

## The Impact Of Child Marriage Dispensation On The Increasing Divorce Rate In Buleleng Regency (Case Study At Singaraja District Court)

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### Article Info

### Abstract

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This research aims to (1) analyze the factors influencing judges' decisions in granting marriage dispensations to underage individuals and to evaluate the legal implications of such dispensations in accordance with Law Number 16 of 2019 concerning Marriage at the Singaraja District Court. (2) Another objective is to (3) explore the impact of granting dispensations on the divorce rate at the Singaraja District Court. The research methodology employed is empirical legal research with a descriptive approach. Data were collected through observation, interviews, and document analysis, with sample selection using purposive sampling. (1) Data analysis was conducted qualitatively descriptively. The research findings indicate that judges' considerations in granting marriage dispensations to underage individuals are based on proven emergency circumstances during the trial. (2) The legal implications of such dispensations include preventing invalid marriages, reducing the risk of premarital sexual activity, as well as strengthening the marital status and legal protection for children born from such marriages. However, (3) the impact of granting dispensations also encompasses the potential for domestic conflicts and violence leading to divorce, health risks for the children born, and the risk of losing access to

### 1. Introduction

Everyone has the right to live in peace and happiness with a partner when living their life so that someone gets married in order to get a life partner and have children, as written in article "28 B paragraph (1) of the Constitution of the Republic of Indonesia, 1945" which states "everyone has the right to form a family and continue their descendants". Which will then be abbreviated as the 1945 Constitution. Marriage is very essential in human life, even making it something that is very much needed by humans, this is very normal and this is the beginning of a large family in the future (Kurniawati, 2021: 162).

According to the provisions of "Law Number 1 of 1974", which is often abbreviated to "Marriage Law Part One, Article (1)", marriage is explained as "a heartfelt bond between a man and a woman in the journey of life as husband and wife, with the common goal of forming a happy and eternal family, based on belief in God Almighty". In accordance with "Article 7 paragraph (1) of Law Number 1 of 1974" which has been amended to "Law Number 16 of 2019 concerning Marriage", it is stated that the minimum age requirement for marriage is 19 years for both men and women. This requirement is applied to prevent or reduce marriage at a young age.

The determination of the age limit for marriage aims to prevent prospective husbands and wives who are still minors from getting married. The goal is to ensure that both partners are physically and mentally mature so that they can build a stable and happy family and reduce the risk of divorce or separation. But in fact, individuals who marry at an immature age often face difficulties in dealing with household conflicts, which end in divorce due to lack of physical and mental readiness.

Based on the introduction above, the formulation of the problem that is the object of research is as follows:

1. How is the application of "Article 7 paragraph 1 of Law Number 16 of 2019" concerning Marriage regarding the granting of dispensation for underage marriage at the Singaraja District Court?
2. What factors are the basis for the Judge's consideration in granting marriage dispensation for minors at the Singaraja District Court?
3. What is the impact of granting marriage dispensation for minors on the divorce rate at Singaraja District Court?

## 2. Research Methods

In writing this paper, the author uses empirical legal studies. The purpose of writing empirical law is to provide support for the development of law and to explore information relevant to this research. This type of research is practically a sociological legal approach that is involved in direct analysis in the field, examining how the law is applied in people's lives. This research focuses on the gap between what should happen based on the law (*das sollen*) and what actually happens (*das sein*) in society. The goal is to collect the facts and data needed to understand and solve the problems that arise.

This study applies a descriptive approach, which aims to provide an accurate picture of the characteristics of individuals, situations, symptoms, or certain groups, as well as to evaluate the relationship between various symptoms in society. The descriptive method is used to address the challenges that occur in the current situation. The research steps include data collection, grouping, data analysis, drawing conclusions, and recommendations. This study refers to relevant legal norms and scientific literature. The focus is to explain the impact of granting marriage dispensation to minors on the increase in divorce rates in Buleleng Regency.

In determining the research sample, the author uses a method known as *Purposive Sampling*. This technique involves selecting samples that are in accordance with specific research objectives (Adnyani, 2016:760). The assessment is carried out based on certain criteria, such as the level of knowledge or position of the informant in the relevant institution, to ensure that the researcher can obtain relevant data. Then the data analysis is carried out qualitatively. In the context of this study, the data presented in the form of words to describe and analyze problems systematically and consistently, with the aim of reaching accurate conclusions.

### 3. Results and Discussion

#### 3.1 Implementation of Article 7 Paragraph 1 of Law Number 16 of 2019 Concerning Marriage Regarding the Granting of Dispensation for Minor Marriages at the Singaraja District Court

Article 1 of Law Number 16 of 2019" regulates the essence of marriage as a bond of soul and body between a man and a woman with the intention of forming a happy and eternal household, based on belief in God Almighty. Referring to "Article 7 paragraph (1)", the age requirement for marriage is 19 years for both parties. However, "Article 7 paragraph (2)" allows exceptions to this provision with the approval of the court, which can be requested by parents if there are urgent circumstances, accompanied by adequate evidence.

The principle of maturity or adulthood of prospective brides and grooms, as mandated by the Marriage Law, emphasizes that both parties must be physically and mentally mature to undergo the bonds of marriage, in order to achieve the noble goals of marriage and have healthy and quality offspring (Wafa, 2018: 175-176). The problem of underage marriage is not new in Indonesia, both in urban and rural areas, so further efforts are needed to provide understanding and protection for children who are vulnerable to marriage practices that are not in accordance with age and maturity standards (Hardani, 2015: 131).

Marriage dispensation is an aspect of marriage that requires careful and precise assessment from the judge. This is complex because the decision taken will have an impact on the children involved. Therefore, the judge must consider both the positive and negative sides before making a decision, because the decision taken can have long-term consequences for the child's life. Thus, in adjudicating marriage dispensation cases, judges are required to pay close attention to all relevant aspects in the best interests of all parties involved, including the welfare of the child (Mansari and Rizkal, 2021: 344).

The application for marriage dispensation by parents is based on the provisions of "Article 7 paragraph (2) of Law Number 16 of 2019 concerning Marriage". This article allows applications for dispensation for urgent reasons, which must be accompanied by sufficient supporting evidence. This urgent reason refers to a situation where there is no other alternative and marriage is the only viable option. Sufficient supporting evidence includes a certificate regarding the age of the prospective bride and groom who are still minors, a certificate from a medical professional confirming the pregnancy of the prospective bride, and testimony supporting the urgency of the marriage, both from the parents and the child concerned. This shows that the application for marriage dispensation must be based on truly urgent circumstances, taking into account the welfare and primary interests of all parties involved (Amaliya and Dewi, 2021: 190).

Research at the Singaraja District Court found that granting marriage dispensation tends to have a dominant positive impact on society. Marriage dispensation granted by the Singaraja District Court provides many benefits and happiness for applicants. Acceptance of marriage dispensation applications, especially those based on pregnancy outside of marriage, provides a solution for parents in overcoming the problems that arise. The positive impacts include the ability to undergo a marriage that is legal according to religion and the state, preventing unregistered marriages, and avoiding the greater sin of adultery. In addition, obtaining dispensation

can also reduce negative stigma and gain positive support from society. However, there are negative impacts that need to be considered, especially in terms of economy. However, this impact can be minimized with a commitment from parents to help financially for newlyweds. This shows the importance of looking comprehensively and considering all aspects involved in making decisions regarding marriage dispensation applications.

As stated in Article 7 paragraph (2) of Law Number 16 of 2019 concerning Marriage, "it is possible for people to marry under the age limit set, for various reasons. However, with the increasing number of requests for marriage dispensation, judges must act wisely, considering all the reasons submitted and the possible impacts resulting from the granting of the dispensation. Judges need to actively seek information about the legal facts and social realities related to the cases they face. Therefore, in making decisions, judges are expected to consider all relevant aspects to ensure justice, benefit, and legal certainty for all parties involved. Thus, efforts to prevent child marriage under the age of 18 require cross-sector cooperation and careful supervision from authorities, such as judges, to properly protect the rights and welfare of children.

### **3.2 Factors Considered by Judges in Granting Marriage Dispensation for Minors at Singaraja District Court**

Marriage dispensation is an attempt by the court to provide leniency to couples who wish to marry but have not reached the age limit stipulated in the Marriage Law. This age restriction aims to prevent underage marriage, so that couples can enter into marriage in a mature condition. Age at marriage has a significant impact on the purpose of marriage and the dynamics of the family that will be formed. Therefore, physical and mental maturity is very important for husband and wife when entering into marriage (Candra, 2018: 7).

In Indonesian society, the practice of underage marriage cannot be separated from the prevailing social, economic, cultural, and religious context. This is an old custom that has been known in Indonesian society (Candra, 2021: 21). Some of the factors that are the reasons why people carry out underage marriages are:

1. Socializing free
2. Desire Alone
3. Parental concerns
4. Has done preparation marriage
5. Economy and education

Singaraja District Court, as part from power judiciary , has not quite enough answer main For receive, examine, judge, and take decision to every the case filed to him . Within the structure of the District Court, the judge has the authority to determine marriage dispensation. The process of determining marriage dispensation by the judge often involves the use of syllogistic logic, which involves the formulation of a major premise, a minor premise, and a conclusion. The major premise in a marriage dispensation case refers to the rule governing the age limit for marriage. The minor premise, on the other hand, refers to the facts revealed during the trial process, such as the reasons put forward by the applicant for marriage dispensation. The conclusion, as a result, is the judge's decision regarding the case he is handling.

The minor premise, on the other hand, refers to the facts revealed during the trial process, such as the reasons put forward by the applicant for marriage dispensation. The conclusion, as a result, is the judge's decision regarding the case he is handling. Therefore, the role of the judge in determining marriage dispensation has important

significance to ensure that the decision taken is in accordance with applicable legal regulations and provides legal certainty for all parties involved. According to the explanation of one of the judges of the Singaraja District Court, namely Mrs. Pulung Yustisia Dewi, SH, MH, in an interview, when making a decision, the judge considers two things, namely:

1. Legal Considerations

When a judge makes a decision, he must consider the legal arguments and evidence presented during the trial. Evidence is an effort by the disputing parties to provide clarity to the judge about the truth of an event that is the basis of the case, thus ensuring legal certainty in resolving the case (Krisnawati, 2015: 4). The evidence submitted by the applicant among them that is :

- a. Written evidence , according to Sudikno Mertokusumo , is documents containing sign read what it says thought someone and used as tool proof (Sofyan and Asis: 2017:254). In the dispensation process marriage related with condition administration in submission application dispensation marriage regulated by Article 5 paragraph (1) of Regulation Supreme Court Number 5 of 2019 concerning Guidelines To judge Application Dispensation marriage .
- b. Witness Evidence. Witness Evidence is one of element evidence in the form of information from individual who witnessed direct events that occur , based on experience personal involving sight , hearing and experience directly (Imron & Iqbal, 2019: 23-24). In the context of a marriage dispensation application, the use of witness evidence is limited to only two individuals, and their presence is not always routinely required during the trial. The Singaraja District Court Judge is responsible for determining the decision regarding the marriage dispensation by considering statements from various parties and the available evidence. Witnesses presented in the marriage dispensation trial are usually individuals who have a deep understanding of the applicant's family and understand the relationship between the applicant's children.

2. Consideration Social Justice

The judge considered factors certain in make decision , the dictum of which is Can nature support or reject application , and is based on the principles law like justice , certainty law , and benefit . Justice is a very important principle in society, where the law must be applied fairly and provide benefits to society. A judge must be active in gathering information about the case he is facing through evidence, then conducting an in-depth analysis of the findings and determining the application of the rules in the case to ensure justice and legal certainty for all parties involved (Alam, 2021: 29). The judge's decision must be based on applicable law. Regarding marriage dispensation, "Law Number 16 of 2019 concerning Marriage Article 7 Paragraph (2)" allows individuals who have not reached the age limit for marriage to apply for a marriage dispensation to the court.

### **3.3 The Impact of Granting Marriage Dispensation for Minors on Divorce Rates at Singaraja District Court**

Divorce due to marriage dispensation occurs in couples who marry at a young age, where they must apply for a dispensation first, but eventually experience incompatibility with their partner and file for divorce at the Singaraja District Court.



Divorce law does not limit age as regulated in marriage; everyone who is married, even though they are not of age, has the right to file for divorce because they are considered adults. Therefore, both women and men who have not reached the age of 19 can file for divorce because they are considered independent without parental supervision.

The most common reason for divorce is unresolvable disputes due to a lack of compatibility between the couple, which eventually causes one party to leave the other. "According to Judge Pulung Yustisia Dewi, SH, MH, the reason for granting the divorce by the judge was due to the loss of harmony in the household and a lack of mutual affection. Therefore, the judge concluded that there was no hope of reuniting the household of the two because of the frequent disputes that were difficult to resolve, even though mediation had been carried out or advice had been given by the judge regarding the consequences after the divorce."

According to Clayton in his theory about marital satisfaction (Hidayah, 2006: 10) it can be seen from several things, namely:

1. The couple's ability to communicate;
2. Financial arrangements;
3. Division of roles between husband and wife;
4. Ability to maintain relations with extended family;
5. The ability to divide time between two people and carry out personal interests; and
6. Ability to deal with changes in lifestyle after marriage.

If the above things are not fulfilled in marriage then it can be said that they are not ready to build a household, which will then trigger a divorce. This can be proven by several reasons for the divorce itself, including:

#### 1. Economic Problems

Although financial responsibility in marriage should be borne by the husband, often the husband is unable to meet the household's needs in full. As a result, the wife is often forced to find work to help her husband support the family's economic needs. In some cases, many husbands are less aware of their role as the main breadwinner in the family, some even do not fulfill their obligations fully, so that the wife is forced to work to meet daily needs.

#### 2. Domestic Violence (DV)

Another problem that often arises in the household is domestic violence. Domestic violence can be in the form of physical violence, psychological violence, sexual violence, or family neglect. In this regard, researchers found cases of domestic violence that occurred in married couples caused by temperamental husbands so that small problems such as the taste of food that is not salty enough or not right for the tongue can cause disputes and/or violence in the household.

#### 3. Infidelity

One of the factors that can damage the integrity of the family is the act of infidelity committed by the husband or wife. Infidelity in a household often occurs when one partner cannot control their desire for another person, so they are attracted to other individuals who are considered more attractive than their partner. This can be caused by feelings of boredom, lack of attention from the partner, or loss of love between husband and wife.

#### 4. Labile Personality

In married life, stable emotional control is needed to deal with problems that are often encountered in family life. It can be seen from previous case data, the reason for divorce caused by disputes and quarrels is very common in couples who marry at a young age.

Which is the personality of a partner who is still unstable greatly affects the condition of the household, disputes that occur in couples can make small problems big because of the high sense of egoism, the desire to win alone, and also feeling that he is the most correct in acting.

#### **4. Conclusion**

Based on the results of the research conducted by researchers related to "The Impact of Child Marriage Dispensation on Divorce Rates in Buleleng Regency (Case Study at Singaraja District Court)" it can be concluded that:

1. The application of "Article 7 paragraph (1)", namely the age requirement for marriage is 19 years for both parties. However, "Article 7 paragraph (2)" allows exceptions to this provision with the approval of the court, which can be requested by parents if there are urgent circumstances, accompanied by adequate evidence. This emphasizes the need for awareness of responsibility and readiness in undergoing the bonds of marriage. Marriages involving prospective brides and grooms who have not reached sufficient age must obtain special permission from the court.
2. The judge's consideration is one of the most important aspects in determining the realization of the value of a most important aspect in determining the realization of the value of a judge's decision that contains justice, legal certainty, and also contains benefits for the parties. The judge's consideration in deciding a marriage dispensation case is based on urgent or urgent conditions such as pregnancy out of wedlock. Education is one of the basic considerations of the judge in granting marriage dispensation, because most of the applicants for marriage dispensation have not completed 12 years of compulsory education. The benefit of granting a marriage dispensation application is to prevent unwanted or detrimental things such as illegal marriages. Another consideration is that the judge looks at the readiness both in terms of physical, psychological, and economic aspects of the prospective bride and groom, such as looking at the prospective husband of the applicant in terms of work. If the prospective husband of the applicant already has a job or a permanent income and can meet the needs of life after getting married later.
3. The impact of marriage dispensation on the divorce rate at Singaraja District Court has increased every year. Several divorce cases were found where at the time of their marriage they were still not old enough to marry after living together for several years, they then filed for divorce to the Court. The reasons that are often the basis for young married couples to divorce are economic factors, domestic violence (KDRT), infidelity, and unstable nature so that disputes often occur between the two.

#### **5. Recommendation**

As for the suggestions that are considered need after discuss study This that is :

1. With existence marriage dispensation even though permitted by law need known that granting dispensation by the judge should be No with easy granted , required more advice about essence wedding or the problems that will faced when entering the family world in fact , giving understanding about not quite enough answer husband and also wife , and need existence maturity physical and also spiritual from second parties , so as not to the occurrence dispute prolonged in a day Later in to build House ladder .
2. That as a parent who wants to to marry his son at the age of young need know that education children are very important realized moreover formerly for the future child later , rather than must to marry his child at an age that is not yet ripe , because maturity self and soul child can influence life his marriage later .
3. Wedding is A form of worship that becomes peak happiness together couple , with objective to form a stable , peaceful , and prosperous family . However , parents should No necessarily to marry children they are at an age that is not yet ripe , because If marriage at age young leading to divorce , the goal from wedding That Alone No will achieved



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