.

Law Wedding " wedding only allowed if party Men already reach 19 years old and party woman 19 years old " .

Declares that for kemashlahatan family and home stairs , wedding only can performed by the candidate the bride who has reach prescribed age _ in article 7 of the Law No. 1 of 1974 namely party man already reach 19 years old .

Marriage dispensation is required for candidate bride the man who hasn't aged 19 years old and candidate bride woman not yet 19 years old . As determined in law :

Marriage only allowed if party Men reach 19 years old and party woman already reach 19 years old (Law No.1/1974 article 7(1)) In Case deviation to paragraph (1) article this could ask dispensation to the court or office others , appointed by both parents _ party Men nor party women (Law No.1/1974 article 7(2)).

Dispensation Religious Court , is determination in the form of dispensation for candidate husband who hasn't reach 19 years old and or candidate wife who hasn't reach 16 years old issued by the Religious Courts . (Permenag No.3/1975 article 1(2) sub g) If a candidate husband not yet reach 19 years old and candidate wife not yet reach 16 years old want carry out wedding should get dispensation from Religious Courts ; (Ministry of Religion No.3/1975 article 13(1).

Application marriage dispensation for they referred to in paragraph (1) article This , submitted by parents Men good woman to the religious court territory the place residence ; (Permenag No.3/1975 article 13(2). Religious Courts after inspect in trial , and believe that there is things that allow for give dispensation that , then The Religious Court gave dispensation for marriage with something determination ; (Ministry of Religion No.3/1975 Article 13 (3). In Case application dispensation marriage this should from parents _ or guardian candidate bride , so no candidate bride that as in monophony permission marry for those who haven't aged .¹²

Settlement process things application dispensation married in Court Religion, Chief The Judiciary after accept file matter , along with the judge its members study file things . Then set day and date as well as what time things that be tried as well as ordered the parties called for come facing the day , date , and hour that have been determined . To the parties was also told that them can prepare the evidence presented in conference .

Settlement process things application dispensation married in Court Religion, Chief The Judiciary after accept file matter , along with the judge its members study file things . Then set day and date as well as what time things that be tried

¹² Anwar Sitompul , *Authority and Procedure for Litigation in Religious Courts* (Bandung : Armico), p . 65.

as well as ordered the parties called for come facing the day , date , and hour that have been determined . To the parties was also told that them can prepare the evidence presented in conference .

Increase number marry young and demand application dispensation marriages in the Religious Courts of Gorontalo City are increasingly year samakin many Case this triggered by low ability economy society , conditions economy weak society _ cause parents _ no can send to school her son more levels _ tall , old people think that marry off her son is one _ solution for lighten up burden his life family , Case this is what becomes the reasons for the applicants (parents) have no able again undergo burden same life _ day needs the more increase so that road lastly parents _ that is marry off her son although by regulation legislation no allowed , then in Case here are the applicants (parents) ask dispensation marriage in court .

Based on data entered at the Religious Courts of Gorontalo City case that happened in problem marriage under age the more many Case which causes one _ factor is poverty , poverty is cause parents _ marry her son them give up child the girl requested for stop go to school for just help parents , by _ thus child married woman _ it 's parents hope burden life they reduced .

low level education tend do activity social economy down _ hereditary without existence in charge answer . Consequence he continued productivity very low work so that no capable fulfil needs his life by adequate . So that applicant own reason for marry off his son , because sometimes a child woman decide for marry belonging to the age young . Education can influence a woman for postpone age for marry because many things to do set good economy mentality child that alone . The longer one woman follow education school , then by theoretical more age too high marry first . A graduated woman _ school advanced level first means at least he marry at an early age , however Case this is not there is in parents ' thoughts child , thoughts for marry off her son age early enough attached to society countryside , they no can look woman work outside House so that woman always placed in the kitchen only thing _ this is what causing applicant aim for marry off only and they are parents more good ask dispensation marriage to Religious Court .

Basically parents _ _ still not yet understand importance education , benefits from a education and goals from education so that parents who by Theory not enough capable want soon marry off her son even though by age he not yet allowed by law Number 1 of 1975 concerning Marriage in Article 7(1), pg that usually occur after junior high school graduate or Not yet. They consider education _ no important . For Public countryside , just graduated from elementary school already enough , though children they own desire for continue education level to more high .

Influencing factors _ base judge 's consideration in grant dispensed age marriage i.e. the judge does not bound with law positive . Judge is given opportunity for do invention law with consideration that if Constitution set things certain for incident certain , means regulation that limited to events certain . Ban for married under _ age by explicit no found in _ Constitution Marriage . Although has set limitation age condition marriage , but at the level of practice implementation character flexible . That is , if by casuistic it 's very urgent or state emergency to avoid damage / mafsadah should come first maintain goodness / maslahah so second candidate bride should quick mated .

The judge put forward concept *maslahat murshalah* that is consideration kindness and rejection damage in society as well as efforts prevent harm . Maslahat mursalah that is maslahah that is essential and nature general , in the sense of he granted dispensation age marriage against son not yet enough age for do marriage can accepted by reason healthy that ia really bring benefits for second candidate the bride as well as each family brides and avoids harm from deed deed sins committed _ couple young people outside marriage . That is rated intellect healthy as a the real problem really already in line with intent and purpose syara '(build ruma h intact stairs) in _ set each law , that is realize benefits for people human . That is rated intellect healthy as a maslahah that is essential and has been in line with purpose syara ' in set law that no opposite with argument syara 'which has been there is good in shape nash Al -Quran and sunnah, as well as the consensus of previous scholars . Maslahah mursalah that practiced in conditions that require in p this the judge granted dispensation age marriage , which if The advice no completed with way This , then people will be in narrowness life , in the sense of having to taken for avoid people from difficulties in channeling lust biological until avoided from Traps deeds mesum outside fence wedding .

In application dispensation age marriage , judge more put forward principle benefit law . From the corner look sociology law , goal law dotted focus on aspects benefit . Principle benefit law more look to human and not man there is for law . Parents who apply _ application dispensation to The Religious Court was granted by the judge because considered more big the benefits than not _ granted .¹³

As in a number of case marriage dispensation . In case this , applicant are parents _ from child 16 year old boy . _ Applicant planned for carry out marriage but the Office of Religious Affairs , KUA refused marry because not yet enough age according to Constitution Number 1 of 1974 concerning Marriage that is not yet reach 19 years old . boy _ from applicant this has dating with a girl who has each other know each other and have known each other for a long time love . Petitioner 's child by physically and physically Islamic religious law has mature and can

¹³Interview with the judge of the Gorontalo Religious Court Class 1 A Mr. Hasan Zakaria S.Ag. ,SH , on July 29 , 2021.

help his father work in the fields. For child man applicant with candidate his wife no there is hindrance for married . Weigh that based on description witnesses the connected with argument application applicant , then panel of judges evaluate that child applicant looked at worthy for get married with candidate his wife for avoid things that are not desirable , because both of them already you're welcome love and mutual love .

In p like This , the judge does not power refuse for give dispensation age marriage because scared if his request rejected as a result more big . So, in order to avoid damage / mafsadah must first defend goodness / problems for second candidate the bride must soon married .

Connection second said child _ already each other love and mutual love scared will empties to wrong way . Parents ' wishes _ already want marry off her children and children who have have desire or high desire _ in build House ladder However choked up his wish because limit age according to Constitution Marriage not yet sufficient age for do marriage whereas both parents _ already approve relationship .

With give it dispensation married by the Religious Court , then validity relationship and marital status they legitimate in front of law and in eye society . If application dispensation marry no granted , then scared occur great impact _ normal , for example si child reckless do connection husband wife then pregnant more formerly before existence marriage .

This thing will Becomes shame for family . Family will get punishment from environment social in the form of despicable gossip . _ Where are parents no know guard child they so that her son can pregnant before marry . For si the child who has pregnant more formerly will get shock on what happened _ to him . Hear gossip despicable on herself possible make psychic a little disturbed especially at his young age unstable .

At his age _ unstable get shock , scared si child reckless abort the child who has it contains . Besides get sins that have been doubled too _ result in his life and life si candidate baby . Besides that , punishment criminal also can worn because has abort soul a child who still in content . For avoid things , then the judge as part from apparatus enforcers and practitioners law should more consider benefit law in grant application dispensation age marriage .

The judge 's duty as party enforcer law , each application law or decision the law made by the judge shall in line with the purpose of the law to be achieved by the sharia . When application a summary will be contrary the result with kemashlahatan man , then application the law must suspended . For the sake of achievement merit which is the goal main from application laws , exceptions in a way valid needs to be enforced .

Giving determination dispensation marry is one _ deed law with use principle good luck mursalah , because of course in Islam no there is clear terms _ about limit marriage age . There is the difference between scholars in define limit marriage age . As in the book *safwatu al-tafsir*, Al- Mrighi interpret mature (*rusyd*) that with somebody understand with good method use treasure as well as spend it , what is meant *Bulugh an-nikah* is limit age where he has ready for carry out marriage . Meanwhile according to Muhammad Rashid Rido explain definition *Bulugh annkah* _ with arrived somebody on the threshold limit age for carry out marriage , that is dream wet (*ihtilam*). At age this , someone has can give birth child and lower descendants so that moved his heart for carry out marriage .

Look context above , then interpretation about maturity struggling on the sentence has mature and dream , even though in reality there is maturity alone still belong to no sure , because often definition adult and age sometimes no appropriate . Many people have aged mature , however behavior and actions no reflect his age , whereas sign sign maturity by biological has looks even arrive more fast from parental generation _ them .

There is limitations marriage age then Attend dispensation marry that allocated for those who want do wedding However not yet enough age that has been determined . Of course with reasons and capable evidence _ held accountable .

Based on some things proposed marriage dispensation ke Religious Courts , judges do not bound with law positive . Things dispensation marriage is thing that besifat *volunteer* . In other words , the law assess appropriate verdict _ with sued application is fixation , which is commonly also called *beschikking* in a broad sense . Things dispensation is just for get right from applicant until only need description witness from the parties really find out circumstances applicant .

With so , then based on Determination in some things the dispensation of the marriage , The judge did not bound by law positive . In grant determination Here , judge no only run on the Law Marriage about limitations age to party male 19 years old and a party 16 -year -old woman but the judge is progressive where more judges precede importance more human _ big than to interpret law from corner logic and rules .

Mr. Hasan Zakaria, S.Ag., SH as a Judge of the Religious Court of Gorontalo added the Judge did not can only driven by the governing law limitations age though though a person children who have not enough age want do marriage but them already able take care of house stairs only his age is not yet enough accordingly provisions in law - law marriage for them in a way requirement bathin already ready because it is illegal do marriage if requirement outwardly

only
fulfilled .¹⁴

that

is

Judge not power reject state applicant because the judge pays more attention benefit law for development community and prioritize problem benefit for the sake of interest general . Worry more big the harm if application dispensation age marriage rejected .

Conclusion

Impact marriage dispensation against existence marriage , in fact could add total happening marriage under age . In position Marriage dispensation is one of the legal instruments presented in Constitution purposeful marriage _ for give road go out for citizens who are urgent for carry out marriage However still blocked with provision limit set age _ in Constitution marriage . However in one side marriage dispensation can Becomes reason justification for children under age for do connection forbidden although by law still belong to in child age early or under age . The reasons that become base consideration in grant application marriage dispensation at the Gorontalo Religious Court , namely for prevent happening association free to be result in happening pregnancy out of wedlock which thing this Becomes parents ' worries to his son who has dating and often together so that big opportunity fall into it child in do connection sex outside _ legal marriage . _ where is dalah Case this is a judge no only based on the law , but the judge tries to for perform ijtihad in set something based on benefit mursalah . The judge must notice the impact that will caused by something that has it is set .

Suggestion

In problems thesis this accordingly with the presence of the dispensation related with wedding below age , then author give suggestions, namely : To parents to behave firmly to son especially son the woman especially in restrict association son with no too according to desire son . In addition that must there is also approach and communication between parent and child _ so that the child no easy Involved in wrong association until no cause son must get married below age . To Religious Court or The panel of judges, in order to careful in pay attention relevant aspects _ dengn law material and formil in issue determination dispensation marry and more prioritize relevant aspects _ with kemashlahatan from party applicant .

Reference

BOOK

¹⁴ Interview with the judge of the Gorontalo Religious Court Class 1 A Mr. Hasan Zakaria S.Ag. ,SH , on July 29 , 2021.

Amir Syarifuddin , *Islamic Marriage Law in Indonesia* , (Jakarta: Prenada Media, 2009), p . 60

Ahmad Rofiq , *Islamic Law in Indonesia* ,(Jakarta: PT Raja Grafindo Persada , 1997), p . 71

Anwar Sitompul , *Authority and Procedure for Litigation in Court Religion* (Bandung: Armico), p . 65

Ministry of Religion, *Al Qur'an and Translation* , (Semarang: PT Karya Toha Putra, 1971), p. 61

Directorat General coaching Islamic Religious Institutions Ministry of Religion, *Science Fiqih Volume II*, (Jakarta, 1985), p. 49

Directorat General coaching Islamic Religious Institutions , *Material Legal Counseling* ,

Ministry of Religion RI, (Jakarta: 2010), page 117

Directorat General Construction The Development of Islam, *Materials Legal Extension* , (Jakarta:

Gatot Supramono , *aspects of the Law Relationships Luar Nikah* , (Jakarta: Djambatan, 1998), p . 15

Harun Nasution , *Encyclopedia of Indonesian Islam* , Djambatan , p . 741

Hilman Hadikusuman , *Indonesian Marriage Law According to Legislation , Customary Law and*

Religious Law, (Bandung: Mandar Maju , 1990), p . 53

Iman Abu Hamid Muhammad Ibn Muhammad al-Ghazali, *Ihya ' Ulum ad-Din*, vol. 2, (Beirut- Lebanon : Dar al - Fikr , 1989, cet. II), pp.27-40.

Kamal Muchtar , *Principles of Islamic Law Against Marriage* , (Jakarta: Star Moon , 1974), p 44

M. Abdul Mujieb , Mabruri Tholhah , Syafi'ah AM., *Dictionary The term Fiqh* , (Jakarta: Pustaka Firdaus, 1994, cet. 1), p . 249

Moch Isnaeni , *Marriage Law Indonesia* ,(Bandung: PT Refika Aditama, 2016), p . 38

Mukti Arto , *Practice Case Civil Court in Court Religion*, (Yogyakarta: Student Library, 2007), p . 61

Miftah Faridl , *150 Family Marriage Problems* , (Jakarta: Gema insani , 1999). Pg.26

Najmuddin Amin al-Kurdi, *Tanwir al- Qulb* , Beirut, Lebanon : Dar al- Fikr , t.th., p . 338.

Sutan Marajo Nasaruddin Latif, *Problematic About family and home Stairs* , (Bandung: Hidayah Pustaka , 2001), p. 23

Shaykh Kamil Muhammad Uwaidah , *Fiqh Women* , (East Jakarta: Pustaka Al-Kautsar), 200, p. 375

Sayyid Sabiq , *Fiqh Sunnah* 6, (Bandung: PT Alma'arif , 1997), p . 10

Soedjito Tjokrowisastro , *Guidelines maintenance Notes Aksara* , 1985), p . 49

Sudarsono , *Marriage Law National*,(Jakarta: Rineka Create , , press. III, 2005), p . 7

Taqiyuddin Abu Bakr bin Muhammad al-Husain al- Hism ad- Dimasyqi As-Syafi'I , opcit ., Juz 2, (Semarang : Toha Putra), p . 36 See also Shaykh Kamil Muhammad Uwaidah , *fiqh Wanita* (Trans .), M .Abdul Ghoffar EM, Publisher of Pustaka Al- Kautsar , t.th., p . 375

Taqiyuddin Abi Bakr bin Muhammad al-Husain al- Hism ad- Dimasqi As-Syafi'I, opcit.36

INTERNET

<http://Www.Google.Co.Id/#HI=Id&Source=Hp&Biw=1360&Bih=607&Q=Syarat+Dispensasi+Nikah&Aq=F&Aqi=&Aql=&Oq=&Fp=972920f4195ce278>