

IMPLICATIONS OF CHANGING THE MARRIAGE AGE LIMIT ON THE IMPLEMENTATION OF DISPENSATION OF MARRIED AT THE CLASS 1A RELIGIOUS COURT OF PADANG CITY

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Abstract: Marriage is a way for humans to live together and form a family. There should not be a single prohibition for a person to be able to carry out Marriage as long as the provisions regarding legal Marriage based on the Marriage Law are fulfilled, one of these provisions is regarding the age limit for Marriage. The age limit for marriage has changed, which was originally 19 (nineteen) years for men and 16 (sixteen) years for women to 19 (nineteen) years for both men and women through Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. These changes dramatically affect the implementation of the application for dispensation for Marriage, one of which is at the Class 1A Religious Court of Padang City.

Key Words: Implication, Marriage, Dispensation of Married.

1. INTRODUCTION:

Dispensation for marriage must be submitted for urgent reasons. An urgent situation is defined as a situation where there is no other choice and is very forced to have a marriage. Consideration of the reasons must be accompanied by sufficient evidence, namely a certificate proving that the age of the prospective bride and groom is still under the provisions of the law. For example, if the emergency situation is that you are pregnant out of wedlock, you can submit proof of a certificate from a doctor or medical personnel in the form of a pregnancy test. In this case, the judge can play an active role in preventing underage marriages in a series of dispensation application processes, namely taking a persuasive approach with the parents of the prospective bride and groom, is it possible if the marriage of minors is postponed and waiting for the child to get married at the age legalized by the state for marriage. marriage, of course, taking into account the benefits and harm that will be caused. The application for dispensation for marriage can be revoked if the mediation process is approved and the marriage can be postponed. Before the marriage takes place, the judge can encourage and give advice to parents to guide and direct their children to be ready for domestic life.

2. THEORITICAL FRAMEWORK:

- Theory of Legal Benefits
According to John Stuar Mill, an action should aim to achieve as much happiness as possible. According to Mill, justice stems from the human instinct to reject and avenge the damage suffered, both by oneself and by anyone who gains sympathy from us, so that the essence of justice includes all the essential moral requirements for the welfare of mankind.[1]
- Theory of Benefit
Terminologically, the word *maslahah* means taking advantage and rejecting harm in order to realize the goals of syara'. [2]

3. LITERATURE REVIEW:

Marriage according to language means to collect or collect. Understanding marriage according to the term is an inner and outer bond between a man and a woman who are not married as husband and wife with the aim of fostering a happy household based on the guidance of Allah SWT.[3]

In marriage, health aspects such as reproduction, mental health, communication and emotional connection are also considered as essential requirements in marriage, so the age requirement is something that is non-negotiable. This kind of view is a modern view.[4]

Dispensation is an allowance for something that is actually not allowed to be done or done.[5]

4. METHOD:

The method used in this study is an empirical juridical approach, namely an approach based on field research methods, namely examining applicable legal provisions and what is happening in people's lives.[5]

5. DISCUSSION:

With the existence of Law No. 16 of 2019 as a revision of Law No. 1 of 1974 concerning marriage regarding the increase in the minimum age limit for marriage, it greatly affects the implementation of the application for a marriage dispensation. Religious Courts in Indonesia will receive the impact of changing the minimum age limit for marriage, one of which is the Padang Religious Court Class 1A. The number of cases of marital dispensation that entered has increased greatly. If reviewed, this is certainly not in accordance with the original purpose of the amendment by the Constitutional Court, namely to suppress the rate of early marriage so that children can receive a high education and reduce the risk of deteriorating health for mothers and children.

6. ANALYSIS:

A. Background Changes in the Age Limit for Marriage

If marriage is carried out at the age of 19 years or older, girls and boys can first complete 12 years of compulsory education (graduated from high school), with the calculation that elementary school is required to be 7 (seven) years, then the age at the time of high school graduation was 19 years. Having an education that can be said to be adequate and sufficient, someone who is married over 19 years has the opportunity to be able to compete for a more decent job. This is expected to be one of the supporting factors to facilitate the reduction of poverty in Indonesia. In addition, one of the effects of marriage over the age of 19 is the maintenance of psycho-social aspects. Someone over the age of 19 years already has a sense of responsibility and obligation to be husband and wife. For girls, when they are 19 years old, they are able to carry out the responsibilities of being a wife, mother, and the roles that should be performed by adults.

B. Implementation of Marriage Dispensation at the Padang Religious Court Class 1A

The judge in his legal considerations considered that based on the Petitioner's statement, the statement of the prospective husband's biological father and the testimony of the prospective wife and prospective husband at the trial, two children had been in a relationship for quite a long time, namely more than 3 years, the relationship was so close and both of them had been in a relationship for a long time. have sexual relations so that the prospective bride is 7 (seven) months pregnant. Thus, the Panel of Judges is of the opinion that the intentions of the two children must be given the best solution. namely granting a marriage dispensation to the child of the Petitioner. The judge also considered that marrying the Petitioner's child who is still under the age of 12 has harm and risks, namely the possibility of cessation of children's education at a higher level, the impact on the economy, social and the potential for disputes, quarrels and domestic violence, while on the other hand, if not married, it will bring harm. which is even greater in accordance with the benefit theory, where the Petitioner's child and his future husband will increasingly fall into grave sins and harm, not only to both parties as perpetrators but also to the family.

C. Implications of Changes in the Age of Marriage for the Implementation of Marriage Dispensation at the Padang Religious Court Class 1A

The fact that happened at the Padang Religious Court Class 1A is not in accordance with the purpose of the amendment, although an exception has been given in the Marriage Law, but this is only as an emergency. If the situation is not forced, it should not be done. As explained in Article 7 Paragraph (2) of the Marriage Law that a marriage dispensation can be made for reasons that are very urgent and accompanied by sufficient evidence. What is meant by "urgent reasons" here is a situation where there is no other choice or an emergency situation and it is absolutely necessary for a marriage to take place, and "sufficient evidence" means a certificate proving that the age of the bride and groom is still under the provisions of the law and a certificate from the health workers who support the parents' statement that the marriage is very urgent to be carried out.

7. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- The reason for the change to the marriage age limit is because it is considered discriminatory, because the difference in the minimum age limit for marriage contained in it has caused women to be treated differently from men in the fulfillment of their constitutional rights, both civil, political, economic, and social rights. socially and culturally solely because of their gender.
- The stipulation of a marriage dispensation can usually be decided in one trial, but if in the first trial the child who is requested for a marriage dispensation, the prospective husband/wife, and the parents/guardian of the prospective husband/wife and the evidence from the applicant is not sufficient, it will be continued with a trial. second.

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